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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

LAURA RUIZ, individually, and on behalf
of all other aggrieved employees,

Plaintiff,

v.

ZONA ROSA LLC, a California limited
liability company; and DOES 1 through 50,
inclusive,

Defendants.

Case No.: **23CV420920**

**COMPLAINT FOR VIOLATION OF THE
PRIVATE ATTORNEYS GENERAL ACT
OF 2004**

[California Labor Code § 2698 et seq.]

1 Plaintiff Laura Ruiz (“Plaintiff”) brings this representative action, individually and on behalf of
2 all other aggrieved employees, to recover civil penalties relating to systematic violations of California
3 wage and hour laws by Zona Rosa LLC. Plaintiff makes the following allegations on information and
4 belief, except as to allegations pertaining to Plaintiff individually, which are based on her personal
5 knowledge.

6 **INTRODUCTION**

7 1. Defendant owns and operates two (2) or more restaurants in San Jose, California and
8 Los Gatos, California. Plaintiff, along with other non-exempt employees of Defendant, worked and
9 performed duties and tasks at these restaurants and additionally, received wages from Defendant.

10 2. Defendant implemented common policies and practices within its restaurants that have
11 resulted in systematic violations of California’s wage and hour laws.

12 3. Zona Rosa LLC (“Zona Rosa” or “Defendant”), owns and operates two or more casual
13 dining, fast food Mexican American restaurants in San Jose, California and Los Gatos, California.

14 4. In an effort to conserve labor costs, and thereby maximize profits, Defendant has
15 implemented policies and practices that have resulted in systematic violations of California’s wage and
16 hour laws.

17 5. For example, Defendant has implemented unlawful policies with respect to meal and
18 rest breaks. Defendant requires non-exempt employees, who are informed that the needs of the
19 restaurant and its patrons take top priority, to work through meal and rest breaks, to take untimely meal
20 periods and to remain on call during such breaks. As a result, Plaintiff and other aggrieved employees
21 have been denied the ability to take meal and rest breaks that they were and are legally entitled to take.

22 6. Moreover, Defendant has uniformly failed to pay Plaintiff and other aggrieved
23 employees proper overtime wages and minimum wages due to the fact that it has willfully turned a
24 blind eye to off-the-clock work that Plaintiff and other non-exempt employees perform as a direct
25 consequence of Defendant’s understaffing and imposition of an unreasonable workload.

26 7. Defendant also failed to pay timely wages to current and former employees and has
27 failed to maintain required employee records and provide accurate, itemized wage statements.

1 **JURISDICTION AND VENUE**

2 8. The Superior Court of the State of California has jurisdiction in this matter because
3 Defendants are licensed to do business under the laws of the State of California and does business in
4 the State of California. No federal question is at issue because Plaintiff's claims are based solely on
5 California law.

6 9. Venue is proper in this judicial district and the County of Santa Clara because Defendant
7 maintain one or more of their restaurants in the County of Santa Clara and Plaintiff worked for
8 Defendant in County of Santa Clara at its location in the City of San Jose. Many if not all of the other
9 aggrieved employees also worked for Defendant at its restaurants located in the County of Santa Clara.

10 **THE PARTIES**

11 10. During the statute of limitations period, Plaintiff was employed by Defendant as a
12 Bartender responsible for waiting on and taking orders from customers.

13 11. Defendant is, and at all times relevant herein were, a limited liability company
14 organized and existing under the laws of the State of California. On information and belief, Defendant
15 is authorized to conduct business in the State of California and does conduct business in the State of
16 California.

17 12. At all relevant times herein, Defendant and other unknown and unnamed individuals
18 were the joint employers of Plaintiff and aggrieved employees. Defendants were the alter egos,
19 divisions, affiliates, integrated enterprises, joint employers, subsidiaries, parents, principals, related
20 entities, co-conspirators, authorized agents, partners, joint venturers, and/or guarantors, actual or
21 ostensible, of each other. Each Defendant was completely dominated by his, her or its co-Defendants,
22 and each was the alter ego of the other. Moreover, at all material times there has been extensive
23 interrelation of operations, common management, centralized control of labor relations with respect to
24 Plaintiff and Class members, and common ownership or financial control between all Defendants.

25 13. The true names and capacities of DOES 1 through 50, inclusive, are unknown to Plaintiff
26 at this time, and Plaintiff therefore sues such defendants under fictitious names. Plaintiff is informed
27 and believes, and thereon alleges, that each defendant designated as a DOE is in some manner highly
28 responsible for the occurrences alleged herein, and that Plaintiff and other aggrieved employees'

1 injuries and damages, as alleged herein, were proximately caused by the conduct of such DOE
2 defendants. Plaintiff will seek leave of the Court to amend this Complaint to allege the true names and
3 capacities of such DOE defendants when ascertained.

4 **PAGA REPRESENTATIVE ACTION ALLEGATIONS**

5 14. On June 9, 2023, Plaintiff gave written notice by certified mail pursuant to California
6 Labor Code § 2699.3, to the California Labor and Workforce Development Agency (“LWDA”) and
7 Defendant, of the specific provisions of the California Labor Code and IWC Wage Order alleged to
8 have been violated, including the facts and theories to support the alleged violations. Plaintiff has not
9 received any response from the LWDA. As Plaintiff has waited more than sixty-five (65) days from
10 the June 9, 2023, postmark date of his written notice before filing this action, Plaintiff has complied
11 with all of the requirements set forth in California Labor Code § 2699.3 to commence a representative
12 action under the California Private Attorneys General Act of 2004 (“PAGA”).

13 15. Pursuant to the PAGA, California Labor Code §§ 2698-2699.5, Plaintiff brings this
14 action on behalf of the State of California, and all other aggrieved employees (e.g., current and former
15 non-exempt employees of Defendant who are California citizens and performed work for Defendant in
16 the State of California at any time within the period beginning one (1) year prior to the June 9, 2023,
17 notice Plaintiff provided to the LWDA and Defendant, and ending at the time this action proceeds to
18 final judgment (“statute of limitations period”).

19 **FACTUAL ALLEGATIONS**

20 **Failure to Provide Required Meal Periods**

21 **[Labor Code §§ 226.7, 512 and § 11 of the applicable IWC Order]**

22 16. During the statute of limitations period, as part of Defendant’s illegal policies and
23 practices to minimize labor costs and maximize corporate profits, Defendant has required, permitted or
24 otherwise suffered Plaintiff and aggrieved employees to perform work during their meal periods, to
25 completely skip their meal periods, to take late and short meal periods, and Defendant has otherwise
26 failed to provide the required meal periods to Plaintiff and aggrieved employees as required under
27 California Labor Code §§ 226.7, 512 and § 11 of the applicable IWC Order.

28 17. Defendant has implemented several practices that have caused Plaintiff and aggrieved

1 employees to systematically miss and otherwise take non-compliant meal periods. Defendant
2 systematically understaff job sites such that non-exempt employees are given so much work to
3 complete that they regularly miss or otherwise take non-compliant meal periods. As a direct
4 consequence of this understaffing, Plaintiff and aggrieved employees have so much work to complete
5 within their scheduled shifts that they are forced to skip their meal periods altogether, to take them after
6 working longer than five (5) hours, to perform work during their meal periods, or return to work after
7 taking less than a thirty (30) minute meal period. Moreover, Plaintiff and other aggrieved employees
8 need to secure permission before taking a meal period, which is often denied by supervisors.

9 18. There are also frequent occasions when Plaintiff and aggrieved employees need to
10 perform other duties immediately before the time during which they are legally entitled to take a meal
11 period. Pursuant to Defendant's policies, Plaintiff and aggrieved employees cannot simply drop their
12 job duties and leave a customer, refuse an order or stop cleaning in order to take a meal period.
13 Consequently, Plaintiff and aggrieved employees regularly miss meal periods, take late meal periods,
14 return early from meal periods, and even clock out for meal periods but continue working.

15 19. Plaintiff and aggrieved employees need to secure permission before taking a meal
16 period. Plaintiff and aggrieved employees often cannot simply stop taking an order from a customer or
17 stop cleaning to take their meal period, and their inability to secure coverage frequently causes them to
18 miss and otherwise take non-compliant meal periods.

19 20. Despite the foregoing, Defendant has implemented a policy and practice of actively
20 discouraging the issuance of meal period premium payments, and in the process, Defendant has violated
21 California Labor Code §§ 226.7 and § 11 of the applicable IWC Wage Order, by failing to compensate
22 Plaintiff and aggrieved employees who were not authorized and permitted to take a complete, timely,
23 uninterrupted meal period, one additional hour of compensation at the proper regular rate of pay for
24 each workday that such a meal period was not authorized or permitted.

25 21. Defendant also implemented unlawful meal period policies by compensating Plaintiff
26 and aggrieved employees for interrupted meal periods only for their actual work time, as opposed to
27 paying them the legally required premium payments for non-compliant meal periods.

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1 **Failure to Provide Required Rest Breaks**

2 **[Labor Code §§ 226.7 and 512, and § 12 of the applicable IWC Wage Order]**

3 22. During the statute of limitations period, as part of Defendant's illegal policies and
4 practices to minimize labor costs and maximize corporate profits, Defendant has failed to authorize and
5 permit Plaintiff and other aggrieved employees to take rest breaks as required under California Labor
6 Code §§ 226.7 and 512, and § 12 of the applicable IWC Wage Order.

7 23. The same or similar policies and practices that deprive Plaintiff and other aggrieved
8 employees from taking their meal periods, as alleged herein, similarly deprive them of their ability to
9 take their first and second and third rest breaks. As alleged herein, Defendant understaffs its restaurants,
10 which creates so much work for Plaintiff and other aggrieved employees that they are frequently unable
11 to take rest breaks. Moreover, Plaintiff and aggrieved employees need to first secure permission before
12 taking a rest break. Plaintiff and aggrieved employees often cannot simply stop assisting a customer or
13 stop cleaning to take a rest break, and their inability to secure coverage causes them to regularly miss
14 and otherwise take non-compliant rest breaks.

15 24. Defendant also does not provide adequate training regarding its legal obligations with
16 respect to the provision of rest breaks, does not implement a schedule regarding rest breaks for non-
17 exempt employees, and often interrupts staff who try to take rest periods. In short, Defendant essentially
18 has non-existent rest break policies, as there is no guidance or specification as to when Plaintiff and
19 other aggrieved employees are authorized and permitted to take rest breaks during their shifts.

20 25. Defendant also violated California Labor Code § 226.7, and § 12 of the applicable IWC
21 Order, by failing to pay Plaintiff and other aggrieved employees who were not provided with a rest
22 break, in accordance with the applicable wage order, one additional hour of compensation at the proper
23 regular rate of pay for each workday that a rest break was not provided.

24 **Failure to Pay Overtime Wages**

25 **[Labor Code §§ 510, 1194, and § 3 of the applicable IWC Order]**

26 26. Pursuant to California Labor Code §§ 510, 1194, and § 3 of the applicable IWC Order,
27 Defendant is required to compensate Plaintiff and other aggrieved employees for all overtime, which
28 is calculated at one and one-half (1 ½) times the regular rate of pay for all hours worked in excess of

1 eight (8) hours per day and/or forty (40) hours per week, and for the first eight (8) hours on the seventh
2 consecutive workday, with double time for all hours worked in excess of twelve (12) hours in any
3 workday and for all hours worked in excess of eight (8) hours on the seventh consecutive day of work
4 in any workweek.

5 27. During the statute of limitations period, Defendant failed to compensate Plaintiff and
6 other aggrieved employees for all overtime hours worked as required under the foregoing provisions
7 of the California Labor Code and IWC Wage Order by, among other methods: failing to pay overtime
8 at one and one-half (1 ½) or double the regular rate of pay as provided by California Labor Code §§
9 510, 1194 and § 3 of the applicable IWC Order, requiring, permitting or suffering Plaintiff and other
10 aggrieved employees to work off-the-clock, and to work through meal and rest breaks, but not
11 compensating them for this time, unlawful rounding of time worked by Plaintiff and the other aggrieved
12 employees in favor of Defendant, improperly calculating the regular rate of pay based on bonuses,
13 commissions, and other remuneration, and other methods to be discovered.

14 28. In a short-sighted attempt to maximize profits, Defendant has understaffed its
15 restaurants. Not only has this practice resulted in widespread missed meal and rest breaks, but it has
16 also caused Plaintiff and other aggrieved employees to perform work while off-the-clock. Defendant
17 has actual or constructive knowledge of this off-the-clock work and subtly condone it. Plaintiff and
18 other aggrieved employees routinely arrive to work early to check so that they are prepared and ready
19 to begin performing their duties promptly at the start of their shifts, as they must be pursuant to the
20 requirements of Defendant. Defendant knows that Plaintiff and other aggrieved employees perform this
21 work off-the-clock.

22 29. Defendant has knowingly and willfully refused to perform its obligations to compensate
23 Plaintiff and other aggrieved employees for all wages earned and all hours worked in violation of
24 California Labor Code §§ 510, 1194 and 1198, and § 3 of the applicable IWC Order.

25 **Failure to Pay Minimum Wages**

26 **[Labor Code §§ 1194, 1197, and § 4 of the applicable IWC Wage Order]**

27 30. Pursuant to Cal. Lab. Code §§ 1194, 1197, and § 4 of the applicable IWC Wage Order,
28 payment to an employee of less than the applicable minimum wage for all hours worked in a payroll

1 period is unlawful.

2 31. During the statute of limitations period, the hourly rates for Plaintiff and other aggrieved
3 employees were precisely at California minimum wage. Based on this common practice, Defendant
4 failed to pay Plaintiff and other aggrieved employees minimum wages for all hours worked by
5 requiring, permitting or suffering Plaintiff and other aggrieved employees to work off the clock, such
6 as requiring them to work through meal and rest breaks but not compensating them for this time,
7 unlawful rounding of time worked by Plaintiff and the other aggrieved employees in favor of
8 Defendant, and failing to include this time in all hours worked, and other methods to be discovered.

9 32. Defendant's conduct described herein violates Cal. Lab. Code §§ 1194, 1197, and § 4
10 of the applicable IWC Wage Orders. As a proximate result of the aforementioned violations, Plaintiff
11 and other aggrieved employees have been damaged in an amount according to proof at trial. Therefore,
12 pursuant to California Labor Code §§ 200, 203, 226, 1194, 1197.1, and any other applicable law,
13 Plaintiff and other aggrieved employees are entitled to recover the unpaid balance of wages owed to
14 them by Defendant, plus interest, penalties, attorneys' fees, expenses, and costs of suit.

15 **Failure to Timely Pay Wages During Employment**

16 **[Labor Code § 204]**

17 33. Pursuant to California Labor Code § 204, for all labor performed between the 1st and
18 15th days of any calendar month, Defendant is required to pay its nonexempt employees between the
19 16th and 26th day of the month during which the labor was performed. California Labor Code § 204
20 also provides that for all labor performed between the 16th and 26th days of any calendar month,
21 Defendant is required to pay its non-exempt employees between the 1st and 10th day of the following
22 calendar month. In addition, California Labor Code § 204 provides that all wages earned for labor in
23 excess of the normal work period shall be paid no later than the payday of the next regular payroll
24 period.

25 34. During the statute of limitations period, Defendant has knowingly and willfully failed
26 to timely pay Plaintiff and other aggrieved employees all the wages for labor performed by the next
27 regular payroll period as required by California Labor Code § 204, including but not limited to,
28 compensation for missed meal and rest breaks, proper overtime wages due to an unlawful calculation

1 of the regular rate of pay, and for work performed off-the-clock.

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

3 **[Labor Code §§ 201, 202 and 203]**

4 35. Pursuant to California Labor Code §§ 201, 202 and 203, Defendant is required to pay
5 all earned and unpaid wages to an employee who is discharged. California Labor Code § 201 mandates
6 that if an employer discharges an employee, the employee's wages accrued and unpaid at the time of
7 discharge are due and payable immediately.

8 36. Furthermore, pursuant to California Labor Code § 202, Defendant is required to pay all
9 accrued wages due to an employee no later than 72 hours after the employee quits his or her
10 employment, unless the employee provided 72 hours previous notice of his or her intention to quit, in
11 which case the employee is entitled to his or her wages at the time of quitting.

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

16 38. During the statute of limitations period, Defendant has willfully failed to pay accrued
17 wages and other compensation to Plaintiff and other aggrieved employees in accordance with California
18 Labor Code §§ 201 and 202. On information and belief, Defendant does not have a sufficient policy to
19 provide aggrieved employees with their final paychecks within the timeframes required under
20 California law. Defendant continues to fail to properly compensate other aggrieved employees for all
21 hours worked when due, overtime wages, and compensation for non-compliant meal and rest breaks,
22 Defendant also willfully failed and continues to fail to pay accrued wages and other compensation to
23 the aggrieved employees in accordance with California Labor Code §§ 201 and 202.

24 **Failure to Furnish Accurate Itemized Wage Statements**

25 **[Labor Code § 226(a) and § 7 of the applicable IWC Order]**

26 39. During the statute of limitations period, Defendant routinely failed to provide Plaintiff
27 and other aggrieved employees with timely and accurate itemized wage statements. Defendant's pay
28 stubs have violated California Labor Code § 226. Next, Defendant is not providing Plaintiff and other

1 aggrieved employees with proper meal periods and rest breaks but intentionally fails to include in their
2 wage statements one (1) additional hour of compensation at their regular rates of pay for each non-
3 compliant meal period or rest break. Moreover, Defendant has failed to pay proper overtime wages to
4 Plaintiff and other aggrieved employees and their wage statements therefore fail to reflect the correct
5 hourly rates worked by Plaintiff and other aggrieved employees. Defendant also failed to provide for
6 the accurate amount of sick leave and supplemental COVID-19 on the wage statements of Plaintiff and
7 the other aggrieved employees pursuant to California Labor Code §§ 246, 248.1(b)(2)(D), 248.2 and
8 248.6, et seq.

9 40. In order to conceal its wage theft, Defendant knowingly and intentionally failed to
10 provide Plaintiff and other aggrieved employees with timely and accurate itemized wage statements in
11 accordance with Labor Code § 226(a) and § 7 of the applicable IWC Order.

12 41. Plaintiff and other aggrieved employees suffered injury as a result of the failure of
13 Defendant to provide timely and accurate itemized wage statements because it prevented them from
14 discovering the scope and extent of Defendant's violations of California wage and hour laws, prevented
15 them from being able to accurately determine the gross wages earned, the total hours worked, all
16 deductions made, the net wages earned, all applicable hourly rates in effect during each pay period and
17 the corresponding number of hours worked at each hourly rate and the balance and available amount
18 of sick leave.

19 **Failure to Maintain Required Records**

20 **[Labor Code §§ 226(a) and 1174(d) and § 7 of the applicable IWC Order]**

21 42. During the statute of limitations period, as part of Defendant's illegal payroll policies
22 and practices to deprive Plaintiff and other aggrieved employees of all wages earned and due,
23 Defendant knowingly and intentionally failed to maintain records as required under California Labor
24 Code §§ 226(a) and 1174(d) and § 7 of the applicable IWC Wage Order, including but not limited to
25 the following records: total daily hours worked by each employee; applicable rates of pay relating to
26 non-discretionary bonuses, including but not limited to, overtime and double-time; all deductions; meal
27 and/or rest periods; time records showing when each employee begins and ends each work period; and
28 accurate itemized statements that reflect all compensation, rates of pay for all compensation paid and

1 remuneration owed and due to them. Defendant has knowledge that it was not providing its non-exempt
2 employees with proper meal and rest periods, but knowingly failed to include in the wage statements
3 one (1) extra hour of compensation for each missed meal and rest period. Defendant also illegally and
4 inaccurately recorded the time in which Plaintiff and other aggrieved employees worked. Defendant
5 has also failed to maintain accurate, itemized wage statements, as alleged above.

6 **Failure To Provide Mandatory Sick Leave**

7 **[Cal. Lab. Code § 246]**

8 43. Pursuant to California Labor Code §246, any employee who works in the State of
9 California and who works more than “30 or more days within a year ... is entitled to be paid sick days
10 ...” Labor Code §246(i) requires an employer to provide an employee with “written notice” that sets
11 for the “amount of sick leave available” on the employee’s wage statement pursuant to Labor Code
12 §226 or “..., in a separate writing provided on the designated pay date with the employee’s payment of
13 wages.”

14 44. Defendant failed to comply with Labor Code Section §246 by not providing Plaintiff
15 and the other aggrieved employees with accurate and accrued sick pay. Defendant failed to comply
16 with Labor Code §246(i) by not providing Plaintiff and the other aggrieved employees with their
17 available sick leave and balance of sick leave. As such, Defendant has violated California Labor
18 Code § 246.

19 **Failure to Pay COVID-19 Supplemental Sick Leave**

20 **[Cal. Lab. Code §§ 248.2 and 248.6, et seq.]**

21 45. During the Statute of Limitations Period, Defendant failed to provide 80 hours of
22 COVID-19 Supplemental Paid Sick leave and compensate aggrieved employees at their regular rate of
23 pay for supplemental sick leave, i.e., their highest regular rate of pay, taking into consideration non-
24 discretionary bonuses, etc., in violation of California Labor Code § 248.1(b)(3)(A). Defendant also
25 failed to provide COVID-19 Supplemental Sick Leave to aggrieved employees in violation of
26 California Labor Code § 248.1(b)(2)(D). Moreover, Defendant also failed to accurately reflect any
27 offset and/or the current amount of COVID-19 Supplemental Sick Leave available to aggrieved
28

1 employees on their wage statements, in violation of California Labor Code §§ 248.1(b)(2)(D), 248.2
2 and 248.6, et seq. for the reasons provided herein.

3 **Failure to Indemnify Employees for Necessary Expenditures**

4 **[Cal. Lab. Code § 2802]**

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

8 47. During the Statute of Limitations Period, Defendant has failed to reimburse aggrieved
9 employees for the usage of their personal cellular phones in addition to personal protective equipment
10 during the COVID-19 pandemic, including face masks and disposable gloves and other supplies.
11 Defendants did not reimburse Plaintiff and other aggrieved employees for the costs of the expenditures
12 relating to their cellular phones, face masks and other supplies.

13 **[Failure to Provide Suitable Seating**

14 **IWC Wage Order No. 5-2001, § 14]**

15 48. IWC Wage Order No. 5-2001, § 14 provides:

16 “(A) All working employees shall be provided with suitable seats when
17 the nature of the work reasonably permits the use of seats.

18 (B) When employees are not engaged in the active duties of their employment
19 and the nature of the work requires standing, an adequate number of suitable
20 seats shall be placed in reasonable proximity to the work area and employees
shall be permitted to use such seats when it does not interfere with the
performance of their duties.”

21 49. Defendant fails to provide suitable seating by not providing any seats or stools for
22 Plaintiff and other aggrieved employees within close proximity of their work areas. The nature of the
23 work reasonably permits the use of seats by Plaintiff and the other aggrieved employees. To the
24 extent that the use of seats could interfere with their work duties, at all times herein it is and has been
25 reasonable for Defendant to place seats in reasonable proximity to the work areas to be used by
26 Plaintiff and other aggrieved employees when doing so would not interfere with their job duties.
27
28

1 **Failure to Provide Suitable Resting Facilities**

2 **[IWC Wage Order No. 5-2001, § 13]**

3 50. IWC Wage Order No. 5-2001, § 13, and all other applicable IWC Wage Orders
4 provide:

5 “(A) Employers shall provide suitable lockers, closets, or equivalent for the
6 safekeeping of employees’ outer clothing during working hours, and when required,
7 for their work clothing during non-working hours. When the occupation requires a
8 change of clothing, change rooms or equivalent space shall be provided in order
9 that employees may change their clothing in reasonable privacy and comfort. These
10 rooms or spaces may be adjacent to but shall be separate from toilet rooms and shall
11 be kept clean.

12 (B) Suitable resting facilities shall be provided in an area separate from the toilet
13 rooms and shall be available to employees during work hours.”

14 51. During the statute of limitations period, Defendant has failed to provide suitable
15 changing rooms and/or resting facilities by not providing suitable lockers, closets, or equivalent for
16 the safekeeping of employees’ outer clothing during working hours, and when required, for their
17 work clothing during non-working hours a break room, or any other appropriate designated area on
18 the work premises, where Plaintiff and the other aggrieved employees could take meal periods and
19 rest breaks.

20 **Failure to Provide Notice of Employer-Related Information**

21 **[Cal. Lab. Code § 2810.5]**

22 52. California Labor Code § 2810.5 requires employers in California to provide written
23 notice at the time of hiring of certain employment-related information, as follows:

24 “(A) The rate or rates of pay and basis thereof, whether paid by the hour, shift, day, week, salary,
25 piece, commission, or otherwise, including any rates for overtime, as applicable.

26 (B) Allowances, if any, claimed as part of the minimum wage, including meal or lodging
27 allowances.

28 (C) The regular payday designated by the employer in accordance with the requirements of this
code.

(D) The name of the employer, including any “doing business as” names used by the employer.

1 (E) The physical address of the employer's main office or principal place of business, and a
2 mailing address, if different.

3 (F) The telephone number of the employer.

4 (G) The name, address, and telephone number of the employer's workers' compensation
5 insurance carrier.

6 (H) That an employee: may accrue and use sick leave; has a right to request and use accrued
7 paid sick leave; may not be terminated or retaliated against for using or requesting the use of
8 accrued paid sick leave; and has the right to file a complaint against an employer who retaliates.

9 (I) Any other information the Labor Commissioner deems material and necessary."

10 53. During the statute of limitations period, Defendant failed to comply with California
11 Labor Code § 2810.5 because they did not provide Plaintiff and other aggrieved employees with notice
12 of the requirements set forth above at the time of their hiring.

13 **Failure to Provide Employment Records**

14 **[Labor Code §§ 226 and 1198.5 and § 7 of the applicable IWC Order]**

15 54. California Labor Code §§ 226 and 1198.5 and, § 7 of the applicable IWC wage order
16 require California employers to provide to copies of their personnel files and certain other
17 employment records upon their request.

18 55. On May 30, 2022 and July 14, 2023, Plaintiff, through her counsel of record, requested
19 copies of these records from Defendant. Authorization forms, expressly permitting the disclosure of
20 these records to counsel, signed by Plaintiff, were submitted to Defendant along with the request. No
21 response was received from Defendant regarding the request for the payroll records and personnel
22 file.

23 **FIRST CAUSE OF ACTION**

24 **VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT**

25 **[Cal. Lab. Code § 2698 *et seq.*]**

26 **(On Behalf of Plaintiff and the Aggrieved Employees Against Defendants)**

27 56. Plaintiff incorporates herein by specific reference, as though fully set forth, the
28 allegations in paragraphs 1 through 55 above.

1 57. Plaintiff is an “aggrieved employee” within the meaning of California Labor Code §
2 2699(c), and a proper representative to bring a civil action on behalf of herself and other aggrieved
3 employees pursuant to the procedures specified in California Labor Code § 2699.3, because Plaintiff
4 was employed by Defendant and one or more of the alleged California Labor Code violations was
5 committed against Plaintiff during the statute of limitations period.

6 58. Plaintiff seeks to recover civil penalties through a representative action permitted by
7 PAGA and the California Supreme Court in *Arias v. Superior Court* (2009) 46 Cal.4th 969. Thus, class
8 certification is not required.

9 59. Pursuant to California Labor Code §§ 2698-2699.5, Plaintiff seeks to recover civil
10 penalties from Defendant in a representative action for the violations set forth above, including but not
11 limited to, violations of California Labor Code §§ 201, 202, 203, 204, 226, 226.7, 246, 510, 512, 558,
12 1174, 1194, 2802 and for the violations of the applicable IWC Wage Order alleged above.

13 60. Pursuant to California Labor Code § 2699(a), Plaintiff seeks to recover civil penalties
14 against Defendants for violations of California Labor Code provisions for which a civil penalty is
15 specifically provided, including but not limited to, the following:

- 16 a. Pursuant to California Labor Code § 210, for violations of California Labor
17 Code § 204, Defendant is subject to a civil penalty in the amount of one
18 hundred dollars (\$100) for the initial violation for each failure to pay each
19 employee, and two hundred dollars (\$200) per employee for violations in
20 subsequent pay periods.
- 21 b. Pursuant to California Labor Code § 226.3, for violations of California Labor
22 Code § 226(a), Defendant is subject to a civil penalty in the amount of two
23 hundred and fifty dollars (\$250) per aggrieved employee for the initial pay
24 period where a violation occurs and one thousand dollars (\$1,000) per
25 aggrieved employee for violations in subsequent pay periods.
- 26 c. Pursuant to California Labor Code § 1174.5, for violations of California Labor
27 Code § 1174(d), Defendant is subject to a civil penalty of five hundred dollars
28 (\$500).

61. California Labor Code § 2699(f) provides that for all California Labor Code violations for which a civil penalty is not specifically provided, the following civil penalties are established: one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation.

62. Plaintiff seeks to recover such civil penalties under California Labor Code § 2699(f) for Defendant's violations of California Labor Code provisions for which a civil penalty is not specifically provided, including but not limited to, California Labor Code §§ 201, 202, 203, 204, 226.7, 246, 248.1, et seq., 248.2, et seq., and 1197, and for the violations of the applicable IWC Wage Order alleged above.

63. All civil penalties sought and recovered under this action will be allocated as follows: seventy-five (75) percent to the State of California and twenty-five (25) percent to Plaintiff and aggrieved employees.

64. Plaintiff additionally seeks reasonable attorneys' fees and costs pursuant to California Labor Code § 2699(g)(1) and California Code of Civil Procedure § 1021.5.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually and on behalf of all other aggrieved employees and the State of California, prays for relief against Defendant, as follows:

1. For civil penalties according to proof;
2. For reasonable attorneys' fees and costs pursuant to California Labor Code § 2699(g), California Code of Civil Procedure § 1021.5, and/or any other applicable provisions providing for attorneys' fees and costs; and
3. For such further relief that the Court may deem just and proper.

DATED: August 15, 2023

THE LAW OFFICE OF SCOTT ERNEST WHEELER

By:

SCOTT ERNEST WHEELER
JUSTIN A. WHEELER

Attorneys for Plaintiff and the Aggrieved Employees