

Lilit Tunyan (SBN: 329351)
ltunyan@tunyanlaw.com
TUNYAN LAW, APC
1336 Rossmoyne Avenue
Glendale, California 91207
Telephone: (323) 410-5050

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County of Los Angeles
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David W. Slayton, Executive Officer / Clerk of Court
By: K. Martinez Deputy

Attorneys for Plaintiff Elim Bazan, as an individual
and on behalf of all employees similarly situated

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

ELIM BAZAN, as an individual and on behalf
of all employees similarly situated,

Plaintiff,

v.

CASA MARTIN, LLC, a Limited Liability
Company; CASA MARTIN PROMENADE,
LLC, a Limited Liability Company; and
DOES 1 through 50, inclusive,

Defendants.

Case No. 23STCV04670

FIRST AMENDED COMPLAINT

1. Violation of Labor Code §§ 204, 510, 1194, 1198 (Failure to Pay All Wages);
2. Violation of Labor Code §§ 226.7, 512 (Failure to Provide Meal Periods);
3. Violation of Labor Code § 226.7 (Failure to Provide Rest Periods);
4. Violation of Labor Code § 226, (Failure to Keep Accurate Itemized Wage Statements);
5. Violation of Labor Code §§ 201-203 (Failure to Pay Wages Upon Termination of Employment);
6. Violation of Labor Code § 2802 (Failure to Reimburse For Necessary Expenditures);
7. Violation of Bus. & Prof. Code § 17200 et seq. (Unfair Business Practices); and
8. Violation of the Private Attorneys General Act, Labor Code sections 2698, et seq

DEMAND FOR JURY TRIAL

1 Plaintiff Elim Bazan (hereinafter referred to as “Plaintiff”) on behalf of himself and all
2 others similarly situated, and as representative of the State of California and the Labor and
3 Workforce Development Agency (“LWDA”), based upon facts that either have evidentiary
4 support or are likely to have evidentiary support after a reasonable opportunity for further
5 investigation and discovery, complains and alleges as follows:

6 **INTRODUCTION**

7 1. This is a class action brought on behalf of Plaintiff and the class he seeks to
8 represent (“Class” or “Class Members”). Class Members consist of all non-exempt, hourly-paid
9 employees currently and/or formerly employed by Casa Martin, LLC and Casa Martin
10 Promenade, LLC in the State of California during the Class Period. The term “Class Period” is
11 defined as four (4) years prior to the filing of this Complaint through the date final judgment is
12 entered. Plaintiff reserves the right to amend this Complaint to reflect a different “Class Period”
13 or “Class” as further discovery is conducted.

14 2. Plaintiff, individually and on behalf of the class he seeks to represent, seeks relief
15 against Casa Martin, LLC and Casa Martin Promenade, LLC (“Defendants”) for Defendants’
16 failure to pay all wages due in violation of Labor Code sections 204, 510 and 1194, including
17 both regular and overtime wages; failure to provide meal periods or compensation in lieu thereof
18 pursuant to Labor Code sections 226.7 and 512, the applicable Industrial Welfare Commission
19 Wage Orders, and Code of Regulations, Title 8, section 11000 et seq.; failure to provide rest
20 periods or compensation in lieu thereof pursuant to Labor Code sections 226.7 and 512, the
21 applicable Industrial Welfare Commission Wage Orders, and Code of Regulations, Title 8,
22 section 11000 et seq.; failure to provide accurate itemized wage statements upon payment of
23 wages pursuant to Labor Code sections 226, subdivision (a), 1174, and 1175 and provide notice
24 of available paid sick leave pursuant to Labor Code section 246, subdivision (i); failure to
25 reimburse for necessary expenditures pursuant to Labor Code Section 2802; and failure to pay
26 wages of terminated or resigned employees pursuant to Labor Code sections 201, 202, and 203.

1 3. Plaintiff seeks equitable remedies in the form of declaratory relief and injunctive
2 relief, and relief under Business and Professions Code section 17200 et seq. for unfair business
3 practices.

4 4. At all relevant times herein, Defendants have consistently maintained and enforced
5 against Plaintiff and Class the following unlawful practices and policies:

6 (a) willfully refusing to pay Plaintiff and Class for all hours worked, including
7 both regular and overtime;

8 (b) willfully refusing to permit Plaintiff and Class from taking meal periods or
9 compensation in lieu thereof;

10 (c) willfully refusing to permit Plaintiff and Class from taking rest periods or
11 compensation in lieu thereof;

12 (d) willfully refusing to furnish to Plaintiff and Class accurate itemized wage
13 statements upon payment of wages;

14 (e) willfully refusing to compensate Plaintiff and certain members of the Class
15 wages due and owing at the time of Plaintiff and Class Members'
16 employment with Defendants ended; and

17 (f) willfully refusing to reimburse Plaintiff and Class for necessary
18 expenditures.

19 5. On information and belief, Defendants were on actual and constructive notice of
20 the improprieties alleged herein and intentionally refused to rectify their unlawful policies.
21 Defendant's violations, as alleged above, during all relevant times herein were willful and
22 deliberate.

23 6. At all relevant times, Defendants were and are legally responsible for all of the
24 unlawful conduct, policies, practices, acts and omissions as described in each and all of the
25 foregoing paragraphs as the employer of Plaintiff and Class. Further, Defendants are
26 responsible for each of the unlawful acts or omissions complained of herein under the doctrine
27 of "respondeat superior".
28

1 7. Plaintiff further brings this action as a representative of the State of California and
2 the Labor and Workforce Development Agency (“LWDA”) to recover civil penalties pursuant to
3 the Private Attorneys General Act (“PAGA”), Labor Code sections 2698, *et seq.*, for violations
4 of numerous Labor Code provisions, including, but not limited to, sections 201-203, 204, 226,
5 226.7, 227.3, 510, 512, 1174, 1194, and 2802, as well as violations of the applicable Wage Order.

6
7 **JURISDICTION AND VENUE**

8 8. Venue is proper in this judicial district and in the County of Los Angeles,
9 California because Defendants maintained its location and/or transacted business in this county,
10 the obligations and liability arise in this county, and work was performed by members of the
11 proposed class made the subject of this action in this county.

12 9. The wages, statutory penalties, monetary damages and restitution sought by
13 Plaintiff exceed the minimal jurisdictional limits of the Superior Court and will be established
14 according to proof at trial. This Court has jurisdiction over this action pursuant to the California
15 Constitution, article VI, section 10. The statutes under which this action is brought do not specify
16 any other basis for jurisdiction.

17 10. The California Superior Court has jurisdiction in the matter because the individual
18 claims are under the seventy-five thousand dollars (\$75,000.00) jurisdictional threshold for
19 Federal Court and the five million dollars (\$5,000,000.00) aggregate jurisdictional threshold for
20 Federal Court and, upon information and belief, Plaintiff and Defendants are residents of,
21 domiciled in, or otherwise subject to jurisdiction in the State of California. Further, there is no
22 federal question at issue as the issues herein are based solely on California statutes and law
23 including the Labor Code, Industrial Welfare Commission (“IWC”) Wage Orders, the Code of
24 Civil Procedure, the Rules of Court, and the Business and Professions Code.

25 **THE PARTIES**

26 **A. Plaintiff**

27 11. Plaintiff, at all relevant times herein, was Defendants’ employee and was entitled
28 to compensation for all hours worked, including regular time and overtime compensation, and

penalties from Defendants. Plaintiff was employed by Defendants as a non-exempt, hourly paid employee during the Class Period. Specifically, Plaintiff worked as a server for Defendants from approximately April 28, 2021 to March 11, 2022 at Defendant's facility located at 1654 Ocean Avenue, Santa Monica, California 90401. Each of the Class Members are identifiable, current and/or former similarly situated persons who were employed in non-exempt hourly positions in California by Defendants during the Class Period.

B. Defendants

12. Plaintiff is informed and believes, and based thereon alleges, that Defendants are limited liability companies. Defendants are companies providing restaurant services. On information and belief, Defendants were and/or are the employer of Plaintiff and Class during the Class Period. Plaintiff also alleges that Defendants are conducting business in good standing in California.

13. Plaintiff is ignorant of the true names, capacities, relationships and extent of participation in the conduct herein alleged of the Defendants sued herein as DOES 1 through 50, inclusive, but on information and belief alleges that these Defendants are legally responsible for the payment of overtime compensation, rest and meal period compensation, and wages to Plaintiff and Class by virtue of their unlawful practices, and therefore sues these Defendants by such fictitious names. Plaintiff will amend this complaint to allege the true names and capacities of each DOE Defendants when ascertained.

14. Plaintiff is informed and believes, and based thereon alleges, that each Defendant acted in all respects pertinent to this action as the agent of the other Defendant, carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendants are legally attributable to the other Defendant. Furthermore, Defendants in all respects acted as the employer and/or joint employer of Plaintiff and Plaintiff Class.

15. Plaintiff is informed and believes, and based thereon alleges, that each Defendants acted in all respects as the agent, servant, partner, joint venture, alter-ego, employee, proxy, managing agent, and/or principal of the Defendants, and in performing the actions mentioned below was acting, at least in part, within the course and scope of that authority as such agent,

1 proxy, servant, partner, joint venture, employee, alter-ego, managing agent, and/or principal with
2 permission and consent of the Defendants. Plaintiff also alleges the acts of each Defendants are
3 legally attributable to the other Defendants.

4 16. Plaintiff is informed and believes, and based thereon alleges, that each of the
5 Defendants sued herein was, at all times relevant hereto, the employer, owner, shareholder,
6 principal, joint venture, proxy, agent, employee, supervisor, representative, manager, managing
7 agent, joint employer and/or alter-ego of the remaining Defendants, and was acting, at least in
8 part, within the course and scope of such employment and agency, with the express and implied
9 permission, consent, and knowledge, approval and/or ratification of the other Defendants.

10 17. The above Defendants, managing agents, and supervisors aided, abetted,
11 condoned, permitted, approved, authorized and/or ratified the unlawful acts described herein.

12 **ADMINISTRATIVE PREREQUISITE**

13 18. On March 2, 2023, prior to filing this complaint, Plaintiff gave written notice by
14 electronically filing the notice with the Labor Workforce Development Agency (“LWDA”)
15 (LWDA Case No. LWDA-CM939471-23), and by certified mail to Defendants of the specified
16 provisions alleged to have been violated, including the facts and theories to support the alleged
17 violations as required by Labor Code section 2699.3.

18 19. A true and correct copy of Plaintiff’s letter sent to the LWDA and Defendants
19 dated March 2, 2023, is attached hereto as “**Exhibit A**”. As of the filing of this complaint, LWDA
20 has not responded to the written notice.

21 20. Under Labor Code section 2699.3 subsection (a), a plaintiff may bring a cause
22 of action under PAGA only after giving notice to the Labor Workforce Development Agency
23 (“LWDA”) and the employer of the Labor Code sections alleged to have been violated, and
24 after receiving notice from the LWDA of its intention not to investigate, or after 65 days have
25 passed without notice.

26 21. More than sixty-five (65) days have passed without notice from the LWDA.
27 Accordingly, all administrative prerequisites to filing this action have been fulfilled.
28

GENERAL ALLEGATIONS

22. Plaintiff began his employment with Defendants on April 28, 2021 to March 11, 2022. Plaintiff was employed by Defendants as a server, where his job duties include, but are not limited to taking and serving Defendants' clients food and drink orders, arranging table settings, cleaning tables, delivering checks, collecting payments.

23. Labor Code section 1194 provides that notwithstanding any agreement to work for a lesser wage, an employee receiving less than the legal overtime compensation is entitled to recover in a civil action the unpaid balance of his or her overtime compensation, including interest thereon, reasonable attorneys' fees, and costs of suit.

24. Labor Code section 204 requires employers to provide employees with all wages due and payable twice a month. Throughout the statute of limitations period applicable to this cause of action, Plaintiff and Class were entitled to be paid twice a month at rates required by law, including minimum wages. However, during all such times, Defendants systematically failed and refused to pay Plaintiff and Class all such wages due and failed to pay all wages due twice a month.

25. Further, Business and Professions Code section 17203 provides that any person who engages in unfair competition may be enjoined in any court of competent jurisdiction. Business and Professions Code section 17204 provides that any person who has suffered actual injury and has lost money or property as a result of the unfair competition may bring an action in a court of competent jurisdiction.

26. During all, or a portion of the Class Period, Plaintiff and each member of the Class was employed by Defendants in the State of California.

27. Plaintiff and Class Members were non-exempt employees covered under one or more IWC Wage Order(s), and Labor Code section 510, and/or other applicable Wage Orders, regulations and statutes, and each Class Member was not subject to an exemption for executive, administrative or professional employees, which imposed obligations on the part of Defendants to pay Plaintiff and Class Members lawful overtime compensation.

1 28. Plaintiff and Class were covered by one or more IWC Wage Order(s), and Labor
2 Code section 226.7 and other applicable Wage Orders, regulations and statutes which imposed an
3 obligation on the part of Defendants to pay Plaintiff and Class rest and meal period compensation.

4 29. During the Class Period, Defendants were obligated to pay Plaintiff and Class
5 Members for all hours worked. However, Defendants failed to pay Plaintiff and Class
6 Members for all hours worked at the legally mandated wage rates, including all overtime
7 wages. Defendants regularly used a system of time rounding in a manner that resulted, over a
8 period of time, in failing to compensate Plaintiff and Class properly for all the time they have
9 actually worked, even though the realities of Defendants' operations are such that it is possible,
10 practical, and feasible to count and pay for work time to the minute. Accordingly, Defendants
11 frequently paid Plaintiff and Class less than all their work time. Some of this unpaid work also
12 should have been paid at the overtime rate. Throughout the Class period, Defendants also
13 maintained a policy and practice of requiring Plaintiff and Class to perform work "off-the-
14 clock". Defendants required Plaintiff and Class to arrive earlier than their scheduled shift or
15 continue working after the scheduled shift to cover the duties of another employee but refused
16 to pay for that time. Defendants also required Plaintiff and Class to clock out but continue
17 working through meal and rest periods. Plaintiff and Class were also required to use their
18 personal cellular telephones for work purposes at home after their scheduled work time to
19 communicate with Defendants. Sometimes Plaintiff and Class did not receive sufficient
20 compensation to meet the minimum wage requirements, and the overtime requirements,
21 leading to underpayment of wages to Plaintiff and Class. In maintaining a practice of not
22 paying all wages owed, Defendants failed to maintain accurate records of the hours Plaintiff
23 and Class worked.

25 30. During the Class Period, Defendants were obligated to pay Plaintiff and Class
26 Members overtime compensation for all hours worked in excess of eight (8) hours of work in one
27 (1) day or forty (40) hours in one (1) week, and double-time compensation for hours worked in
28 excess of twelve (12) in one (1) day. However, often times Plaintiff and Class Members were

required to work overtime in excess of eight (8) hours per workday and in excess of forty (40) hours per workweek, but were not paid at the proper overtime rate of pay.

31. During the Class Period, Defendants were obligated to provide Plaintiff and Class with a work-free meal period within the first five (5) hours of a shift when the workday was longer than six (6) hours. Plaintiff and Class Members were entitled to a full, thirty (30) minute, off-duty meal period when they worked in excess of six (6) hours within the first five (5) hours of their shifts. However, Plaintiff and Class Members were routinely not provided with timely, 30-minute off-duty meal periods, and were not permitted and authorized to take uninterrupted rest periods. Moreover, Defendants did not have adequate written policies or practices providing meal periods for Plaintiff and Class, nor did Defendants have adequate policies or practices regarding the timing of meal periods. Defendants did not schedule meal periods. Plaintiff and Class would often times miss their meal periods, have interrupted or short meal periods. In those occasions when Plaintiff and Class had an opportunity to take their first meal periods, Plaintiff and Class were required to receive the permission of Defendants to take meal periods and instruction as to how long meal period could be each time and when they can take their meal periods. Often times, meal periods were shorter than 30 minutes, missed or after the fifth hour of work. This is also confirmed by Plaintiff's time records showing that meal periods were either not taken or shorter than 30 minutes. Defendants also failed to accurately record meal periods. Accordingly, Defendant's policy and practice was to not provide meal periods to Plaintiff and Class in compliance with California law.

32. Additionally, Defendants were obligated to provide Plaintiff and Class Members with a ten (10) minute rest break for every four (4) hours, or major fraction thereof, worked each day. Defendants prevented Plaintiff and Class Members from taking rest breaks throughout their shifts. Plaintiff and Class Members were generally precluded from taking rest periods due to Defendants' failure to maintain the rest break policy to provide relief and thereby allow Plaintiff and Class Members the opportunity to take rest breaks. Moreover, Defendants did not have adequate policies or practices permitting or authorizing rest periods for Plaintiff and Class, nor did Defendants have adequate policies or practices regarding the timing of rest periods.

1 Defendants did not schedule rest periods. Plaintiff and Class would often times miss their first
2 and second rest periods. In those occasions when Plaintiff and Class had an opportunity to take
3 their rest periods, Plaintiff and Class were required to receive the permission of Defendants to
4 take rest periods. This is also confirmed by Plaintiff's time records showing that both first and
5 rest periods were often times missed. Further, Defendants did not maintain accurate records of
6 employee work periods, and therefore Defendants cannot demonstrate that Plaintiff and Class
7 took rest periods during the middle of each work period. Accordingly, Defendant's policy and
8 practice was to not authorize and permit Plaintiff and the Class to take rest periods in compliance
9 with California law.

10 33. Further, due to the pressure from Defendants and failure to maintain an adequate
11 policy, and in violation of Labor Code and applicable IWC Wage Orders, Plaintiff was not
12 authorized and permitted to take a second rest period, on shifts exceeding six hours of work,
13 and/or third rest breaks, on shifts exceeding ten hours of work. *Brinker Restaurant Corp. v.*
14 *Superior Court*, 53 Cal.4th 1004, 1030 (2012). "Employees are entitled to 10 minutes rest for
15 shifts from three and one-half to six hours in length, 20 minutes for shifts of more than six hours
16 up to 10 hours, 30 minutes for shifts of more than 10 hours up to 14 hours, and so on."

17 34. Furthermore, Defendants failed and/or refused to pay Plaintiff and Class Members
18 one (1) hour's pay at the employees' regular rate of pay as premium compensation for
19 Defendants' failure to provide lawful thirty (30) minute, off-duty meal periods and failure to
20 provide lawful ten (10) minute rest periods within the statutory time frames.

21 35. Defendants also failed to indemnify Plaintiff and Class Members all necessary
22 expenditures incurred in direct discharge of their duties. During the course of employment,
23 Plaintiff and Class Members were required to incur various business expenses at their own cost,
24 including, but not limited to purchasing and maintaining the uniforms, i.e. an apron and a shirt
25 with logo. Further, Plaintiff and Class were required to use their cellular telephones for work
26 purposes to receive text messages or calls regarding their schedule change or assignments.
27 Defendants failed to provide any reimbursement to Plaintiff and Class Members for the cost of
28 the uniforms and cell phone usage.

1 36. Defendants continue to employ non-exempt, hourly-paid employees within
2 California.

3 37. Plaintiff and Class Members primarily performed non-exempt work, often in
4 excess of the maximum regular rate hours set forth in the applicable IWC Wage Order(s),
5 regulations or statutes, and therefore entitled the Plaintiff and Class Members to overtime
6 compensation at the rate of one and a half times their regular rate of pay and, when applicable,
7 double time compensation as set forth by the applicable IWC Wage Order(s), regulations and/or
8 statutes.

9 38. During the Class Period, Defendants required Plaintiff and Class Members to work
10 regular hours, off the clock hours, and overtime hours without lawful compensation in violation
11 of the applicable IWC Wage Order(s), regulations and statutes, and Defendants: (1) willfully
12 failed and refused, and continue to fail and refuse to pay compensation for all hours worked,
13 including lawful regular time and overtime compensation, to Class Members; and (2) willfully
14 failed and refused, and continue to fail and refuse to pay due and owing wages promptly upon
15 termination of employment to Plaintiff and affected Class Members.

16 39. Class Members who ended their employment with Defendants during the Class
17 Period but were not paid the above due compensation for all hours worked timely upon the
18 termination of their employment as required by Labor Code sections 201, 202, and 203 are
19 entitled to penalties as provided by Labor Code section 203.

20 40. During the Class Period, Defendants failed to furnish Plaintiff and Class with
21 accurate, itemized wage statements showing all applicable hourly rates, and all gross and net
22 wages earned (including correct hours worked, correct wages earned for hours worked, correct
23 overtime hours worked, correct wages for meal periods that were not provided in accordance
24 with California law, correct wages for rest periods that were not authorized and permitted to
25 take in accordance with California law). During the Class period, Defendants also maintained
26 a policy and practice of failing to provide written notice of accrued paid sick leave in violation
27
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1 of Labor Code section 246 (i). As a result of these violations of California Labor Code §
2 226(a), Plaintiff and Class suffered injury because, among other things:

- 3 (a) the violations led them to believe that they were not entitled to be paid
4 minimum wages, overtime wages, meal period premium wages, and rest
5 period premium wages to which they were entitled, even though they were
6 entitled;
- 7 (b) the violations led them to believe that they had been paid the minimum,
8 overtime, meal period premium, and rest period premium wages, even
9 though they had not been;
- 10 (c) the violations led them to believe they were not entitled to be paid overtime,
11 meal period premium, and rest period premium wages at the correct
12 California rate even though they were;
- 13 (d) the violations led them to believe they had been paid overtime, meal period
14 premium, and rest period premium wages at the correct California rate even
15 though they had not been;
- 16 (e) the violations hindered them from determining the amounts of overtime,
17 meal period premium, and rest period premium owed to them;
- 18 (f) in connection with their employment before and during this action, and in
19 connection with prosecuting this action, the violations caused them to have
20 to perform mathematical computations to determine the amounts of wages
21 owed to them, computations they would not have to make if the wage
22 statements contained the required accurate information;
- 23 (g) by understating the wages truly due them, the violations caused them to lose
24 entitlement and/or accrual of the full amount of Social Security, disability,
25 unemployment, and other governmental benefits;
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27
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1 (h) the wage statements inaccurately understated the wages, hours, and wages
2 rates to which Plaintiff and Class were entitled, and Plaintiff and Class were
3 paid less than the wages and wage rates to which they were entitled.

4 Thus, Plaintiff and Class are owed the amounts provided for in California Labor Code §
5 226(e), including actual damages.

6 41. Defendants knew or should have known that Plaintiff and Class members were
7 entitled to receive accurate wage statements, which would include meal break premiums, and/or
8 rest break premiums, as required by Labor Code 226.

9 42. Defendants knew or should have known that Plaintiff and Class Members were
10 entitled to timely payment of all wages earned upon termination. Plaintiff and Class Members did
11 not receive payment of all wages, including but not limited to, meal and rest break premiums, in
12 violation of the Labor Code.

13 **CLASS ALLEGATIONS**

14 43. Plaintiff brings this action on behalf of herself and all other similarly situated
15 persons as a class action pursuant to Code of Civil Procedure section 382. The Class is composed
16 of and defined as follows:

17 (a) All persons who are employed or have been employed by Defendants in the
18 State of California, and who, within the four (4) years of the filing of this
19 Complaint to the present, have worked as non-exempt employees and were not
20 paid all wages owed, including but not limited to the legally requisite regular
21 time rate, overtime rate and/or double-time rate as specifically described
22 herein;

23 (b) All persons who are employed or have been employed by Defendants in the
24 State of California, and who, within the four (4) years of the filing of this
25 Complaint to the present, have worked as non-exempt employees and have not
26 been provided a meal period for shifts in excess of five (5) hours within the
27 first five (5) hours such shifts, and were not provided one (1) hour's pay for
28 each day during which a lawful meal period was not provided;

- 1 (c) All persons who are employed or have been employed by Defendants in the
2 State of California, and who, within the four (4) years of the filing of this
3 Complaint to the present, have worked as non-exempt employees and have not
4 been provided a rest period for every four (4) hours, or major fraction thereof,
5 worked per day, and were not provided compensation of one (1) hour's pay for
6 each day on which such rest period(s) was not provided;
- 7 (d) All persons who are employed or have been employed by Defendants in the
8 State of California, and who, within the four (4) years of the filing of this
9 Complaint to the present, have worked as non-exempt employees and have not
10 been reimbursed expenditures in discharge of their duties;
- 11 (e) All persons who are employed or have been employed by Defendants in the
12 State of California, and who, within the three (3) years of the filing of this
13 Complaint to the present, have worked as non-exempt employees and have
14 been terminated or resigned, and have not been paid wages pursuant to Labor
15 Code section 203 and are owed restitution and waiting time penalties for
16 unpaid wages;
- 17 (f) All persons who are employed or have been employed by Defendants in the
18 State of California, and who, within the one (1) year of the filing of this
19 Complaint to the present have worked as non-exempt employees and were not
20 provided an accurate payroll record or wage statement as required under Labor
21 Code sections 226 and 1174;
- 22 (g) All persons who are employed or have been employed by Defendants in the
23 State of California, and who, within the four (4) years of the filing of this
24 Complaint to the present, have worked as non-exempt employees and were
25 subjected to unlawful and unfair business practices within the meaning of
26 California's Unfair Competition Law and who suffered injury, including lost
27 money, as a result of Defendants' unlawful and unfair business practices.
28

1 44. Throughout discovery in this litigation, Plaintiff may find it appropriate and/or
2 necessary to amend the definition of the Class. Plaintiff will formally define and designate a class
3 definition at such time when Plaintiff seeks to certify the Class alleged in this Complaint.

4 45. This action has been brought and may be maintained as a class action pursuant to
5 Code of Civil Procedure section 382 because there is a well-defined common interest of many
6 persons and it is impractical to bring them all before the court.

7 46. The Court should permit this action to be maintained as a class action pursuant to
8 Code of Civil Procedure section 382 because:

- 9 (a) The questions of law and fact common to the Plaintiff Class predominate
10 over any question affecting only individual class members;
- 11 (b) A class action is superior to any other available method for the fair and
12 efficient adjudication of the claims of the Class members;
- 13 (c) The Plaintiff Class is so numerous that it is impractical to bring all
14 members of the Plaintiff Class before the Court;
- 15 (d) Plaintiff and Class Members will not be able to obtain effective and
16 economic legal redress unless the action is maintained as a class action;
- 17 (e) There is a community of interest in obtaining appropriate legal and
18 equitable relief for the common law and statutory violations and other
19 improprieties and in obtaining adequate compensation for the damages
20 and injuries which Defendants' actions have inflicted upon the Plaintiff
21 Class;
- 22 (f) There is a community of interest in ensuring that the combined assets and
23 available insurance of the Defendants are sufficient to adequately
24 compensate Class Members for the injuries sustained;
- 25 (g) Without class certification, the prosecution of separate actions by
26 individual members of the Class would create a risk of:

- 1 (1) Inconsistent or varying adjudications with respect to individual
2 members of the Class which would establish an incompatible
3 standard of conduct for Defendants; and/or
4 (2) Adjudications with respect to the individual members which
5 would, as a practical matter, be dispositive of the interests of other
6 members not parties to the adjudications, or would substantially
7 impair or impede their ability to protect their interests, including
8 but not limited to the potential for exhausting the funds available
9 from those parties who are, or may be, responsible Defendants; and
10 (h) Defendants have acted or refused to act on grounds generally applicable
11 to Class, thereby making final injunctive relief appropriate with respect to
12 Class as a whole.

13 47. There is a well-defined community of interest in the litigation and Class is
14 readily ascertainable:

- 15 (a) Numerosity: The members of Class (and each subclass, if any) are so
16 numerous that joinder of all members would be unfeasible and impractical.
17 The membership of the entire Class is unknown to Plaintiff at this time,
18 however, the Class is estimated to be greater than 100 individuals and the
19 identity of such membership is readily ascertainable by inspection of
20 Defendants' records.
21 (b) Typicality: Plaintiff is qualified to, and will, fairly and adequately protect the
22 interests of each Class Member with whom there is a shared, well-defined
23 community of interest, and Plaintiff's claims (or defenses, if any) are typical
24 of all Class Members' claims as demonstrated herein.
25 (c) Adequacy: Plaintiff is qualified to, and will, fairly and adequately protect
26 the interests of each Class Member with whom there is a shared, well-
27 defined community of interest and typicality of claims, as demonstrated
28

1 herein. Plaintiff has no conflicts with or interests antagonistic to any Class
2 Member. Plaintiff's attorneys, the proposed class counsel, are versed in the
3 rules governing class action discovery, certification, and settlement.

4 Plaintiff has incurred, and throughout the duration of this action, will
5 continue to incur costs and attorneys' fees that have been, are, and will be
6 necessarily expended for the prosecution of this action for the substantial
7 benefit of each class member.

8 (d) Superiority: A Class Action is superior to other available methods for the
9 fair and efficient adjudication of the controversy, including consideration of:

- 10 1. The interests of the members of the Class in individually
11 controlling the prosecution or defense of separate actions;
- 12 2. The extent and nature of any litigation concerning the
13 controversy already commenced by or against members of the
14 Class;
- 15 3. The desirability or undesirability of concentrating the
16 litigation of the claims in the particular forum; and
- 17 4. The difficulties likely to be encountered in the management of
18 a class action.
19

20 (e) Public Policy Considerations: The public policy of the State of California is
21 to resolve the California Labor Code claims of many employees through a
22 class action. Indeed, current employees are often afraid to assert their rights
23 out of fear of direct or indirect retaliation. Former employees are also
24 fearful of bringing actions because they believe their former employers
25 might damage their future endeavors through negative references and/or
26 other means. Class actions provide the class members who are not named in
27 the complaint with a type of anonymity that allows for the vindication of
28

1 their rights at the same time as their privacy is protected.

2 48. Plaintiff contemplates the eventual issuance of notice to the proposed members of
3 the Class that would set forth the subject and nature of the instant action. The Defendants' own
4 business records may be utilized for assistance in the preparation and issuance of the
5 contemplated notices. To the extent that any further notices may be required, Plaintiff would
6 contemplate the use of additional techniques and forms commonly used in class actions, such as
7 published notice, e-mail notice, website notice, first-class mail, or combinations thereof, or by
8 other methods suitable to Class and deemed necessary and/or appropriate by the Court.

9 **FIRST CAUSE OF ACTION**

10 **Failure to Pay All Wages for All Hours Worked**

11 **(Against Defendants, DOES 1 through 50, and each of them)**

12 49. Plaintiff and Class Members reallege and incorporate by reference all preceding
13 paragraphs of this complaint as though fully set forth herein.

14 50. Labor Code section 510, subdivision (a) states in pertinent part: "Any work in
15 excess of eight hours in one workday and any work in excess of 40 hours in any one workweek...
16 shall be compensated at the rate of no less than one and one-half times the regular rate of pay for
17 any employee."

18 51. Labor Code section 1194, subdivision (a) states: "Notwithstanding any agreement
19 to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal
20 overtime compensation applicable to the employee is entitled to recover in a civil action the
21 unpaid balance of the full amount of this minimum wage or overtime compensation, including
22 interest thereon, reasonable attorney's fees, and costs of suit."

23 52. Further, pursuant to Labor Code section 1197, payment of less than the minimum
24 wage fixed by the Labor Commission is unlawful.

25 53. Pursuant to Labor Code section 1198, it is unlawful to employ persons for longer
26 than the hours set by the Industrial Welfare Commission or under conditions prohibited by the
27 IWC Wage Order(s).

1 54. Pursuant to the IWC Wage Order(s), Defendants are required to pay Plaintiff and
2 Class Members for all hours worked, meaning the time during which an employee is subject to
3 the control of an employer, including all the time the employee is suffered or permitted to work,
4 whether or not required to do so.

5 55. During the Class Period, Defendants were obligated to pay Plaintiff and Class
6 Members for all hours worked. However, Defendants failed to pay Plaintiff and Class Members
7 for all hours worked at the legally mandated wage rates. Defendants regularly used a system of
8 time rounding in a manner that resulted, over a period of time, in failing to compensate Plaintiff
9 and Class properly for all the time they have actually worked, even though the realities of
10 Defendants' operations are such that it is possible, practical, and feasible to count and pay for
11 work time to the minute. Accordingly, Defendants frequently paid Plaintiff and Class less than
12 all their work time. Some of this unpaid work also should have been paid at the overtime rate.
13 Throughout the Class period, Defendants also maintained a policy and practice of requiring
14 Plaintiff and Class to perform work "off-the-clock". Defendants required Plaintiff and Class to
15 arrive earlier than their scheduled shift or continue working after the scheduled shift to cover the
16 duties of another employee but refused to pay for that time. Defendants also required Plaintiff
17 and Class to clock out but continue working through meal and rest periods. Plaintiff and Class
18 were also required to use their personal cellular telephones for work purposes at home after their
19 scheduled work time to communicate with Defendants.

20 56. Plaintiff and Class Members were required to work overtime in excess of eight (8)
21 hours per workday and in excess of forty (40) hours per workweek, but were not paid at the proper
22 overtime rate of pay.

23 57. Labor Code section 204 requires employers to provide employees with all wages
24 due and payable twice a month. Throughout the statute of limitations period applicable to this
25 cause of action, Plaintiff and Class were entitled to be paid twice a month at rates required by
26 law, including minimum wages. However, during all such times, Defendants systematically
27 failed and refused to pay Plaintiff and Class all such wages due and failed to pay those wages
28 twice a month.

1 58. Defendant's pattern, practice and uniform administration of corporate policy
2 regarding illegal employee compensation as described herein is unlawful and creates an
3 entitlement, pursuant to Labor Code section 218, to recovery by Plaintiff and the members of the
4 Class, in a civil action, of the unpaid balance of the full amount of wages owing, calculated at the
5 appropriate rate.

6 59. Pursuant to Labor Code section 1194.2(a) (which provides that in any action under
7 Labor Code § 1194, an employee shall be entitled to recover liquidated damages), the members
8 of the Plaintiff Class seek recovery of liquidated damages on the straight-time portion of
9 uncompensated hours of work (not including the overtime portion thereof) in an amount equal to
10 the wages unlawfully unpaid and interest thereon.

11 60. That calculation of individual damages for Class Members may at some point be
12 required does not foreclose the possibility of taking common evidence on questions regarding
13 their entitlement to overtime compensation. *Collins v. Rocha* (1972) 7 Cal.3d 232; *Hypolite v.*
14 *Carleson* (1975) 52 Cal.App.3d 566; *Employment Development Dept. v. Superior Court* (1981)
15 30 Cal.3d 256).

16 61. Pursuant to Labor Code sections 218.6 and 1194(a) and Civil Code section 3287,
17 Class Members seek recovery of pre-judgment interest on all amounts recovered herein.

18 62. Pursuant to Labor Code sections 218.5 and/or 1194, Class Members request that
19 the Court award reasonable attorneys' fees and costs incurred by them in this action.

20 **SECOND CAUSE OF ACTION**

21 **Failure to Provide Meal Periods or Compensation in Lieu Thereof**

22 **(Against Defendants, DOES 1 through 50, and each of them)**

23 63. Plaintiff and Class Members reallege and incorporate by reference all preceding
24 paragraphs of this complaint as though fully set forth herein.

25 64. Labor Code sections 226.7 and 512 provide that no employer shall employ any
26 person for a work period of more than five (5) hours without providing a meal period of not less
27 than thirty (30) minutes within the fifth (5th) hour of work, or employ any person for a work
28

1 period of more than ten (10) hours without a second (2nd) meal period of not less than thirty (30)
2 minutes.

3 65. Labor Code section 226.7 provides that if an employer fails to provide an
4 employee a meal period in accordance with this section, the employer shall pay the employee one
5 (1) hour of pay at the employee's regular rate of compensation for each workday that the meal
6 period is not provided in accordance with this section.

7 66. Defendants failed to schedule Plaintiff and Class Members in a manner as to
8 reasonably ensure that Plaintiff and Class Members could take such meal periods within the
9 statutory timeframe. As a result, Plaintiff and Class were often forced to forego their meal
10 periods, work during their meal periods and/or take meal periods after the fifth (5th) hour of their
11 shifts. In so doing, Defendants have intentionally and improperly denied meal periods to Plaintiff
12 and Class Members in violation of Labor Code sections 226.7 and 512, and other regulations and
13 statutes.

14 67. At all times relevant hereto, Plaintiff and Class have worked more than five (5)
15 hours in a workday.

16 68. At all times relevant hereto, Defendants failed to schedule Plaintiff and Class
17 Members in a manner so as to reasonably provide work-free meal periods in accordance with
18 Labor Code sections 226.7 and 512.

19 69. By virtue of Defendants' failure to schedule Plaintiff and Class Members in such
20 a way as to provide a timely and/or work free meal period to Plaintiff and Class Members, Plaintiff
21 and Class Members have suffered, and will continue to suffer, damages in an amount which is
22 presently unknown, but which exceed the jurisdictional limits of this Court and which will be
23 ascertained according to proof at trial.

24 70. Plaintiff, individually and on behalf of Class Members, requests recovery of meal
25 period compensation pursuant to Labor Code section 226.7 for the four (4) years prior to filing
26 this complaint, as well as the assessment of any statutory penalties against Defendants in a sum
27 as provided by the Labor Code and/or other statutes.

28 ///

Failure to Provide Rest Periods or Compensation in Lieu Thereof
(Against Defendants, DOES 1 through 50, and each of them)

78. Plaintiff, individually and on behalf of employees similarly situated, requests recovery of rest period compensation pursuant to Labor Code section 226.7 for the four (4) years

1 prior to filing this Complaint, as well as the assessment of any statutory penalties against
2 Defendants, and each of them, in a sum as provided by the Labor Code and/or any other statute.

3 **FOURTH CAUSE OF ACTION**

4 **Failure to Provide Accurate Itemized Wage Statements**
5 **(Against Defendants, DOES 1 through 50, and each of them)**

6 79. Plaintiff and Class reallege and incorporate by reference all preceding paragraphs
7 of this complaint as though fully set forth herein.

8 80. Labor Code section 1174, subdivision (d) requires an employer to keep at a central
9 location in California, or at the plant or establishment at which the employee is employed, payroll
10 records showing the hours worked daily by, and the wages paid to, each employee.

11 81. Labor Code section 226, subdivision (a) requires an employer to provide
12 employees—either as a detachable part of the check, draft, or voucher paying the employee’s
13 wages, or separately when wages are paid by personal check or cash—an accurate itemized wage
14 statement in writing showing

15 (1) gross wages earned, (2) total hours worked by the employee . . . , (4) all
16 deductions . . . , (5) net wages, (6) the inclusive dates of the period for which
17 the employee is paid, (7) the name of the employee and only the last four
18 digits of his or her social security number or an employee identification
19 number other than a social security number, (8) the name and address of the
20 legal entity that is the employer . . . , and (9) all applicable hourly rates in
21 effect during the pay period and corresponding number of hours worked at
22 each hourly rate by the employee

23 82. Moreover, the IWC Wage Orders require that every employer shall keep accurate
24 information with respect to each employee, including time records showing when each employee
25 begins and ends each work period, the total daily hours worked by each employee and the total
26 hours worked in each payroll period, and applicable rates of pay.

27 83. Labor Code section 246, subdivision (i) requires employers to provide an
28 employee with written notice that sets forth the amount of paid sick leave available. During the

1 Class period, Defendants maintained a policy and practice of failing to provide written notice of
2 accrued paid sick leave. This is confirmed by Plaintiff's wage statements which fail to provide
3 any information on accrued sick leave. Specifically, Plaintiff believes that Defendants' records
4 do not reflect any notice to Class regarding accrued and available sick leave.

5 84. Plaintiff is informed and believes that Defendants willfully and intentionally
6 failed to make and/or keep records which accurately reflect the hours worked by Plaintiff and
7 Class. Specifically, Plaintiff believes that Defendants' records do not accurately reflect when
8 Plaintiff and Class worked during their meal and rest periods and/or took untimely meal periods,
9 or worked for hours not paid. Defendants also failed to include an hourly rate which is a blatant
10 violation of the Labor Code.

11 85. Labor Code section 226, subdivision (e) provides that if an employer knowingly
12 and intentionally fails to provide a statement itemizing, inter alia, the gross and net wages earned,
13 the total hours worked by the employee and the applicable hourly overtime rates, causing the
14 employee injury, then the employee is entitled to recover the greater of all actual damages or
15 fifty dollars (\$50.00) for the initial violation and one hundred dollars (\$100.00) for each
16 subsequent violation, up to four thousand dollars (\$4,000.00). Plaintiff is informed and believes
17 that Defendants willfully failed to make or keep accurate records for Plaintiff and Class.

18 86. Plaintiff is informed and believes that Defendants' failure to keep accurate payroll
19 records, as described above, violated Labor Code section 1174, subdivision (d) and section 226,
20 subdivision (a), and the applicable IWC Wage Order(s). Pursuant to Labor Code section 2699,
21 subdivision (f)(2), Plaintiff and Class are entitled to penalties of \$100.00 and for the initial
22 violation and \$200.00 for each subsequent violation for every pay period during which these
23 records and information were not kept by Defendants.

24 87. Plaintiff is informed and believes that Defendants' failure to keep and maintain
25 accurate records and information, as described above, was willful, and Plaintiff and Class are
26 entitled to statutory penalties pursuant to Labor Code section 1174.5.

27 ///

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1 **FIFTH CAUSE OF ACTION**

2 **Failure to Pay Wages upon Termination of Employment**

3 **(Against Defendants, DOES 1 through 50, and each of them)**

4 88. Plaintiff and Class reallege and incorporate by reference all preceding paragraphs
5 of this complaint as though fully set forth herein.

6 89. Plaintiff's employment with Defendants ended on or about March 11, 2022.
7 Plaintiff and certain Class who ended their employment with Defendants during the Class Period,
8 were entitled to be promptly paid for all hours worked, including lawful regular time
9 compensation, overtime compensation, double-time compensation, and other premiums, as
10 required by Labor Code sections 201 through 203. Plaintiff is also entitled to meal period and
11 rest period premium pay in accordance with Labor Code sections 226 and 226.7.

12 90. Plaintiff and Class were not compensated for their unlawful and/or missed meal
13 periods and/or rest periods, and were not paid proper regular time compensation, overtime
14 compensation or double-time compensation in accordance with law as a result of Defendants'
15 illegal rounding practice.

16 91. To date, Plaintiff and Class Members who ended their employment with
17 Defendants during the Class Period have not been compensated for all hours worked.

18 92. Plaintiff and the affected Class Members seek the payment of penalties pursuant
19 to Labor Code section 203, according to proof.

20 93. Plaintiff is also entitled to attorneys' fees and costs, pursuant to Labor Code section
21 1194, and prejudgment interest.

22 **SIXTH CAUSE OF ACTION**

23 **Failure to Reimburse for Necessary Business Expenditures**

24 **(Against Defendants, DOES 1 through 50, and each of them)**

25 94. Plaintiff and Class reallege and incorporate by reference all the above paragraphs
26 of this complaint as if fully alleged herein.

27 95. California Labor Code §2802, states "An employer shall indemnify his or her
28 employee for all necessary expenditures or losses incurred by the employee in direct consequence

of the discharge of his or her duties."

96. Plaintiff and Class were not reimbursed by Defendants for necessary expenditures as a direct consequence of the discharge of their duties. Specifically, Plaintiff and Class Members were required to incur various business expenses at their own cost, including, but not limited to purchasing and maintaining the uniforms, i.e. an apron and a shirt with logo as well as using their own cell phones for work. Defendants failed to provide any reimbursement to Plaintiff and Class Members for the purchase of uniforms and the cost of using their personal cell phones.

97. Defendants knowingly, willingly and intentionally attempted to offset the cost of doing business on the Plaintiff and Class.

98. Defendants had a corporate practice and policy of requiring Plaintiff and Class to shoulder the burden of Defendants' cost of doing business by failing to reimburse Plaintiff and Plaintiff Class for necessary expenditures, specifically requiring Plaintiff and Class to use their personal cell phones.

99. Accordingly, Plaintiff and Class are entitled to an award of "necessary expenditures or losses" shall include all reasonable costs, including, but not limited to, attorney's fees and interest.

SEVENTH CAUSE OF ACTION

Unfair Business Practices

(Against Defendants, DOES 1 through 50, and each of them)

100. Plaintiff and Class reallege and incorporate by reference all preceding paragraphs of this complaint as though fully set forth herein.

101. Business and Professions Code section 17200 et seq. (also referred to herein as the "Unfair Business Practices Act" or "Unfair Competition Law") prohibits unfair competition in the form of any unlawful, unfair or fraudulent business act or practice.

102. Business and Professions Code section 17204 allows "a person who has suffered injury in fact and has lost money or property as a result of the unfair competition" to prosecute a civil action for violation of the Unfair Competition Law ("UCL").

103. Labor Code section 90.5, subdivision (a) states that it is the public policy of

1 California to vigorously enforce minimum labor standards in order to ensure employees are not
2 required to work under substandard and unlawful conditions, and to protect employers who
3 comply with the law from those who attempt to gain competitive advantage at the expense of their
4 workers by failing to comply with minimum labor standards.

5 104. Beginning at an exact date unknown to Plaintiff, but at least since the date four (4)
6 years prior to the filing of this lawsuit, Defendants have committed acts of unfair competition as
7 defined by the Unfair Business Practices Act, by engaging in the unlawful, unfair and fraudulent
8 business practices and acts described in this Complaint including but not limited to violations of
9 Labor Code sections 201-204, 226, 226.7, 246, 510, 512, 1174, 1197, 1198 and 2802 as well as
10 other statutes.

11 105. The violations of these laws and regulations, as well as of the fundamental
12 California public policies protecting workers, serve as unlawful predicate acts and practices for
13 purposes of Business and Professions Code section 17200 et seq.

14 106. The acts and practices described above constitute unfair, unlawful and fraudulent
15 business practices, and unfair competition, within the meaning of Business and Professions Code
16 section 17200 et seq. Among other things, the acts and practices have forced Plaintiff and other
17 similarly situated employees to labor for many consecutive hours without receiving the meal and
18 rest periods and overtime compensation to which they are entitled by law, while enabling
19 Defendants to gain an unfair competitive advantage over law-abiding employers and competitors.

20 107. As a result of Defendants' acts, Plaintiff and Class Members have suffered injury
21 in fact in being denied their statutorily entitled meal and rest periods and full compensation for
22 hours worked.

23 108. As a direct and proximate result of the aforementioned acts and practices, Plaintiff
24 and Class have suffered lost wages in an amount to be proven at trial.

25 109. Business and Professions Code section 17203 provides that a court may make such
26 orders or judgments as may be necessary to prevent the use or employment by any person of any
27 practice which constitutes unfair competition. Injunctive relief is necessary and appropriate to
28 prevent Defendants from repeating its unlawful, unfair and fraudulent business acts and business

1 practices alleged above.

2 110. Business and Professions Code section 17203 provides that the Court may restore
3 to any person in interest any money or property that may have been acquired by means of such
4 unfair competition. Plaintiff and Class are entitled to restitution pursuant to Business and
5 Professions Code section 17203 for all wages and payments unlawfully withheld from employees,
6 including the fair value of the meal and rest periods taken away from them during the four-year
7 period prior to the filing of this Complaint, as well as for all expenses or losses incurred by
8 Plaintiff and Class in direct consequence of the discharge of his or her duties, or of his or her
9 obedience to the directions of the employer.

10 111. Business and Professions Code section 17202 provides, “Notwithstanding section
11 3369 of the Civil Code, specific or preventative relief may be granted to enforce a penalty,
12 forfeiture, or penal law in a case of unfair competition.” Plaintiff and Class are entitled to enforce
13 all applicable penalty provisions of the Labor Code pursuant to Business and Professions Code
14 section 17202.

15 112. Plaintiff’s success in this action will enforce important rights affecting public
16 interest, and in that regard, Plaintiff sues on behalf of the general public, as well as himself and
17 other similarly situated employees. Plaintiff and Class seek and are entitled to restitution, civil
18 penalties, declaratory and injunctive relief, and all other equitable remedies owing them.

19 113. Plaintiff herein takes upon himself enforcement of these laws and lawful claims.
20 There is a financial burden involved in pursuing this action. The action is seeking to vindicate a
21 public right, and it would be against the interests of justice to penalize Plaintiff by forcing him to
22 pay attorneys’ fees from the recovery in this action. Attorneys’ fees are appropriate pursuant to
23 Code of Civil Procedure section 1021.5 and otherwise.

24 **EIGHTH CAUSE OF ACTION**

25 **Violation of California Private Attorneys General Act of 2004, Labor Code §§ 2698 *et seq.***
26 **(Against Defendants, DOES 1 through 50, and each of them)**

27 114. Plaintiff re-alleges and incorporates by reference all preceding paragraphs herein,
28 as if fully alleged herein.

115. Plaintiff seeks recovery of penalties under the Labor Code Private Attorney General Act of 2004 (“PAGA.”) (Labor Code sections 2698 et seq.)

116. PAGA permits an “aggrieved employee” to recover penalties on behalf of himself/herself and other employees subject to violations of the Labor Code, including violations of sections 201-204, 226, 226.7, 227.3, 510, 512, 1174, 1194, and 2802, as well as the applicable Wage Order.

117. Plaintiff is informed and believes Defendants at all relevant times employed one or more employees.

118. For those code sections that provide for the recovery of civil penalties, Plaintiff will seek on behalf of all aggrieved employees those penalties. For those sections of the Labor Code that do not specifically provide for civil penalties, Plaintiff will seek civil penalties of one hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent violation pursuant to Labor Code section 2699, subdivision (f). The “initial violation” occurs during the first pay period following notice of such violations served on Defendant through the letter to the LWDA.

119. Section 2699, subdivision (a) provides that civil penalties may be “recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees.” (Code Civ. Proc., § 2699, subd. (a).) Section 2699, subdivision (g), provides that an employee who prevails in a civil action under section 2699 shall be entitled to an award of reasonable attorneys’ fees and costs.

120. The State of California, Plaintiff and aggrieved employees are, therefore, entitled to civil penalties, attorneys' fees and costs, according to proof.

PRAYER FOR RELIEF

Plaintiff, individually, and on behalf of all others similarly situated only with respect to the class claims, prays for relief and judgment against Defendants, jointly and severally, as follows:

1 Class Certification

2 1. That this action be certified as a class action with respect to the First, Second,
3 Third, Fourth, Fifth, Sixth and Seventh Causes of Action;

4 2. That Plaintiff be appointed as the representative of the Class; and

5 3. That counsel for Plaintiff be appointed as Class Counsel.

6 As to the First Cause of Action

7 4. That the Court declare, adjudge and decree that Defendants violated California
8 Labor Code §§ 204, 510, 1194, 1198 and applicable IWC Wage Orders by willfully failing
9 to pay all minimum wages due;

10 5. For general unpaid wages as may be appropriate;

11 6. For pre-judgment interest on any unpaid compensation commencing from the
12 date such amounts were due;

13 7. For liquidated damages;

14 8. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to
15 California Labor Code § 1194(a); and,

16 9. For such other and further relief as the Court may deem equitable and
17 appropriate.

18 As to the Second Cause of Action

19 10. That the Court declare, adjudge and decree that Defendants violated California
20 Labor Code §§ 226.7 and 512, and the IWC Wage Orders;

21 11. For unpaid meal period premium wages as may be appropriate;

22 12. For pre-judgment interest on any unpaid compensation commencing from the
23 date such amounts were due;

24 13. For reasonable attorneys' fees under California Code of Civil Procedure §
25 1021.5, and for costs of suit incurred herein; and

26 14. For such other and further relief as the Court may deem equitable and
27
28

1 appropriate.

2 As to the Third Cause of Action

3 15. That the Court declare, adjudge and decree that Defendants violated California
4 Labor Code §§ 226.7 and 512, and the IWC Wage Orders;

5 16. For unpaid rest period premium wages as may be appropriate;

6 17. For pre-judgment interest on any unpaid compensation commencing from the
7 date such amounts were due;

8 18. For reasonable attorneys' fees under California Code of Civil Procedure §
9 1021.5, and for costs of suit incurred herein; and

10 19. For such other and further relief as the Court may deem equitable and
11 appropriate.
12

13 As to the Fourth Cause of Action

14 20. That the Court declare, adjudge and decree that Defendants violated the record
15 keeping provisions of California Labor Code § 226(a). Labor Code § 246 (i) and applicable
16 IWC Wage Orders, and willfully failed to provide accurate itemized wage statements
17 thereto;

18 21. For penalties and actual damages pursuant to California Labor Code § 226(e);

19 22. For injunctive relief to ensure compliance with this section, pursuant to
20 California Labor Code § 226(h);

21 23. For reasonable attorneys' fees and for costs of suit incurred herein; and

22 24. For such other and further relief as the Court may deem equitable and
23 appropriate.
24

25 As to the Fifth Cause of Action

26 25. That the Court declare, adjudge and decree that Defendants violated Labor Code
27 § 2802 and the IWC Wage Orders;
28

1 26. For general unpaid wages and reimbursement of business expenses as may be
2 appropriate;

3 27. For pre-judgment interest on any unpaid compensation commencing from the
4 date such amounts were due;

5 28. For reasonable attorneys' fees and for costs of suit incurred herein; and

6 29. For such other and further relief as the Court may deem equitable and
7 appropriate.

8 As to the Sixth Cause of Action

9 30. That the Court declare, adjudge and decree that Defendants violated California
10 Labor Code §§ 201, 202, and 203 by willfully failing to pay all compensation owed at the
11 time of termination of the employment;

12 31. For statutory wage penalties pursuant to California Labor Code § 203 for former
13 employees who have left Defendants' employ;

14 32. For pre-judgment interest on any unpaid wages from the date such amounts were
15 due;

16 33. For reasonable attorneys' fees and for costs of suit incurred herein; and

17 34. For such other and further relief as the Court may deem equitable and
18 appropriate.
19

20 As to the Seventh Cause of Action

21 35. That the Court declare, adjudge and decree that Defendants violated California
22 Business & Professions Code §§ 17200, *et seq.* by failing to pay wages for all hours worked
23 (including minimum and overtime wages), failing to provide meal periods, failing to
24 maintain accurate records of meal periods, failing to authorize and permit rest periods, and
25 failing to maintain accurate records of all hours worked and meal periods, failing to furnish
26 accurate wage statements, and failing to indemnify necessary business expenses;
27
28

1 36. For restitution of unpaid wages to Plaintiff and all Class Members and
2 prejudgment interest from the day such amounts were due and payable;

3 37. For the appointment of a receiver to receive, manage and distribute any and all
4 funds disgorged from Defendants and determined to have been wrongfully acquired by
5 Defendants as a result of violations of California Business & Professions Code §§ 17200 *et*
6 *seq.*;

7 38. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
8 California Code of Civil Procedure § 1021.5;

9 39. For injunctive relief to ensure compliance with this section, pursuant to
10 California Business & Professions Code §§ 17200, *et seq.*; and,

11 40. For such other and further relief as the Court may deem equitable and
12 appropriate.

13 As to the Eighth Cause of Action

14 41. That the Court declare, adjudge and decree that Defendants violated the
15 California Labor Code by failing to pay wages for all hours worked (including minimum,
16 straight time, and overtime wages), failing to provide meal periods, failing to maintain
17 accurate records of meal periods, failing to authorize and permit rest periods, failing to
18 maintain accurate records of all hours worked and meal periods, failing to indemnify
19 necessary business expenses, failing to pay final wages at termination, and failing to furnish
20 accurate wage statements;

21 42. For all civil penalties pursuant to California Labor Code § 2699, *et seq.*, and all
22 other applicable Labor Code provisions;

23 43. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
24 California Labor Code § 2699;

25 44. For such other and further relief as the Court may deem equitable and
26 appropriate.
27
28

As to all Causes of Action

45. For any additional relief that the Court deems just and proper.

Dated: May 8, 2023

TUNYAN LAW, APC



Lilit Tunyan

Attorneys for Plaintiff Elim Bazan,
individually and on behalf of all others
similarly situated

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Dated: May 8, 2023

Thurs

Attorneys for Plaintiff Elim Bazan, individually
and on behalf of all others similarly situated

Exhibit “A”



Lilit Tunyan, Esq.

1336 Rossmoyne Avenue,
Glendale, CA 91207
Tel: (323) 410-5050
ltunyan@tunyanlaw.com

March 2, 2023

VIA ONLINE SUBMISSION

Labor & Workforce Development Agency
Attn. PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612
PAGAFilings@dir.ca.gov

VIA CERTIFIED MAIL

Return Receipt Requested

Agent for Service of Process
Casa Martin, LLC
Fernando Martin
1654 Ocean Avenue
Santa Monica, CA 90401

VIA CERTIFIED MAIL

Return Receipt Requested

Agent for Service of Process
Casa Martin Promenade, LLC
Beatriz Jauregui
4201 Sepulveda Blvd
Culver City, CA 90230

VIA CERTIFIED MAIL

Return Receipt Requested

Casa Martin Promenade, LLC
1251 3rd Street Promenade
Santa Monica, CA 90401

**NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO
LABOR CODE SECTION § 2698 ET SEQ.**

Re: *Elim Bazan v. Casa Martin, LLC, et al.*

To Whom It May Concern:

Please be advised that my office has been retained by Elim Bazan ("Plaintiff") to pursue a Labor Code Private Attorney General Act (PAGA) representative action (Cal. Lab. Code §§ 2699, *et seq.*) against his former employers, Casa Martin, LLC and Casa Martin Promenade, LLC

(“Defendants”). The purpose of this letter is to comply with PAGA and set forth the facts and theories of California Labor Code violations which we allege Defendants engaged in with respect to Plaintiff and all of Defendants’ aggrieved employees.

Plaintiff wishes to pursue a PAGA representative action on behalf of himself as an aggrieved employee, on behalf of the State of California, and on behalf of all other current and former aggrieved employees who worked for Defendants in California as an hourly paid, non-exempt employee at any time within the applicable statutory period (hereafter, the “Aggrieved Employees”).

Plaintiff and the Aggrieved Employees of Defendants suffered the Labor Code violations described below.

Factual Background Regarding Plaintiff’s Employment with Defendants

Defendants owns and operates an industry, business, and establishment within the State of California, including Los Angeles County. As such, Defendants are subject to the California Labor Code and the Wage Orders issued by the Industrial Welfare Commission (“IWC”).

Plaintiff worked for Defendants as a server from approximately April 28, 2021 to March 11, 2022, primarily in Los Angeles County. Defendants classified Plaintiff as non-exempt from overtime. During the time period that Plaintiff was employed by Defendants, Plaintiff typically worked 3 to 4 days per week, and between 5 to 8 hours each workday.

Throughout Plaintiff’s employment, Defendants committed numerous labor code violations under state law. As discussed below, Plaintiff’s experience working for Defendants was typical and illustrative.

Failure to Pay for All Hours Worked, Including Overtime

Under California law, an employer must pay for all hours worked by an employee. “Hours worked” is the time during which an employee is subject to the control of an employer and includes all the time the employee is suffered or permitted to work, whether or not required to do so.

In addition, Labor Code § 510 provides that employees in California shall not be employed more than eight (8) hours in any workday or forty (40) hours in a workweek unless they receive additional compensation beyond their regular wages in amounts specified by law.

Labor Code §§ 1194 and 1198 also provide that employees in California shall not be employed more than eight hours in any workday unless they receive additional compensation beyond their regular wages in amounts specified by law. Additionally, Labor Code § 1198 states that the employment of an employee for longer hours than those fixed by the Industrial Welfare Commission is unlawful.

Throughout the time period involved in this case, Defendants maintained a policy and practice of failing to pay Plaintiff and the Aggrieved Employees for all hours worked (including minimum wages, straight time wages and overtime wages). Defendants regularly used a system of time rounding in a manner that resulted, over a period of time, in failing to compensate Plaintiff and the Aggrieved Employees properly for all the time they have actually worked, even though the realities of Defendants' operations are such that it is possible, practical, and feasible to count and pay for work time to the minute. Accordingly, Defendants frequently paid Plaintiff and the Aggrieved Employees less than all their work time. Some of this unpaid work also should have been paid at the overtime rate. Throughout the statutory period, Defendants also maintained a policy and practice of requiring Plaintiff and the Aggrieved Employees to perform work "off-the-clock". Defendants required Plaintiff and the Aggrieved Employees to arrive earlier than their scheduled shift or continue working after the scheduled shift to cover the duties of another employee but refused to pay for that time. Defendants also required Plaintiff and the Aggrieved Employees to clock out but continue working through meal and rest periods. Plaintiff and the Aggrieved Employees were also required to use their personal cellular telephones for work purposes at home after their scheduled work time to communicate with Defendants. In maintaining a practice of not paying all wages owed, Defendants failed to maintain accurate records of the hours Plaintiff and the Aggrieved Employees worked. In doing so, Defendants also failed to maintain accurate records of the hours Plaintiff and the Aggrieved Employees worked.

As a result, Defendants are liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210, 558, 1197.1, and 2699(f)(2) for failing to pay for all hours worked, including overtime.

Failure to Provide Meal Periods

Under California law, employers have an affirmative obligation to relieve employees of all duty in order to take their first 30-minute, duty-free meal periods no later than the start of sixth hour of work in a workday, and to allow employees to take their second 30-minute, duty-free meal period no later than the start of the eleventh hour of work in the workday. Further, employees are entitled to be paid one hour of additional wages for each workday they were not provided with all required meal period(s).

Despite these legal requirements, Defendants wrongfully failed to provide Plaintiff and the Aggrieved Employees with legally compliant meal periods. Defendants regularly required Plaintiff and the Aggrieved Employees to work in excess of five consecutive hours a day without providing a 30-minute, continuous and uninterrupted, duty-free meal period for every five hours of work, or without compensating Plaintiff and the Aggrieved Employees for meal periods that were not provided by the end of the fifth hour of work or tenth hour of work. Defendants did not adequately inform Plaintiff and the Aggrieved Employees of their right to take a meal period by the end of the fifth hour of work, or, for shifts greater than 10 hours, by the end of the tenth hour

of work. Moreover, Defendants did not have adequate written policies or practices providing meal periods for Plaintiff and the Aggrieved Employees, nor did Defendants have adequate policies or practices regarding the timing of meal periods. Defendants did not schedule meal periods. Plaintiff and the Aggrieved Employees would often times miss their meal periods, have interrupted or short meal periods. In those occasions when Plaintiff and the Aggrieved Employees had an opportunity to take their first meal periods, Plaintiff and the Aggrieved Employees were required to receive the permission of Defendants to take meal periods and instruction as to how long meal period could be each time and when they can take their meal periods. Often times, meal periods were shorter than 30 minutes, missed or after the fifth hour of work. This is also confirmed by Plaintiff's time records showing that meal periods were either not taken or shorter than 30 minutes. Accordingly, Defendants' policy and practice was to not provide meal periods to Plaintiff and the Aggrieved Employees in compliance with California law.

Plaintiff and the Aggrieved Employees are thus entitled to be paid one hour of additional wages for each workday he or she was not provided with all required meal period(s). Defendants, however, regularly failed to pay Plaintiff and the Aggrieved Employees the additional wages to which they were entitled for meal periods and that were not provided.

As a result, Defendants are liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210, 558, and 2699(f)(2) for failing to provide meal periods and pay meal period premium wages.

Failure to Authorize and Permit Rest Periods

Employers are required by California law to authorize and permit breaks of 10 uninterrupted minutes for each four hours of work or major fraction of four hours (i.e. more than two hours). Thus, for example, if an employee's work time is 6 hours and ten minutes, the employee is entitled to two rest breaks. Each failure to authorize rest breaks as so required is itself a violation of California's rest break laws.

Defendants, however, wrongfully failed to authorize and permit Plaintiff and the Aggrieved Employees to take timely and duty-free rest periods. Defendants regularly required Plaintiff and the Aggrieved Employees to work in excess of four consecutive hours a day without Defendants authorizing and permitting them to take a 10 minute, continuous and uninterrupted, rest period for every four hours of work (or major fraction of four hours), or without compensating Plaintiff and the Aggrieved Employees for rest periods that were not authorized or permitted. Defendants did not adequately inform Plaintiff and the Aggrieved Employees of their right to take a rest period. Moreover, Defendants did not have adequate policies or practices permitting or authorizing rest periods for Plaintiff and the Aggrieved Employees, nor did Defendants have adequate policies or practices regarding the timing of rest periods. Defendants did not schedule rest periods. Plaintiff and the Aggrieved Employees would often times miss their first and

second rest periods. In those occasions when Plaintiff and the Aggrieved Employees had an opportunity to take their rest periods, Plaintiff and the Aggrieved Employees were required to receive the permission of Defendants to take rest periods. This is also confirmed by Plaintiff's time records showing that both first and rest periods were often times missed. Accordingly, Defendants' policy and practice was for Plaintiff and the Aggrieved Employees to work through rest periods and to not authorize or permit them to take any rest periods.

Plaintiff and the Aggrieved Employees are thus entitled to be paid one hour of additional wages for each workday he or she was not authorized and permitted to take all required rest period(s). Defendants, however, regularly failed to pay Plaintiff and the Aggrieved Employees the additional wages to which they were entitled for rest periods and that they were not authorized and permitted to take.

As a result, Defendants are liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210, 558, and 2699(f)(2) for failing to authorize and permit rest periods and pay rest period premium wages.

Failure to Maintain Accurate Records of Hours Worked and Meal Periods

Plaintiff seeks penalties under Labor Code § 1174(d). Pursuant to Labor Code § 1174.5, any person, including any entity, employing labor who willfully fails to maintain accurate and complete records required by Labor Code § 1174 is subject to a penalty under § 1174.5. Pursuant to the applicable IWC Order § 7(A)(3), every employer shall keep time records showing when the employee begins and ends each work period. Meal periods and total hours worked daily shall also be recorded.

Defendants, however, failed to maintain accurate records of hours worked and all meal periods taken or missed by Plaintiff and the Aggrieved Employees.

Defendants' failure to provide and maintain records required by the Labor Code IWC Wage Orders deprived Plaintiff and the Aggrieved Employees the ability to know, understand and question the accuracy and frequency of meal periods, and the accuracy of their hours worked stated in Defendants' records. Therefore, Plaintiff and the Aggrieved Employees had no way to dispute the resulting failure to pay wages, all of which resulted in an unjustified economic enrichment to Defendants. As a direct result, Plaintiff and the Aggrieved Employees have suffered and continue to suffer, substantial losses related to the use and enjoyment of such wages, lost interest on such wages and expenses and attorney's fees in seeking to compel Defendants to fully perform its obligation under state law, all to their respective damage in amounts according to proof at trial. As a result of Defendants' knowing failure to comply with the Labor Code and applicable IWC Wage Orders, Plaintiff and the Aggrieved Employees have also suffered an injury in that they were prevented from knowing, understanding, and disputing the wage payments paid to them.

As a result, Defendants are liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 1174.5 for failing to maintain accurate records of hours worked and meal periods.

Failure to Reimburse and Indemnify Expenses

California Labor Code § 2802 requires employers to reimburse employees for their necessary expenditures and losses incurred in direct consequence of the discharge of their duties or of their obedience to directions of the employer.

Throughout the statutory period, Defendants wrongfully required Plaintiff and the Aggrieved Employees to pay expenses that they incurred in direct discharge of their duties for Defendants without reimbursement, which included the purchase and maintenance of the uniforms, i.e. an apron and a shirt with logo. Further, Plaintiff and the Aggrieved Employees were required to use their cellular telephones for work purposes to receive text messages or calls regarding their schedule change or assignments. Plaintiff and the Aggrieved Employees incurred these substantial expenses as a direct result of performing their job duties for Defendants, and Defendants have failed to indemnify Plaintiff and the Aggrieved Employees for these employment-related expenses.

Failure to Timely Pay All Wages at Termination

Labor Code §§ 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

Within the applicable statute of limitations, the employment of Plaintiff and many other Aggrieved Employees ended, i.e. was terminated by quitting or discharge, and the employment of others will be. However, during the relevant time period, Defendants failed, and continues to fail to pay Plaintiff and terminated Aggrieved Employees, without abatement, all wages required to be paid by Labor Code sections 201 and 202 either at the time of discharge, or within seventy-two (72) hours of their leaving Defendants' employ. These unpaid wages include wages for unpaid work time (including minimum and straight time wages), missed meal periods, and missed rest periods.

Defendants' conduct violates Labor Code §§ 201 and 202. Labor Code § 203 provides that if an employer willfully fails to pay wages owed, in accordance with sections 201 and 202, then the wages of the employee shall continue as a penalty wage from the due date, and at the same rate until paid or until an action is commenced; but the wages shall not continue for more than thirty (30) days.

Accordingly, Plaintiff and the Aggrieved Employees are entitled to recover from Defendants their additionally accruing wages for each day they were not paid, at their regular hourly rate of pay, up to 30 days maximum pursuant to Labor Code § 203.

Moreover, Defendants are liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 2699(f)(2) for failing to timely pay all wages at termination.

Failure to Furnish Accurate Itemized Wage Statements

Labor Code § 226(a) provides that every employer shall furnish each of his or her employees an accurate itemized wage statement in writing showing nine pieces of information, including: (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number, (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. An employee is presumed to suffer an injury if this information is missing. (Lab. Code § 226(e)(2)(B)(iii).)

The statute further provides: “An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney’s fees.” (Lab. Code § 226(e)(1).)

Defendants intentionally and willfully failed to provide employees with complete and accurate wage statements. The deficiencies include, among other things, the failure to correctly identify hourly rates, the failure to correctly list gross wages earned, and the failure to list the true net wages earned, including wages for meal periods that were not provided in accordance with California law, wages for rest periods that were not authorized and permitted to take in accordance with California law, and correct wages earned for all hours worked.

As a result of Defendants violating Labor Code § 226, Plaintiff and similarly Aggrieved Employees suffered injury and damage to their statutorily protected rights.

Accordingly, Plaintiff and similarly Aggrieved Employees are entitled to recover from Defendants the greater of their actual damages caused by Defendants’ failure to comply with Labor Code § 226(a), or an aggregate penalty not exceeding \$4,000 dollars per employee.

Moreover, Defendants are liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 226.3 for failing to furnish accurate itemized wage statements.

Failure to Pay All Earned Wages Twice Per Month

Based on its failure to pay Plaintiff and the Aggrieved Employees for all wages as discussed above, Defendants also violated Labor Code § 204.

Labor Code § 204 requires employers to pay employees all earned wages two times per month. Throughout the statute of limitations period applicable to this cause of action, employees were entitled to be paid twice a month at their regular rates, including all meal period premium wages owed, rest period premium wages owed, and wages owed for hours worked. However, during all such times, Defendants systematically failed and refused to pay the employees all wages due, and failed to pay those wages twice a month, in that employees were not paid all wages for all meal periods not provided by Defendants, all wages for all rest periods not authorized and permitted by Defendants, and all wages for all hours worked. As a result, Defendants owe employees the legally required wages for unpaid wages, and Plaintiff and the Aggrieved Employees suffered damages in those amounts.

Moreover, Defendants are liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 210 for failing to pay all earned wages twice per month.

Failure to Provide Written Notice of Available Paid Sick Leave

Labor Code § 246 (i) requires employers to provide an employee with written notice that sets forth the amount of paid sick leave available.

During the statutory period, Defendants maintained a policy and practice of failing to provide written notice of accrued paid sick leave. This is confirmed by Plaintiff's wage statements which fail to provide any information on accrued sick leave. On information and belief, Defendants' failure to provide an employee with written notice that sets forth the amount of paid sick leave available was not a single, isolated incident, but was instead part of Defendants' policy and practice that applied to the Aggrieved Employees.

As a result, Defendants are liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 2699(f)(2) for failing to provide any information on accrued sick leave.

Action for Civil Penalties Under PAGA

In light of the above, Plaintiff alleges that Defendants violated the following provisions of the Labor Code with respect to the Aggrieved Employees:

1. Labor Code § 204, 510, 1194, 1197, and 1198 by failing to pay for all hours worked, including minimum wages, straight time wages and overtime wages;

2. Labor Code § 226.7, 512 and applicable Wage Orders by failing to provide meal periods;
3. Labor Code § 226.7 and applicable Wage Orders by failing to authorize and permit rest periods;
4. Labor Code § 1174.5 and applicable Wage Orders by failing to maintain accurate records of hours worked and meal periods taken or missed;
5. Labor Code § 2802 by failing to reimburse and indemnify employees for expenses and losses in the direct consequence and discharge of their duties;
6. Labor Code § 227.3 by failing to pay all vacation wages at termination;
7. Labor Code §§ 201 to 203 by willfully failing to pay all wages owed at termination;
8. Labor Code § 226 by failing to provide accurate itemized wage statements; and
9. Labor Code § 204 by failing to pay all earned wages two times per month.
10. Labor Code § 246 (i) by failing to provide an employee with written notice that sets forth the amount of paid sick leave available.

Therefore, on behalf of all Aggrieved Employees, Plaintiff seeks applicable penalties related to the violations alleged above pursuant to the PAGA. These include, but are not limited to, penalties under Labor Code §§ 210, 226.3, 558, 1174.5, 1197.1, 2802, and 2699(f)(2).

Plaintiff has placed Defendants on notice by mailing a certified copy of this correspondence to its corporate address and address of the agent for service, as indicated on the first page.

The facts and claims contained herein are based on the information available at the time of this writing. Therefore, if through discovery and/or expert review, Plaintiff becomes aware of additional compensation owed or losses incurred by Plaintiff or by any other aggrieved employee of Defendants, Plaintiff expressly reserves the right to revise these facts and/or add any new claims by amending the claim letter or by adding applicable causes of action to the complaint which will relate back to the date of this letter.

Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me.

Sincerely,



Lilit Tunyan, Esq.
Partner
TUNYAN LAW, APC

Tracking Number:

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70222410000183428804

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Latest Update

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CULVER CITY, CA 90230
March 4, 2023, 1:51 pm

Departed USPS Regional Facility

LOS ANGELES CA DISTRIBUTION CENTER
March 3, 2023, 2:10 pm

Arrived at USPS Regional Facility

LOS ANGELES CA DISTRIBUTION CENTER
March 3, 2023, 10:46 am

Departed Post Office

GLENDALE, CA 91206
March 2, 2023, 6:23 pm

USPS in possession of item

GLENDALE, CA 91206
March 2, 2023, 2:32 pm

Feedback

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Product Information



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FAQs

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Your item was delivered to an individual at the address at 3:16 pm on March 4, 2023 in SANTA MONICA, CA 90401.

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Delivered, Left with Individual

SANTA MONICA, CA 90401
March 4, 2023, 3:16 pm

Departed USPS Regional Facility

LOS ANGELES CA DISTRIBUTION CENTER
March 3, 2023, 3:38 pm

Arrived at USPS Regional Facility

LOS ANGELES CA DISTRIBUTION CENTER
March 3, 2023, 10:46 am

Arrived at USPS Regional Origin Facility

SANTA CLARITA CA DISTRIBUTION CENTER
March 2, 2023, 8:35 pm

Departed Post Office

GLENDALE, CA 91206
March 2, 2023, 6:23 pm

USPS in possession of item

Feedback

GLENDAL, CA 91206
March 2, 2023, 2:30 pm

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FAQs

From: noreply@salesforce.com on behalf of [LWDA DO NOT REPLY](#)
To: ltunyan@tunyanlaw.com
Subject: Thank you for submission of your PAGA Case.
Date: Thursday, March 2, 2023 12:06:12 PM

3/2/2023

LWDA Case No. LWDA-CM-939471-23
Law Firm : Tunyan Law, APC
Plaintiff Name : Elim Bazan
Employer: Casa Martin, LLC
Filing Fee : \$75.00
IFP Claimed : No

Item submitted: Initial PAGA Notice

Thank you for your submission to the Labor and Workforce Development Agency. Please make a note of the LWDA Case No. above as you may need this number for future reference when filing any subsequent documents for this Case.

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm

1 **PROOF OF SERVICE**

2 **STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

3 I am employed in the State of California, County of Los Angeles. I am over the age of 18 and not a party
4 to the within action; my business address is 1336 Rossmoyne Avenue Glendale, California 91207. On
May 8, 2023, I served the foregoing document described as:

5 On the date indicated below, I served the document described as: **FIRST AMENDED**
6 **COMPLAINT** on the interested parties in this action by sending a true copy thereof to interested
parties as follows and as stated on the attached service list:

7 Anthony J. Zaller (SBN: 224844)
8 azallaer@zallerlaw.com

9 Anne McWilliams (SBN:129264)
10 amcwilliams@zallerlaw.com

11 Pooja V. Patel (SBN: 216241)
12 ppatel@zallerlaw.com

13 Jennifer Wicksman
14 jwicksman@zallerlaw.com

15 Jeremy Rogers

16 jrogers@zallerlaw.com

17 **ZALLER LAW GROUP, PC**

18 999 N. Pacific Coast Highway, Suite 525

19 El Segundo, California 90245

20 Telephone: (323) 592-3505

21 *Attorneys for Defendants Casa Martin, LLC and Casa Martin Promenade, LLC*

22 [✓] **BY E-MAIL:** I hereby certify that this document was served from Glendale,
23 California, by e-mail delivery on the parties listed herein at their most recent known
24 e-mail address or e-mail of record in this action.

25 I declare under penalty of perjury under the laws of the State of California that the
26 above is true and correct.

27 Executed on May 8, 2023 at Glendale, California.

28 Lilit Tunyan

Name



Signature