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Assigned for all purposes:
Judge Peter Wilson
Dept. CX101

Attorneys for Plaintiff, David Zazueta, individually and on behalf of other aggrieved current and former employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE -- CIVILCOMPLEX CENTER

DAVID ZAZUETA, individually and on
behalf of other aggrieved current and
former employees,

Plaintiff(s),
v.

A MANOUSELIS, INC.,
ANGELO'S BURGERS,
GEORGE MANOUSELIS,
MANOUSOS MANOUSELIS, and
DOES 1 to 50,

Defendants.

Case No.: 30-2023-01324404-CU-OE-CXC

**COMPLAINT FOR DAMAGES,
PENALTIES, OTHER RELIEF:**

Individual Employment Law Claims

1. Failure to Pay Overtime
2. Failure to Pay Minimum Wages
3. Meal Period Violations
4. Rest Break Violations
5. Failure to Pay Owed Tips
6. Failure to Pay Wages for All Time Worked
7. Failure to Provide Accurate Wage Statements
8. Failure to Provide Employment Records

PAGA Claims

9. Violation of Labor Laws Giving Rise to an
Action Under the PAGA

Jury Trial Demanded

INTRODUCTORY ALLEGATIONS

1. Plaintiff herein is David Zazueta (sometimes errantly spelled Zazuela) aka David Zazueta de la Torre also referred to herein as “Plaintiff” or “Mr. Zazueta”). At all times herein, Mr. Zazueta was a resident of the County of Orange, State of California.

2. In about September of 2021, Plaintiff David Zazueta was employed to work at Angelo’s Burgers and Mexican Food, located at 11511 Westminster Ave., Garden Grove, California, 92843 as a nonexempt employee.

3. The gravamen of this action is multiple illegal employment practices giving rise to the following:

- a. Causes of action for multiple violations of various wage/hour and related laws which individually deprived Mr. Zazueta of employment benefits and rights mandated under California law.
- b. A claim under the Private Attorneys General Act (Labor Code § 2699 aka PAGA) on behalf of Plaintiff and other aggrieved employees based on various California employment wage/hour laws.

General Allegations re Defendants

4. David Zazueta brings this action against the following Defendants and said Defendants’ successors in interest, alter egos, and other persons/entities engaged with Defendants in a joint enterprise of providing food and restaurant services:

- a. Defendants A MANOUSELIS, INC., ANGELO’S BURGERS, GEORGE MANOUSELIS and MANOUSOS MANOUSELIS and DOES 1 through 10 (hereinafter collectively referred to as the MANOUSELIS DEFENDANTS) were the employers/joint employers of David Zazueta and the other aggrieved employees referenced herein. A MANOUSELIS, INC. is an active California corporation registered with the Secretary of State with an entity address located at 11511 Westminster Ave., Garden Grove, California, 92843, which is also its principal place of business. ANGELO’S BURGERS is believed to be a dba of A MANOUSELIS, INC.; otherwise, it is a corporate entity of a presently unknown

1 form. Said Defendants operate restaurant businesses at other locations, including
2 22380 Cactus Ave., Moreno Valley, California 92553.

3 b. At all relevant times, Defendants GEORGE MANOUSELIS and MANOUSOS
4 MANOUSELIS and DOES 11 – 30 have been officers, directors and/or managing
5 agents of Defendants A MANOUSELIS, INC., ANGELO’S BURGERS, and
6 DOES 1 through 10. Said Defendants have also been supervisors at Angelo’s
7 Burgers and Mexican Food who 1) either directly participated in and/or
8 encouraged the illegal conduct described herein and/or 2) ratified the illegal
9 conduct of others, including employees/co-employees under their supervision.

10 c. Defendants DOES 31 through 50 are unidentified persons or entities who are
11 legally responsible in some actionable manner for the illegal acts and omissions
12 complained of herein. To the extent said Defendants are a business entity, the
13 form of said Defendants is unknown at the present time.

14 5. Each of the above Defendants had authority to set policies, procedures, and practices as
15 well as the authority to hire, transfer, promote, assign, reward, discipline the employees
16 working at the restaurants or to effectively recommend said actions. Additionally, said
17 Defendants also had responsibility to act on employee grievances and/or to effectively
18 recommend action on employee grievances. Said Defendants also had the responsibility to
19 direct Plaintiff’s daily work activities. The exercise of said authority and responsibility by said
20 individual Defendants required the use of their independent judgment.

21 6. At all times herein and for many prior years, Defendants the MANOUSELIS
22 DEFENDANTS and DOES 1 through 50 either employed individuals in California and/or were
23 involved in managing businesses and/or employees in California. During those years, said
24 Defendants were provided with notifications from various governmental agencies as well as
25 from various publications advising employers of the employment laws referenced herein.
26 Accordingly, said Defendants knew the obligations that were owed to employees under
27 California law. As such, Defendants’ failures to comply with the applicable Labor Code
28 sections, Industrial Wage Orders, regulations, and local laws as described herein were done

1 willfully, intentionally and with knowledge of their illegality. Despite said knowledge, said
2 Defendants deliberately approved, established and/or implemented business-wide policies,
3 procedures and/or practices they knew violated California law as set forth herein and did so for
4 the purpose of maximizing the profits of the MANOUSELIS DEFENDANTS as well as their
5 own personal gain (monetary or otherwise) to the illegal detriment of employees, including
6 David Zazueta.

7 7. Additionally, based on requirements set forth in the Labor Code and wage orders
8 applicable to Defendants' business, at all times herein, Defendants knew it was necessary to
9 possess, and Defendants did possess, a certain level of knowledge and skill in order to comply
10 with the labor and employment laws applicable to their area of business. Said knowledge was
11 vastly superior to that of Defendants' employees. Moreover, as set forth herein, Defendants'
12 employees depended on Defendants to know, record, and/or track certain information to ensure
13 California labor laws and/or employment laws were followed. Such things include the dates
14 and times worked by employees, when wages were owed to employees, the minimum and
15 overtime wages owed to employees, the number of rest breaks and meal breaks that employees
16 were entitled to take, when rest breaks and meal breaks were required to be provided, the
17 information required to be accurately reported on wage statements, when employees should be
18 paid their final wages, what expenditures employees were required to be reimbursed, etc.

19 **Alter-Ego / Joint Enterprise Allegations / Conspiracy**

20 8. All business entity Defendants herein are and at all times herein mentioned were the
21 alter-egos of each and every individually named Defendant and there exists, and at all times
22 herein mentioned has existed, a unity of interest and ownership between said Defendants such
23 that any separateness between them has ceased to exist in that the defendants have completely
24 controlled, dominated, managed, and operated the business entity defendants and have
25 intermingled the assets of each to suit their convenience. Further, the business entity
26 defendants are, and at all times mentioned herein were, mere shells, instrumentalities and
27 conduits through which Defendants carried out their business by its name while exercising
28 complete control and dominance of the business such that individuality or separateness of the

business entities did not exist. Additional facts supporting the existence of an alter ego and/or joint enterprise relationship between Defendants include the following: Defendants commingled funds and other assets, Defendants held themselves out as a single entity, they use the same offices, Defendants have disregarded corporate formalities, Defendants share the same directors and officers, etc.

9. All Defendants herein were also members of a joint enterprise of providing food and restaurant services. Each said Defendant contributed skill, effort, knowledge, and/or money to achieve a common purpose, namely, maximizing their respective and collective business profits as well as their individual profits.

General Allegations re Fictitious DOE Defendants

10. The facts linking the fictitiously designated Defendants with the causes of action alleged herein and/or the true names and capacities, whether individual, corporate, partnership, or otherwise of Defendants, DOES 1 through 50, are unknown to Plaintiff(s) at this time, who therefore sue said Defendants by such fictitious names and will seek to amend this Complaint to show their true names and/or capacities when ascertained. Said Defendants are sued as employers, principals and/or agents, servants, and/or employees of said employers or principals who were performing acts within the course and scope of their authority and/or employment. Each Defendant designated herein as a "DOE" is responsible in some actionable manner for the events and happenings referred to herein which proximately caused the injuries, damages, losses and/or penalties as alleged herein.

Defendants' Failure to Comply with Labor Code § 226 Requests

11. Plaintiff does not have copies of all of his employment records with Defendants and Defendants have failed to provide Plaintiff with copies of his employment records (including work schedules, time sheets, rest break/meal break records, sick time records, business expense and reimbursement records and wage statements) even though such records pertain to Plaintiff's employment with Defendants and were requested from Defendants by Plaintiff pursuant to Labor Code § 226. Said records were also not produced by Defendants after a complaint was filed with the LWDA (and concurrently served on Defendants) in which it was

1 alleged that said records had not been provided in accordance with Labor Code § 226. Plaintiff
2 also does not have access to the employment records of other aggrieved employees. After
3 Defendants have produced said employment records in this action, additional facts in support of
4 each cause of action pled in this complaint can be determined.

5 **No Exemptions or Legal Excuses**

6 12. There is no legally recognized exemption or exception which excused Defendants from
7 complying with the California employment laws at issue in this action; therefore, Defendants
8 were without legal justification or excuse for failing to comply with said laws.

9 **Joint Liability of Individual Defendants**

10 13. While acting on behalf of A MANOUSELIS, INC., ANGELO'S BURGERS, and
11 DOES 1 - 10, Defendants GEORGE MANOUSELIS, MANOUSOS MANOUSELIS and
12 DOES 11-30 (who were owners, directors, officers, and/or managing agents of said entities)
13 caused the California employment laws at issue in this action to be violated by establishing
14 and/or implementing employment, wage, and/or payroll procedures, and/or policies that
15 violated said laws. Therefore, to the extent permitted under Labor Code § 558.1, said individual
16 Defendants are as liable as the business entities for such violation(s).

17 **FIRST CAUSE OF ACTION -- FAILURE TO PAY OVERTIME WAGES BY**
18 **PLAINTIFF DAVID ZAZUETA AGAINST ALL DEFENDANTS**

19 14. Plaintiff hereby incorporates paragraphs 1 through 13 of this Complaint.

20 **Mandated Overtime Pay**

21 15. At all times herein, pursuant to Labor Code § 510 and the Industrial Wage Order
22 applicable to the MANOUSELIS DEFENDANTS, employers of non-exempt employees
23 (including David Zazueta and the other aggrieved employees encompassed by Plaintiff's
24 PAGA Notice Letter) were required to pay their non-exempt employees overtime pay as
25 follows:

- 26 a. If an employee works in excess of 8 hours in one workday, the employer must pay
27 the employee no less than one and one-half times the employee's regular rate of
28 pay for all hours worked over 8 hours up to and including 12 hours.

- b. If an employee works more than 12 hours in one workday, the employer must pay the employee no less than twice the employee's regular rate of pay.
- c. If an employee works more than 40 hours in any one workweek, the employer must pay the employee no less than one and one-half times the employee's regular rate of pay for all hours worked over 40 hours.
- d. If an employee works seven days in any workweek, the employer must pay the employee no less than one and one-half times the employee's regular rate of pay the first 8 hours worked on the seventh day.

Defendants' Failure to Pay Plaintiff Legally Mandated Overtime Pay

16. At all times during the statute of limitations period applicable to this cause of action, the MANOUSELIS DEFENDANTS and each of them willfully, knowingly, and intentionally failed to calculate and/or compensate David Zazueta (and the other aggrieved employees encompassed by Plaintiff's PAGA Notice Letter) the overtime wages mandated by Labor Code § 510 and/or applicable Industrial Wage Order by not including all the time worked by employees on their wage statements, by failing to accurately calculate the times reported on the employee time sheets, and/or failing to properly calculate the wages owed to the employees based on the work times reported by the employees.

Remedies

17. As applicable under California law to the allegations made in this cause of action, Plaintiff is entitled to recover the wages, damages, penalties, awards, and other remedies set forth below in the Prayer for Damages, Awards and Other Relief under the section entitled "Individual Causes of Action for Labor Law Violations."

SECOND CAUSE OF ACTION -- FAILURE TO PAY MINIMUM WAGES BY PLAINTIFF DAVID ZAZUETA AGAINST ALL DEFENDANTS

18. Plaintiff hereby incorporates paragraphs 1 through 13 of this Complaint.

Legally Mandated Minimum Wages

19. At all times herein, pursuant to Labor Code § 1182.12, employers were required to pay their employees at least the minimum hourly wage set forth in the Labor Code, the applicable

Industrial Wage Order or other applicable local law, ordinance and/or regulation for all time worked by their employees.

Defendants' Failure to Pay Plaintiff Legally Mandated Minimum Wages

20. At all times during the applicable statutes of limitations period, the MANOUSELIS DEFENDANTS willfully, knowingly, and intentionally failed to calculate and/or compensate David Zazueta (and the other aggrieved employees encompassed by Plaintiff's PAGA Notice Letter) the minimum wages owed under Labor Code § 1182.12, the applicable wage order and/or local regulation for all the hours said employees worked, including but not limited to the following times: times worked off the clock, times not included in wage statements due to unfair rounding practices and/or miscalculations, times said employees were required to clock out for rest breaks which were/are required to be paid by the employer, etc.

Remedies

21. As applicable under California law to the allegations made in this cause of action, Plaintiff is entitled to recover the wages, damages, penalties, awards, and other remedies set forth below in the Prayer for Damages, Awards and Other Relief under the section entitled "Individual Causes of Action for Labor Law Violations."

THIRD CAUSE OF ACTION -- FAILURE TO PROVIDE MEAL PERIODS OR PREMIUM PAY BY PLAINTIFF DAVID ZAZUETA AGAINST ALL DEFENDANTS

22. Plaintiff hereby incorporates paragraphs 1 through 13 of this Complaint.

Legally Mandated Meal Periods

23. At all times herein, pursuant to Labor Code § 512 and the applicable wage order, an employer may not employ a non-exempt employee to work more than a five hours per day without providing the employee with a thirty-minute meal break within the first five hours of their workday.

24. Labor Code § 512 and the applicable wage order further provide that an employer may not employ an employee for a work period of more than ten hours per day without providing the employee with a second meal period of not less than 30 minutes.

25. California law further requires that for a meal period to qualify as a valid meal period

under the law, the meal period must be timely, off-duty, unrestricted, and uninterrupted.

Defendants' Failure to Provide Legally Mandated Meal Periods

26. At all times during the statute of limitations period applicable to this cause of action, Defendants have deprived David Zazueta (and the other aggrieved employees encompassed by Plaintiff's PAGA Notice Letter) of the meal periods they were entitled to under the law.

Instead, said employees have either not been provided with a meal period or, when they have been provided meal periods, the meal periods have not been provided in a timely manner, they have been interrupted, they have been too short, they have been restricted (e.g., on-call) and/or the Employees have been required to remain on duty and/or on the work premises.

27. As a result, the MANOUSELIS DEFENDANTS were required by Labor Code § 226.7 and/or the applicable IWC Wage Order to pay said employees "premium pay", i.e., one (1) hour of pay at their regular rate of compensation for each workday that a legally compliant meal period was not provided in violation of California law.

28. Nevertheless, during the time that David Zazueta (and the other aggrieved employees encompassed by Plaintiff's PAGA Notice Letter) were employed by \$\$, said Defendants failed to provide meal periods in compliance with Labor Code § 512 and also failed to pay their employees (including Plaintiff) the premium pay required for the failure to provide legally compliant meal periods.

Remedies

29. As applicable under California law to the allegations made in this cause of action, Plaintiff is entitled to recover the wages, damages, penalties, awards, and other remedies set forth below in the Prayer for Damages, Awards and Other Relief under the section entitled "Individual Causes of Action for Labor Law Violations."

FOURTH CAUSE OF ACTION -- FAILURE TO PROVIDE REST PERIODS OR PREMIUM PAY BY PLAINTIFF DAVID ZAZUETA AGAINST ALL DEFENDANTS

30. Plaintiff hereby incorporates paragraphs 1 through 13 of this Complaint.

Legally Mandated Rest Periods

31. At all times herein, pursuant to the California Labor Code, the applicable Industrial

1 Wage Order, and/or applicable regulation, employers must authorize and permit non-exempt
2 employees to take paid rest periods at the rate of 10 minutes net rest time per four hours or
3 major fraction thereof (unless the total work time is less than 3 ½ hours). California law further
4 provides that so far as practical, the mandatory rest breaks must be provided in the middle of
5 each work period of the workday.

6 32. California law further requires that for a rest break to qualify as a valid rest break under
7 the law, the rest break must be paid and timely in addition to being 10-minutes in length
8 without restrictions, off-duty, and uninterrupted.

9 **Defendants' Failure to Provide Legally Mandated Rest Breaks**

10 33. In violation of California law, Defendants either failed to provide Plaintiff David
11 Zazueta (and the other aggrieved employees encompassed by Plaintiff's PAGA Notice Letter)
12 with the rest/lactation breaks required by law. Instead, said employees have either not been
13 given rest breaks; or, when they have been given rest breaks, the breaks have not been in the
14 middle of the work period, the breaks have been interrupted, the breaks have been restricted
15 (e.g., on-call) and/or Employees have been required to remain on-duty and/or on the work
16 premises during their rest breaks. Notably, beginning in about July or August 2022, the
17 MANOUSELIS DEFENDANTS began requiring Employees to take a 40-minute meal period.
18 To the extent the extra 10-minutes included a rest break, such a combining of rest breaks
19 (which are supposed to be paid) with meal periods does not comply with California rest break
20 laws. Additionally, no lactation breaks were provided, and no private space was made
21 available for employees to express their breast milk.

22 34. In violation of Labor Code § 226.7, the MANOUSELIS DEFENDANTS also failed to
23 pay David Zazueta (and the other aggrieved employees encompassed by Plaintiff's PAGA
24 Notice Letter) premium pay, i.e., one (1) hour of pay at their regular rate of compensation for
25 each workday that a legally compliant rest break was not provided.

26 **Remedies**

27 35. As applicable under California law to the allegations made in this cause of action,
28 Plaintiff is entitled to recover the other wages, damages, penalties, awards, and other remedies

set forth below in the Prayer for Damages, Awards and Other Relief under the section entitled “Individual Causes of Action for Labor Law Violations.”

FIFTH CAUSE OF ACTION -- FAILURE TO PAY TIPS BY PLAINTIFF DAVID ZAZUETA AGAINST ALL DEFENDANTS

36. Plaintiff hereby incorporates paragraphs 1 through 13 of this Complaint.

Duty to Distribute Tips to Employees

37. Pursuant to Labor Code § 351, tips left by customers and collected by employers are the sole property of the employees, not the employer or its agents (defined in Labor Code § 350 as those having authority to hire, fire, direct or control the acts of Defendants’ employees).

Failure to Distribute Tips

38. At all times during the statute of limitations period applicable to this cause of action, \$\$ regularly and unlawfully failed to pay David Zazueta (and the other aggrieved employees encompassed by Plaintiff’s PAGA Notice Letter) their share of the tips that had been collected from customers of the MANOUSELIS DEFENDANTS.

Remedies

39. As applicable under California law to the allegations made in this cause of action, Plaintiff is entitled to recover the wages, damages, penalties, awards, and other remedies set forth below in the Prayer for Damages, Awards and Other Relief under the section entitled “Individual Causes of Action for Labor Law Violations.”

SIXTH CAUSE OF ACTION -- FAILURE TO PAY WAGES/TIMELY PAY WAGES FOR ALL TIME WORKED BY PLAINTIFF DAVID ZAZUETA AGAINST ALL DEFENDANTS

40. Plaintiff hereby incorporates the following paragraphs from this Complaint: 1 -13, 15 – 16, 19 – 20, 23 – 28, 31 – 34, and 37 – 38.

Legal Duty to Pay Wages

41. At all times herein, pursuant to Labor Code § 200, wages in California include all amounts for labor performed by employees of every description, whether the amount is fixed or ascertained by the standard of time, task, piece, commission basis, or other method of

1 calculation. Wages under Labor Code § 200 also includes vested benefits such as accrued
2 vacation pay/personal time off (PTO), sick leave benefits owed due to use of accrued sick
3 leave, and premium pay for missed, untimely, restricted and/or interrupted meal periods and/or
4 rest breaks/lactation breaks.

5 42. All non-exempt employees must be paid all wages earned within the timeframes set
6 forth in Labor Code § 204, et. seq.

7 **Defendants' Failure to Pay All Earned Wages**

8 43. At all times during the statute of limitations period applicable to this cause of action, the
9 MANOUSELIS DEFENDANTS and each of them willfully, knowingly, and intentionally
10 failed to pay David Zazueta (and the other aggrieved employees encompassed by Plaintiff's
11 PAGA Notice Letter) for all the time they actually worked and earned wages (including regular
12 wages, overtime wages and/or minimum wages) in at least the following ways by failing to pay
13 them: 1) for time worked off-the-clock, 2), for unfairly rounding the employees' punch-in/out
14 times to the unjust benefit of Defendants; 3) for requiring employees to clock out for rest
15 breaks that were legally required to be paid by the employer; 4) for not paying employees
16 premium wages owed for missed, untimely, on-duty, short, interrupted and/or or restricted meal
17 periods and/or rest breaks; 6) for not accurately calculating the times worked by said employees
18 and/or the wages owed to said employees, 7) for not paying employees owed tips, etc.

19 44. Since such wages were not paid, said wages were also not paid in accordance with the
20 time frames set forth in Labor Code § 204.

21 **Remedies**

22 45. As applicable under California law to the allegations made in this cause of action,
23 Plaintiff is entitled to recover the wages, damages, penalties, awards, and other remedies set
24 forth below in the Prayer for Damages, Awards and Other Relief under the section entitled
25 "Individual Causes of Action for Labor Law Violations."

26 **SEVENTH CAUSE OF ACTION -- FAILURE TO PROVIDE ACCURATE WAGE**
27 **STATEMENTS BY PLAINTIFF DAVID ZAZUETA AGAINST ALL DEFENDANTS**

28 46. Plaintiff hereby incorporates the following paragraphs from this Complaint: 1 -13, 15 –

16, 19 – 20, 23 – 28, 31 – 34, 37 – 38 and 41 – 44.

Statutory Requirement to Provide Accurate Itemized Wage Statements

47. At all times herein, pursuant to Labor Code § 226(a), each time an employer pays wages to an employee, the employer is required to furnish the employee with an “accurate itemized statement in writing” that itemizes the following: 1) gross wages earned; 2) total hours worked; 3) the number of piece-rate units earned and the applicable piece rates; 4) all deductions; 5) net wages earned; 6) the inclusive dates for which the employee is being paid; 7) name of the employee and only the last 4 digits of his/her social security number or employee I.D. number; 8) the name and address of the legal entity of the employer; 9) all hourly rates in effect to the pay period and corresponding number of hours worked at each hourly rate.

Failure to Provide Accurate Itemized Wage Statements

48. At all times during the statute of limitations period applicable to this cause of action, Defendants violated Labor Code §226(a) in at least the following ways with respect to David Zazueta (and the other aggrieved employees encompassed by Plaintiff’s PAGA Notice Letter):

- a. The wage statements that were provided to said employees (including Plaintiff) were not accurate because, among other things, the statements did not accurately record the gross and net wages earned by said employees in that the statements: 1) did not accurately record the minimum wages or regular time wages earned under California law as set forth herein, 2) did not accurately record the overtime pay earned as set forth herein, 3) did not include the premium pay owed due to missed, untimely, short, on-duty, restricted, interrupted meal periods/rest breaks as set forth herein.
- b. The wage statements did not accurately record the total hours worked by said employees in that, among other times, the statements did not include: 1) times that said employees worked off-the-clock, 2) times that were unfairly rounded, 3) all the time that was reported on the employees’ time records, etc.
- c. The wage statements did not accurately record the legally acceptable deductions

- 1 from wages earned.
- 2 d. The wage statements did not accurately state the hourly rate(s) in effect to the pay
- 3 period and/or the corresponding number of hours worked at each hourly rate.
- 4 e. The wage statements did not include the inclusive dates for which said employees
- 5 were being paid.
- 6 f. The wage statements did not identify the accurate name and address of the legal
- 7 entity of the employer.
- 8 49. As a result of the above statutory deficiencies in the wage statements provided to David
- 9 Zazueta (and the other aggrieved employees encompassed by Plaintiff's PAGA Notice Letter),
- 10 said employees (including Plaintiff) were not reasonably able to promptly and easily determine
- 11 from the wage statements alone one or more of the following items of information:
- 12 a. The accurate amount of gross wages earned and paid for the pay period,
- 13 b. The accurate amount of net wages earned and paid for the pay period,
- 14 c. The accurate total number of hours worked,
- 15 d. The accurate number of piece-rate units that he/she earned and/or the applicable
- 16 piece rate,
- 17 e. The accurate deductions that were made and/or the deductions made from the
- 18 gross wages to determine the net wages paid during the pay period,
- 19 f. The accurate inclusive dates of the period for which wages were paid,
- 20 g. The accurate hourly rates in effect during the pay period and/or the corresponding
- 21 number of hours worked at each hourly rate,
- 22 h. The accurate name and address of the legal entity of the employer.
- 23 50. A reasonable person would also have been unable to readily discern the above
- 24 information without reference to other documents or information.

25 Remedies

- 26 51. As applicable under California law to the allegations made in this cause of action,
- 27 Plaintiff is entitled to recover the wages, damages, penalties, awards, and other remedies set
- 28 forth below in the Prayer for Damages, Awards and Other Relief under the section entitled

“Individual Causes of Action for Labor Law Violations.”

EIGHTH CAUSE OF ACTION -- FAILURE TO PROVIDE EMPLOYMENT RECORDS
BY PLAINTIFF DAVID ZAZUETA AGAINST ALL DEFENDANTS

52. Plaintiff hereby incorporates paragraphs 1 through 13 of this Complaint.

Statutory Requirement to Provide Employment Records

53. At all times herein, pursuant to Labor Code § 226(b), employers are required to afford their current and former employees the right to inspect or copy all records pertaining to their employment upon reasonable notice.

54. Pursuant to Labor Code § 226(c), an employer who receives a written or oral request to inspect or copy records must comply with the request as soon as practicable, but no later than 21 calendar days from the date of the request.

55. Pursuant to Labor Code § 226(b), if the employer provides copies of the records, the actual cost of reproduction may be charged to the employee.

Defendants’ Failure to Provide Employment Records to Plaintiff

56. Pursuant to Labor Code §226(b), David Zazueta (via written correspondence transmitted via certified letter with return receipt) requested all records pertaining to Plaintiff’s employment with the MANOUSELIS DEFENDANTS.

57. The MANOUSELIS DEFENDANTS received the request but failed to provide all the requested the documents for copying or to timely provide copies of all the requested records to Plaintiff or Plaintiff’s attorneys. As a result, the MANOUSELIS DEFENDANTS prevented Mr. Zazueta from discovering all facts and/or theories of liability which may support the allegations in this action.

Remedies

58. As applicable under California law to the allegations made in this cause of action, Plaintiff is entitled to recover the damages, penalties, awards, and other remedies set forth below in the Prayer for Damages, Awards and Other Relief under the section entitled “Individual Causes of Action for Labor Law Violations.”

**NINTH CAUSE OF ACTION -- VIOLATION OF LABOR LAWS GIVING RISE TO AN
ACTION PURSUANT TO THE PRIVATE ATTORNEYS GENERAL ACT (PAGA) -- BY
DAVID ZAZUETA ON BEHALF OF HIMSELF AND OTHER CURRENT AND
FORMER AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS**

59. Plaintiff hereby incorporates paragraphs 1 through 50 of this Complaint except for the following paragraphs: 14, 17, 18, 21, 22, 29, 30, 35, 36, 39, 40, 45, and 46.

60. Plaintiff brings this cause of action pursuant to the Private Attorneys General Act (Labor Code §2699) on behalf of himself and all aggrieved employees as described as follows: All current and former employees of Defendants who were either 1) classified as non-exempt employees or 2) should have been classified as non-exempt employees who worked for Defendants at any time during the one year before the date that the PAGA Notice Letter was filed with the LWDA to the present, and continuing until the unlawful employment practices are stopped or a judgment is obtained.

PAGA Claim Filed with the LWDA

61. Plaintiff has exhausted all statutory prerequisites to filing a Private Attorneys General Action in this matter by providing written notice to the Labor and Workforce Development Agency on or about March 6, 2023 that Defendants had violated and were continuing to violate provisions of the California Labor Code. Pursuant to the PAGA, said filing resulted in a tolling of the applicable statute of limitation(s).

62. At least sixty-five days has passed since Plaintiff provided written notice (by online submission to the Labor and Workforce Development Agency and by certified mail to Defendants) that Defendants had violated and continued to violate provisions of the California Labor Code. Plaintiff has not received notice from the LWDA that it intends to prosecute an action against Defendants. Therefore, as statutorily permitted by Labor Code § 2699.3, Plaintiff has the right to commence a Private Attorneys General Action (PAGA) pursuant to Labor Code § 2699.

PAGA Remedies

63. With respect to this PAGA cause of action and each count within the PAGA cause of

1 action allegations violations under the PAGA, Plaintiff (on behalf of the LWDA, himself,
2 and/or other aggrieved employees) is entitled to recover the penalties, awards, and other
3 remedies set forth below in the Prayer for Damages, Awards and Other Relief under the section
4 entitled "PAGA Cause of Action."

5 **COUNT ONE – FAILURE TO PAY OVERTIME WAGES**

6 64. Plaintiff hereby incorporates paragraphs 1 through 13, 15 through 16 of this Complaint.

7 **COUNT TWO -- FAILURE TO PAY MINIMIUM WAGES**

8 65. Plaintiff hereby incorporates paragraphs 1 through 13, 19 through 20 of this Complaint.

9 **COUNT THREE – FAILURE TO PROVIDE MEAL PERIODS/PREMIUM PAY**

10 66. Plaintiff hereby incorporates paragraphs 1 through 13, 23 through 28 of this Complaint.

11 **COUNT FOUR – FAILURE TO PROVIDE REST BREAKS/PREMIUM PAY**

12 67. Plaintiff hereby incorporates paragraphs 1 through 13, 31 - 34 of this Complaint.

13 **COUNT FIVE – FAILURE TO PAY TIPS**

14 68. Plaintiff hereby incorporates paragraphs 1 through 13, 37 through 38 of this Complaint.

15 **COUNT SIX -- FAILING TO PAY/TIMELY PAY WAGES**

16 69. Plaintiff hereby incorporates paragraphs 1 through 13, 41 - 44 of this Complaint.

17 **COUNT SEVEN – FAILURE TO PROVIDE ACCURATE WAGE STATEMENTS**

18 70. Plaintiff hereby incorporates paragraphs 1 through 13, 47 - 50 of this Complaint.

19 **COUNT EIGHT – TAKING ILLEGAL DEDUCTIONS**

20 71. Plaintiff hereby incorporates paragraphs 1 through 13 of this Complaint.

21 **Statutory Prohibition of Making Deductions from an Employee's Wages**

22 72. Pursuant to Labor Code § 221, it is unlawful for any employer to collect or deduct
23 monies from an employee's wages. The only exceptions to Labor Code § 221 are found in
24 Labor Code § 224 which states that deductions may be made when the employer is required or
25 empowered to do so by state or federal law or when a deduction is expressly authorized in
26 writing by the employee for purposes specified in Labor Code § 224.

27 **Illegal Deductions from Employee Wages**

28 73. During the statute of limitations period applicable to this cause of action, in violation of

1 Labor Code § 221, the MANOUSELIS DEFENDANTS took deductions from the wages
2 earned by aggrieved employees encompassed by Plaintiff's PAGA Notice Letter) which were
3 not authorized under Labor Code § 224 or any other state or federal law. Moreover, said
4 aggrieved employees never agreed in writing to such deductions and such deductions are not
5 one of the items that an employee may authorize be deducted from their earned wages.

6 **COUNT NINE – FAILURE TO COMPLY WITH SICK LEAVE LAWS**

7 74. Plaintiff hereby incorporates paragraphs 1 through 13 of this Complaint.

8 **Legally Mandated Sick Leave**

9 75. Pursuant to Labor Code §246, employers in California are required to provide
10 employees with sick leave time that accrues at the rate mandated in § 246 or other applicable
11 law. Additionally, Labor Code § 246(i) and/or other applicable law requires employers to
12 notify employees of the amount of their accrued sick leave either in their wage statements or in
13 a separate writing provided on the designated pay date with the employee's payment of wages.

14 76. Pursuant to Labor Code § 233, employers are also required to permit employees to use
15 accumulated sick time for any of the reasons specified in Labor Code § 246.5 including the
16 following: diagnosis, care or treatment of an existing health condition of (or preventive care
17 for) an employee or an employee's family member. Labor Code § 246.5 specifically prohibits
18 an employer from denying employees the right to use accrued sick days or attempting to
19 exercise their right to use accrued sick days.

20 77. Once accrued sick leave is used by an employee, Labor Code § 246(h) requires
21 employers to pay out used sick leave no later than the payday for the next regular payroll
22 period after sick leave was taken.

23 **Defendants' Failure to Comply with Sick Leave Laws**

24 78. At all times herein, in violation of Labor Code § 233 and Labor Code § 246.5, the
25 MANOUSELIS DEFENDANTS have failed to provide the aggrieved employees encompassed
26 by Plaintiff's PAGA Notice Letter with the sick leave time mandated by law and failed to pay
27 said employees within the timeframe mandated under the law when they missed work for one
28 of the reasons identified under California's sick leave laws.

79. The MANOUSELIS DEFENDANTS, and each of them, have also violated and continue to violate Labor Code § 246(i) and/or §248.2(d)(2)(C)) by failing to notify their employees as to the amount of their available sick leave hours either in their wage statements or in a separate writing provided to employees on the designated pay date along with the employees' payment of wages.

COUNT TEN – FAILURE TO REIMBURSE FOR BUSINESS EXPENDITURES

80. Plaintiff hereby incorporates paragraphs 1 through 13 of this Complaint.

Statutory Requirement that Employees Be Indemnified for Expenditures

81. At all times herein, pursuant to Labor Code § 2802(a), an employer is required to indemnify employees for all necessary expenditures incurred by the employee in the discharge of the employee's duties or in obedience to the directions of the employer.

Defendants' Failure to Indemnify Expenditures

82. At all times during the statute of limitations period applicable to this cause of action, in violation of Labor Code § 2802(a), the MANOUSELIS DEFENDANTS failed to indemnify David Zazueta (and the other aggrieved employees encompassed by Plaintiff's PAGA Notice Letter) for necessary expenditures incurred by them in the discharge of their duties or in obedience to the directions of Defendants.

COUNT ELEVEN – FAILURE TO PAY WAGES OWED AT SEPARATION

83. Plaintiff hereby incorporates paragraphs 1 through 13 of this Complaint.

Mandated Payment of Wages Owed at Time of Separation

84. Pursuant to Labor Code § 201, employers are required to immediately pay employees all wages due at the time employees are discharged. Additionally, pursuant to Labor Code § 202, if an employee gives at least 72-hours previous notice of their intent to quit/retire, the employer is required to pay the employee all wages due the time the employee quits/retires. Pursuant to Labor Code § 202, if an employee does not give 72-hours previous notice of their intention to quit/retire, the employer is required to pay the employee all wages due the employee within 72-hours of the time the employee leaves employment.

Defendants' Failure to Timely Pay

Wages Owed at the Time of Separation

85. At all times during the applicable statute of limitations period, in violation of Labor Code §§ 200-203, 227.3 aggrieved employees encompassed by Plaintiff's PAGA Notice Letter) were not timely paid all wages due them at the time of their separation from employment even though Defendants knew such payment was owed and it was within Defendants' control to make such payment in accordance with Labor Code §§ 200-203, 227.3 Defendants thereby willfully violated Labor Code §§ 201-202 and the applicable IWC Wage Order(s).

86. Because aggrieved employees encompassed by Plaintiff's PAGA Notice Letter) were not paid all the wages owed to them in accordance with the timeframes set forth in Labor Code §§ 201-202, pursuant to Labor Code § 203, the MANOUSELIS DEFENDANTS were required to pay them their regular wages from the due date thereof at the same rate until paid, up to a maximum of thirty (30) days of pay. However, not only did said Defendants fail to pay the wages owed said employees at the time of their separation from employment, said Defendants also failed to provide said employees with the continuous wages mandated under Labor Code §

COUNT TWELVE - FAILURE TO PROVIDE SEATING

87. Plaintiff hereby incorporates paragraphs 1 through 13 of this Complaint.

Mandated Seating

88. At all times herein, pursuant to the applicable Industrial Wage Order (IWO), the MANOUSELIS DEFENDANTS were required to provide David Zazueta (and the other aggrieved employees encompassed by Plaintiff's PAGA Notice Letter) with seating as follows:

- 1) Suitable seating when the nature of the employees' work reasonably permits use of seats and
- 2) Suitable seating in reasonable proximity to employee's work areas for use by Employees when a) they are not engaged in active duty, b) their work requires standing and c) such seats would not interfere with the performance of their duties.

Defendants' Failure to Provide Mandated Seating

89. The MANOUSELIS EMPLOYERS have adopted and continue to adopt a custom and practice of failing to provide its current and former employees (including David Zazueta (and

the other aggrieved employees encompassed by Plaintiff's PAGA Notice Letter) with the legally required seating as set forth above. Specifically with respect to David Zazueta, he has worked in the kitchen and has not been given any seating or stool to use during times that he could sit on a stool to do his work (e.g., breaking eggs, chopping onions, etc.)

**COUNT THIRTEEN -- MISCLASSIFICATION OF EMPLOYEES AS
EXEMPT EMPLOYEES**

90. Plaintiff hereby incorporates paragraphs 1 through 13 of this Complaint.

Aggrieved Employees were Non-Exempt Employees, Not Exempt Employees

91. At all times that David Zazueta (and other aggrieved employees encompassed by Plaintiff's PAGA Notice Letter) provided work for the MANOUSELIS DEFENDANTS, they were non-exempt employees for the following reasons:

- a. They were either not paid a salary or they salary they were paid was not at least twice the minimum wage for full-time employment.
- b. Their primary duties did not consist of administrative, executive, or professional tasks.
- c. Their job duties did not involve the use of discretion or independent judgment.
- d. Other reasons set forth in the applicable Industrial Wage Order.

Misclassification of Employees

92. Misclassifying aggrieved employees encompassed by Plaintiff's PAGA Notice Letter as exempt employees was done willfully by Defendants for the purpose of maximizing the business profits and/or personal assets of the MANOUSELIS DEFENDANTS to the illegal detriment of said employees. This was accomplished by depriving said employees of employment benefits that employers owe to non-exempt employees (but not to exempt employees) under California law including the following: Overtime wages, legally compliant rest breaks and meal periods, etc.

PRAYER FOR DAMAGES, AWARDS AND OTHER RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendants, and each of them, in an amount within the jurisdiction of the above-entitled court and within the applicable statutes

of limitation as follows:

Individual Causes of Action for Labor Law Violations

1. Unpaid/underpaid wages or other pay (including but not limited to regular wages, overtime wages and/or minimum wages and/or tips) owed to Plaintiff under the Labor Code and/or applicable Industrial Wage Order in the amount of \$100,000 or according to proof at trial.
2. All premium pay/wages owed to Plaintiff under the Labor Code, applicable Industrial Wage Order(s) and/or local law/ordinance for untimely, missed, or interrupted meal periods and/or rest breaks in the amount of \$50,000 or according to proof at trial.
3. All statutory penalties which the Labor Code permits an individual employee to recover from an employer for violation(s) of the Labor Code, applicable Industrial Wage Order(s) and/or applicable local laws/ordinances which were violated with respect to Plaintiff's employment as alleged herein, in the amount of \$10,000 or according to proof at trial.
4. All liquidated damages which the Labor Code permits an individual employee to recover from an employer for violation(s) of the Labor Code, applicable Industrial Wage Order(s) and/or applicable local laws/ordinances which were violated with respect to Plaintiff's employment as alleged herein, in the amount of \$50,000 or according to proof at trial.
5. All economic, non-economic and consequential damages to the fullest extent recoverable under California law in the amount of \$50,000 or according to proof at trial.
6. All equitable relief permitted under California law, according to proof.
7. Attorney's fees to the fullest extent permitted under California law, according to proof.
8. Costs to the fullest extent permitted under California law.
9. Prejudgment interest to the fullest extent permitted under California law.
10. Post-judgment interest, as applicable, and to the fullest extent under California law.
11. For such further relief as the court deems just as permitted under California law.

PAGA Cause of Action

1. All civil penalties and/or other penalties and remedies recoverable under the PAGA for violations of the Labor Code, applicable Industrial Wage Order(s) and/or applicable

1 regulation, local law/ordinance, in the amount of \$2,500,000. To the extent required by
2 the PAGA, the civil penalties recovered on behalf of all aggrieved employees shall be
3 distributed seventy-five percent (75%) to the LWDA and the remaining twenty-five
4 percent (25%) distributed to Plaintiff and all aggrieved employees as determined by the
5 Court.

- 6 2. Attorneys' fees and/or costs to the full extent permitted under the PAGA, the Labor Code,
7 the applicable Industrial Wage Order and/or other applicable California law.
8 3. Prejudgment interest to the fullest extent permitted under California law.
9 4. Post-judgment interest if applicable, to the fullest extent permitted by California law.
10 5. For such further relief as the court deems just and as permitted under California law.

11 Dated: May 10, 2023

MOORADIAN LAW, APC

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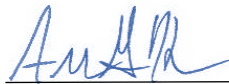
14 By: Zorik Mooradian
15 Andrina G. Hanson
16 Nanor A. Kamberian
Attorneys for Plaintiff David Zazueta

17 **DEMAND FOR A JURY TRIAL**

18 Plaintiff, David Zazueta, hereby demands a jury trial in the within matter.

19
20 Dated: May 10, 2023

MOORADIAN LAW, APC

21
22 

23 By: Zorik Mooradian
24 Andrina G. Hanson
25 Nanor A. Kamberian
26 Attorneys for Plaintiff David Zazueta
27
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