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By Y. Tarasyuk, Deputy Clerk

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

ERIC BURTON, an individual;

Plaintiff,

vs.

NEVERMORE CORP., a California
corporation; LLG CORP., a California
corporation; AMALIA GRAFFEO, an
individual; LEONARD GRAFFEO, an
individual; KATHRYN GRAFFEO, an
individual; and DOES 1 through 20, inclusive.

Defendants.

) Case No.: **23STCV19121**

) **COMPLAINT FOR:**

-) **1. Failure to Timely Pay Earned Wages in**
) **Violation of Cal. Lab. Code § 204;**
) **2. Failure to Pay Overtime Compensation**
) **in Violation of Cal. Lab Code §§ 510,**
) **1194;**
) **3. Failure to Provide Meal Periods in**
) **Violation of Cal. Lab. Code § 226.7;**
) **4. Failure to Provide Rest Periods in**
) **Violation of Cal. Lab. Code § 226.7;**
) **5. Failure to Pay Minimum Wage in**
) **Violation of California Labor Code §§**
) **1194 and 1197;**
) **6. Failure to Provide Accurate Wage**
) **Statements in Violation of Cal. Lab.**
) **Code § 226;**
) **7. Waiting Time Penalties in Violation of**
) **Cal. Labor Code § 203;**
) **8. Failure to Provide Reporting Time Pay**
) **in Violation of IWC Wage Order 5-2001**
) **§5;**
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-) 9. Unlawful Business Practices in Violation
-) of Bus. And Prof. Code Section 17200 et
-) seq.;
-) 10. PAGA Civil Penalties for Failure to
-) Timely Pay Earned Wages in Violation
-) of Cal. Lab. Code §§ 204, 210, 558, and
-) 2698 et seq.;
-) 11. PAGA Civil Penalties for Failure to Pay
-) Overtime Compensation in Violation of
-) Cal. Lab. Code §§ 510, 1194, 1198, 558
-) and 2698 et seq.;
-) 12. PAGA Civil Penalties for Failure to Pay
-) Provide Meal Periods in Violation of
-) Cal. Lab. Code §§ 226.7 and 2698 et
-) seq.;
-) 13. PAGA Civil Penalties for Failure to
-) Provide Rest Periods in Violation of Cal.
-) Lab. Code §§ 226.7 and 2698 et seq.;
-) 14. PAGA Civil Penalties for Failure to
-) Provide Minimum Wage in Violation of
-) Cal. Lab. Code §§ 1194, 1197, and 2698
-) et seq.;
-) 15. PAGA Civil Penalties for Failure to
-) Provide Accurate Wage Statements in
-) Violation of Cal. Lab. Code §§ 226,
-) 226.3, 558, and 2698 et seq.;
-) 16. PAGA Civil Penalties for Failure to Pay
-) all Earned Wages in Violation of Cal.
-) Lab. Code §§ 201, 202, 203, 256, 558,
-) and 2698 et seq.;
-) 17. PAGA Civil Penalties for Failure to
-) Comply with Cal. Lab. Code §§ 1174
-) and 2698 et seq.;
-) 18. PAGA Civil Penalties for Failure to
-) Comply with Cal. Lab. Code §§ 1197,
-) 1198, 1199 and 2698 et seq. and
-) 19. PAGA Civil Penalties for Failure to
-) Provide Reporting Time Pay in
-) Violation of IWC Wage Order 5-2001
-) §5.
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1 Plaintiff alleges:

2 **PARTIES**

3 1. Plaintiff, ERIC BURTON (“Burton” herein), is, and at all relevant times was, a
4 resident of the State of California, County of Los Angeles.

5 2. Plaintiff is informed and believes, and based thereon alleges, that Defendant
6 NEVERMORE CORP., doing business as The Raven’s Nest (“Raven’s Nest”), is and at all
7 relevant times was, a corporation organized and existing under the laws of the state of California,
8 qualified to do business in the state of California, with its principal place of business located at
9 42458 60th Street West, Quartz Hill, CA 93536.

10 3. Plaintiff is informed and believes, and based thereon alleges, that Defendant LLG
11 CORP., doing business as Fresco II (“Fresco II”), is and at all relevant times was, a corporation
12 organized and existing under the laws of the state of California, qualified to do business in the
13 state of California, with its principal place of business located at 1311 W. Rancho Vista Blvd.
14 Palmdale, CA 93551.

15 4. Plaintiff is informed and believes, and based thereon alleges, that Defendant
16 AMALIA GRAFFEO is and at all relevant times was, a resident of Los Angeles County,
17 California. At all relevant times was, Amalia Graffeo was the owner and manager of Fresco II,
18 who controlled the wage, hours, and working conditions of Plaintiff. Amalia Graffeo is
19 responsible for the occurrences herein alleged, and Plaintiff’s damages as herein alleged were
20 directly and proximately caused by Amalia Graffeo.

21 5. Plaintiff is informed and believes, and based thereon alleges, that Defendant
22 LEONARD GRAFFEO is and at all relevant times was, a resident of Los Angeles County,
23 California. At all relevant times herein, Leonard Graffeo was the owner and manager of Fresco
24 II, who controlled the wage, hours, and working conditions of Plaintiff. Leonard Graffeo is
25 responsible for the occurrences herein alleged, and Plaintiff’s damages as herein alleged were
26 directly and proximately caused by Leonard Graffeo.

27 6. Plaintiff is informed and believes, and based thereon alleges, that Defendant
28 KATHRYN GRAFFEO is and at all relevant times was, a resident of Los Angeles County,

1 California. At all relevant times herein, Kathryn Graffeo was the owner and manager of Raven's
2 Nest, who controlled the wage, hours, and working conditions of Plaintiff. Kathryn Graffeo is
3 responsible for the occurrences herein alleged, and Plaintiff's damages as herein alleged were
4 directly and proximately caused by Kathryn Graffeo.

5 7. Plaintiff is ignorant of the true names and capacities of the defendants sued herein
6 as DOES 1 through 20, inclusive, and therefore sues these defendants by such fictitious names.
7 Plaintiff will amend this Complaint to allege the true names and capacities of said defendants
8 when ascertained. Plaintiff is informed and believes, and based thereon allege that each of the
9 fictitiously named defendants is responsible in some manner for the occurrences herein alleged,
10 and that Plaintiff's damages as herein alleged were proximately caused by said defendants.
11 (Raven's Nest, Fresco II, Kathryn Graffeo, Leonard Graffeo, Amalia Graffeo, and DOES 1
12 through 20 shall collectively herein be referred to as "Defendants").

13 8. Unless otherwise alleged in this Complaint, Plaintiff is informed and believes, and
14 based thereon alleges, that each of the Defendants sued herein was, at all relevant times hereto,
15 the employer, owner, principal, franchisee, proxy, agent, employee, supervisor, representative,
16 manager, managing agent, joint employer, and/or alter ego of the remaining Defendants, and was
17 acting, at least in part, within the course and scope of such employment and agency, with express
18 and implied permission, consent, and knowledge. The above Defendants, managing agents, and
19 supervisors aided, abetted, condoned, permitted, willfully ignored, approved, authorized, and/or
20 ratified the unlawful acts described herein, and each and every one of the acts and omissions
21 alleged herein were performed by, and/or are attributable to all Defendants.

22 **JURISDICTION**

24 9. Plaintiff is informed and believe, and based thereon allege, that at all times herein
25 mentioned, Defendants, and each of them, were doing business in the State of California such
26 that the exercise of jurisdiction by this Court would not be inconsistent with the Constitution of
27 the State of California and/or the United States of America.

1 10. This Court has jurisdiction over this action pursuant to California Code of Civil
2 Procedure Section 410.10.

3 11. The total amount in controversy for claims of Plaintiff is more than Twenty-Five
4 Thousand Dollars (\$25,000). In addition, Plaintiff asserts no claims under federal law, with all
5 causes of action named herein being based exclusively under California law.

6
7 **VENUE**

8 12. Plaintiff is informed and believe, and based thereon allege, that venue is proper in
9 Los Angeles County because Defendants, and each of them, have conducted business within the
10 County of Los Angeles and a substantial portion of the wrongful acts complained of occurred
11 therein.

12
13 **GENERAL ALLEGATIONS**

14 13. Plaintiff alleges and incorporates herein by this reference each and every
15 allegation set forth in all previous paragraphs of this Complaint.

16 ***Defendants:***

17 14. Defendant Raven's Nest is a gourmet, gothic-themed restaurant that specializes in
18 serving contemporary European dishes infused with Italian and Greek influences. Its offerings
19 include an array of food and alcoholic beverages. Raven's Nest is owned and operated by
20 Kathryn Graffeo, who at all relevant times herein, managed the wages, hours, and working
21 conditions for Plaintiff and similarly aggrieved employees.

22 15. At all relevant times herein, Raven's Nest employed 25-75 similarly aggrieved
23 employees.

24 16. Defendant Fresco II is a Mediterranean restaurant with a specialty in Greek-style
25 cuisine. Catering to large groups, its diverse offerings include a variety of food and alcoholic
26 beverages. Fresco II is owned and operated by Leonard Graffeo and Amalia Graffeo, who at all
27 relevant times herein, managed the wages, hours, and working conditions for Plaintiff and
28 similarly aggrieved employees.

1 17. At all relevant times herein, Fresco II employed 25-75 similarly aggrieved
2 employees.

3 18. Plaintiff is further informed and believes that Raven's Nest and Fresco II were
4 joint employers of Plaintiff and similarly aggrieved employees. Raven's Nest and Fresco II share
5 employees as a majority of the employees at both Fresco II and Raven's Nest are scheduled
6 interchangeably to work at either location. Both restaurants are located in Lancaster, California,
7 and both restaurants are owned and operated by the Graffeo family. They utilize a shared
8 workforce, are overseen by management from the same family, share employee policies,
9 procedures, and handbooks, and have employment practices implemented by the same
10 individuals. Moreover, both Raven's Nest and Fresco II, in particular their managers/owners
11 Leonard Graffeo, Amalia Graffeo, and Kathryn Graffeo, had the ability to hire and fire
12 employees for both restaurants, manage and/or change employee schedules for both restaurants,
13 and the wages paid.

14 19. Therefore, at all relevant times herein, Raven's Nest and Fresco II jointly
15 exercised control over the wages, hours, and working conditions of Plaintiff and similarly
16 aggrieved employees, and engaged, suffered or permitted Plaintiff and similarly aggrieved
17 employees to work for both restaurants.

18 ***Plaintiff Eric Burton:***

19 20. Plaintiff began his employment with Defendant Raven's Nest on or about March
20 18, 2019. Subsequently, without applying or interviewing for another position, he was assigned
21 to work at Defendant Fresco II beginning on or around December 1, 2019. Plaintiff continued to
22 work for Defendants up until in or around December 2022. For purposes of this complaint, the
23 employment period shall be March 18, 2019 through in or about December 2022 (the
24 "Employment Period").

25 21. Defendants employed Plaintiff as a busser throughout the Employment Period,
26 however, his duties spanned a variety of restaurant-related tasks. Regardless of which restaurant
27 he worked at, Plaintiff's job duties included, but were not limited to, clearing tables, cleaning,
28 resetting tables, and occasionally taking orders and serving food to Defendants' customers.

1 22. Plaintiff worked anywhere from 15 to 40 hours per week and was paid on an
2 hourly basis plus tips throughout the entirety of his employment.

3 23. Plaintiff was required to work at both Raven's Nest and Fresco II and received
4 \$12.00 per hour upon the inception of his employment at both restaurants. His hourly rate in
5 2019 was in compliance with California minimum wage standards.

6 24. However, Plaintiff's hourly rate at Raven's Nest remained at \$12.00 per hour in
7 2020, despite the minimum wage in California increasing to \$13.00 per hour for employers with
8 25 or more employees. The California minimum wage further increased to \$14.00 per hour in
9 2021 and \$15.00 per hour in 2022. Despite this, Complainant's pay at Raven's Nest remained at
10 \$12.00 per hour for the year of 2021 and 2022. Consequently, from January 1, 2020 onward,
11 Raven's Nest was compensating Plaintiff below the legal minimum wage.

12 25. At Fresco II, Plaintiff's wage was raised to \$13.00 per hour in 2020, in
13 compliance with the minimum wage in California for employers with 25 or more employees.
14 However, despite the increase in the state's minimum wage to \$14.00 per hour in 2021 and
15 \$15.00 per hour in 2022 for employers with 25 or more employees, Plaintiff's wage remained at
16 \$13.00 per hour. Consequently, from January 1, 2021 onward, Fresco II was compensating
17 Plaintiff below the legal minimum wage.

18 26. Plaintiff and similarly aggrieved employees sometimes worked in excess of forty
19 (40) hours per week, and more than eight (8) to twelve (12) hours on any given workday,
20 including weekends. Despite working in excess of eight (8) hours per day or forty (40) hours per
21 week, Plaintiff and similarly aggrieved employees never received any time and a half or double
22 pay compensation from Defendants.

23 27. Plaintiff and similarly aggrieved employees were required to sign a meal period
24 waiver, however the meal period waiver called for the waiver of a second meal period regardless
25 of whether the first meal period had been waived. Thus, when Plaintiff and similarly aggrieved
26 employees worked in excess of ten (10) hours, they did not receive a second meal period, even
27 when they had not received their first meal period. Furthermore, when Plaintiff and similarly
28 aggrieved employees worked in excess of six (6) hours, they did not receive an uninterrupted

meal period. Defendants did not provide Plaintiff and similarly aggrieved employees with premium pay in lieu of their missed meal periods.

28. Plaintiff and similarly aggrieved employees were not provided a 10-minute rest period for every four hours worked. Instead, they were required to continue perform their work duties during the required rest period. Defendants did not provide Plaintiff and similarly aggrieved employees with premium pay in lieu of their missed rest periods.

29. Furthermore, there were a number of occasions throughout the Employment Period where Plaintiff and similarly aggrieved employees would arrive to work, only to be sent home by Defendants due to an alleged lack of work. When this occurred, Defendants failed to provide Plaintiff and similarly aggrieved employees with any reporting time pay.

Exhaustion of Administrative Remedies:

30. Plaintiff, by virtue of his employment with Defendants, is an “aggrieved employees” within the meaning of California Labor Code § 2699(c), with standing to bring an action under PAGA, and has suffered one or more of the Labor Code violations set forth herein. Accordingly, Plaintiff seeks to recover on behalf of himself and all other current and former aggrieved employees of Defendants, the civil penalties provided by PAGA.

31. Plaintiff seeks to recover the civil penalties through a representative action permitted by PAGA, therefore class certification of the PAGA claims is not required.

32. Plaintiff is informed and believes, and based thereon alleges that Defendants have violated, and continue to violate, provisions of the California Labor Code and applicable Wage Orders.

33. Plaintiff has exhausted his administrative remedies by timely filing PAGA administrative charges in strict accordance with the PAGA statute, and for the purposes of exhausting his administrative remedies, on or about May 10, 2023 for both Raven’s Nest and Fresco II. More than sixty-five days elapsed, and neither the LWDA nor Defendants responded to the exhaustion. As such, Plaintiff may file his PAGA claims as asserted in this complaint.

FIRST CAUSE OF ACTION

(Failure to Timely Pay Earned Wages in Violation of California Labor Code §§ 204, 210
by Plaintiff against Defendants and DOES 1-20)

34. Plaintiff alleges and incorporates herein by this reference each and every
allegation set forth in all previous paragraphs of this Complaint.

35. California Labor Code § 204 provides, in pertinent part:

“All wages, other than those mentioned in Section 201, 202, 204.1, or 204.2, earned by any
person in any employment are due and payable twice during each calendar month, on days
designated in advance by the employer as the regular paydays. Labor performed between
the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th
and the 26th day of the month during which the labor was performed, and labor performed
between the 16th and the last day, inclusive, of any calendar month, shall be paid for
between the 1st and 10th day of the following month. ... Notwithstanding any other
provision of this section, all wages earned for labor in excess of the normal work period
shall be paid no later than the payday for the next regular payroll period.”

36. California Labor Code § 210 provides, in pertinent part:

“In addition to, and entirely independent and apart from, any other penalty provided in this
article, every person who fails to pay the wages of each employee as provided in Sections
204, 204b, 204.1, 204.2, 205, 205.5, and 1197.5, shall be subject to a civil penalty as
follows: (a) For any initial violation, one hundred dollars (\$100) for each failure to pay
each employee. (b) 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.”

37. As set forth herein, there were multiple instances throughout the Employment
Period where Plaintiff worked more than eight (8) hours in a day, or more than forty (40) hours
in a week. However, Plaintiff was only compensated at his regular rate of pay regardless of the
hours worked, never receiving time and a half or double pay compensation for working more
than eight (8) hours in a day, or more than forty (40) hours in a week. There were also some
occasions where Plaintiff did not receive any pay for his overtime hours worked. Defendants
further failed to pay Plaintiff an additional hour of pay for each day he did not receive a rest

1 period, did not receive a meal period, or did not receive his meal period until after the fifth hour
2 of work.

3 38. As a result, at all relevant times herein, Defendants willfully failed to pay Plaintiff
4 for all wages earned on the regular payday for each pay period in which these amounts first
5 became due and payable, as required by Labor Code § 204.

6 39. Pursuant to Labor Code § 218, Plaintiff is entitled to, and hereby requests, the
7 unpaid balance of the full amounts of wages earned and currently owed.

8 40. Pursuant to Labor Code §§ 218.6, Plaintiff requests prejudgment interest at the
9 legal rate of ten percent (10.00%) per annum on all unpaid wages from the date such wages were
10 due.

11 41. Pursuant to Labor Code § 210, Plaintiff is entitled to, and hereby requests,
12 penalties of \$100.00 for the initial violation, and \$200.00 for each subsequent violation, plus
13 twenty-five percent (25%) of the amount unlawfully withheld.

14 42. Plaintiff has incurred and will continue to incur expenses for attorney's fees and
15 costs in prosecuting this action. Pursuant to Labor Code § 218.5, Plaintiff requests an award of
16 reasonable attorney's fees and costs.

17 43. Pursuant to Labor Code § 558.1, Amalia Graffeo and Leonard Graffeo are
18 personally liable to Plaintiff for the damages set forth in this cause of action since, at all relevant
19 times herein, Amalia Graffeo and Leonard Graffeo acted on behalf of Fresco II as an owner,
20 director, officer or managing agent of Fresco II, who violated, or caused to be violated, and
21 provision regulating minimum wages or hours and days of work in any order of the Industrial
22 Wage Commission, and/or §§ 203, 226, 226.7 or 1194 of the California Labor Code.

23 44. Pursuant to Labor Code § 558.1, Kathryn Graffeo is personally liable to Plaintiff
24 for the damages set forth in this cause of action since, at all relevant times herein, Kathryn
25 Graffeo acted on behalf of Raven's Nest as an owner, director, officer or managing agent of
26 Fresco II, who violated, or caused to be violated, and provision regulating minimum wages or
27 hours and days of work in any order of the Industrial Wage Commission, and/or §§ 203, 226,
28 226.7 or 1194 of the California Labor Code.

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SECOND CAUSE OF ACTION

(Failure to Pay Overtime Compensation in Violation of Labor Code § 510
by Plaintiff against Defendants and DOES 1-20)

45. Plaintiff alleges and incorporates herein by this reference each and every allegation set forth in all previous paragraphs of this Complaint.

46. IWC Wage Order No. 5-2001, which regulates the wages, hours, and working conditions of the public housekeeping industry including restaurants was applicable and controlled Plaintiff's employment with Defendants.

47. At all relevant times herein, Plaintiff was a non-exempt employee and was paid on an hourly basis. Plaintiff was not primarily engaged in duties that meet any of the tests for exemption.

48. California Labor Code § 510 requires employees be compensated for overtime for those hours worked in excess of eight (8) hours in a workday and more than forty (40) hours in a workweek. The employee must be compensated at one and one-half times the employee's regular rate of pay for hours worked (a) in excess of eight (8) hours up to and including twelve (12) hours in a workday; and (b) for the first eight (8) hours worked on the seventh consecutive day. The employee must be compensated at two times the employee's regular rate of pay for hours worked (a) in excess of twelve (12) hours in any workday; and (b) for all hours worked in excess of eight (8) hours on the seventh day of work.

49. Plaintiff worked more than eight (8) hours in a workday and/or more than forty (40) hours in a workweek during the Employment Period.

50. Defendants wholly failed to compensate Plaintiff for overtime hours worked with premium overtime pay as required under the aforementioned labor regulations. Pay which remains outstanding as of the date of this Complaint.

51. Labor Code § 1194(a) states "Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to an employee is entitled to recover in a civil action the unpaid balance

of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees and costs of suit."

52. Under the aforementioned wage order, statutes and regulations, Plaintiff is entitled to and thereby requests one and one-half times and/or double his regular rate of pay for overtime work performed during the Employment Period, in an amount to be determined at trial.

53. Pursuant to Labor Code §§ 218.6 and 1194(a), Plaintiff requests prejudgment interest at the legal rate of ten percent (10.00%) per annum on all unpaid wages from the date such wages were due.

54. Plaintiff has incurred and will continue to incur expenses for attorney's fees and costs in prosecuting this action. Pursuant to Labor Code §§ 218.5 and 1194(a), Plaintiff requests an award of reasonable attorney's fees and costs.

55. Pursuant to Labor Code § 558.1, Amalia Graffeo and Leonard Graffeo are personally liable to Plaintiff for the damages set forth in this cause of action since, at all relevant times herein, Amalia Graffeo and Leonard Graffeo acted on behalf of Fresco II as an owner, director, officer or managing agent of Fresco II, who violated, or caused to be violated, and provision regulating minimum wages or hours and days of work in any order of the Industrial Wage Commission, and/or §§ 203, 226, 226.7 or 1194 of the California Labor Code.

56. Pursuant to Labor Code § 558.1, Kathryn Graffeo is personally liable to Plaintiff for the damages set forth in this cause of action since, at all relevant times herein, Kathryn Graffeo acted on behalf of Raven's Nest as an owner, director, officer or managing agent of Fresco II, who violated, or caused to be violated, and provision regulating minimum wages or hours and days of work in any order of the Industrial Wage Commission, and/or §§ 203, 226, 226.7 or 1194 of the California Labor Code.

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THIRD CAUSE OF ACTION

(Failure to Provide Compensation to Employee Not Provided with Meal Periods in Violation of California Labor Code §§ 226.7 and 512 by Plaintiff against Defendants and DOES 1-20)

57. Plaintiff alleges and incorporates herein by this reference each and every allegation set forth in all previous paragraphs of this Complaint.

58. Defendants failed to provide Plaintiff with thirty (30) minute “duty free” meal periods as required by Labor Code §§ 226.7, 512 and Section 11 of IWC Wage Order No. 5-2001.

59. 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 period of not less than thirty (30) minutes in which the employee is relieved of all of his or her duties. An employer may not employ an employee for a work period of more than ten (10) hours per day without providing the employee a second meal period of not less than thirty (30) minutes, except that if the total hours worked is no more than twelve (12) hours in a day, the second meal period may be waived by mutual consent of the employer and the employee only if the first period was not waived.

60. In spite of the requirements set forth by the Labor Code and the applicable Wage Order, Plaintiff was required to sign a meal period waiver that unconditionally waived a second meal period, regardless of whether the first meal period had been waived. Consequently, when Plaintiff worked beyond ten (10) hours, he was not afforded a second meal period, even when the first meal period had not been provided. Furthermore, when Plaintiff's work exceeded six (6) hours, he was also deprived of a complete thirty (30) minute duty-free meal period.

61. There is no applicable exemption that would permit Defendants to fail or refuse to provide Plaintiff with the required meal periods.

62. Under the aforementioned wage order, statutes and regulations, Plaintiff is entitled to, and thereby requests one hour of pay at his regular rates of pay for each workday that a meal period was not provided consistent with applicable law for the Employment Period, in an amount to be determined at trial.

63. Pursuant to Labor Code § 558.1, Amalia Graffeo and Leonard Graffeo are personally liable to Plaintiff for the damages set forth in this cause of action since, at all relevant times herein, Amalia Graffeo and Leonard Graffeo acted on behalf of Fresco II as an owner,

1 director, officer or managing agent of Fresco II, who violated, or caused to be violated, and
2 provision regulating minimum wages or hours and days of work in any order of the Industrial
3 Wage Commission, and/or §§ 203, 226, 226.7 or 1194 of the California Labor Code.

4 64. Pursuant to Labor Code § 558.1, Kathryn Graffeo is personally liable to Plaintiff
5 for the damages set forth in this cause of action since, at all relevant times herein, Kathryn
6 Graffeo acted on behalf of Raven's Nest as an owner, director, officer or managing agent of
7 Fresco II, who violated, or caused to be violated, and provision regulating minimum wages or
8 hours and days of work in any order of the Industrial Wage Commission, and/or §§ 203, 226,
9 226.7 or 1194 of the California Labor Code.

10 11 **FOURTH CAUSE OF ACTION**

12 (Failure to Provide Compensation to Employee Not Provided with Rest Periods in Violation of
13 California Labor Code § 226.7 by Plaintiff against Defendants and DOES 1-20)

14 65. Plaintiff alleges and incorporates herein by this reference each and every
15 allegation set forth in all previous paragraphs of this Complaint.

16 66. Section 12 of IWC Wage Order No. 5-2001, provides, in pertinent part: "(A)
17 Every employer shall authorize and permit all employees to take rest periods, which insofar as
18 practicable shall be in the middle of each work period. The authorized rest period time shall be
19 based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4)
20 hours or major fraction thereof. However, a rest period need not be authorized for employees
21 whose total daily work time is less than three and one-half (3½) hours. Authorized rest period
22 time shall be counted as hours worked for which there shall be no deduction from wages. (B) If
23 an employer fails to provide an employee a rest period in accordance with the applicable
24 provisions of this order, the employer shall pay the employee one (1) hour of pay at the
25 employee's regular rate of compensation for each workday that the rest period is not provided."

26 67. At all relevant times hereto, Defendants failed to comply with Section 12 of Order
27 5-2001, by failing to authorize and permit Plaintiff to take required rest periods.

28 68. Defendants further violated these IWC wage orders and violated Labor Code §
226.7 by failing to pay Plaintiff, who was not authorized or permitted to take rest breaks as

1 required under these orders, an additional one hour of compensation at Plaintiff's regular rate of
2 pay for each day Plaintiff was not authorized or permitted to take a required rest period.

3 69. Under the aforementioned wage order, statutes and regulations, Plaintiff is entitled
4 to, and hereby requests one hour of pay at his regular rate of pay for each workday that a rest
5 period was not provided consistent with applicable law for the Employment Period, in an amount
6 to be determined at trial.

7 70. Pursuant to Labor Code § 558.1, Amalia Graffeo and Leonard Graffeo are
8 personally liable to Plaintiff for the damages set forth in this cause of action since, at all relevant
9 times herein, Amalia Graffeo and Leonard Graffeo acted on behalf of Fresco II as an owner,
10 director, officer or managing agent of Fresco II, who violated, or caused to be violated, and
11 provision regulating minimum wages or hours and days of work in any order of the Industrial
12 Wage Commission, and/or §§ 203, 226, 226.7 or 1194 of the California Labor Code.

13 71. Pursuant to Labor Code § 558.1, Kathryn Graffeo is personally liable to Plaintiff
14 for the damages set forth in this cause of action since, at all relevant times herein, Kathryn
15 Graffeo acted on behalf of Raven's Nest as an owner, director, officer or managing agent of
16 Fresco II, who violated, or caused to be violated, and provision regulating minimum wages or
17 hours and days of work in any order of the Industrial Wage Commission, and/or §§ 203, 226,
18 226.7 or 1194 of the California Labor Code.

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20 **FIFTH CAUSE OF ACTION**

21 (Failure to Pay Minimum Wage in Violation of California Labor Code §§ 1197, 1194 by
22 Plaintiff against Defendants and DOES 1-20)

23 72. Plaintiff alleges and incorporates herein by this reference each and every
24 allegation set forth in all previous paragraphs of this Complaint.

25 73. California Labor Code § 1197 provides, in pertinent part: "The minimum wage
26 for employees fixed by the commission or by any state or local law, is the minimum wage to be
27 paid to employees, and the payment of a lower wage than the minimum so fixed is unlawful."
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1 74. The applicable minimum wage fixed by the state of California for employers with
2 more than 25 employees was \$13.00 as of January 1, 2020, \$14.00 as of January 1, 2021, and
3 \$15.00 as of January 1, 2022. (See California Minimum Wage Order MW-2022).

4 75. For the years of 2020, 2021 and 2022, Raven's Nest was paying Plaintiff \$12.00
5 per hour, which was below the applicable minimum wage.

6 76. For the years of 2021 and 2022, Fresco II was paying Plaintiff \$13.00 per hour,
7 which was below the applicable minimum wage.

8 77. Moreover, Defendants did not compensate Plaintiff for any overtime worked and
9 therefore failed to pay minimum wage for all the overtime that Plaintiff has worked.

10 78. At all relevant times herein, Defendants willfully failed to pay Plaintiff minimum
11 wage as required by California Labor Code § 1197. 39. Labor Code § 1194(a) states
12 "Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the
13 legal minimum wage or the legal overtime compensation applicable to an employee is entitled to
14 recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime
15 compensation, including interest thereon, reasonable attorney's fees, and costs of suit."

16 79. Under the aforementioned wage order, statutes and regulations, Plaintiff is
17 entitled to and thereby requests the unpaid balance of the full amount of minimum wages owed
18 for all work performed during the Employment Period, in an amount to be determined at trial.

19 80. Pursuant to Labor Code §§ 218.6 and 1194(a), Plaintiff requests prejudgment
20 interest at the legal rate of ten percent (10.00%) per annum on all unpaid wages from the date
21 such wages were due.

22 81. Plaintiff has incurred and will continue to incur expenses for attorney's fees and
23 costs in prosecuting this action. Pursuant to Labor Code §§ 218.5 and 1194(a), Plaintiff requests
24 an award of reasonable attorney's fees and costs.

25 82. Pursuant to Labor Code § 558.1, Amalia Graffeo and Leonard Graffeo are
26 personally liable to Plaintiff for the damages set forth in this cause of action since, at all relevant
27 times herein, Amalia Graffeo and Leonard Graffeo acted on behalf of Fresco II as an owner,
28 director, officer or managing agent of Fresco II, who violated, or caused to be violated, and

1 provision regulating minimum wages or hours and days of work in any order of the Industrial
2 Wage Commission, and/or §§ 203, 226, 226.7 or 1194 of the California Labor Code.

3 83. Pursuant to Labor Code § 558.1, Kathryn Graffeo is personally liable to Plaintiff
4 for the damages set forth in this cause of action since, at all relevant times herein, Kathryn
5 Graffeo acted on behalf of Raven's Nest as an owner, director, officer or managing agent of
6 Fresco II, who violated, or caused to be violated, and provision regulating minimum wages or
7 hours and days of work in any order of the Industrial Wage Commission, and/or §§ 203, 226,
8 226.7 or 1194 of the California Labor Code.

9
10 **SIXTH CAUSE OF ACTION**

11 (Failure to Provide Accurate Wage Statements in Violation of California Labor Code § 226
12 by Plaintiff against Defendants and DOES 1-20)

13 84. Plaintiff alleges and incorporates herein by this reference each and every
14 allegation set forth in all previous paragraphs of this Complaint.

15 85. During the entirety of the Employment Period, and in violation of Labor Code §
16 226(a), Defendants failed to provide Plaintiff with accurate itemized written statements showing
17 the following: gross wages earned, total hours worked by the employee, all deductions, net wages
18 earned, inclusive dates of the period for which the employee is paid, last four digits of the social
19 security number or employee identification number, address of the legal entity that is the
20 employer, and all applicable rates of pay. These itemized wage statements are required to be kept
21 on file by the employer for at least three years at the place of employment.

22 86. As a result of Defendant's willful failure to provide Plaintiff with accurate wage
23 statements as required by Labor Code § 226(a), Plaintiff was deprived of documentation helpful
24 for verifying and calculating the amount of wages owed. Thus, Plaintiff has been damaged
25 because he will be required to expend more time and expense in proving his claim for unpaid
26 wages, unpaid overtime compensation, and calculating the premium payments owed for meal and
27 rest period violations.
28

1 87. Pursuant to Labor Code § 226(e), Plaintiff is entitled to, and request penalties of
2 \$50.00 for the initial violation and \$100.00 for each subsequent violation, not exceeding an
3 aggregate penalty of \$4,000.00.

4 88. Pursuant to Labor Code § 558.1, Amalia Graffeo and Leonard Graffeo are
5 personally liable to Plaintiff for the damages set forth in this cause of action since, at all relevant
6 times herein, Amalia Graffeo and Leonard Graffeo acted on behalf of Fresco II as an owner,
7 director, officer or managing agent of Fresco II, who violated, or caused to be violated, and
8 provision regulating minimum wages or hours and days of work in any order of the Industrial
9 Wage Commission, and/or §§ 203, 226, 226.7 or 1194 of the California Labor Code.

10 89. Pursuant to Labor Code § 558.1, Kathryn Graffeo is personally liable to Plaintiff
11 for the damages set forth in this cause of action since, at all relevant times herein, Kathryn
12 Graffeo acted on behalf of Raven's Nest as an owner, director, officer or managing agent of
13 Fresco II, who violated, or caused to be violated, and provision regulating minimum wages or
14 hours and days of work in any order of the Industrial Wage Commission, and/or §§ 203, 226,
15 226.7 or 1194 of the California Labor Code.

16
17 **SEVENTH CAUSE OF ACTION**

18 (Waiting Time Penalties in Violation of California Labor Code § 203
19 by Plaintiff Against Defendants and DOES 1-20)

20 90. Plaintiff alleges and incorporates herein by this reference each and every
21 allegation set forth in all previous paragraphs of this Complaint.

22 91. Plaintiff is informed and believes, and based thereon alleges, that Defendants
23 knew California law required that Plaintiff be paid wages for all hours worked at his hourly rate
24 of pay, that Plaintiff be paid an overtime premium for all overtime hours worked, and that
25 Plaintiff be paid an additional hour of pay for each day that a meal period or rest period was not
26 provided. Despite having the financial ability to pay, Defendants intentionally refused to pay
27 Plaintiff his lawfully earned compensation.

28 92. Defendants willfully failed to pay Plaintiff all wages due, without abatement or
reduction, within 72 hours of Plaintiffs' resignation of employment as required by Labor Code §

202. Labor Code § 203 states that an employee's wage shall continue as a penalty at the same rate until paid or for a period of up to thirty days from the time they were due, whichever period is shorter. Pursuant to Labor Code § 203, Plaintiff is entitled to, and requests waiting time penalties according to proof at time of trial but believed to be in excess of the jurisdiction of this Court.

93. Each of the Defendants willfully failed and refused and continue to willfully fail and refuse to pay earned wages to Plaintiff, with reference to the end of Plaintiff's employment period. These wages include unpaid wages for hours worked, unpaid minimum wage, overtime premium for all overtime hours worked and unpaid, and unpaid wages for missed meal and rest periods. These statutory penalties, in a sum to be proven at trial, are owed and unpaid. Plaintiff further seeks an award of reasonable attorney's fees and costs, consistent with California Labor Code § 218.5.

94. Pursuant to Labor Code § 558.1, Amalia Graffeo and Leonard Graffeo are personally liable to Plaintiff for the damages set forth in this cause of action since, at all relevant times herein, Amalia Graffeo and Leonard Graffeo acted on behalf of Fresco II as an owner, director, officer or managing agent of Fresco II, who violated, or caused to be violated, and provision regulating minimum wages or hours and days of work in any order of the Industrial Wage Commission, and/or §§ 203, 226, 226.7 or 1194 of the California Labor Code.

95. Pursuant to Labor Code § 558.1, Kathryn Graffeo is personally liable to Plaintiff for the damages set forth in this cause of action since, at all relevant times herein, Kathryn Graffeo acted on behalf of Raven's Nest as an owner, director, officer or managing agent of Fresco II, who violated, or caused to be violated, and provision regulating minimum wages or hours and days of work in any order of the Industrial Wage Commission, and/or §§ 203, 226, 226.7 or 1194 of the California Labor Code.

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EIGHTH CAUSE OF ACTION

(Failure to Provide Reporting Time Pay by Plaintiff Against Defendants and DOES 1-20)

96. Plaintiff alleges and incorporates herein by this reference each and every allegation set forth in all previous paragraphs of this Complaint.

97. Section 5 of IWC Wage Order No. 5-2001, provides, in pertinent part: “ Each workday that an employee is required to report to the work site and does report, but is not put to work or is furnished less than half of his/her usual or scheduled day’s work, the employer shall pay him/her for half the usual or scheduled day’s work, but in no event for less than two (2) hours nor more than four (4) hours at the employee’s regular rate of pay, which shall not be less than the minimum wage.”

98. At all relevant times herein, Defendants failed to comply with Section 5 of IWC Wage Order No. 5-2001, by having Plaintiff report to work, not putting Plaintiff to work, and failing to pay Plaintiff for half of his scheduled day’s work, up to four (4) hours of pay at Plaintiff’s regular rate of pay.

99. Under the aforementioned wage order, Plaintiff is entitled to, and hereby requests all unpaid reporting time pay consistent with applicable law for the Employment Period, in an amount to be determined at trial.

100. Pursuant to Labor Code § 218.6, Plaintiff requests prejudgment interest at the legal rate of ten percent (10.00%) per annum on all unpaid wages from the date such wages were due.

101. Plaintiff has incurred and will continue to incur expenses for attorney’s fees and costs in prosecuting this action. Pursuant to Labor Code § 218.5, Plaintiff requests an award of reasonable attorney’s fees and costs.

102. Pursuant to Labor Code § 558.1, Amalia Graffeo and Leonard Graffeo are personally liable to Plaintiff for the damages set forth in this cause of action since, at all relevant times herein, Amalia Graffeo and Leonard Graffeo acted on behalf of Fresco II as an owner, director, officer or managing agent of Fresco II, who violated, or caused to be violated, and

1 provision regulating minimum wages or hours and days of work in any order of the Industrial
2 Wage Commission, and/or §§ 203, 226, 226.7 or 1194 of the California Labor Code.

3 103. Pursuant to Labor Code § 558.1, Kathryn Graffeo is personally liable to Plaintiff
4 for the damages set forth in this cause of action since, at all relevant times herein, Kathryn
5 Graffeo acted on behalf of Raven's Nest as an owner, director, officer or managing agent of
6 Fresco II, who violated, or caused to be violated, and provision regulating minimum wages or
7 hours and days of work in any order of the Industrial Wage Commission, and/or §§ 203, 226,
8 226.7 or 1194 of the California Labor Code.

9
10 **NINTH CAUSE OF ACTION**

11 (Unfair Business Practices in Violation of Bus. and Prof. Code § 17200 *et seq.* by Plaintiff
12 Against Raven's Nest and Fresco II and DOES 1-20)

13 104. Plaintiff alleges and incorporates herein by this reference each and every
14 allegation set forth in all previous paragraphs of this Complaint.

15 105. Defendants' acts constitute a continuing and ongoing unlawful, unfair, and
16 fraudulent activity prohibited by the Unfair Competition Law ("UCL") and justify the issuance
17 of an injunction, restitution, and other equitable relief pursuant to Bus. and Prof. Code § 17203.

18 106. Labor Code § 90.5(a) states that it is the public policy of California to vigorously
19 enforce minimum labor standards to ensure employees are not required to work under
20 substandard and unlawful conditions, and to protect employers who comply with the law from
21 those who attempt to gain competitive advantage at the expense of their workers by failing to
22 comply with minimum labor standards.

23 107. Labor Code § 1198 renders unlawful any violation or any Labor Code or Wage
24 Order Provisions. As set forth herein, Defendants violated a number of Labor Code sections and
25 various provisions of IWC Wage Order 5-2001.

26 108. By violating the aforementioned statutes and regulations, including California
27 Labor Code §§ 202, 203, 204, 210, 226, 226.7, 510, 512 and 1194, 1197 and sections of IWC
28 Wage Order 5-2001, as alleged above, the acts of Defendants constitute unfair and unlawful
business practice pursuant to Labor Code § 1198, and within the meaning of California Business

1 and Professions Code § 17200 *et seq.*, including, but not limited to, (i) the failure to pay earned
2 wages, (ii) failure to pay earned overtime wages, (iii) failure to timely pay all earned wages upon
3 resignation, (iv) failure to provide meal periods, or premium compensation in lieu thereof, (v)
4 failure to provide rest periods, or premium compensation in lieu thereof, (vi) failure to pay
5 minimum wage, (vii) failure to provide reporting time pay, and (viii) failure to issue accurate
6 wage statements.

7 109. Defendants' violations of sections of the California Labor Code and as alleged
8 above constitute an unfair business practice because these were done repeatedly over a
9 significant period of time and in a systematic manner to the detriment of Plaintiff. All of the
10 foregoing harmed Plaintiff and continues to harm Plaintiff.

11 110. Defendants' course of conduct, act, and practice in violation of the California
12 laws mentioned herein above constitutes separate and independent unfair business practices and
13 violations of California Business and Professions Code § 17200 *et seq.*

14 111. Pursuant to Business and Professions Code § 17200, *et seq.*, Plaintiff seeks
15 restitution of all unlawfully withheld earned wages, and equitable relief in the form of disgorged
16 profits from Defendant's unlawful acts, for a period beginning from four (4) years prior to the
17 filing of this action until judgment, all in an amount according to proof at time of trial.

18
19 **TENTH CAUSE OF ACTION**

20 (PAGA Civil Penalties for Violation of Labor Code §§ 204, 210, 558, and 2698 *et seq.*
21 by Plaintiff Against Defendants and DOES 1-20)

22 112. Plaintiff alleges and incorporates herein each and every allegation set forth in all
23 previous paragraphs of this Complaint.

24 113. During the period preceding the filing of the initial complaint in this action,
25 Defendants violated Labor Code §§ 204, 210, 558, and all applicable Wage Orders. These
26 violations subject Defendants to civil penalties as set forth in (1) the foregoing statutes, (2) or the
27 default penalties as set forth in Labor Code § 2698 *et seq.*

28 114. Plaintiff exhausted his LWDA administrative remedies as required by the PAGA
statute, complying with all exhaustion procedures.

1 115. Specifically, Defendants have failed to pay all wages earned on a bi-weekly basis.
2 Defendants failed to pay all wages and all overtime wages due and owing for all hours worked as
3 required by California law, failed to pay minimum wage, failing to provide reporting time pay,
4 and failed to pay an additional hour of compensation for each day a rest period or meal period
5 was not provided, on a timely basis as strictly required under Labor Code § 204, making
6 Defendants liable for civil penalties under Labor Code §§ 204, 210, and 2699.

7 116. Labor Code §§ 2699, subdivisions (a) and (g) authorize an aggrieved employee,
8 on behalf of himself/herself and other current or former employees, to bring a civil action to
9 recover civil penalties against all Defendants pursuant to the procedures specified in Labor Code
10 §§ 2699.3 and 2699.5.

11 117. Plaintiff has complied with the procedures for bringing suit specified in Labor
12 Code §§ 2699.3 and 2699.5.

13 118. Pursuant to Labor Code § 2699(g), Plaintiff is entitled to an award of reasonable
14 attorney's fees and costs in connection with his claim and that of other aggrieved employees for
15 civil penalties.

16
17 **ELEVENTH CAUSE OF ACTION**

18 (PAGA Civil Penalties for Violation of Labor Code §§ 510, 1194, 1198, 558 and 2698 et seq.
19 by Plaintiff Against Defendants and DOES 1-20)

20 119. Plaintiff alleges and incorporates herein each and every allegation set forth in all
21 previous paragraphs of this Complaint.

22 120. During the period preceding the filing of the initial complaint in this action,
23 Defendants violated Labor Code §§ 510, 1194, 1198, 558 and all applicable Wage Orders. These
24 violations subject Defendants to civil penalties as set forth in (1) the foregoing statutes, (2) or the
25 default penalties as set forth in Labor Code § 2698 et seq.

26 121. Plaintiff exhausted his LWDA administrative remedies as required by the PAGA
27 statute, complying with all exhaustion procedures.

28 122. Specifically, Defendants have failed to pay all overtime wages due and owing for
hours worked in excess of eight (8) hours in a workday and/or more than forty (40) hours in a

workweek as required by the enumerated labor code sections. Plaintiff sometimes worked more than eight (8) hours in a workday and/or more than forty (40) hours in a workweek without receiving any additional compensation, let alone overtime pay.

123. Labor Code §§ 2699, subdivisions (a) and (g) authorize an aggrieved employee, on behalf of himself/herself and other current or former employees, to bring a civil action to recover civil penalties against all Defendants pursuant to the procedures specified in Labor Code §§ 2699.3 and 2699.5.

124. Plaintiff has complied with the procedures for bringing suit specified in Labor Code §§ 2699.3 and 2699.5.

125. Pursuant to Labor Code § 2699(g), Plaintiff is entitled to an award of reasonable attorney's fees and costs in connection with his claim and that of other aggrieved employees for civil penalties.

TWELFTH CAUSE OF ACTION

(PAGA Civil Penalties for Failure to Provide Meal Periods
by Plaintiff Against Defendants and DOES 1-20)

126. Plaintiff alleges and incorporates herein each and every allegation set forth in all previous paragraphs of this Complaint.

127. During the period preceding the filing of the initial complaint in this action, Defendants violated Labor Code §§ 226.7, 512, 558 and all applicable Wage Orders. These violations subject Defendants to civil penalties as set forth in (1) the foregoing statutes, (2) or the default penalties as set forth in Labor Code § 2698 et seq.

128. Plaintiff exhausted his LWDA administrative remedies as required by the PAGA statute, complying with all exhaustion procedures.

129. Specifically, Defendants have failed to provide all required meal breaks, and/or to provide one additional hour of pay at the employee's regular rate of pay in lieu of any missed meal breaks in accordance with California law. Defendants further failed to maintain a company meal period policy and/or practice compliant with California law. This in turn caused violations of Labor Code §§ 226.7, 512, and Wage Order 5-2001, § 11.

1 130. Labor Code §§ 2699, subdivisions (a) and (g) authorize an aggrieved employee,
2 on behalf of himself/herself and other current or former employees, to bring a civil action to
3 recover civil penalties against all Defendants pursuant to the procedures specified in Labor Code
4 §§ 2699.3 and 2699.5.

5 131. Plaintiff has complied with the procedures for bringing suit specified in Labor
6 Code §§ 2699.3 and 2699.5.

7 132. Pursuant to Labor Code § 2699(g), Plaintiff is entitled to an award of reasonable
8 attorney's fees and costs in connection with his claim and that of other aggrieved employees for
9 civil penalties.

10
11 **THIRTEENTH CAUSE OF ACTION**

12 (PAGA Civil Penalties for Failure to Provide Rest Periods
13 by Plaintiff Against Defendants and DOES 1-20)

14 133. Plaintiff alleges and incorporates herein each and every allegation set forth in all
15 previous paragraphs of this Complaint.

16 134. During the period preceding the filing of the initial complaint in this action,
17 Defendants violated Labor Code §§ 226.7, 558 and all applicable Wage Orders. These violations
18 subject Defendants to civil penalties as set forth in (1) the foregoing statutes, (2) or the default
19 penalties as set forth in Labor Code § 2698 et seq.

20 135. Plaintiff exhausted his LWDA administrative remedies as required by the PAGA
21 statute, complying with all exhaustion procedures.

22 136. Specifically, Defendants have failed to provide all required rest breaks, and/or to
23 provide one additional hour of pay at the employee's regular rate of pay in lieu of any missed
24 rest breaks in accordance with California law. Defendants further failed to maintain a company
25 rest period policy and/or practice compliant with California law. This in turn caused violations of
26 Labor Code §§ 226.7 and Wage Order 5-2001, § 12.

27 137. Labor Code §§ 2699, subdivisions (a) and (g) authorize an aggrieved employee,
28 on behalf of himself/herself and other current or former employees, to bring a civil action to

1 recover civil penalties against all Defendants pursuant to the procedures specified in Labor Code
2 §§ 2699.3 and 2699.5.

3 138. Plaintiff has complied with the procedures for bringing suit specified in Labor
4 Code §§ 2699.3 and 2699.5.

5 139. Pursuant to Labor Code § 2699(g), Plaintiff is entitled to an award of reasonable
6 attorney's fees and costs in connection with his claim and that of other aggrieved employees for
7 civil penalties.

8 **FOURTEENTH CAUSE OF ACTION**

9 **PAGA Civil Penalties for Failure to Pay Minimum Wage
by Plaintiff Against Defendants and DOES 1-20)**

10 140. Plaintiff incorporates by reference each and every allegation set forth in all
11 previous paragraphs of this Complaint.

12 141. During the period preceding the filing of the initial complaint in this action,
13 Defendants have violated Labor Code §§ 1194, 1197, 558 and the applicable Wage Order. These
14 violations subject Defendants to civil penalties as set forth in (1) the aforementioned statutes, (2)
15 or the default penalties as per Labor Code § 2698 et seq.

16 142. Plaintiff has exhausted his administrative remedies as required by the PAGA
17 statute, in compliance with all applicable procedures.

18 143. Specifically, Defendants have failed to pay Plaintiff the required minimum wages
19 in accordance with California law and/or applicable ordinances throughout the entirety of
20 Plaintiff's employment.

21 144. Labor Code §§ 2699, subdivisions (a) and (g) authorize an aggrieved employee,
22 on behalf of himself/herself and other current or former employees, to bring a civil action to
23 recover civil penalties against all Defendants pursuant to the procedures specified in Labor Code
24 §§ 2699.3 and 2699.5.

25 145. Plaintiff has complied with the procedures for bringing suit specified in Labor
26 Code §§ 2699.3 and 2699.5.

1 146. Pursuant to Labor Code § 2699(g), Plaintiff is entitled to an award of reasonable
2 attorney's fees and costs in connection with his claim and that of other aggrieved employees for
3 civil penalties.

4
5 **FIFTEENTH CAUSE OF ACTION**

6 (PAGA Civil Penalties for Violation of Labor Code §§ 226, 226.3, 558, and 2698 et seq.
by Plaintiff Against Defendants and DOES 1-20)

7 147. Plaintiff alleges and incorporates herein each and every allegation set forth in all
8 previous paragraphs of this Complaint.

9 148. During the period preceding the filing of the initial complaint in this action,
10 Defendants violated Labor Code §§ 226, 226.3, 558, and all applicable Wage Orders. These
11 violations subject Defendants to civil penalties as set forth in (1) the foregoing statutes, (2) or the
12 default penalties as set forth in Labor Code § 2698 et seq.

13 149. Plaintiff exhausted his LWDA administrative remedies as required by the PAGA
14 statute, complying with all exhaustion procedures.

15 150. Specifically, Defendants have failed to provide Plaintiff and all aggrieved
16 employees with itemized wage statements which provided complete and accurate information as
17 per Labor Code § 226(a) as a result of its misclassification of Plaintiff and all aggrieved
18 employees, due to Defendant's failure to pay all daily regular and overtime worked and earned,
19 and due to Defendant's failure to pay an additional hour of compensation for each day a meal
20 and rest period was not provided. Because of Defendant's willful and intentional failure to pay
21 all earned wages, in turn, Defendant failed to provide the required categories of information as
22 strictly required by Labor Code §§ 226 and 226.3.

23 151. Labor Code §§ 2699, subdivisions (a) and (g) authorize an aggrieved employee,
24 on behalf of himself/herself and other current or former employees, to bring a civil action to
25 recover civil penalties against all Defendants pursuant to the procedures specified in Labor Code
26 §§ 2699.3 and 2699.5.

27 152. Plaintiff has complied with the procedures for bringing suit specified in Labor
28 Code §§ 2699.3 and 2699.5.

1 153. Pursuant to Labor Code § 2699(g), Plaintiff is entitled to an award of reasonable
2 attorney's fees and costs in connection with his claim and that of other aggrieved employees for
3 civil penalties.

4
5 **SIXTEENTH CAUSE OF ACTION**

6 (PAGA Civil Penalties for Violation of Labor Code §§ 201, 202, 203, 256, 558 and 2698 et seq.
7 by Plaintiff Against Defendants and DOES 1-20)

8 154. Plaintiff alleges and incorporates herein each and every allegation set forth in all
9 previous paragraphs of this Complaint.

10 155. During the period preceding the filing of the initial complaint in this action,
11 Defendants violated Labor Code §§ 201, 202, 203, 256, 558, and all applicable Wage Orders.
12 These violations subject Defendants to civil penalties as set forth in (1) the foregoing statutes, (2)
13 or the default penalties as set forth in Labor Code § 2698 et seq.

14 156. Plaintiff exhausted his LWDA administrative remedies as required by the PAGA
15 statute, complying with all exhaustion procedures.

16 157. Specifically, Defendants have committed the following violations of California
17 Labor Code: At all times relevant to this Complaint, California Labor Code §§ 201 and 202
18 required that an employer promptly pay all wages due to employees at the time of separation of
19 their employment. Labor Code § 201 required “[i]mmediate payment of wages due upon
20 discharge or layoff.” Labor Code § 202 requires that an employee who quits his or her
21 employment is paid all wages due “not later than 72 hours thereafter, unless the employee has
22 given 72 hours previous notice of his or her intention to quit, in which case the employee is
23 entitled to his or her wages at the time of quitting.”

24 158. At all times relevant to this Complaint, California Labor Code § 203 provided
25 that, for the willful violation of Labor Code §§ 201 and/or 202, “the wages of the employee shall
26 continue as a penalty from the due date thereof at the same rate until paid or until an action
27 therefor is commenced; but the wages shall not continue for more than 30 days.” This is also
28 provided as an additional penalty under Labor Code § 256.

1 159. Defendants willfully failed to pay all wages due to Plaintiff and other aggrieved
2 employees upon termination and/or separation with Defendants, and therefore, Defendants are
3 liable for civil penalties as a result thereof.

4 160. Labor Code §§ 2699, subdivisions (a) and (g) authorize an aggrieved employee,
5 on behalf of himself/herself and other current or former employees, to bring a civil action to
6 recover civil penalties against all Defendants pursuant to the procedures specified in Labor Code
7 §§ 2699.3 and 2699.5.

8 161. Plaintiff has complied with the procedures for bringing suit specified in Labor
9 Code §§ 2699.3 and 2699.5.

10 162. Pursuant to Labor Code § 2699(g), Plaintiff is entitled to an award of reasonable
11 attorney's fees and costs in connection with his claim and that of other aggrieved employees for
12 civil penalties.

13
14 **SEVENTEENTH CAUSE OF ACTION**

15 (PAGA Civil Penalties for Violation of Labor Code §§ 1174 and 2698 et seq.
16 by Plaintiff Against Defendants and DOES 1-20)

17 163. Plaintiff alleges and incorporates herein each and every allegation set forth in all
18 previous paragraphs of this Complaint.

19 164. During the period preceding the filing of the initial complaint in this action,
20 Defendants violated Labor Code § 1174 and all applicable Wage Orders. These violations
21 subject Defendants to civil penalties as set forth in (1) the foregoing statutes, (2) the penalties as
22 set forth in Labor Code § 1174.5, (3) or the default penalties as set forth in Labor Code § 2698 et
23 seq.

24 165. Plaintiff exhausted his LWDA administrative remedies as required by the PAGA
25 statute, complying with all exhaustion procedures.

26 166. Labor Code § 1174 requires employers to keep “accurate and complete” payroll
27 records showing, among other things, the hours worked daily by all non-exempt employees.
28 Section 7 of IWC Wage Order 5-2001 similarly requires employers to keep time records showing

1 when the employees begin and end each work period and reflecting the time during which a meal
2 and/or rest period was provided each day.

3 167. Defendants violated this Labor Code section because they wholly failed to
4 maintain accurate and complete payroll records. More specifically, Defendants did not provide
5 and/or record Plaintiff and aggrieved employees' actual daily and weekly earned wages,
6 including, but not limited to, hours worked, overtime hours and wages, and meal and rest period
7 premiums due and owing. In addition, Defendants failed to keep accurate daily records of
8 Plaintiff and other aggrieved employees' earnings for the bi-weekly pay period.

9 168. Labor Code §§ 2699, subdivisions (a) and (g) authorize an aggrieved employee,
10 on behalf of himself/herself and other current or former employees, to bring a civil action to
11 recover civil penalties against all Defendants pursuant to the procedures specified in Labor Code
12 §§ 2699.3 and 2699.5.

13 169. Plaintiff has complied with the procedures for bringing suit specified in Labor
14 Code §§ 2699.3 and 2699.5.

15 170. Pursuant to Labor Code § 2699(g), Plaintiff is entitled to an award of reasonable
16 attorney's fees and costs in connection with his claim and that of other aggrieved employees for
17 civil penalties.

18
19 **EIGHTEENTH CAUSE OF ACTION**

20 (PAGA Civil Penalties for Violation of Labor Code §§ 1197, 1198, 1199 and 2698 et seq.
21 by Plaintiff Against Defendants and DOES 1-20)

22 171. Plaintiff alleges and incorporates herein each and every allegation set forth in all
23 previous paragraphs of this Complaint.

24 172. During the period preceding the filing of the initial complaint in this action,
25 Defendants violated Labor Code §§ 1197, 1198, 1199 and all applicable Wage Orders. These
26 violations subject Defendants to civil penalties as set forth in (1) the foregoing statutes, (2) the
27 penalties as set forth in Labor Code § 1197.1, (3) or the default penalties as set forth in Labor
28 Code § 2698 et seq.

1 173. Plaintiff exhausted his LWDA administrative remedies as required by the PAGA
2 statute, complying with all exhaustion procedures.

3 174. Labor Code §§ 1198 and 1199 make unlawful the employment of any employee
4 under conditions of labor prohibited by the Wage Orders, and any violation, refusal, or neglect to
5 comply with any provision within Part 4, Chapter 1 of the Labor Code, including §§ 1174, 1197,
6 1198, or order or ruling of the commission.

7 175. Defendants violated the aforementioned Labor Code sections. More specifically,
8 Defendant's violations with respect to meal periods, rest periods, minimum wage, unpaid wages,
9 overtime wages, wage statements, and failure to keep accurate time records result in separate
10 violations of Labor Code §§ 1174, 1198, and 1199.

11 176. Labor Code §§ 2699, subdivisions (a) and (g) authorize an aggrieved employee,
12 on behalf of himself/herself and other current or former employees, to bring a civil action to
13 recover civil penalties against all Defendants pursuant to the procedures specified in Labor Code
14 §§ 2699.3 and 2699.5.

15 177. Plaintiff has complied with the procedures for bringing suit specified in Labor
16 Code §§ 2699.3 and 2699.5.

17 178. Pursuant to Labor Code 1197.1, Plaintiff is entitled to the restitution of wages
18 owed, liquidated damages, and any applicable penalties imposed pursuant to Labor Code § 203.

19 179. Pursuant to Labor Code § 2699(g), Plaintiff is entitled to an award of reasonable
20 attorney's fees and costs in connection with his claim and that of other aggrieved employees for
21 civil penalties.

22
23 **NINETEENTH CAUSE OF ACTION**

24 (PAGA Civil Penalties for Violation of IWC Wage Order 5-2001 §5 and Labor Code § 1197.1
25 by Plaintiff Against Defendants and DOES 1-20)

26 180. Plaintiff alleges and incorporates herein each and every allegation set forth in all
27 previous paragraphs of this Complaint.

28 181. During the period preceding the filing of the initial complaint in this action,
Defendants violated IWC Order 5-2001 §5 and Labor Code § 1197.1. These violations subject

1 Defendants to civil penalties as set forth in (1) the foregoing statutes, (2) or the default penalties
2 as set forth in Labor Code § 2698 et seq.

3 182. Plaintiff exhausted his LWDA administrative remedies as required by the PAGA
4 statute, complying with all exhaustion procedures.

5 183. Specifically, Defendants failed to comply with Section 5 of IWC Wage Order No.
6 5-2001, by having Plaintiff and similarly aggrieved employees report to work, not being put to
7 work and sent home, and failing to pay Plaintiff and similarly aggrieved employees for half of
8 their scheduled day's work, up to four (4) hours of pay at Plaintiff's regular rate of pay.

9 184. Labor Code §§ 2699, subdivisions (a) and (g) authorize an aggrieved employee,
10 on behalf of himself/herself and other current or former employees, to bring a civil action to
11 recover civil penalties against all Defendants pursuant to the procedures specified in Labor Code
12 §§ 2699.3 and 2699.5.

13 185. Plaintiff has complied with the procedures for bringing suit specified in Labor
14 Code §§ 2699.3 and 2699.5.

15 186. Pursuant to Labor Code § 2699(g), Plaintiff is entitled to an award of reasonable
16 attorney's fees and costs in connection with his claim and that of other aggrieved employees for
17 civil penalties.

18
19 **PRAYER FOR RELIEF**

20 WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

21
22 **UNDER THE FIRST CAUSE OF ACTION**

- 23 1. For compensatory, consequential, general, and special damages for all unpaid wages,
24 subject to proof;
- 25 2. For civil penalties in an amount according to proof at trial, and consistent with Labor
26 Code § 210;
- 27 3. For interest on all due and unpaid wages pursuant to Labor Code § 218.6;
- 28 4. For attorney's fees and costs pursuant to Labor Code § 218.5;

- 1 5. For costs of suit incurred herein; and
- 2 6. For such other relief that the Court may deem just and proper.

3 UNDER THE SECOND CAUSE OF ACTION

- 5 1. For compensatory, consequential, general, and special damages for all unpaid
- 6 overtime wages, subject to proof;
- 7 2. For interest on all due and unpaid wages pursuant to Labor Code §§ 218.6 and
- 8 1194(a);
- 9 3. For attorney's fees and costs pursuant to Labor Code §§ 218.5 and 1194(a);
- 10 4. For costs of suit incurred herein; and
- 11 5. For such other and further relief that the Court may deem just and proper.

12 UNDER THE THIRD CAUSE OF ACTION

- 14 1. For one (1) hour of premium pay for each missed meal period that was not provided,
- 15 subject to proof;
- 16 2. For costs of suit incurred herein; and
- 17 3. For such other and further relief that the Court may deem just and proper.

18 UNDER THE FOURTH CAUSE OF ACTION

- 20 1. For one (1) hour of premium pay for each missed rest period that was not provided,
- 21 subject to proof;
- 22 2. For costs of suit incurred herein; and
- 23 3. For such other and further relief that the Court may deem just and proper.

24 UNDER THE FIFTH CAUSE OF ACTION

- 26 1. For compensatory, consequential, general, and special damages for all unpaid wages,
- 27 subject to proof;
- 28 2. For interest on all due and unpaid wages pursuant to Labor Code § 218.6 and 1194(a);

3. For liquidated damages pursuant to Labor Code § 1194.2(a);
4. For attorney's fees and costs pursuant to Labor Code § 218.5;
5. For costs of suit incurred herein; and
6. For such other relief that the Court may deem just and proper.

UNDER THE SIXTH CAUSE OF ACTION

1. For the assessment of actual damages or a statutory penalty in an amount not to exceed Four Thousand Dollars (\$4,000), subject to proof and consistent with Labor Code § 226(e);
2. For attorney's fees and costs pursuant to Labor Code § 226(e);
3. For costs of suit incurred herein; and
4. For such other and further relief that the Court may deem just and proper.

UNDER THE SEVENTH CAUSE OF ACTION

1. For waiting time penalties pursuant to Labor Code § 203;
2. For attorney's fees and costs pursuant to Labor Code § 218.5;
3. For costs of suit incurred herein; and
4. For such other and further relief that the Court may deem just and proper.

UNDER THE EIGHTH CAUSE OF ACTION

1. For compensatory, consequential, general, and special damages for all unpaid wages, subject to proof;
2. For attorney's fees and costs pursuant to Labor Code § 218.5;
3. For interest on all due and unpaid wages pursuant to Labor Code § 218.6
4. For costs of suit incurred herein; and
5. For such other and further relief that the Court may deem just and proper.

1 **UNDER THE NINTH CAUSE OF ACTION**

- 2 1. For restitution of all unpaid wages and monies due to Plaintiff and the disgorgement
3 of profits from the unlawful business practices of Defendants, subject to proof;
4 2. Interest according to law;
5 3. For costs of suit incurred herein; and
6 4. For such other and further relief that the Court may deem just and proper.

7
8 **UNDER THE TENTH CAUSE OF ACTION**

- 9 1. For PAGA civil penalties;
10 2. For reasonable attorneys' fees and costs pursuant to Labor Code § 2699(g).

11
12 **UNDER THE ELEVENTH CAUSE OF ACTION**

- 13 1. For PAGA civil penalties;
14 2. For reasonable attorneys' fees and costs pursuant to Labor Code § 2699(g).

15
16 **UNDER THE TWELFTH CAUSE OF ACTION**

- 17 1. For PAGA civil penalties;
18 2. For reasonable attorneys' fees and costs pursuant to Labor Code § 2699(g).

19
20 **UNDER THE THIRTEENTH CAUSE OF ACTION**

- 21 1. For PAGA civil penalties;
22 2. For reasonable attorneys' fees and costs pursuant to Labor Code § 2699(g).

23
24 **UNDER THE FOURTEENTH CAUSE OF ACTION**

- 25 1. For PAGA civil penalties;
26 2. For reasonable attorneys' fees and costs pursuant to Labor Code § 2699(g).

1 **UNDER THE FIFTEENTH CAUSE OF ACTION**

- 2 1. For PAGA civil penalties;
- 3 2. For reasonable attorneys' fees and costs pursuant to Labor Code § 2699(g).
- 4

5 **UNDER THE SIXTEENTH CAUSE OF ACTION**

- 6 1. For PAGA civil penalties;
- 7 2. For reasonable attorneys' fees and costs pursuant to Labor Code § 2699(g).
- 8

9 **UNDER THE SEVENTEENTH CAUSE OF ACTION**

- 10 1. For PAGA civil penalties;
- 11 2. For reasonable attorneys' fees and costs pursuant to Labor Code § 2699(g).
- 12

13 **UNDER THE EIGHTEENTH CAUSE OF ACTION**

- 14 1. For PAGA civil penalties;
- 15 2. For reasonable attorneys' fees and costs pursuant to Labor Code § 2699(g).
- 16

17 **UNDER THE NINETEENTH CAUSE OF ACTION**

- 18 1. For PAGA civil penalties;
- 19 2. For reasonable attorneys' fees and costs pursuant to Labor Code § 2699(g).
- 20

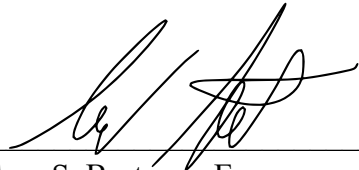
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22 Dated: August 10, 2023

MARQUEE LAW GROUP, APC

23

24

25 By: 

26 Gary S. Brotman, Esq.
27 Owen Lin, Esq.
28 Attorneys for Plaintiff Eric Burton