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Attorneys for Plaintiff Alma Cano  
 individually, and on behalf of others  
 similarly situated, and as an aggrieved  
 employee under the Labor Code Private  
 Attorneys General Act of 2004

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

ALMA CANO, an individual and on behalf of  
 others similarly situated, and as an aggrieved  
 employee under the Labor Code Private  
 Attorneys General Act of 2004,

Plaintiff,

vs.

CERCA TROVA RESTAURANT  
 CONCEPTS, INC., a California corporation;  
 CERCA TROVA STEAKHOUSE LP DBA  
 OUTBACK STEAKHOUSE, a California  
 limited partnership; and DOES 1 through 25,  
 inclusive,

Defendants

**FILED**  
 Superior Court of California  
 County of Los Angeles

MAY 21 2020

Shari R. Carter, Executive Officer/Clerk of Court  
 By Isaac Love Deputy

CASE NO.: **20STCV19516**

**CLASS ACTION**

**COMPLAINT:**

1. Failure to Provide Required Meal Periods
2. Failure to Provide Required Rest Periods
3. Failure to Pay Overtime Wages
4. Failure to Pay Minimum Wage
5. Failure to Pay All Wages Due to Discharged and Quitting Employees
6. Failure to Furnish Accurate Itemized Statements
7. Failure to Indemnify Employees for Necessary Expenditures Incurred in Discharge of Duties
8. Unfair and Unlawful Business Practices

**REPRESENTATIVE ACTION**

9. Penalties under the Labor Code Private Attorneys General Act, as representative action

**DEMAND FOR JURY TRIAL**

1 PLAINTIFF ALMA CANO ("PLAINTIFF") an individual, demanding a jury trial, on  
2 behalf of herself and other persons similarly situated, and as an aggrieved employee under the  
3 Labor Code Private Attorneys General Act of 2004 ("PAGA"), hereby alleges as follows:

4 **JURISDICTION AND VENUE**

5 1. The Superior Court of the State of California has jurisdiction in this matter because  
6 PLAINTIFF, an individual, is a resident of the State of California and PLAINTIFF'S claims arise  
7 under California law. Defendants CERCA TROVA RESTAURANT CONCEPTS, INC. and  
8 CERCA TROVA STEAKHOUSE LP dba OUTBACK STEAKHOUSE are companies operating  
9 in California, employing residents and citizens of California, and are subject to the laws of  
10 California including the California Labor Code. No federal question is at issue because the claims  
11 are based solely on California law.

12 2. Venue is proper in this judicial district and the County of Los Angeles, California  
13 because CERCA TROVA RESTAURANT CONCEPTS, INC. and CERCA TROVA  
14 STEAKHOUSE LP dba OUTBACK STEAKHOUSE maintain offices and facilities and transact  
15 business in the County of Los Angeles and the acts and omissions alleged herein took place in  
16 this county.

17 **PLAINTIFF**

18 3. PLAINTIFF is a female resident and citizen of the State of California and a former  
19 employee of CERCA TROVA RESTAURANT CONCEPTS, INC. and CERCA TROVA  
20 STEAKHOUSE LP dba OUTBACK STEAKHOUSE.

21 4. PLAINTIFF, on behalf of herself and other similarly situated non-exempt current  
22 and former employees of CERCA TROVA RESTAURANT CONCEPTS, INC. and CERCA  
23 TROVA STEAKHOUSE LP dba OUTBACK STEAKHOUSE in the State of California at any  
24 time during the four years preceding the filing of this action, and continuing while this action is  
25 pending, brings this class action to recover, among other things, wages and penalties from unpaid  
26 wages earned and due, including but not limited to unpaid minimum wages, unpaid and illegally  
27 calculated overtime compensation, meal and rest period premium pay, waiting time penalties for  
28 failure to pay all wages due to discharged and quitting employees, unreimbursed business-related

1 expenditures, damages and/or penalties for failure to provide accurate itemized wage statements,  
2 penalties for failure to maintain required records, and interest, attorneys' fees, costs, and  
3 expenses.

4 5. PLAINTIFF brings this action, in part, on behalf of herself and the following  
5 similarly situated class of individuals ("CLASS MEMBERS"): All current and former non-  
6 exempt employees of CERCA TROVA RESTAURANT CONCEPTS, INC. and CERCA  
7 TROVA STEAKHOUSE LP dba OUTBACK STEAKHOUSE in the State of California at any  
8 time within the period beginning four (4) years prior to the filing of the complaint in the action  
9 *Zachary Rejniak v. Cerca Trova Restaurant Concepts, Inc., et al.*, Case No. 19STCV31099,  
10 filed in the Superior Court of the State of California, County of Los Angeles on September 3,  
11 2019, and continuing to the present, based on the doctrine of equitable tolling set forth in *Falk*  
12 *v. Children's Hospital Los Angeles*, 237 Cal.App.4th 1454 (2015), and ending at the time of  
13 class certification (the "CLASS PERIOD"). PLAINTIFF reserves the right to name additional  
14 class representatives and to request class certification of additional and/or alternative classes  
15 and subclasses.

#### 16 **DEFENDANTS**

17 6. PLAINTIFF is informed and believes, and thereon alleges, that CERCA TROVA  
18 RESTAURANT CONCEPTS, INC. is, and at all times relevant hereto was, a company authorized  
19 to conduct business in the State of California, and does conduct business in the State of  
20 California. Specifically, upon information and belief, CERCA TROVA RESTAURANT  
21 CONCEPTS, INC. maintains offices and facilities and conducts business in and engages in illegal  
22 employment practices in the County of Los Angeles, State of California.

23 7. PLAINTIFF is informed and believes, and thereon alleges, that CERCA TROVA  
24 STEAKHOUSE LP dba OUTBACK STEAKHOUSE is, and at all times relevant hereto was, a  
25 company authorized to conduct business in the State of California, and does conduct business in  
26 the State of California, Specifically, upon information and belief, CERCA TROVA  
27 STEAKHOUSE LP dba OUTBACK STEAKHOUSE maintains offices and facilities and  
28 conducts business in and engaged in illegal employment practices in the County of Los Angeles,

1 State of California.

2 8. The true names and capacities of DOE Defendants 1 through 25, inclusive, are  
3 unknown to PLAINTIFF at this time, and PLAINTIFF therefore sues such DOE Defendants  
4 under fictitious names. PLAINTIFF is informed and believes, and thereon alleges, that each  
5 Defendant designated as a DOE is in some manner highly responsible for the occurrences and  
6 Labor Code violations alleged herein, and that PLAINTIFF and CLASS MEMBERS' injuries and  
7 damages, as alleged herein, were proximately caused by the conduct of such DOE Defendants.  
8 PLAINTIFF will seek leave of the court to amend this Complaint to allege their true names and  
9 capacities of such DOE Defendants when ascertained.

10 9. At all relevant times herein, CERCA TROVA RESTAURANT CONCEPTS, INC.  
11 and CERCA TROVA STEAKHOUSE LP dba OUTBACK STEAKHOUSE and DOES 1 through  
12 25, (collectively "DEFENDANTS"), and each of them, were the joint employers of PLAINTIFF  
13 and CLASS MEMBERS. PLAINTIFF is informed and believes, and thereon allege, that at all  
14 times material to this complaint DEFENDANTS were the alter egos, divisions, affiliates,  
15 integrated enterprises, joint employers, subsidiaries, parents, principals, related entities, co-  
16 conspirators, authorized agents, partners, joint venturers, and/or guarantors, actual or ostensible,  
17 of each other. Each Defendant was completely dominated by his, her or its co-Defendant, and  
18 each was the alter ego of the other.

19 10. At all relevant times herein, PLAINTIFF and CLASS MEMBERS were employed  
20 by DEFENDANTS under employment agreements that were partly written, partly oral, and partly  
21 implied. In perpetrating the acts and omissions alleged herein, DEFENDANTS, and each of them,  
22 acted pursuant to, and in furtherance of, their policies and practices of not paying PLAINTIFF  
23 and CLASS MEMBERS all wages earned and due, through methods and schemes which include,  
24 but are not limited to, failing to pay overtime premiums; failing to provide rest and meal periods;  
25 failing to properly maintain records; failing to provide accurate itemized statements for each pay  
26 period; failing to properly compensate PLAINTIFF and CLASS MEMBERS for necessary  
27 expenditures; and requiring, permitting or suffering the employees to work off the clock, in  
28 violation of the California Labor Code, the applicable IWC Wage Order and the Private Attorneys

1 General Act.

2 11. PLAINTIFF is informed and believes, and thereon alleges, that each and every one  
3 of the acts and omissions alleged herein were performed by, and/or attributable to, all  
4 DEFENDANTS, each acting as agents and/or employees, and/or under the direction and control  
5 of, each of the other DEFENDANTS, and that said acts and failures to act were within the course  
6 and scope of said agency, employment and/or direction and control.

7 12. As a direct and proximate result of the unlawful actions of DEFENDANTS,  
8 PLAINTIFF and CLASS MEMBERS have suffered, and continue to suffer, from loss of earnings  
9 in amounts as yet unascertained, but subject to proof at trial, and within the jurisdiction of this  
10 Court.

11 **CLASS ACTION DESIGNATION**

12 13. This action is appropriately suited for a Class Action because:

13 a. The potential class is a significant number. Joinder of all current and  
14 former employees individually would be impractical.

15 b. This action involves common questions of law and fact to the potential  
16 class because the action focuses on DEFENDANTS' systematic course of illegal employment  
17 practices and policies, which was applied to all non-exempt employees in violation of the  
18 California Labor Code, IWC Wage Orders, and the California Business and Professions Code  
19 which prohibits unfair business practices arising from such violations.

20 c. The claims of PLAINTIFF are typical of the class because DEFENDANTS  
21 subjected all non-exempt employees to identical or substantially similar violations of the  
22 California Labor Code, IWC Wage Order 5-2001, and the California Business and Professions  
23 Code.

24 d. PLAINTIFF is able to fairly and adequately protect the interests of all  
25 members of the class because it is in her best interests to prosecute the claims alleged herein to  
26 obtain full compensation due to them for all services rendered and hours worked.

27 ///

28 ///

**CLASS ACTION**

**FIRST CAUSE OF ACTION**

**Failure to Provide Required Meal Periods**

**[Cal. Labor Code §§ 226.7 and 512]**

**(Against ALL DEFENDANTS)**

14. PLAINTIFF incorporates the foregoing allegations by reference, as though fully set forth herein.

15. During the CLASS PERIOD, as part of DEFENDANTS' illegal employment policies and practices, DEFENDANTS have required, permitted or otherwise suffered PLAINTIFF and CLASS MEMBERS to take less than the 30-minute meal period, or to work through them, and have failed to otherwise provide the required meal periods to PLAINTIFF and CLASS MEMBERS pursuant to California Labor Code § 226.7, 512.

16. On information and belief, among other things DEFENDANTS failed to provide legally compliant meal periods because they failed to adequately staff their business such that employees could perform their job duties and take all required meal periods. As a result, PLAINTIFF and CLASS MEMBERS were not provided a meal period at all, or were only afforded non-compliant meal periods that were less than 30 minutes long and/or occurred after the end of the fifth hour of work.

17. For example, DEFENDANTS maintained a policy and/or practice to not provide a legally compliant second 30-minute meal period when employees worked more than 10 hours in a work period.

18. Further, DEFENDANTS required PLAINTIFF and CLASS MEMBERS to remain on-call during meal periods and ready to respond to work-related inquiries. On many occasions, PLAINTIFF and CLASS MEMBERS were, in fact, required to respond to work-related inquiries during meal periods which resulted in meal periods less than 30 minutes in addition to being on-duty.

19. DEFENDANTS have further violated California Labor Code §§ 226.7 by failing to compensate PLAINTIFF and CLASS MEMBERS who were not provided with legally compliant meal periods, in accordance with the applicable wage order, one additional hour of

1 compensation at each employee's regular rate of pay for each workday that a meal period was not  
2 provided.

3 20. As a proximate result of the aforementioned violations, PLAINTIFF and CLASS  
4 MEMBERS have been damaged in an amount according to proof at trial, and seek all wages  
5 earned and due, interest, penalties, attorneys' fees, expenses, and costs of suit, including  
6 attorneys' fees under California Code of Civil Procedure §1021.5.

7 **SECOND CAUSE OF ACTION**  
8 **Failure to Provide Required Rest Periods**  
9 **[Cal. Labor Code §§ 226.7]**  
10 **(Against ALL DEFENDANTS)**

11 21. PLAINTIFF incorporates the foregoing allegations by reference, as though fully  
12 set forth herein.

13 22. At all times relevant herein, as part of DEFENDANTS' illegal employment  
14 policies and practices, DEFENDANTS failed to provide rest periods to PLAINTIFFS and  
15 CLASS MEMEBERS as required under California Labor Code §§ 226.7.

16 23. On information and belief, among other things DEFENDANTS failed to provide  
17 legally compliant rest periods because they failed to adequately staff their business such that  
18 employees could perform their job duties and take all required rest periods. As a result,  
19 PLAINTIFFS and CLASS MEMBERS were not provided rest periods at all, or were only  
20 afforded non-compliant rest periods that were less than 10 minutes long.

21 24. In addition, PLAINTIFF and CLASS MEMBERS were told during new hire  
22 training that they did not get rest periods.

23 25. DEFENDANTS required PLAINTIFF and CLASS MEMBERS to remain on-call  
24 and ready to respond to work-related inquiries, calls, and/or text messages. As such, to the extent  
25 DEFENDANTS authorized and permitted any rest periods, they were not duty-free and did not  
26 comply with the Labor Code.

27 26. DEFENDANTS further violate California Labor Code § 226.7 by failing to pay  
28 PLAINTIFFS and CLASS MEMBERS who were not provided with a rest period, in accordance  
with the applicable wage order, one additional hour of compensation at each employee's regular

1 rate of pay for each workday that a rest period was not provided.

2 27. As a proximate result of the aforementioned violations, PLAINTIFF and CLASS  
3 MEMBERS have been damaged in an amount according to proof at trial, and seek all wages  
4 earned and due, interest, penalties, attorneys' fees, expenses, and costs of suit, including  
5 attorneys' fees under California Code of Civil Procedure §1021.5.

6 **THIRD CAUSE OF ACTION**  
7 **Failure to Pay Overtime Wages**  
8 **[Cal. Labor Code §§ 510 and 1194]**  
9 **(Against ALL DEFENDANTS)**

10 28. PLAINTIFF incorporates the foregoing allegations by reference, as though fully  
11 set forth herein.

12 29. Pursuant to California Labor Code §§ 510 and 1194, DEFENDANTS are required  
13 to compensate PLAINTIFF and CLASS MEMBERS for all overtime, which is calculated at one  
14 and one-half (1 ½) times the regular rate of pay for all hours worked in excess of eight (8) hours  
15 per day and/or forty (40) hours per week, and for the first eight (8) hours on the seventh  
16 consecutive workday, with double time for all hours worked in excess of twelve (12) hours in any  
17 workday and for all hours worked in excess of eight (8) hours on the seventh consecutive day of  
18 work in any workweek.

19 30. PLAINTIFF and CLASS MEMBERS are current and former non-exempt  
20 employees entitled to the protections of California Labor Code §§ 510 and 1194. During the  
21 CLASS PERIOD, DEFENDANTS failed to compensate PLAINTIFF and CLASS MEMBERS  
22 for all overtime hours worked as required under the foregoing provisions of the California Labor  
23 Code and IWC Wage Order by, among other things: failing to pay overtime at one and one-half  
24 (1 ½) or double the regular rate of pay as provided by California Labor Code §§ 510 and 1194;  
25 requiring, permitting or suffering PLAINTIFF and CLASS MEMBERS to work off the clock;  
26 requiring, permitting or suffering PLAINTIFF and CLASS MEMBERS to work through meal  
27 periods while clocked out; illegally and inaccurately recording time in which PLAINTIFF and  
28 CLASS MEMBERS worked; and other methods to be discovered.

31. In violation of California law, DEFENDANTS have knowingly and willfully

1 refused to perform its obligations to compensate PLAINTIFF and CLASS MEMBERS for all  
2 wages earned and all hours worked. As a proximate result, PLAINTIFF and CLASS MEMBERS  
3 have suffered, and continue to suffer, substantial losses related to the use and enjoyment of such  
4 wages, lost interest on such wages, and expenses and attorneys' fees in seeking to compel  
5 DEFENDANTS to fully perform their obligations under state law, all to their respective damages  
6 in amounts according to proof at time of trial, and within the jurisdiction of this Court.

7 32. For example, DEFENDANTS required PLAINTIFF and CLASS MEMBERS to  
8 return to their assigned office locations before leaving work for the day. However,  
9 DEFENDANTS did not pay PLAINTIFF and CLASS MEMBERS for the time spent driving  
10 from their last job sites to their assigned offices. Further, DEFENDANTS required PLAINTIFF  
11 and other CLASS MEMBERS to perform additional work upon return to their assigned offices  
12 off-the-clock and without compensation.

13 33. On information and belief, on numerous occasions DEFENDANTS failed to pay  
14 PLAINTIFF and CLASS MEMBERS double overtime when they worked shifts over 12 hours  
15 long, or worked for more than 8 hours on a seventh consecutive workday.

16 34. DEFENDANTS' conduct described herein violates California Labor Code §§ 510  
17 and 1194. Therefore, pursuant to California Labor Code §§ 218.5, 218.6, 510, and 1194, and  
18 other applicable provisions under the Labor Code and IWC Wage Orders and California Code of  
19 Civil Procedure § 1021.5, PLAINTIFF and CLASS MEMBERS are entitled to recover the  
20 unpaid balance of wages owed to them by DEFENDANTS, plus interest, penalties, attorneys'  
21 fees, expenses, and costs of suit.

22 **FOURTH CAUSE OF ACTION**  
23 **Failure to Pay Minimum Wages**  
24 **[Cal Labor Code §§ 1194]**  
25 **(Against ALL DEFENDANTS)**

26 35. PLAINTIFF incorporates the foregoing allegations by reference, as though fully  
27 set forth herein.

28 36. Pursuant to California Labor Code § 1194, payment to an employee of less than  
the applicable minimum wage for all hours worked in a payroll period is unlawful.

37. During the CLASS PERIOD, DEFENDANTS failed to pay PLAINTIFF and CLASS MEMBERS minimum wages for all hours worked by, among other things: requiring, permitting or suffering PLAINTIFF and CLASS MEMBERS to work off the clock; requiring, permitting or suffering PLAINTIFF and CLASS MEMBERS to work through meal breaks while clocked out; illegally and inaccurately recording time in which PLAINTIFF and CLASS MEMBERS worked; and other methods to be discovered.

38. For example, DEFENDANTS required PLAINTIFF and CLASS MEMBERS to return to their assigned office locations before leaving work for the day. However, DEFENDANTS did not pay PLAINTIFF and CLASS MEMBERS for the time spent driving from their last job sites to their assigned offices. Further, DEFENDANTS required PLAINTIFF and other CLASS MEMBERS to perform additional work upon return to their assigned offices off-the-clock and without compensation.

39. DEFENDANTS' conduct described herein violates California Labor Code §1194. As a proximate result of the aforementioned violations, PLAINTIFF and CLASS MEMBERS have been damaged in an amount according to proof at trial. Therefore, pursuant to California Labor Code §§ 218.5, 218.6, 1194, and other applicable provisions under the Labor Code and IWC Wage Orders and California Code of Civil Procedure § 1021.5, PLAINTIFF and CLASS MEMBERS are entitled to recover the unpaid balance of wages owed to them by DEFENDANTS, plus interest, penalties, attorneys' fees, expenses, and costs of suit.

#### **FIFTH CAUSE OF ACTION**

#### **Failure to Pay All Wages Due to Discharged and Quitting Employees**

**[Cal. Labor Code § 203]**

**(Against DEFENDANT APTIVE ENVIRONMENTAL, LLC and DOES 1 through 25)**

40. PLAINTIFF incorporates the foregoing allegations by reference, as though fully set forth herein.

41. Pursuant to California Labor Code § 201 mandates that if an employer discharges an employee, the employee's wages accrued and unpaid at the time of discharge are due and payable immediately. Furthermore, pursuant to California Labor Code § 202, DEFENDANTS are required to pay all accrued wages due to an employee no later than 72 hours after the employee

1 quits his or her employment, unless the employee provided 72 hours previous notice of his or her  
2 intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

3 42. California Labor Code § 203 provides that if an employer willfully fails to pay, in  
4 accordance with California Labor Code §§ 201 and 202, any wages of an employee who is  
5 discharged or who quits, the employer is liable for waiting time penalties in the form of continued  
6 compensation to the employee at the same rate for up to 30 workdays.

7 43. During the CLASS PERIOD, DEFENDANTS have willfully failed to pay accrued  
8 wages and other compensation to PLAINTIFF and CLASS MEMBERS in accordance with  
9 California Labor Code §§ 201 and 202. DEFENDANTS' failure to pay all accrued wages to  
10 PLAINTIFF and CLASS MEMBERS who were discharged or who quit, as described above, was  
11 willful within the meaning of Labor Code § 203 in that DEFENDANTS failed or refused to  
12 perform an act that was require to be done, i.e., paying PLAINTIFF and CLASS MEMBERS all  
13 wages due and owing at the time or separation from employment. Those wages include, but are  
14 not limited to, unpaid minimum wages and unpaid overtime as alleged above, as well as unpaid  
15 meal period and rest period premiums as also alleged above. As a result, PLAINTIFF and CLASS  
16 MEMBERS are entitled to all available statutory penalties, including the waiting time penalties  
17 provided in Labor Code § 203, together with interest thereon, as well as other available remedies.

18 44. As a proximate result of DEFENDANTS' unlawful actions and omissions,  
19 PLAINTIFF and CLASS MEMBERS have been deprived of continuing wages under Labor Code  
20 § 203 in an amount according to proof at the time of trial, but in excess of the jurisdiction of this  
21 Court, and are entitled to recover such amounts, plus interest thereon, and attorneys' fees and  
22 costs, under California Code of Civil Procedure § 1021.5 and California Civil Code §§ 3287 and  
23 3288.

24 **SIXTH CAUSE OF ACTION**  
25 **Failure to Furnish Accurate Itemized Wage Statements**  
26 **[Cal. Labor Code §§ 226]**  
**(Against ALL DEFENDANTS)**

27 45. PLAINTIFF incorporates the foregoing allegations by reference, as though fully  
28 set forth herein.

1           46. During the CLASS PERIOD, DEFENDANTS knowingly and intentionally failed  
2 to provide PLAINTIFF and CLASS MEMBERS with timely, accurate, and itemized wage  
3 statements in writing showing each employee's gross wages earned, total hours worked, all  
4 deductions made, net wages earned, all applicable hourly rates in effect during each pay period  
5 and the corresponding number of hours worked at each hourly rate, in violation of California  
6 Labor Code § 226.

7           47. For example, DEFENDANTS failed to include the unpaid minimum wages,  
8 unpaid overtime, and unpaid meal period and rest period premiums alleged above on  
9 PLAINTIFF's and CLASS MEMBERS' wage statements.

10          48. As a proximate result of DEFENDANTS' unlawful actions and omissions,  
11 PLAINTIFF and CLASS MEMBERS have been damaged in an amount according to proof at  
12 trial, and seek all available statutory penalties, including but not limited to civil penalties pursuant  
13 to California Labor Code § 226(e), and an award of costs, expenses, and reasonable attorneys'  
14 fees, including but not limited to those provided in California Labor Code § 226(e), California  
15 Code of Civil Procedure § 1021.5, California Civil Code §§ 3287 and 3288, as well as other  
16 available remedies.

17                                   **SEVENTH CAUSE OF ACTION**

18           **Failure to Indemnify Employees for Necessary Expenditures Incurred in Discharge of Duties**  
19                                   **[Cal. Labor Code § 2802]**  
20                                   **(Against ALL DEFENDANTS)**

21          49. PLAINTIFF incorporates the foregoing allegations by reference, as though fully  
22 set forth herein.

23          50. California Labor Code § 2802(a) requires an employer to indemnify an employee  
24 for all necessary expenditures or losses incurred by the employee in direct consequence of the  
25 discharge of her his or her duties, or of his or her obedience to the directions of the employer.

26          51. During the CLASS PERIOD, DEFENDANTS knowingly and willfully failed to  
27 indemnify PLAINTIFF and CLASS MEMBERS for all business expenses and/or losses incurred  
28 in direct consequence of the discharge of their duties while working under the direction of  
DEFENDANTS, including but not limited to expenses for uniforms, and other employment-

1 related expenses, in violation of California Labor Code § 2802.

2 52. As a proximate result of DEFENDANTS' unlawful actions and omissions,  
3 PLAINTIFF and CLASS MEMBERS have been damaged in an amount according to proof at  
4 trial, and seek reimbursement of all necessary expenditures, plus interest thereon pursuant to  
5 California Labor Code § 2802(b). Additionally, PLAINTIFF and CLASS MEMBERS are  
6 entitled to all available statutory penalties and an award of costs, expenses, and reasonable  
7 attorneys' fees, including those provided in California Labor Code § 2802(c), as well as other  
8 available remedies.

9 **EIGHTH CAUSE OF ACTION**  
10 **Unfair and Unlawful Business Practices**  
11 **[Cal. Bus. & Prof. Code §§ 17200 et. seq.]**  
12 **(Against ALL DEFENDANTS)**

13 53. PLAINTIFF incorporates the foregoing allegations by reference, as though fully  
14 set forth herein.

15 54. Each and every one of DEFENDANTS' acts and omissions in violation of the  
16 California Labor Code and/or the applicable IWC Wage Order as alleged herein, including but  
17 not limited to DEFENDANTS' failure and refusal to provide required meal periods,  
18 DEFENDANTS' failure and refusal to provide required rest periods, DEFENDANTS' failure and  
19 refusal to pay overtime compensation, DEFENDANTS' failure and refusal to pay minimum  
20 wages, and DEFENDANTS' failure and refusal to indemnify PLAINTIFF and CLASS  
21 MEMBERS for necessary expenditures and/or losses incurring in discharging their duties,  
22 constitutes an unfair and unlawful business practice under California Business and Professions  
23 Code § 17200 et seq.

24 55. DEFENDANTS' violations of California wage and hour laws constitute a business  
25 practice because DEFENDANTS' aforementioned acts and omissions were done repeatedly over  
26 a significant period of time, and in a systematic manner, to the detriment of PLAINTIFF and  
27 CLASS MEMBERS.

28 56. DEFENDANTS have avoided payment of wages, overtime wages, meal and rest  
period premiums, and other benefits as required by the California Labor Code, the California

Code of Regulations, and the applicable IWC Wage Order.

57. As a result of DEFENDANTS' unfair and unlawful business practices, DEFENDANTS have reaped unfair and illegal profits during the CLASS PERIOD at the expense of PLAINTIFF, CLASS MEMBERS, and members of the public. DEFENDANTS should be made to restore their ill-gotten gains to PLAINTIFF and CLASS MEMBERS.

58. DEFENDANTS' unfair and unlawful business practices entitle PLAINTIFF and CLASS MEMBERS to seek orders that DEFENDANTS account for and restore to PLAINTIFF and CLASS MEMBERS the wages and other compensation unlawfully taken from them. PLAINTIFF and CLASS MEMBERS are entitled to restitution of all monies to from DEFENDANTS in an amount according to proof at the time of trial, but in excess of the jurisdiction of this Court. In addition, PLAINTIFF and CLASS MEMBERS will seek an award of costs and expenses as allowed by law, reasonable attorneys' fees under California Code of Civil Procedure § 1021.5, and prejudgment interest under California Civil Code §§ 3287 and 3288, as well as other available remedies.

**NINTH CAUSE OF ACTION**

**For Civil Penalties Under the Labor Code Private Attorneys General Act of 2004  
[Cal. Labor Code §§ 2698- 2699.5]  
(Against All DEFENDANTS)**

59. PLAINTIFF incorporates the foregoing allegations by reference as though fully set forth herein, with exception to the allegations concerning class action designation in Paragraph 13 (a-d).

60. Under the Labor Code Private Attorneys General Act of 2004 ("PAGA"), Labor Code §§ 2698-2699.5, private parties may recover civil penalties for violations of the Labor Code. These penalties are in addition to any other relief available under the Labor Code. As set forth above, DEFENDANTS have committed numerous violations of the Labor Code against PLAINTIFF and other current and former non-exempt employees, including but not limited to:

- a. Not providing PLAINTIFF and CLASS MEMBERS with legally compliant meal periods and rest periods and failing to properly compensate them for meal and rest period violations with an additional hour of pay at the regular rate in

violation of Labor Code §§ 226.7, 510, 512, 1194, 1197 and IWC Wage Order No. 5-2001;

b. Failing to properly compensate PLAINTIFF and CLASS MEMBERS for all overtime hours worked in violation of Labor Code §§ 226, 510, 1194, 1197, and IWC Wage Order No. 4-2001;

c. Failing to compensate PLAINTIFF and other current and former non-exempt employees at a wage rate at least equal to the California minimum wage for each hour worked in violation of Labor Code §§ 226, 510, 1182.12, 1194, 1197, and 1174.5;

d. Failing to timely pay all wages during employment in violation of California Labor Code § 204;

e. Failing to maintain records as required for PLAINTIFF and other current and former non-exempt employees in violation of Labor Code §§ 226, 1174, 1174.5;

f. Failing to provide PLAINTIFF and other current and former non-exempt employees with accurate itemized wage statements in violation of Labor Code § 226; and

g. Failing to properly compensate PLAINTIFF and other current and former non-exempt employees for all wages due in violation of Labor Code § 203.

61. PLAINTIFF is an "aggrieved employee" within the meaning of California Labor Code § 2699(c), and a proper representative to bring a civil action as an aggrieved employee of DEFENDANTS pursuant to the procedures specified in California Labor Code § 2699.3, because PLAINTIFF was employed by DEFENDANTS and at least one of the alleged violations of the California Labor Code were committed against PLAINTIFF.

62. Pursuant to PAGA, PLAINTIFF seeks to recover civil penalties, including but not limited to penalties under Labor Code §§ 2699, 210, 225.5, 226.3, 558, 1174.5, 1197.1, and 1199 from DEFENDANTS in a representative action for the violations set forth above, including but not limited to violations of Labor Code §§ 203, 204, 206.5, 226(a), 226.7, 510, 512, 1174,

1182.12, 1194, 1197, 1198 and 2802. PLAINTIFF is also entitled to an award of reasonable attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

63. Pursuant to California Labor Code § 2699.3, PLAINTIFF gave written notice on August 20, 2019 by online filing to the California Labor and Workforce Development Agency ("LWDA") and by certified mail to DEFENDANTS of the specific provisions of the California Labor Code and IWC Wage Orders alleged to have been violated, including the facts and theories to support the alleged violations. More than 65 days have passed since PLAINTIFF provided written notice to the LWDA. The LWDA has not provided notice that it intends to investigate PLAINTIFF'S claims. Under California Labor Code § 2699.3(d), the 65 days PLAINTIFF waited for a response from the LWDA is not counted as part of the statute of limitations, and DEFENDANTS' liability under PAGA extends to one year and sixty-five days before the filing of this Complaint.

64. Accordingly, PLAINTIFF has complied with all of the requirements set forth in California Labor Code § 2699.3 to commence a representative action under PAGA.

#### **PRAYER FOR RELIEF**

**WHEREFORE**, PLAINTIFF, individually and on behalf of all other persons similarly situated, respectfully prays for relief against DEFENDANTS, and each of them, as follows:

1. For compensatory damages in an amount to be ascertained at trial;
2. For restitution of all monies due to PLAINTIFF and CLASS MEMBERS resulting from the DEFENDANTS' unfair and unlawful business practices;
3. For meal and rest period compensation pursuant to California Labor Code § 226.7;
4. For liquidated damages pursuant to California Labor Code §§ 1194.2 and 1197.1;
5. For waiting time penalties pursuant to California Labor Code § 203;
6. For statutory and civil penalties according to proof, including but not limited to all penalties authorized by the California Labor Code §§ 210, 226, 226(e), 558, 1174.5, 1197.1, 199, and 2698-2699.5;
7. For interest on the unpaid wages at 10% per annum pursuant to California Labor Code §§ 218.6, 1194, 2802, California Civil Code §§ 3287, 3288, and/or any other applicable

1 provision providing for pre-judgment interest;

2 8. For reasonable attorneys' fees and costs pursuant to California Labor Code §§  
3 218.5, 226(e)(1), 1194, 2699(g)(1), 2802(c), California Code of Civil Procedure § 1021.5, and  
4 any other applicable provisions that provide for recovering attorneys' fees and costs;

5 9. For an order requiring and certifying the First, Second, Third, Fourth, Fifth, Sixth,  
6 Seventh, Eighth Causes of Action as a class action;

7 10. For an order appointing PLAINTIFF as class representative, and PLAINTIFF's  
8 counsel as class counsel; and

9 11. For such further relief that the Court may deem just and proper.

10  
11 DATED: May 21, 2020

Respectfully submitted,

12 **MATERN LAW GROUP, PC**

13  
14 By: 

15 Matthew J. Matern  
16 Dalia Khalili  
17 Shooka Dadashzadeh  
18 Attorneys for Plaintiff Alma Cano,  
19 individually and on behalf of all others  
20 similarly situated, and as aggrieved  
21 employees under the Labor Code Private  
22 Attorneys General Act of 2004

**DEMAND FOR JURY TRIAL**

PLAINTIFF hereby demands a jury trial with respect to all issues triable of right by jury.

DATED: May 21, 2020

Respectfully submitted,

**MATERN LAW GROUP, PC**

By:



Matthew J. Matern

Dalia Khalili

Shooka Dadashzadeh

Attorneys for Plaintiff Alma Cano,  
individually and on behalf of all others  
similarly situated, and as aggrieved  
employees under the Labor Code Private  
Attorneys General Act of 2004