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Superior Court of California,
County of San Diego

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Clerk of the Superior Court
By N. Miller ,Deputy Clerk

Attorneys for Plaintiff ELIZABETH MOREHOUSE, individually,
and on behalf of herself and all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO- NORTH COUNTY DIVISION

ELIZABETH MOREHOUSE,
individually, and on behalf of herself and
all others similarly situated,

Plaintiff,

v.

HYATT CORPORATION dba THE
SEABIRD OCEAN RESORT & SPA, a
Delaware corporation; HYATT
CORPORATION dba MISSION PACIFIC
BEACH RESORT, a Delaware
corporation; and DOES 1 through 50,
inclusive,

Defendants.

Case No. 26CU004661N

COMPLAINT FOR:

**Civil Penalties Under Private Attorneys'
General Act, Labor Code Section 2698 *et seq.***

DEMAND FOR JURY TRIAL

Plaintiff ELIZABETH MOREHOUSE ("Plaintiff"), individually, and in her representative capacity as private attorney general, asserts claims against Defendants HYATT CORPORATION dba THE SEABIRD OCEAN RESORT & SPA, HYATT CORPORATION dba MISSION PACIFIC BEACH RESORT, and DOES 1 through 50, inclusive (collectively "Defendants") as follows:

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5. This action is timely because Plaintiff suffered from a violation or numerous violations of the California Labor Code within one year of the date on which a PAGA notice was sent to the LWDA via online submission. More than 65 days have passed, and no response has been received by the LWDA. Plaintiff thereby satisfied the notice requirement under the statute and is permitted to proceed with this action in a representative capacity.

6. This Court has jurisdiction over this action pursuant to the California Constitution Article VI §10, which grants the California Superior Court original jurisdiction in all causes except those given by statute to other courts.

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7. Further, there is no federal question at issue, as the issues herein are based solely on California statutes and law, including the Labor Code, IWC Wage Orders, the California Code of Civil Procedure, the California Civil Code, and the California Business and Professions Code.

8. Venue is proper in this Court because, upon information and belief, Defendants maintain offices, have agents, employ individuals, and/or transact business in the State of California, County of San Diego. Moreover, many of the acts, events, and violations alleged herein relating to Plaintiff occurred in the State of California, County of San Diego.

PARTIES

9. Defendant HYATT CORPORATION dba THE SEABIRD OCEAN RESORT & SPA, was and is a Delaware Corporation, and all times hereinafter mentioned, an employer whose employees are engaged throughout this county and the State of California. Hyatt Corporation's headquarters are located at 150 North Riverside Plaza, 14th Floor, Legal Department, Chicago, IL 60606.

10. Upon information and belief, Hyatt Corporation manages and operates The Seabird Ocean Resort & Spa (“The Seabird”), which is located at 101 Mission Ave, Oceanside Beach, California, United States, 92054, on behalf of the property owner and oversees the hotel’s day-to-day operations, including supervision of personnel and control over employment policies applicable to workers at the resort

11. HYATT CORPORATION dba MISSION PACIFIC BEACH RESORT, was and is a Delaware Corporation, and all times hereinafter mentioned, an employer whose employees are engaged throughout this county and the State of California.

12. Upon information and belief, Hyatt Corporation is the hotel-management entity responsible for operating the Mission Pacific Beach Resort (“Mission Pacific”), which is located at 201 N. Myers St., Oceanside, California, United States, 92054, under the JdV by Hyatt brand, exercising control over working conditions, labor policies, and staffing at the property.

13. Plaintiff Elizabeth Morehouse is and during the liability period has been, a resident of California.

14. Plaintiff was employed by Defendants during the liability period as an hourly, non-exempt employee.

15. Plaintiff and the members of the aggrieved group were employed, directly or indirectly, by Defendants as non-exempt employees in the State of California from one year prior to the filing of the

1 PAGA notice to the conclusion of this action.

2 16. Whenever in this Complaint reference is made to any act, deed, or conduct of Defendants,
3 the allegation means that Defendants engaged in the act, deed, or conduct by or through one or more of
4 Defendants' officers, directors, agents, employees, or representatives, who was actively engaged in the
5 management, direction, control, or transaction of the ordinary business and affairs of Defendants.

6 17. Under California law, Defendants are jointly and severally liable as employers for the
7 violations alleged herein because they have each exercised sufficient control over the wages, hours,
8 working conditions, and employment status of Plaintiff and Aggrieved Employees. Each Defendant had
9 the power to hire and fire Plaintiff and Aggrieved Employees, supervised and controlled their work
10 schedule and/or conditions of employment, determined their rate of pay, and maintained their
11 employment records. Defendants suffered or permitted Plaintiff and Aggrieved Employees to work
12 and/or "engaged" Plaintiff and Aggrieved Employees so as to create a common-law employment
13 relationship. As joint employers of Plaintiff and Aggrieved Employees, Defendants are jointly and
14 severally liable for the civil penalties and all other relief available to Plaintiff and Aggrieved Employees
15 under the law.

16 18. Plaintiff is informed and believes, and thereon alleges, that at all relevant times,
17 Defendants, and each of them, have acted as joint employers with respect to Plaintiff and Aggrieved
18 Employees because Defendants have:

- 19 a. jointly exercised meaningful control over the work performed by Plaintiff and
20 Aggrieved Employees;
- 21 b. jointly exercised meaningful control over Plaintiff's and Aggrieved Employees'
22 wages, hours, and working conditions, including the quantity, quality standards,
23 speed, scheduling, and operative details of the tasks performed by Plaintiff and
24 Aggrieved Employees;
- 25 c. jointly required that Plaintiff and Aggrieved Employees perform work which is an
26 integral part of Defendants' businesses; and
- 27 d. jointly exercised control over Plaintiff and Aggrieved Employees as a matter of
28 economic reality in that Plaintiff and Aggrieved Employees were dependent on
 Defendants, who shared the power to set the wages of Plaintiff and Aggrieved

1 Employees and determined their working conditions, and who jointly reaped the
2 benefits from the underpayment of their wages and noncompliance with other
3 statutory provisions governing their employment.

4 19. Plaintiff is informed and believes, and thereon alleges, that at all relevant times there has
5 existed a unity of interest and ownership between Defendants such that any individuality and separateness
6 between the entities has ceased.

7 20. The true names and capacities of Defendants, whether individual, corporate, associate, or
8 otherwise, sued herein as DOES 1 through 50, inclusive, are currently unknown to Plaintiff, who
9 therefore sue Defendants by such fictitious names under Code of Civil Procedure § 474. Plaintiff will
10 seek leave of court to amend this Complaint to reflect the true names and capacities of the Defendants
11 designated hereinafter as DOES when such identities become known.

12 21. Plaintiff is informed and believes, and thereon alleges, that the Doe Defendants are the
13 partners, agents, or principals and co-conspirators of Defendants and of each other; that Defendants and
14 the Doe Defendants performed the acts and conduct herein alleged directly, aided and abetted the
15 performance thereof, or knowingly acquiesced in, ratified, and accepted the benefits of such acts and
16 conduct, and therefore each of the Doe Defendants is liable to the extent of the liability of the Defendants
17 as alleged herein.

18 22. Plaintiff is further informed and believes, and thereon alleges, that at all times material
19 herein, each Defendant was completely dominated and controlled by its co-Defendants and each was the
20 alter ego of the other. Whenever and wherever reference is made in this complaint to any conduct by
21 Defendant or Defendants, such allegations and references shall also be deemed to mean the conduct of
22 each of the Defendants, acting individually, jointly, and severally. Whenever and wherever reference is
23 made to individuals who are not named as Defendants in this complaint, but were employees and/or
24 agents of Defendants, such individuals, at all relevant times acted on behalf of Defendants named in this
25 complaint within the scope of their respective employments.

26 **FACTUAL ALLEGATIONS**

27 23. During the relevant time frame, Defendants compensated Plaintiff and the Aggrieved
28 Employees based upon an hourly wage.

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1 24. Plaintiff and the Aggrieved Employees were, and at all times pertinent hereto, have been
2 non-exempt employees within the meaning of the California Labor Code, and the implementing rules
3 and regulations of the IWC California Wage Orders. They are subject to the protections of the IWC
4 Wage Orders and the Labor Code.

5 25. Plaintiff was employed as an hourly non-exempt employee in the position of Waitress
6 from approximately July 3, 2021 through December 19, 2025. Plaintiff provided hospitality services at
7 The Seabird and Mission Pacific.

8 26. Plaintiff is informed and believes, and thereon alleges, that Defendants are and were
9 advised by skilled lawyers and other professionals, employees, and advisors with knowledge of the
10 requirements of California's wage and employment laws.

11 27. Plaintiff was originally hired to work five days a week for eight (8) hours per day, totaling
12 forty (40) hours per week. Defendants hired more employees after Plaintiff was hired, and Plaintiff's
13 schedule changed to five (5) days per week, where she would work six (6) hour shifts, usually totaling
14 thirty (30) hours a week. Plaintiff would at times work in excess of ten (10) hours on the occasion that
15 there was an event at The Seabird and thus a higher demand of staff.

16 28. Plaintiff was compensated at an hourly rate of \$16.85 per hour. Plaintiff received gratuities
17 in the forms of tips. These tips were received in four (4) categories: (1) Cash tips ("Cash Tips"), (2)
18 Pooled tips by room ("Room Tips"), (3) Pooled tips by event ("Event Tips"), and (4) Pooled tips by credit
19 card ("Credit Card Tips").

20 29. Defendants permitted and exercised a pooled tip system ("Pooled Tip System" or "Tip
21 Pool"). However, contrary to California law, while maintaining this Pooled Tip System, Defendants
22 failed to reasonably define the participants of the Tip Pool and their portion of compensation from the
23 Tip Pool. Therefore, Plaintiff and the Aggrieved Employees were unable to see how they were
24 compensated from the Tip Pool corresponding to the days and hours which they that worked.

25 30. Due to the above specifications, Defendants failed to provide accurate tip payment to
26 Plaintiff and the Aggrieved Employees similarly situated, in part due to the fact that Defendants failed to
27 both generate and provide accurate gratuity records including the full pooled revenue from tips, as well
28 as the tip distribution breakdown in correspondence with hours worked.

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1 31. On information and belief, Defendants failed to install or maintain cameras or other
2 adequate security measures monitoring the cash registers, which allowed cash tips to be taken without
3 detection. As a result of this lack of oversight, Plaintiff and the Aggrieved Employees were deprived of
4 gratuities that should have been properly recorded, safeguarded, and distributed to them.

5 32. Furthermore, Defendants often failed to provide Plaintiff with accurate and itemized wage
6 statements. On occasion, the Kronos timeclock they used to clock in would break, and Plaintiff and the
7 Aggrieved Employees would need to clock-in on a timeclock sheet in a binder (“Binder”). However, the
8 pay corresponding to these hours was often not uploaded into the payroll system by the managers and
9 therefore Plaintiff and the Aggrieved Employees were not compensated for all hours worked. On the
10 occasion that Plaintiff and the Aggrieved Employees were compensated for the hours noted in the Binder,
11 they were not paid gratuities out of the Tip Pool for the hours noted in the Binder.

12 33. On numerous occasions, Plaintiff reported to management and HR that she was underpaid
13 in her wage statement. Plaintiff requested a breakdown of the tip distribution, in order to confirm she was
14 paid for the hours she noted in the Binder.

15 34. When reporting her concerns to Management and HR, Plaintiff was met with dismissive
16 comments such as “we will get to it” and “it’s too complicated to put together, sorry”.

17 35. Further, Plaintiff was not paid the gratuities earned from guests she served at the firepits
18 located at The Seabird. Plaintiff was deprived of these gratuities after Defendants implemented and relied
19 upon a defective firepit ordering and tracking system (“Firepit System”), which failed to properly
20 attribute gratuities to the servers who provided the services.

21 36. All the Aggrieved Employees, including Plaintiff, are similarly situated in that they are
22 all subject to Defendants’ uniform policies and systemic practices as specified herein.

23 37. Plaintiff and the Aggrieved Employees are non-exempt employees performing work in
24 the state of California and are thus protected by the laws laid forth in the California Labor Code. These
25 laws include, but are not limited to, overtime pay at one and one-half (1.5) times the employee’s regular
26 rate, payments corresponding with the minimum wage requirements, meal breaks, rest breaks, and
27 double-time pay at two (2) times the employees regular rate of pay.

28 38. Indeed, during the relevant time, as a consequence of Defendants’ staffing and scheduling
practices, lack of coverage, work demands, and Defendants’ policies and practices, Defendants frequently

1 failed to provide Plaintiff and the Aggrieved Employees timely, legally compliant uninterrupted 30-
2 minute meal periods on shifts over five (5) hours and second meal periods on shifts over ten (10) hours
3 as required by law.

4 39. On information and belief, Plaintiff and the Aggrieved Employees did not waive their
5 rights to meal periods under the law.

6 40. Plaintiff and the Aggrieved Employees were not provided with valid lawful on-duty meal
7 periods.

8 41. Despite the above-mentioned meal period violations, Defendants failed to compensate
9 Plaintiff, and on information and belief, failed to compensate the Aggrieved Employees, one (1)
10 additional hour of pay at their regular rate as required by California law when meal periods were not
11 timely or lawfully provided in a compliant manner.

12 42. Plaintiff is informed and believes, and thereon alleges, that Defendants know, should
13 know, knew, and/or should have known that Plaintiff and the other Aggrieved Employees were entitled
14 to receive premium wages based on their regular rate of pay under Labor Code §226.7 but were not
15 receiving such compensation.

16 43. In addition, during the relevant time frame, Plaintiff and the Aggrieved Employees were
17 systematically not authorized and permitted to take one net ten-minute paid, rest period for every four
18 (4) hours worked or major fraction thereof, which is a violation of the Labor Code and IWC Wage Order.

19 44. Defendants maintained and enforced scheduling practices, policies, and imposed work
20 demands that frequently required Plaintiff and the Aggrieved Employees to forego their lawful, paid rest
21 periods of a net ten minutes for every four hours worked or major fraction thereof. Such requisite rest
22 periods were not timely authorized and permitted.

23 45. Despite the above-mentioned rest period violations, Defendants did not compensate
24 Plaintiff, and on information and belief, did not pay the Aggrieved Employees one additional hour of pay
25 at their regular rate as required by California law, including Labor Code section 226.7 and the applicable
26 IWC Wage Order 5-2001, for each day on which lawful rest periods were not authorized and permitted.

27 46. Furthermore, Plaintiff and the Aggrieved Employees were additionally not properly
28 compensated for all hours worked, in part because they were frequently required to attend employee
meetings where employees often were not compensated in full, if at all, for time spent at meetings. On

1 occasion, these meetings were on days when Plaintiff and the Aggrieved Employees were not scheduled
2 to work, and on occasion fell on the seventh consecutive day of work in one workweek. Plaintiff and the
3 Aggrieved Employees were further not paid double-time at their regular rate for attending these required
4 meetings on the seventh consecutive day of the workweek.

5 47. Defendants failed to properly calculate Plaintiff's and the Aggrieved Employees' regular
6 rate of pay because Defendants failed to include all forms of compensation in the regular rate including
7 gratuity, bonuses, incentives, commissions, and other compensation.

8 48. Moreover, Plaintiff and the Aggrieved Employees were required to incur necessary
9 expenses in the discharge of their duties, including without limitation cellular phone expenses and
10 uniform purchasing and cleaning expenses, but were not reimbursed for such necessary expenses.

11 49. On information and belief, these unlawful practices were the result of poor management
12 and scheduling policies which subjected Plaintiff and the Aggrieved Employees to off-the-clock work,
13 and further resulted in Plaintiff and the Aggrieved Employees being denied required overtime pay and
14 minimum wage payments, thus placing Defendants in further violation of the California Labor Code.

15 50. Defendants also failed to provide accurate, lawful itemized wage statements to Plaintiff
16 and the Aggrieved Employees in part because of the above specified violations. In addition, upon
17 information and belief, Defendants omitted an accurate itemization of total hours worked, the applicable
18 hourly rates, the number of hours worked at each rate, the name and address of the legal entity that is the
19 employer, gross pay and net pay figures from Plaintiff and the Aggrieved Employees' wage statements.
20 Such actions were and continue to be in violation of the California Labor Code and applicable IWC Wage
21 Orders.

22 51. Defendants have also made it difficult to determine applicable hourly rates of pay, total
23 hours worked, and account with precision for the unlawfully withheld wages, gratuity and deductions
24 due to be paid to the Aggrieved Employees, including Plaintiff, during the liability period because they
25 did not implement and preserve a lawful record-keeping method to record all hours worked, meal periods,
26 and non-provided rest and meal periods owed to employees as required for the Aggrieved Employees by
27 29 U.S.C. section 211(c), California Labor Code sections 226 and 532, and applicable California Wage
28 Orders.

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1 52. Plaintiff and the Aggrieved Employees were not properly compensated for all hours
2 worked, in part because they were frequently required to work off the clock, including during purported
3 meal periods and for pre and post shift work.

4 53. In addition, the Aggrieved Employees frequently worked in excess of eight (8) hours a
5 day and/or over forty (40) hours in a work week, but were not properly paid for such time at a rate of
6 time and one-half the employee's regular rate of pay per hour. Plaintiff and the Aggrieved Employees
7 also often worked in excess of twelve (12) hours in one day and/or over eight (8) hours on the seventh
8 day of the workweek, but were not properly paid for such time at a rate of two times the employee's
9 regular rate of pay per hour.

10 54. Plaintiff and the Aggrieved Employees were paid incentives, bonuses, commissions, and
11 other forms of non-discretionary compensation which were not properly blended into the regular rate.
12 As a consequence, overtime, sick leave, and premiums were underpaid.

13 55. Plaintiff and the Aggrieved Employees are covered by applicable California IWC Wage
14 Orders and corresponding applicable provisions of the California Code of Regulations, Title 8, section
15 11000 *et seq.*

16 ***FAILURE TO PAY MINIMUM WAGES***

17 56. Plaintiff incorporates each and every allegation set forth in all of the foregoing paragraphs
18 as if fully set forth herein.

19 57. Labor Code section 204 establishes the fundamental right of all employees in the State of
20 California to be paid wages, including minimum wage, straight time, in a timely fashion for their work.

21 58. Labor Code section 1194(a) provides that notwithstanding any agreement to work for a
22 lesser wage, any employee receiving less than the legal minimum wage compensation applicable to the
23 employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum
24 wage or overtime compensation, including interest thereon, reasonable attorney's fees, and costs of suit.

25 59. Labor Code section 1197 provides: The minimum wage for employees fixed by the
26 commission or by any applicable state or local law, is the minimum wage to be paid to employees, and
27 the payment of a lower wage than the minimum so fixed is unlawful.

28 60. Pursuant to Labor Code section 1198, it is unlawful to employ persons for longer than the
hours set by the Industrial Welfare Commission or under conditions prohibited by the IWC Wage Orders.

61. The applicable Wage Orders and California Labor Code sections 1197 and 1182.12 establish the right of employees to be paid minimum wages for all hours worked, in amounts set by state law.

62. Labor Code section 2698 provides that any violation of Labor Code sections 1194(a) and 1194.2(a) allows an employee who has not been paid the legal minimum wage as required by Labor Code section 1197 to recover the civil penalties together with attorneys' fees and costs of suit.

63. During all relevant periods, the California Labor Code and Wage Orders required that Defendants fully and timely pay its non-exempt, hourly employees all wages earned and due for all hours worked.

64. The IWC Wage Orders define “hours worked” as “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.”

65. At all times relevant, Plaintiff and the Aggrieved Employees consistently worked hours for which they were not paid because Defendants frequently required Plaintiff and the Aggrieved Employees to work off the clock, including without limitation during purported meal periods and for pre and post-shift work.

66. Plaintiff is informed and believes that Defendants were aware that Plaintiff and the Aggrieved Employees were working off the clock and that they should have been paid for this time.

67. Defendants' policy and practice of not paying all minimum wages violates California Labor Code sections 204, 210, 216, 558, 1182.12, 1194, 1197, 1197.1, 1198, and the applicable Wage Orders, including Wage Order 5-2001.

FAILURE TO PAY OVERTIME OWED

68. Plaintiff incorporates each and every allegation set forth in all of the foregoing paragraphs as if fully set forth herein.

69. During all relevant periods, Defendants required Plaintiff and the Aggrieved Employees to work shifts in excess of eight (8) hours per workday and/or to work in excess of forty (40) hours per workweek.

70. During all relevant periods, both the California Labor Code sections 1194, 1197, 510, 1198, and the pertinent Wage Order 5-2001 required that all work performed by an employee in excess

1 of eight (8) hours in any workday, on the seventh day of work in any workweek, or in excess of forty
2 (40) hours in any workweek be compensated at one and one-half (1.5) times the employee's regular rate
3 of pay. Any work in excess of twelve (12) hours in one (1) day is required to be compensated at the rate
4 of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight (8)
5 hours on any seventh (7th) day of a workweek is required to be compensated at the rate of no less than
6 twice the regular rate of pay of an employee.

7 71. During all relevant periods, Defendants had a uniform policy of requiring Plaintiff and the
8 Aggrieved Employees to work in excess of eight (8) hours in a workday and/or in excess of forty (40)
9 hours in a workweek without compensating them at a rate of one and one-half (1.5) times their regular
10 rate of pay. Upon information and belief, Defendants also failed to properly compensate Plaintiff and
11 the Aggrieved Employees for hours worked in excess of twelve (12) hours in one (1) day, or eight (8)
12 hours on the seventh (7th) day of a workweek.

13 72. The IWC Wage Orders define "hours worked" as "the time during which an employee is
14 subject to the control of an employer, and includes all the time the employee is suffered or permitted to
15 work, whether or not required to do so."

16 73. At all times relevant, Plaintiff and Aggrieved Employees consistently worked hours for
17 which they were not paid because Plaintiff and the Aggrieved Employees were required to work off the
18 clock—some of these hours were over eight (8) hours in one (1) workday or in excess of forty (40) hours
19 in a workweek and should have been paid at the overtime rate.

20 74. Plaintiff is informed and believes that Defendants was aware that Plaintiff and the
21 Aggrieved Employees were working off the clock and that they should have been paid for this time.

22 75. In addition, upon information and belief, Defendants failed to incorporate all forms of
23 compensation, including without limitation bonuses, (shift) differentials, commissions, and incentives,
24 into the regular rate for overtime purposes.

25 76. As a result, Defendants failed to pay Plaintiff and the Aggrieved Employees earned
26 overtime wages and violated the law including 204, 210, 216, 510, 558, 1182.12, 1194, 1197, 1197.1,
27 1198, and the applicable Wage Orders 5-2001.

28 77. Defendants knew or should have known Plaintiff and the Aggrieved Employees were
undercompensated as a result of these practices.

FAILURE TO PROVIDE LAWFUL MEAL PERIODS

78. Plaintiff incorporates each and every allegation set forth in all of the foregoing paragraphs as if fully set forth herein.

79. Pursuant to Labor Code § 512, no employer shall employ an employee for a work period of more than five (5) hours without providing a meal break of not less than thirty (30) minutes in which the employee is relieved of all of his or her duties, except that when a work period of not more than six (6) hours will complete the day's work the meal period may be waived by mutual consent of the employer and employee. Similarly, pursuant to Labor Code § 512, no employer shall employ an employee for a work period of more than ten (10) hours without providing a second meal break of not less than thirty (30) minutes in which the employee is relieved of all of his or her duties. A second meal break may only be waived by mutual consent, and if the employee did not waive his or her first meal period, and the employee's work day will not exceed twelve hours.

80. During the relevant time, Defendants failed to provide Plaintiff and the Aggrieved Employees timely and uninterrupted first meal periods of not less than thirty (30) minutes within the first five hours of a shift.

81. Defendants also failed to provide Plaintiff and the Aggrieved Employees timely and uninterrupted second meal periods of not less than thirty (30) minutes on shifts longer than ten hours.

82. Indeed, during the relevant time, as a consequence of Defendants' staffing and scheduling practices, lack of coverage, work demands, and Defendants' policies and practices, Plaintiff and the Aggrieved Employees were not provided with legally required meal periods.

83. On information and belief, Plaintiff and the Aggrieved Employees did not waive their rights to meal periods under the law.

84. Plaintiff and the Aggrieved Employees were not relieved of all duty and were not allowed to leave the premises during meal periods.

85. Plaintiff and the Aggrieved Employees were not paid one hour of pay at their regular rate for each day that a first or second meal period was not lawfully provided.

86. As a proximate result of the aforementioned violations, Plaintiff and the Aggrieved Employees have been damaged in an amount according to proof at time of trial.

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1 87. Pursuant to Labor Code § 226.7, Plaintiff and Aggrieved Employees are entitled to recover
2 one (1) hour of premium pay at the regular rate for each day in which a meal period violation occurred.
3 They are also entitled to recover reasonable attorneys' fees, cost, interest, and penalties as applicable.

4 88. As a result of the unlawful acts of Defendants, Defendants violated Labor Code section
5 512, 226.7, 1198, and the Wage Orders.

6 ***FAILURE TO AUTHORIZE AND PERMIT LAWFUL REST PERIODS***

7 89. Plaintiff incorporates by reference and realleges each and every allegation contained
8 above, as though fully set forth herein.

9 90. Pursuant to the IWC Wage Orders applicable to Plaintiff's and Aggrieved Employees'
10 employment by Defendants, "Every employer shall authorize and permit all employees to take rest
11 periods, which insofar as practicable shall be in the middle of each work period.... [The] authorized rest
12 period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per
13 four (4) hours worked or major fraction thereof.... Authorized rest period time shall be counted as hours
14 worked, for which there shall be no deduction from wages."

15 91. Labor Code §226.7(a) prohibits an employer from requiring any employee to work during
16 any rest period mandated by an applicable order of the IWC.

17 92. Defendants were required to authorize and permit employees such as Plaintiff and the
18 Aggrieved Employees to take rest periods during shifts in excess of 3.5 hours, based upon the total hours
19 worked at a rate of ten (10) minutes net rest per four (4) hours worked, or major fraction thereof, with no
20 deduction from wages.

21 93. Despite said requirements of the IWC wage orders applicable to Plaintiff's and the
22 Aggrieved Employees' employment with Defendants, Defendants failed and refused to authorize and
23 permit Plaintiff and the Aggrieved Employees to take lawful, net ten (10) minute rest periods for every
24 four (4) hours worked, or major fraction thereof.

25 94. Plaintiff and the Aggrieved Employees were not relieved of all duty and were not allowed
26 to leave the premises during rest periods.

27 95. Defendants did not pay Plaintiff one additional hour of pay at her regular rate of pay for
28 each day that a rest period violation occurred. On information and belief, the Aggrieved Employees
endured similar violations as a result of Defendants' rest period policies and practices and Defendants'

1 did not pay the Aggrieved Employees premium pay as required by law.

2 96. By their failure to authorize and permit Plaintiff and the Aggrieved Employees to take a
3 lawful, net ten (10) minute rest period free from work duties every four (4) hours or major fraction thereof
4 worked, including failure to provide two (2) total rest periods on six to ten hour shifts and three (3) total
5 ten (10) minute rest periods on days on which Plaintiff and the other Aggrieved Employees work(ed)
6 work a third rest period for shifts in excess of ten (10) hours, and by their failure to provide compensation
7 for such unprovided rest periods as alleged herein, Defendants willfully violated the provisions of Labor
8 Code sections 226.7 and the applicable IWC Wage Order(s).

9 97. As a result of the unlawful acts of Defendants, Plaintiff and the Aggrieved Employees she
10 seeks to represent have been deprived of premium wages in amounts to be determined at trial, and are
11 entitled to recovery of such amounts, plus interest and penalties thereon, attorneys' fees, and costs, under
12 Labor Code sections 218.6, 226.7, the applicable IWC Wage Orders, and Civil Code 3287

13 ***FAILURE TO TIMELY PAY WAGES DUE AND PAYABLE DURING EMPLOYMENT***

14 98. Plaintiff incorporates by reference and realleges each and every allegation contained
15 above, as though fully set forth herein.

16 99. Labor Code section 204 requires that all wages are due and payable twice in each calendar
17 month.

18 100. The wages required by Labor Code §§ 226.7, 510, 1194 and other sections became due
19 and payable to each employee in each month that he or she was not provided with a meal period or rest
20 period or paid minimum wage, straight or overtime wages to which he or she was entitled.

21 101. Defendants violated Labor Code § 204 by systematically refusing to pay wages due under
22 the Labor Code.

23 102. Labor Code section 210 (a) provides that "In addition to, and entirely independent and
24 apart from, any other penalty provided in this article, every person who fails to pay the wages of each
25 employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 204.11, 205, 205.5, and 1197.5, shall
26 be subject to a penalty as follow:

- 27 1. For any initial violation, one hundred dollars (\$100) for each failure to pay each employee.

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

103. Plaintiff and the Aggrieved Group are entitled to civil penalties, attorneys fees, and costs.

FAILURE TO MAINTAIN ACCURATE GRATUITY RECORDS

104. Plaintiff incorporates by reference and realleges each and every allegation contained above, as though fully set forth herein.

105. California Labor Code section 353 requires employers to keep accurate records of gratuities earned by employees. Defendants were therefore required to maintain accurate records of tips accrued by employees, in addition to the distribution of tips to said employees from the Tip Pool maintained by Defendants.

106. On information and belief, Defendants failed to provide Plaintiff and the similarly situated Aggrieved Employees with accounts of gratuities owed from the tip pool from Credit Card Tips, Cash Tips, Room Tips, and Event Tips, by failing to specify said tip distributions on Plaintiff's and the similarly situated Aggrieved Employees' wage statements, as well as indicate and affirm that Plaintiff and the similarly situated Aggrieved Employees were being compensated with tips accrued through waiting on the firepits in the Firepit System.

107. In failing to comply with California Labor Code section 353, Defendants are further in violation of California Labor Code section 354.

108. As a result of these violations, Plaintiff and the similarly situated Aggrieved Employees are entitled to recover civil penalties, along with attorneys' fees and costs.

FAILURE TO REIMBURSE NECESSARY EXPENSES

109. Plaintiff repeats and incorporates herein by reference each and every allegation set forth above, as though fully set forth herein.

110. Labor Code § 2802 requires Defendants to indemnify Plaintiff and Aggrieved Employees for necessary expenditures incurred in direct consequence of the discharge of his or her duties.

111. Plaintiff and the members of the Indemnification group were required to incur expenses in the performance of their assigned job duties. For example, Plaintiff and the Aggrieved Employees were required to incur numerous out of pocket expenses, including without limitation, cellular phone

1 expenses and uniform purchasing and cleaning expenses, in direct consequence of the discharge of their
2 duties.

3 112. Upon information and belief, the Defendants did not reimburse Plaintiff or the Aggrieved
4 Group for such expenses.

5 113. As a result of the unlawful acts of Defendants, Defendants violated Labor Code §2800
6 and 2802.

7 ***KNOWING AND INTENTIONAL FAILURE TO COMPLY WITH ITEMIZED EMPLOYEE***
8 ***WAGE STATEMENT PROVISIONS***

9 114. Plaintiff repeats and incorporates herein by reference each and every allegation set forth
10 above, as though fully set forth herein.

11 115. Labor Code section 226(a) reads in pertinent part: “Every employer shall, semimonthly
12 or at the time of each payment of wages, furnish each of his or her employees, either as a detachable part
13 of the check, draft, or voucher paying the employee’s wages, or separately when wages are paid by
14 personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2)
15 total hours worked by the employee... (4) all deductions... (5) net wages earned, (6) the inclusive dates
16 of the period for which the employee is paid, (7) the name of the employee and only the last four digits
17 of his or her social security number or an employee identification number other than a social security
18 number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly
19 rates in effect during each the pay period and the corresponding number of hours worked at each hourly
20 rate by the employee....”.

21 116. Further, the IWC Wage Orders require in pertinent part: Every employer shall keep
22 accurate information with respect to each employee including the following: (3) Time records showing
23 when the employee begins and ends each work period. Meal periods, split shift intervals, and total daily
24 hours worked shall also be recorded...(5) Total hours worked in the payroll period and applicable rates
25 of pay....”

26 117. Labor Code section 1174 of the California also requires Defendants to maintain and
27 preserve, in a centralized location, among other items, records showing the names and addresses of all
28 employees employed and payroll records showing the hours worked daily by, and the wages paid to, its
employees. On information and belief and based thereon, Defendants have knowingly and intentionally

1 failed to comply with Labor Code section 1174, including by implementing the policies and procedures
2 and committing the violations alleged in the preceding causes of action and herein. Defendants' failure
3 to comply with Labor Code section 1174 is unlawful pursuant to Labor Code section 1175.

4 118. Defendants have failed to record many of the items delineated in applicable Industrial
5 Wage Orders and Labor Code section 226, and required under Labor Code section 1174, including by
6 virtue of the fact that each wage statement which failed to accurately compensate Plaintiff and Aggrieved
7 Employees for all hours worked and for missed and non-provided meal and rest periods, or which failed
8 to include compensation for all minimum wages earned or overtime hours worked, was an inaccurate
9 wage statement. In addition, the wage statements inaccurately stated totals hours worked and hours
10 worked at each hourly wage rate.

11 119. On information and belief, Defendants failed to implement and preserve a lawful record-
12 keeping method to record all non-provided meal and rest periods owed to employees or all hours worked,
13 as required for the Aggrieved Employees under California Labor Code section 226 and applicable
14 California Wage Orders. In order to determine if they had been paid the correct amount and rate for all
15 hours worked, Plaintiff and Aggrieved Employees have been, would have been, and are compelled to try
16 to discover the required information missing from their wage statements and to perform complex
17 calculations in light of the inaccuracies and incompleteness of the wage statements Defendants provided
18 to them.

19 120. As a pattern and practice, in violation of Labor Code section 226(a) and the IWC Wage
20 Orders, Defendants did not and still do not furnish each of the members of the Aggrieved Group with an
21 accurate itemized statement in writing accurately reflecting all of the required information. Here,
22 Plaintiff asserts the Defendants omitted required information, failed to accurately include all applicable
23 hourly rates on the wage statements and the corresponding number of hours worked at such rates or hours
24 paid at such rates. In addition, Defendants have failed to provide accurate itemized wage statements as
25 a consequence of the above-specified violations for failure to accurately pay all wages owed, accurately
26 record all hours worked, and failure to pay meal and rest period premiums as required by law.

27 121. Moreover, upon information and belief, as a pattern and practice, in violation of Labor
28 Code section 226(a) and the IWC Wage Orders, Defendants did not and do not maintain accurate records
pertaining to the total hours worked for Defendants by the members of the Aggrieved Group, including

1 but not limited to, beginning and ending of each work period, meal period and split shift interval, the
2 total daily hours worked, and the total hours worked per pay period and applicable rates of pay.

3 ***FAILURE TO KEEP ACCURATE PAYROLL AND TIMEKEEPING RECORDS***

4 122. Plaintiff repeats and incorporates herein by reference each and every allegation set forth
5 above, as though fully set forth herein.

6 123. The IWC wage orders, Labor Code sections 226(a), 1174, and 1174.5 require that the
7 Defendants keep accurate payroll and timekeeping information.

8 124. By virtue of the above-specified violations, including the failure to record hours worked
9 off the clock, wages earned, proper rates of pay and hours worked during purportedly provided meal
10 breaks, and the failure to timely pay wages according to requirements of Labor Code 204, Defendants
11 failed to keep accurate timekeeping and wage information and violated Labor Code sections 226(a), 1174,
12 and 1174.5.

13 125. Defendants also failed to keep accurate payroll information as a consequence of the above
14 specified violations, including the failure to pay for all hours worked, premiums for missed meal and rest
15 breaks as required by law.

16 ***FAILURE TO PAY SICK LEAVE AT THE PROPER RATE***

17 126. Plaintiff incorporates each and every allegation set forth in all of the foregoing paragraphs
18 as if fully set forth herein.

19 127. Labor Code 246(i) provides: An employee who, on or after July 1, 2015, works in
20 California for the same employer for 30 or more days within a year from the commencement of
21 employment is entitled to paid sick days as specified.

22 128. Labor Code section 246(l) provides: "For the purposes of this section, an employer shall
23 calculate paid sick leave using any of the following calculations: (1) Paid sick leave for nonexempt
24 employees shall be calculated in the same manner as the regular rate of pay for the workweek in which
25 the employee uses paid sick time, whether or not the employee actually works overtime in that workweek.
26 (2) Paid sick time for nonexempt employees shall be calculated by dividing the employee's total wages,
27 not including overtime premium pay, by the employee's total hours worked in the full pay periods of the
28 prior 90 days of employment."

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129. In this case, Plaintiff alleges that Defendants failed to pay sick leave at the proper rate because it failed to take all forms of compensation, including incentives, and other wages into account in calculating the regular rate. This constitutes a violation of Labor Code.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

PENALTIES UNDER THE PRIVATE ATTORNEYS' GENERAL ACT, LABOR CODE

SECTION 2698 ET SEQ.

130. Plaintiff incorporates by reference each and every paragraph above, and realleges each and every allegation contained above as though fully set forth herein.

131. Plaintiff gave timely written notice by online submission to the LWDA and by certified mail to Defendants of Defendants' violations of numerous provisions of the California Labor Code and the IWC Wage Orders as alleged in this complaint. All fees were paid as required by statute.

132. Plaintiff is an “aggrieved employee” as defined in Labor Code Section 2699(A), as she was employed by Defendants during the statutory period and suffered one or more of the Labor Code violations set forth herein. She seeks to recover for herself and all other current and former aggrieved employees of Defendants the civil penalties provided by PAGA, plus reasonable attorneys’ fees and costs.

133. 65 days have passed, and no response has been received from the LWDA. Accordingly, the LWAD has permitted Plaintiff to proceed in a representative capacity.

134. Plaintiff has exhausted all administrative procedures required of them under the Labor Code §§2698, 2699, 2699.3, and as a result, is justified as a matter of right in bringing forward this cause of action.

135. Pursuant to Labor Code section 2699(a) Plaintiff seeks to recover civil penalties for which Defendants are liable due to numerous Labor Code violations as set forth in this Complaint.

136. Plaintiff seeks to recover the PAGA civil penalties through a representative action permitted by PAGA and the California Supreme Court in *Arias v. Superior Court* (2009) 46 Cal. 4th 969. Class certification of the PAGA claims is not required.

137. Pursuant to Labor Code section 2698 et seq. and 2699(a), Plaintiff seeks to recover civil penalties for which Defendants are liable due to numerous Labor Code and Wage Order violations as set forth in this Complaint.

1 138. Specifically, Plaintiff, on behalf of herself and the Aggrieved Employees, seeks penalties
2 under Labor Code § 2699, for, without limitation, the claims set forth herein, including:

- 3 a. Defendants' failure to comply with the requirement of Labor Code §§ 1182.12, 1194,
4 1197, 1198, and Wage Orders to pay at least minimum wage for every hour worked;
- 5 b. Defendants' failure to comply with the requirement of Labor Code §§ 510, 1194, 1197,
6 1198, and Wage Orders to accurately pay all wages earned, including overtime and
7 reporting wages;
- 8 c. Defendants' failure to comply with the requirement of Labor Code §§ 216 to pay wages
9 after demand was made;
- 10 d. Defendants' failure to comply with the requirement of Labor Code §§ 204 and 210 to
11 pay, without condition and within the time set by the applicable article, all wages, or
12 parts thereof;
- 13 e. Defendants' failure to comply with the requirement of Labor Code § 225.5 to pay
14 wages due;
- 15 f. Defendants' failure to comply with the requirement of Labor Code §§ 201 and 202 to
16 pay wages due to former employees;
- 17 g. Defendants' failure to comply with the requirement of Labor Code §§ 226.7, 512, 1198,
18 and IWC Wage Orders to provide timely, uninterrupted 30 minute off-duty meal
19 periods;
- 20 h. Defendants' failure to comply with the requirement of Labor Code §§ 226.7, 1198, and
21 IWC Wage Orders to pay one hour of premium pay at the regular rate for each lawful
22 meal break that was not provided;
- 23 i. Defendants' failure to comply with the requirement of Labor Code §§ 226.7, 1198, and
24 IWC Wage Orders to authorize and permit ten (10) minute rest breaks;
- 25 j. Defendants' failure to comply with the requirement of Labor Code §§ 226.7, 1198, and
26 IWC Wage Orders to pay one hour of premium pay at the regular rate for each
27 statutorily required rest break that was not lawfully authorized and permitted;
- 28 k. Defendants' failure to reimburse necessary expenses in violation of Labor Code § 2802;

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- 1 l. Defendants' failure to provide accurate compliant wage statements under Labor Code
- 2 § 226;
- 3 m. Defendants' failure to maintain required records in violation of Labor Code §§ 226,
- 4 1174, and IWC Wage Orders;
- 5 n. Defendants' failure to maintain accurate gratuity records in violation of Labor Code §
- 6 353; and
- 7 o. Defendants' failure to pay sick leave pay to Plaintiff and the Aggrieved Employees at
- 8 the regular rate in violation of Labor Code § 246.

9 139. Plaintiff seeks civil penalties for Defendants' violation of Labor Code provisions for
10 which a civil penalty is specifically provided, including but not limited to the following:

- 11 a. Pursuant to Labor Code § 210, for violations of Labor Code § 204, Defendants' are
- 12 subject to a civil penalty in the amount of one hundred dollars (\$100) for the initial
- 13 violation for each failure to pay each employee and two hundred (\$200) per employee
- 14 for violations in subsequent pay periods plus 25% of the amount unlawfully withheld.
- 15 b. Pursuant to Labor Code § 226.3, for violations of Labor Code § 226 (a) Defendants
- 16 are subject to a civil penalty in the amount of two hundred and fifty dollars (\$250) per
- 17 aggrieved employee for the initial pay period where a violation occurs and one
- 18 thousand dollars (\$1,000) per aggrieved employee for violations in subsequent pay
- 19 period.
- 20 c. Pursuant to Labor Code § 558(a), "[a]ny employer or other person acting on behalf of
- 21 an employer who violated, or causes to be violated, a section of this chapter or any
- 22 provisions regulating hours and days of work in any order of the Industrial Welfare
- 23 Commission," including Labor Code §§ 510 and 512, shall be subject to a civil
- 24 penalty, in addition to any other penalty provided by law, of fifty dollars (\$50) for
- 25 initial violations for each underpaid employee for each pay period for which the
- 26 employee was underpaid and one hundred dollars (\$100) for each subsequent violation
- 27 for each underpaid employee for each pay period for which the employee was
- 28 underpaid.

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- 1 d. Pursuant to Labor Code § 1174.5, for violations of Labor Code § 1174(d), Defendants
2 are subject to a civil penalty of five hundred dollars (\$500).
- 3 e. Pursuant to Labor Code § 1197.1, an employer who pays or causes to be paid to any
4 employee a wage less than the minimum fixed by an order of the commission, shall
5 be subject to a civil penalty as follows: for any initial violation that is intentionally
6 committed, one hundred dollars (\$100) for each underpaid employee for each pay
7 period for which the employee is underpaid; and for each subsequent violation of the
8 same offense, two hundred fifty dollars (\$250) for each underpaid employee for each
9 pay period for which the employee is underpaid regardless of whether the initial
10 violation was intentionally committed.

11 140. Further, as a result of the acts alleged hereinabove, Plaintiff seeks penalties under Labor
12 Code §§ 2698 et seq. and 2699 because of Defendants' violation of numerous provisions of the California
13 Labor Code and IWC Wage Orders.

14 141. Under Labor Code § 2699, Plaintiff and Aggrieved Employees are entitled to \$100 for
15 any initial violation and \$200 for all subsequent violations of the above-mentioned provisions of the
16 California Labor Code.

17 142. Under Labor Code § 2699, Plaintiff and Aggrieved Employees should be awarded thirty-
18 five percent (35%) of all penalties due under California Law, interest, attorneys' fees and costs.

19 143. Under Labor Code § 2699, the State of California should be awarded sixty-five percent
20 (65%) of the penalties due under California Law.

1 **PRAYER FOR RELIEF**

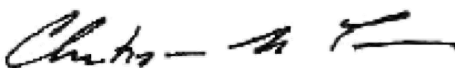
2 WHEREFORE, Plaintiff pray judgment against Defendants as follows:

- 3 1. For penalties according to proof, pursuant to Labor Code §§ 2698 et seq. for the violations
4 specified above;
- 5 2. For penalties under Labor Code §§ 210, 226.3, 1174.5, 1197.1, and 2699(a) and (f);
- 6 3. For interest at the legal rate pursuant to Labor Code §§ 218.6, 1194, 2802, California Civil
7 Code §§ 3287, 3288, and/or any other applicable provision providing for pre-judgment interest;
- 8 4. For reasonable attorneys' fees, expenses, and costs under Labor Code §§ 1194, 226, 2699,
9 and/or Code of Civil Procedure § 1021.5, and/or any other applicable provisions providing for attorneys'
10 fees and costs; and
- 11 5. For such other and further relief as the Court deems proper.

12 Respectfully submitted,

13
14 **EMPLAW, LLP**

15 Dated: January 26, 2026



16 Christina M. Lucio, Esq.

17 Mitchell J. Murray, Esq.

18 Nicholas W. Schieffelin, Esq.

19 Attorneys for Plaintiff ELIZABETH MOREHOUSE,
20 individually, and in her representative capacity as private
21 attorney general
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