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on behalf of himself and others similarly situated

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

CELIA FORD, on behalf of herself and all
others similarly situated,

Plaintiff,

vs.

WILDFLOUR BAKERY & CAFÉ, LLC, an
unknown business entity; KANAN BAKING
CO., an unknown business entity; GREG
YULISH, an individual; and DOES 1
through 10, inclusive,

Defendants.

Case No. 23STCV20083

Assigned for All Purposes To:
Hon. Lynne Hobbs
Dept.: 61

**DECLARATION OF ENOCH J. KIM IN
SUPPORT OF PLAINTIFFS' MOTION TO
APPROVE THE PRIVATE ATTORNEYS
GENERAL ACT SETTLEMENT UNDER
CALIFORNIA LABOR CODE §§ 2698 et.
seq.**

[filed concurrently with Plaintiffs' Notice of
Motion and Motion; Declaration of Blake Jones;
and [Proposed] Order]

Date: May 30, 2025
Time: 9:00 a.m.
Dept.: 61

1 adjudication owing to what appeared to be a common course of conduct affecting a similarly
2 situated group of employees.

3 6. After filing the lawsuit, PAGA Counsel conducted a thorough investigation of the facts
4 and claims giving rise to the action, including: (1) conducting informal discovery, and meeting and
5 conferring with defense counsel about same; (2) reviewing and analyzing a sampling of time and
6 pay records, Defendants' Employee Handbook, and Plaintiff's personnel files; (3) researching the
7 applicable law and potential defenses; (4) constructing damage models based on interpretations of
8 California law; and (5) reviewing information provided by Defendants at the mediation.

9 7. After analyzing the relevant documents and other gathered data, PAGA Counsel believed
10 that this case was appropriate for resolution via mediation.

11 **SETTLEMENT NEGOTIATIONS AND TERMS**

12 8. On June 26, 2024, the Parties engaged in a good faith, arms-length negotiation during
13 global mediation facilitated by a highly respected wage and hour mediator, Deborah Crandall Saxe.
14 During mediation, Plaintiffs learned that Defendants had ceased operations at the end of 2022 and
15 thus had a severely limited ability to pay any settlement and/or judgment in the Action. In light of
16 this discovery, and with the mediator's expert guidance, the Parties reached an agreement on the
17 general terms of a settlement, which were first memorialized in a Term Sheet and later formalized
18 in the long-form Settlement Agreement now before the Court for approval.

19 9. For purposes of the Settlement, Allegedly Aggrieved Employees are defined as: "all
20 individuals who worked for Defendants, or any of them, as non-exempt employees in California at
21 any time between June 14, 2022 and December 31, 2022." In this case, there are approximately
22 135 Allegedly Aggrieved Employees.

23 10. The Settlement Agreement requires Defendants to pay a total sum of \$80,000.00 (the
24 "Gross Settlement Amount"). The Gross Settlement Amount will be allocated as follows, pending
25 Court approval:

- 26 a) Attorneys' fees in the amount of \$28,000.00 ("PAGA Counsel Fees Payment")
27 and litigation costs in the amount of \$22,005.18 (\$12,578.03 from D.Law, Inc.
28 and \$9,427.15 from Blake Jones Law PC) ("PAGA Counsel Litigation Expenses")

Payment”);

- b) Administration costs of no more than \$3,500.00 to be paid to the Settlement Administrator (“Administration Expenses Payment”), Simpluris, for sending notices and for calculating settlement shares and preparing all checks and mailings;
- c) Payment of \$5,000.00 to each Plaintiff in exchange for their general release of claims against Defendants (“Plaintiffs’ General Release Payment”); and
- d) The remainder of the Gross Settlement Amount (the “Net Settlement Amount”) after deducting the above costs is approximately \$16,494.82 and shall be designated as PAGA Penalties to be allocated between the LWDA and the Allegedly Aggrieved Employees pursuant to Labor Code section 2699(i), with 75% (\$12,371.12) being paid to the LWDA (the “LWDA PAGA Payment”) and 25% (\$4,123.70) being paid to the Allegedly Aggrieved Employees on a pro-rata basis (“Individual PAGA Payment”). The Allegedly Aggrieved Employees will receive an average of approximately \$30.55 per person (\$4,123.70 divided by 135 Allegedly Aggrieved Employees) as their share of the Individual PAGA Payment.

11. From PAGA Counsel’s review of the facts, strengths, and weaknesses of the case, the risks and delays posed by further litigation, and PAGA Counsel’s own prior litigation experience, PAGA Counsel believes that the recovery for each Aggrieved Employee is fair and reasonable taking into consideration the amounts received in other PAGA actions, the risks inherent in litigation of this genre, and the reasonable tailoring of each Aggrieved Employee’s claim to the settlement award he or she will receive. Further, and based on the settlement negotiations, which were extensive and conducted in good faith and at arm’s length between attorneys with substantial experience litigating PAGA actions, the Settlement Agreement was the product of a non-collusive settlement process in which the parties were forced to make significant compromises in the interest of reaching a full and complete settlement of the lawsuit.

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THE STRENGTH OF PLAINTIFFS' CASE
IN LIGHT OF THE SETTLEMENT AMOUNT

12. Plaintiffs allege that Defendants violated various provisions of California law and seeks civil penalties for the foregoing violations pursuant to Labor Code § 2699 *et seq.* Under Labor Code § 2699, specifically, Plaintiffs alleged that Defendants:

- Failed to pay the Allegedly Aggrieved Employees minimum wages and overtime for “off-the-clock” work, including waiting in line to clock in from meal periods and having to don their uniforms, shoes, and protective gear. Additionally, the Allegedly Aggrieved Employees had to undergo temperature checks prior to entering the job site and continue work by cleaning, attending mandatory meetings, and conducting food safety tests after clocking out.
- Failed to provide the Allegedly Aggrieved Employees with compliant meal periods because they were required to wait in line to clock back in from lunch and were not allowed to leave the premises.
- Failed to provide the Allegedly Aggrieved Employees with compliant rest periods as they frequently received interrupted, shortened, or no rest periods.
- Failed to provide the Allegedly Aggrieved Employees with all earned and accrued vacation pay.
- Failed to reimburse the Allegedly Aggrieved Employees for business expenses, including non-slip shoes that they were required to leave at work and not wear off-site and the use of their personal cell phones for work.
- Failed to provide accurate wage statements, including the failure to list the legal name of the employer and misstating the total hours worked.

13. Defendants denied and continue to deny all of the claims made by Plaintiffs in this Action and contend that they acted at all relevant times in conformance with the law. (*Id.* at ¶ 13.) Defendants contend that Plaintiffs and the Allegedly Aggrieved Employees were paid for all hours worked; provided lawfully compliant meal periods and that any deviations were at the voluntary election of the Plaintiffs and/or the Allegedly Aggrieved Employees and not at the request of

1 Defendants or due to work; that Defendants paid all wages due on a timely basis; that Defendants
2 paid all wages due on a timely basis and using Labor Code compliant instruments; that Defendants’
3 wage statements complied with the law; and that neither Plaintiffs nor any Allegedly Aggrieved
4 Employees incurred reasonable business related expenses for which they were not reimbursed.
5 Most significantly, Defendants confirmed that they ceased business operations at the end of 2022
6 and thus had a severely limited ability to pay any settlement and/or judgment in this matter. As a
7 result, PAGA Counsel carefully evaluated the financial realities of the case and negotiated a
8 settlement that ensures a fair and equitable recovery for the affected employees while taking into
9 account Defendants’ inability to satisfy a larger judgment.

10 **PAGA PENALTIES**

11 14. The Private Attorneys General Act, Labor Code § 2699 *et seq.*, allows Plaintiff to obtain
12 civil penalties on behalf of themselves and other aggrieved employees for Defendant’s violation of
13 any provision of the Labor Code enumerated under Labor Code § 2699.5. Where civil penalties are
14 provided in the statute, those civil penalties are recoverable; where no civil penalties are
15 recoverable, Labor Code § 2699(f) establishes civil penalties of one hundred dollars (\$100) for each
16 aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for each
17 aggrieved employee per pay period for each subsequent violation. Pursuant to Labor Code §
18 2699(i), seventy-five (75) percent of the penalties recovered must be allocated to the LWDA, with
19 the remaining twenty-five (25) percent allocated to the affected employees. However, under *Amaral*
20 *v. Cintas*, 163 Cal. App. 4th 1157, 1207-09 (2008) the Court held that a lower penalty amount of
21 \$100 per violation applies in the absence of a determination that a violation actually occurred.

22 15. Based on the foregoing facts and law, PAGA Counsel estimated Defendants’ maximum
23 total exposure on the PAGA claim at approximately \$107,900.00, calculated by multiplying the
24 total number of Pay Periods (1,079) by \$100 per violation. Plaintiffs’ calculation of the total
25 potential exposure on the PAGA claim was based on one PAGA penalty per Pay Period (i.e.,
26 Plaintiffs did not stack the PAGA penalties in their damages calculation).

27 16. Case law supports the notion that it is inappropriate to “stack” penalties for multiple
28 violations, particularly when those violations all stem from the same alleged “injury” *Aguirre v.*

1 *Genesis Logistics*, 2015 U.S. Dist. LEXIS 78748 (citing *Villacres v. ABM Indus., Inc.*, 189
2 Cal.App.4th 562, 577 (2010)). (“One injury gives rise to only one claim for relief...The violation
3 of one primary right constitutes a single cause of action.”; *Crowley v. Katleman*, 8 Cal. 4th 666,
4 681-82) (1994); *Li v. A Perfect Day Franchise, Inc.*, 2012 WL 2236752, *17 (N.D. Cal.2012)
5 (“There is no authority that “would permit double recovery of essentially the same penalties.”)

6 17. PAGA penalties are not mandatory but permissive. Labor Code § 2699(e)(2) states that
7 “a court may award a lesser amount than the maximum civil penalty amount specified by this part
8 if, based on the facts and circumstances of the particular case, to do otherwise would result in an
9 award that is unjust, arbitrary and oppressive, or confiscatory.” (See *Thurman v. Bayshore* (2012)
10 203 Cal. App. 4th 1112 (substantially reducing PAGA penalties by 30% under this provision)
11 (emphasis added); see also *Carrington v. Starbucks Corp.*, 30 Cal. App. 5th 504, 529 (2018)
12 (affirming penalty reduction of 90% for practice that resulted in meal periods occasionally starting
13 minutes after the fifth hour of work); *Sanchez v. McDonald’s Corp.* (2017), LASC Case No. No.
14 BC 499888 (98% reduction from \$41 million to \$775,000); *Ghrdilyan v. RJ Financial* (2012),
15 LASC Case No. BC430633 (94% reduction from \$5.4 million to \$325,000); *Fleming v. Covidien*,
16 Inc. (2011), USDC Case No. ED CV 10-01487-RGK (OPx) (87% reduction from \$2.8 million to
17 \$375,000).). In departing from the \$100/pay period calculation to arrive at the \$80,000.00 Gross
18 Settlement Amount in this case, Plaintiffs considered various reasons why the Court may reduce
19 any eventual recovery at its discretion, and considered that PAGA penalties are not mandatory but
20 permissive.

21 18. The Gross Settlement Amount of \$80,000.00 is approximately 73% of the maximum
22 potential exposure of \$107,900.00. The Gross Settlement Amount therefore represents a strong
23 value at approximately \$73.00 per Pay Period. From PAGA Counsel’s review of the facts,
24 strengths, and weaknesses of the case, the risks and delays posed by further litigation, and
25 Defendants’ financial condition, PAGA Counsel believes that the recovery for each Allegedly
26 Aggrieved Employee is fair and reasonable.

27 **REQUEST FOR ATTORNEYS’ FEES AND COSTS**

28 19. Pursuant to the Settlement Agreement, PAGA Counsel is requesting an award of

1 attorneys' fees in the amount of **\$28,000.00** and an award of litigation costs to PAGA Counsel of
2 **\$22,005.18**. D.Law, Inc.'s cost log for this matter is attached hereto as **Exhibit 2**. Blake Jones Law
3 PC's cost log for this matter is attached as Exhibit C to the Declaration of Blake Jones.

4 20. This request is fair, reasonable, and adequate to compensate PAGA Counsel for the
5 substantial work they have put into this case and, moreover, the risk they assumed by taking it in
6 the first place. The attorneys' fees award is intended to reimburse Counsel for all uncompensated
7 work that they have already done and for all the work they will continue to do in carrying out and
8 overseeing the notification to the Aggrieved Employees, communicating with Aggrieved
9 Employees regarding their claims, and assisting in the administration of the Settlement if it is
10 approved.

11 21. Throughout this case, PAGA Counsel have borne, and continue to bear, the entire risk
12 and cost of litigation associated with this Action on a purely contingency basis. As a result, PAGA
13 Counsel have yet to receive any compensation for the amount of time and money invested in the
14 case to date.

15 22. Contingent-fee cases present the very real risk of working hundreds if not thousands of
16 hours that may never be entirely compensated. Moreover, while the case is being litigated, counsel
17 must pay overhead (salaries, rent, etc.), provide for their own expenses, and in most cases pay the
18 out-of-pocket expenses incurred on the plaintiff's behalf. And the prospect of a court-awarded fee
19 does not greatly reduce the risk posed by these cases. In many cases, the prospect is nothing more
20 than a potential that never materializes. First, you must win the case to get a court-awarded fee;
21 even those cases that seem strongest at the onset can be lost and sometimes are lost. Second, there
22 are always the pitfalls and unforeseen obstacles that arise along the way, such as settlement offers
23 that the client may accept without ensuring that we receive a reasonable fee or changes in the law
24 that substantially affect the merits of the case, or other uncertainties involving the client. Finally,
25 there is the great risk inherent in advancing tens if not hundreds of thousands of dollars in out-of-
26 pocket expenses. If that money were to be invested in some sort of financial investment, one would
27 expect a reasonable rate of return on that investment. Here, however, the best we can hope to
28 recover is our money, and then only if we are substantially successful; if we are not, all or part of

1 this “investment” can be lost.

2 23. PAGA Counsel is well acquainted with the contingent-fee market throughout California,
3 particularly as it pertains to PAGA and class-action litigation. PAGA Counsel has negotiated
4 numerous contingency-fee agreements with plaintiffs, both as individuals and as representatives in
5 class-action and PAGA suits. Many of those agreements required that counsel receive a fee under
6 certain scenarios that exceeds one-third of the recovery. PAGA Counsel’s recent attorneys’ fees
7 awards in similar wage-and-hour class and PAGA actions have been 35% of the recovery.

8 24. PAGA counsel in contingency-fee cases typically receive attorneys’ fees equal to or
9 greater than forty percent of the gross settlement amount. See *Crandall v. U-Haul* (Los Angeles
10 County Super. Ct., Case No. BC178775), the Honorable Steven Czuleger awarded a 40% attorney
11 fee request in an overtime-exemption class action; in *Bushnell v. Cremer, Inc.* (Orange County
12 Super. Ct., Case No. 657778), the Honorable Donald E. Smallwood awarded attorneys’ fees in the
13 amount of 38%; in *Abzug v. Kerkorian* CA000981 (Los Angeles County Super. Ct., November
14 1990), the Honorable R. William Schoettler awarded a 45% fee; in *Haitz v. Meyer, et al.*, Alameda
15 County Super. Court, 8-20-1990 No. 572968-3, the court awarded a 40% fee; in *Elliott v.*
16 *Clothestime* (Orange County Super. Ct., Case No. 01-CC00333) the Honorable Jonathan Cannon
17 awarded a 40% fee in a wage-and-hour class action which had not yet proceeded to the class
18 certification stage; in both *Rippee v. Boston Market Corporation*, Case No.: 05 CV 1359 BTM
19 (JMA) and *Barile v. Boston Market Corporation*, Case No.: 05 CV 1360 BTM (JMA), the
20 Honorable Judge Barry T. Moskowitz awarded a 40% fee to plaintiffs’ counsel in wage-and-hour
21 class actions that had not proceeded to the class-certification stage.

22 25. Moreover, PAGA Counsel spent substantial time on this matter. Aside from drafting the
23 initial complaint, PAGA Counsel conducted informal discovery, reviewed and analyzed time and
24 pay records, employment handbooks, Plaintiff’s personnel file, relevant policies and other
25 documentation, researched the applicable law and potential defenses, constructed damage models
26 based on interpretations of California law, reviewed information provided by Defendants at the
27 mediation, engaged in meet and confer efforts with Defendants, drafted and revised the settlement
28 agreement, and drafted this Motion. PAGA Counsel from D.Law, Inc. conservatively estimates that

1 it invested at least 81.90 hours of attorney time in this matter. Attorney Roman Shkodnik spent
2 approximately 30.5 hours on this matter and his current billing rate is \$700.00 (13 years out of law
3 school, Laffey Matrix rate of \$948.00). Attorney Amanda Fazio spent approximately 21.5 hours on
4 this matter and her current billing rate is \$400.00 (3 years out of law school, Laffey Matrix rate of
5 \$473.00). Attorney Enoch Kim spent approximately 29.90 hours on this matter and his current
6 billing rate is \$750.00 (17 years out of law school, Laffey Matrix rate of \$948.00). The total lodestar
7 for PAGA Counsel from D.Law, Inc. is \$52,375.00 (\$21,350.00 for Attorney Roman Shkodnik's
8 time on the case, \$8,600.00 for Attorney Amanda Fazio's time on the case, and \$22,425.00 for
9 Attorney Enoch Kim's time on the case). Thus, the fee request of \$28,000.00 is significantly less
10 than the amount warranted by the lodestar analysis.

11 26. In light of the foregoing, the fee request in an amount equal to one-third of the settlement
12 in this case is well within the bounds that have been established by the above-cited authority.

13 **EXPERIENCE AND VIEWS OF COUNSEL**

14 27. D.Law (formerly known as Davtyan Law Firm) prosecutes wage and hour cases,
15 including class actions and PAGA actions on behalf of employees and others who have had their
16 rights violated. D.Law, either on its own or with co-counsel, is currently serving as plaintiffs'
17 counsel of record in numerous wage and hour and employment class action and PAGA action cases
18 pending in both state and federal court.

19 28. D.Law is well-qualified and has ample experience, knowledge, and resources to act as
20 counsel and represent Plaintiffs and the Allegedly Aggrieved Employees in this action. Our practice
21 is exclusively focused on employment matters and representing plaintiffs in wage and hour actions
22 with the same or similar causes of actions brought forth in the matter pending before this Court.

23 29. D.Law has litigated and successfully resolved many wage and hour class action cases
24 involving failure to pay wages and derivative Labor Code claims and penalties. See e.g. De La Rosa
25 v. The Coca Cola Company et al. (Superior Court of California in Napa, 17CV000787), Harvey v.
26 Bed Bath & Beyond of California Limited Liability Company (Superior Court of California in
27 Alameda, RG17885153), Paredes v. Bottling Group LLC et. al. (Superior Court of California in
28 Kern), Ramirez v. Harris Ranch Beef Company (Superior Court of California in Fresno,

1 16CECG04103), Gates v. Gate Gourmet, Inc. et. al. (Southern District of California, 16-cv-01084-
2 L-AGS), Hargrave v. Antelope Valley Hospital (Superior Court of California in Los Angeles,
3 BC663252), Ramirez v. Milton Roy et. al. (Superior Court of California in Los Angeles, BC 632
4 276), Hawkins v. AvalonBay Communities (Superior Court of California in Santa Clara,
5 17CV316492), Jones Tharpe et al. v. Sprint Corporation et al. (Superior Court of California in Los
6 Angeles, BC644645), Ortega et al. v. Nestle Waters North America, Inc. et al. (Superior Court of
7 California in Los Angeles, BC623610), Schultz v. Jimbo's Natural Family, Inc. (Superior Court of
8 California in San Diego, 37-2017-00022348-CUE-OE-CTL), Ambrose v. Victor Valley Global et
9 al. (Superior Court of California in San Bernardino, CIVDS1709289), Puerta-Gildardo v. Real
10 Time Staffing Services LLC et. al. (Superior Court of California in Los Angeles, BC565445),
11 Vargo v. Pregis Innovative Packaging LLC (Superior Court of California in Tulare, 270836),
12 Conlin v. Aegis Senior Communities LLC (Northern District of California, 17-cv-05534-LHK),
13 Galarza v. Kloeckner Metals Corporation (Central District of California, 2:17-cv-04910-FMO),
14 Estes v. L3 Technologies, Inc. et al. (Southern District of California, 3:17-cv-02356-H-JMA),
15 Rowser v. Trunk Club, Inc. (Central District of California, 2:17-cv-05064-DSF-RAO), Leach v.
16 The Claremont Colleges, Inc. (Superior Court of California in Los Angeles, BC686451), Vaesau
17 v. PCT Enterprises, Inc. dba Precision Cabinets (Superior Court of California, County of Contra
18 Costa MSC18-02404), Terry v. TF Louderback, Inc. dba Bay Area Beverage Company (Superior
19 Court of the State of California, County of Contra Costa, MSC18-00859), Roach v. Westcare
20 California, Inc. (Superior Court of California in Kern County, BCV-17-102367-SDS), Patton v.
21 Church & Dwight Co., Inc. (Central District of California, EDCV 18-903-MWF (KKx)), Juarez v.
22 ISL Employees, Inc. (Superior Court of California in Madera, MCV074787), Ferraro v. USC
23 Verdugo Hill s Hospital, et al. (Superior Court of California in Los Angeles, 18STCV09463), Ford
24 v. Account Control Technology, Inc., et al. (Superior Court of California in Los Angeles,
25 19STCV09369), Ornelas v. iStorage, et al. (Superior Court of California in San Francisco, CGC-
26 18-571421), Martinez v. Ronpak, Inc. (Superior Court of California in Riverside, RIC1901307),
27 Barrera et al. v. Exclusive Wireless, Inc. (Superior Court of California in Stanislaus, 9000687),
28 Barajas v. Mancha Development Company LLC (Superior Court of California in Orange County,

1 30-2018-00974707-CU-OE-CXC), Prado v. IMAX Corporation dba IMAC Worldwide Home
2 (Superior Court of California in San Bernardino, CIVDS1820265), Rodriguez v. ND Industries,
3 Inc. (Superior Court of California in Los Angeles, 19STCV38096), Singletary v. Motel 6 Operating
4 LP, et al. (Southern District of California, 3:20-cv-0270-LAB-AHG), Quizon v. CF Watsonville
5 East, LLC, et al. (Superior Court of California in Santa Cruz, 20CV01868), Stephenson v.
6 Bakersfield Dodge, Inc. (Superior Court of California in Kern, BCV-20-102693), Bacerra v. Hugo
7 Boss Retail, Inc. (Superior Court of California in San Diego, 37-2021-00002933-CU-OE-CTL),
8 Walker v. Ariat International, Inc. (Superior Court of California in Alameda, HG19026439), Orr v.
9 Petvet Care Centers (California) Inc. (Superior Court of California in Santa Clara, 19CV354063),
10 Jimenez v. OEC Distribution Services, Inc. (Superior Court of California in San Bernardino,
11 CIVDS1915743), Virdi v. Absolute Security International (Superior Court of California in San
12 Bernardino, CIVDS 1909589), Raj v. First Transit, Inc (Superior Court of California in Sacramento,
13 34-2021-00295895-CU-OE-GDS), Marchbanks v. Torrid Administration, Inc. (Superior Court of
14 California in San Diego, 37-2020-00008179-CU-OE-NC), among others.

15 30. I am Senior Counsel at D.Law where I manage the class action and PAGA settlement
16 department. I was admitted to the California Bar in December 2008. I received my J.D. from
17 Pepperdine University School of Law and B.S. from University of Southern California. Since
18 graduating from law school, I have dedicated virtually my entire career on the practice of
19 employment law. I have practiced employment law from the plaintiff's side, defense side, and from
20 an in-house position. I have significant experience specifically working on wage and hour class
21 actions from the plaintiff's side as well as the defense side, with the majority of my experience
22 coming from the plaintiff's side.

23 31. Attorney Roman Shkodnik received his Bachelor of Arts in history and political science
24 from the University of California, Los Angeles, in 2007. He then earned his Juris Doctorate from
25 Loyola Law School in May of 2011. Upon graduating from law school, he has exclusively focused
26 his practice on representing employees including in wage-and-hour class actions. During his career,
27 he has represented employees in over 100 wage-and-hour class action lawsuits as lead or co-lead
28 counsel (including in the Central, Southern, Eastern and Northern Districts of California), and he

1 has obtained six and seven figure settlements against a range of defendants, including Fortune 500
2 companies. These cases have involved the gamut of wage-and-hour claims, including claims for
3 failure to pay minimum wages, unpaid wages and overtime, inaccurate pay statements, and failure
4 to pay timely wages - similar to claims at issue in the present matter.

5 32. The collective experience of the D.Law attorneys in litigating employment wage and
6 hour matters has been integral in identifying legal issues, evaluating the strengths and weaknesses
7 of a case, and generally negotiating fair and reasonable class and representative action settlements.
8 This experience is helpful in assessing the reasonableness of settlements such as the one at issue
9 here. Based on our experience, PAGA Counsel concluded that this lawsuit could not have been
10 settled on better terms than provided under the present settlement agreement given the financial
11 limitations of Defendants.

12 33. In sum, PAGA Counsel are experienced in employment class action and PAGA litigation
13 and are adequate to represent the Allegedly Aggrieved Employees in the instant action.

14 SUMMARY

15 34. The parties agreed to use Simpluris as the third-party settlement administrator in this
16 case. Simpluris will be responsible for updating the addresses for the Allegedly Aggrieved
17 Employees, mailing the Notice of Settlement and calculating and distributing the settlement checks,
18 among other duties. Simpluris capped its fees at \$3,500.00 for administering the Settlement, and
19 based on PAGA Counsel's experience in other class and PAGA settlements, Simpluris' costs for
20 administering this Settlement are fair and reasonable.

21 35. On February 20, 2025, my office submitted the proposed Settlement to the LWDA.
22 Attached hereto as **Exhibit 3** is a true and correct copy of the confirmatory email my office received
23 from the LWDA after submission of the Settlement.

24 36. I am not aware of any class or other representative action in any other court that asserts
25 claims similar to those alleged in the action being settled.

26 ///

27 ///

28 ///

37. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 20th day of February, 2025, at Glendale, California.


Enoch J. Kim

EXHIBIT 1

**DAVID YEREMIAN
& ASSOCIATES INC**

2540 FOOTHILL BLVD STE 201
LA CRESCENTA CA 91214

818 230 8380
818 230 0308 FAX

DAVID@YEREMIANLAW.COM

August 21, 2023

VIA ON-LINE SUBMISSION ONLY TO:

<https://dir.tfaforms.net/128> (copy by certified mail to all Defendants)

Private Attorneys General Act
Attn. PAGA Administrator
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102

Gregory Yulish, Agent for Service
Coolish Holdings, LLC formerly known as Wildflour Bakery & Cafe LLC
21160 Califa St.
Woodland Hills, CA 91367
Certified Mail Tracking Number: 9589 0710 5270 0172 5265 41

Kanan Baking Company
21160 Califa St.
Woodland Hills, CA 91367
Certified Mail Tracking Number: 9589 0710 5270 0172 5265 10

**Re: Labor Code § 2698, *et seq.* Penalties – PAGA Notice Letter to the LWDA
*Lindsay v. Coolish Holdings, LLC et al.***

Gentlepersons:

This office represents Plaintiff David Lord Lindsay (“Plaintiff”) and other similarly situated aggrieved non-exempt employees (collectively “Aggrieved Employees”) for violations of California Labor Code §§ 201, 202, 203, 204, 210, 226, 226.3, 226.7, 227.3, 510, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, 2698, 2699, *et seq.*, and 2802; provisions of the Industrial Welfare Commission (IWC) Wage Order(s); and California Business & Professions Code § 17200 *et seq.*

The purpose of this letter is to comply with the Private Attorneys General Act of 2004, pursuant to California Labor Code § 2698 *et seq.* (“the Act”). Plaintiff would like to bring a representative action, pursuant to the Act, on behalf of himself and all other similarly situated Aggrieved Employees, and the State of California, against Defendants, Coolish Holdings, LLC formerly known as Wildflour Bakery & Cafe LLC, Kanan Baking Company, and DOES 1 through 50 inclusive (all defendants being referred to herein collectively as “Defendants”).

Additionally, this correspondence will serve to satisfy the notice requirements under the Act, along with a copy of Plaintiff’s Class Action Complaint, which is attached to this Notice letter.

The Complaint is being concurrently filed in Los Angeles Superior Court and will be assigned a local case number. The Complaint allegations and claims are incorporated into this Notice Letter.

We also set forth herein the facts and theories and the California Labor Code violations which Defendants engaged in with respect to Plaintiff and all of their Aggrieved Employees in California. The attached Class Action Complaint provides the details of Plaintiff's class-wide claims and claims under the Act, and the applicable California law governing them. It, along with this Notice Letter, addresses in detail numerous violations that subject Defendants to civil and statutory penalties under the Act.

Relevant Facts

Aggrieved Employees were employed by Defendants as non-exempt employees within the state of California within the statutory time period who suffer or suffered from the same wage and hour violations outlined below. Defendants had a common policy and/or practice of failing to pay Aggrieved Employees minimum wages for all hours worked.

Specifically, Aggrieved Employees were not paid for the time that they worked "pre-shift" and "post-shift" without compensation by going through temperatures checks prior to entering the job site, waiting in line to use the time clock, before clocking in and continuing work by cleaning, attending mandatory meetings, and conducting food safety tests after clocking out. The uncompensated time included the time Aggrieved Employees worked off-the-clock during meal periods. Thus, Aggrieved Employees were required to work hours, under the control of Defendants, without wages.

Because of the foregoing understatement of hours worked, Defendants also failed to pay Plaintiff and Aggrieved Employees proper overtime wages. Plaintiff and Aggrieved Employees consistently worked in excess of eight (8) hours a day, and/or forty (40) hours a week. However, Plaintiff and Aggrieved Employees were not paid overtime wages for hours worked in excess of 8 hours a day. Moreover, the uncompensated time, discussed above, was worked by Aggrieved Employees in excess of 8 hours a day and/or 40 hours a week, further entitling Aggrieved Employees overtime wages which they were consistently denied, all in violation of Labor Code and applicable Wage Orders.

Defendants had a common policy and/or practice of denying Plaintiff and Aggrieved Employees proper meal periods. Specifically, Plaintiff and Aggrieved Employees were required to work through their meal periods which they were consistently denied. Also, what meal periods Plaintiff and Aggrieved Employees did take, were consistently less than 30 minutes, and taken well after their fifth consecutive hour of work, all in violation of Labor Code and applicable Wage Orders. Similarly, Plaintiff and Aggrieved Employees were required to work in excess of ten (10) hours a day, without ever receiving a second meal compliant period, all in violation of Labor Code and applicable Wage Orders.

Defendants have consistently failed to provide Plaintiff and Aggrieved Employees with paid rest breaks of not less than 10 minutes for every work period of 4 or more consecutive hours, as required by Labor Code. Specifically, Plaintiff and Aggrieved Employees who often worked at

least twelve (12) hours in a day were entitled to at least two breaks but were required to work through their periods which they were continuously denied.

Defendants had a consistent and uniform policy, practice and procedure, when entering into contracts of employment with Aggrieved Employees for services to be rendered within California and the contemplated method of payment involved commissions, of failing to utilize a written contract signed by both the employer and employee setting forth the method by which the commissions shall be computed and paid.

Defendants had a common policy and practice of failing to reimburse Plaintiff and Aggrieved Employees for necessary business expenditures incurred in execution of their duties under Defendants' employ. Defendants have failed to reimburse Plaintiff and Aggrieved Employees for expenses necessarily incurred in the performance of their job duties for Defendants including, cost of cell phone usage which were necessary to perform their duties under Defendants' employ which was used throughout the course of Plaintiff and Aggrieved Employees' duties under Defendants' employ.

Defendants consistently failed to issue accurate itemized wage statements as required by Labor Code § 226(a). Specifically, Defendants failed to provide Employees with accurate itemized wage statements in writing, as required by the Labor Code. The wage statements given to Aggrieved Employees failed to accurately account for unpaid wages, overtime, premium pay for deficiently provided meal periods and rest breaks, discussed above.

Moreover, Defendants failed to pay Plaintiff and Aggrieved Employees all wages owed at the time of their termination or within seventy-two (72) hours of their resignation as required by Labor Code §§ 201-203. Defendants also consistently failed to pay Aggrieved Employees all wages due on a semi-monthly basis.

Defendant also failed to pay Plaintiff and Aggrieved Employees all earned and accrued vacation pay.

Additionally, pursuant to the Occupational Safety and Health Administration, employers must keep the thermostat between 68 and 78 degrees Fahrenheit. California Wage Order 7 states: "the temperature maintained in each work area shall provide reasonable comfort consistent with industry-wide standards for the nature of the process and the work performed. Where the nature of the employment requires a temperature of less than 60 degrees Fahrenheit, a heated room shall be provided to which employees may retire for warm, and such room shall be maintained at not less than 68 degrees Fahrenheit. A temperature of not less than 68 degrees Fahrenheit shall be maintained in the toilet rooms, resting rooms, and change rooms during hours of use." Here, the temperature in the warehouse was below what is legally allowed.

PAGA Claim Details, Legal Bases for Violations and Penalties:

As addressed above and in further detail in the attached Class Action Complaint, Plaintiff and the Aggrieved Employees complain of the following violations committed by Defendants:

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Failure to Pay Minimum Wages

Defendants violated the law by failing to pay Aggrieved Employees minimum wages for all hours worked. California Labor Code § 1197, entitled “Pay of Less Than Minimum Wage” states, “[t]he minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than the minimum so fixed is unlawful.” The applicable minimum wages fixed by the commission for work during the relevant period is found in the Wage Orders.

In California, employees must be paid at least the then applicable state minimum wage for all hours worked, including under Labor Code § 1197, IWC Wage Order MW-2014, and paragraphs 2(K), 2(S), and 4(A)-4(C) of the applicable IWC Wage Orders. Paragraph 2(H) of the applicable IWC Wage Orders defines “Hours Worked” as “the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.” Additionally, pursuant to Labor Code § 204, other applicable laws and regulations, and public policy, an employer must timely pay its employees for all hours worked. Defendants failed to do so.

California Labor Code § 1197, entitled “Pay of Less Than Minimum Wage” states: “The minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than the minimum so fixed is unlawful.” The minimum wage provisions of California Labor Code are enforceable by private civil action pursuant to Labor Code § 1194(a) which 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 the 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.”

As described in California Labor Code §§ 1185 and 1194.2, any action for wages incorporates the applicable Wage Order of the California Industrial Welfare Commission. Also, California Labor Code §§ 1194, 1197, 1197.1 and those Industrial Welfare Commission Wage Orders entitle non-exempt employees to an amount equal to or greater than the minimum wage for all hours worked. All hours must be paid at the statutory or agreed rate, or at the minimum rate in the absence of a contractually agreed upon one. The underpayment of wages to Aggrieved Employees is and has been a direct consequence of Defendants’ unlawful compensation policies and practices, which applied uniformly to the Aggrieved Employees working at locations and work sites throughout California.

Defendants thus failed to pay Employees minimum wages they were owed, including by their consistent policy of failing to pay Employees for all hours worked. Specifically, Aggrieved Employees were not paid for the time that they worked “pre-shift” and “post-shift” without compensation by going through temperatures checks prior to entering the job site, waiting in line to use the time clock, before clocking in and continuing work by cleaning, attending mandatory meetings, and conducting food safety tests after clocking out. The uncompensated time included the time Aggrieved Employees worked off-the-clock during meal periods. Accordingly, Plaintiff and Aggrieved Employees were required to work without pay. Thus, Plaintiff and Aggrieved Employees were required to work hours without wages. Additionally, Defendants did not pay

Plaintiff and Aggrieved Employees at the applicable minimum wage for all hours worked. Defendants have the ability to pay minimum wages for all time worked and have willfully refused to pay such wages with the intent to secure for Defendants a discount upon this indebtedness with the intent to annoy, harass, oppress, hinder, delay, or defraud Plaintiff and Aggrieved Employees.

In light of the forgoing, the Aggrieved Employees seek to recover wages and penalties. Aggrieved Employees are entitled to recover the unpaid minimum wages (including double minimum wages), liquidated damages in an amount equal to the minimum wages unlawfully unpaid, interest thereon and reasonable attorney's fees and costs of suit pursuant to California Labor Code § 1194(a). Plaintiff and the other Aggrieved Employees further request recovery of all unpaid wages, according to proof, interest, statutory costs, as well as the assessment of any statutory and civil penalties against Defendants, in a sum as provided by the California Labor Code and/or other applicable statutes, including pursuant to Labor Code § 558, and Wage Order provisions. To the extent minimum wage compensation is determined to be owed to the Aggrieved Employees who have terminated their employment, Defendants' conduct also violates Labor Code §§ 201 and/or 202, and therefore these individuals are also be entitled to waiting time penalties under California Labor Code § 203, which penalties are sought herein on behalf of these Aggrieved Employees. Defendants' failure to timely pay all wages owed also violated Labor Code § 204 and resulted in violations of Labor Code § 226 because they resulted in the issuance of inaccurate wage statements. Defendants' conduct as alleged herein was willful, intentional and not in good faith. Further, Plaintiff and other Aggrieved Employees are entitled to seek and recover statutory costs.

Under the PAGA, and following exhaustion of the notice period, Plaintiff is seeking all civil and statutory penalties available and applicable under Labor Code §§ 510, 558, 1194.2, 1197.1, 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Failure to Pay Wages and Overtime in Violation of Labor Code § 510

Defendants violated the law by failing to pay Plaintiff and Aggrieved Employees earned wages and overtime. Specifically, Plaintiff and Aggrieved Employees consistently worked in excess of eight (8) hours a day, and/or forty (40) hours a week. However, Plaintiff and Aggrieved Employees were not paid overtime wages for hours worked in excess of 8 hours a day. Moreover, the uncompensated time, discussed above including the time they worked "pre-shift" and "post-shift" without compensation by going through temperatures checks prior to entering the job site, waiting in line to use the time clock, before clocking in and continuing work by cleaning, attending mandatory meetings, and conducting food safety tests after clocking out and time spent working while clocked out for meal breaks caused Plaintiff and Aggrieved Employees to work in excess of 8 hours a day and/or 40 hours a week, further entitling Plaintiff and Aggrieved Employees overtime wages which they were consistently denied, all in violation of Labor Code § 510 and applicable Wage Orders.

Defendants have violated Labor Code § 1194 and Labor Code § 510 (and paragraphs 2(K), 2(S), 3(A) and 4(A)-4(B) of the relevant orders of the Industrial Welfare Commission) by failing to pay Employees: (a) time and one-half their regular hourly rates for hours worked in excess of

eight hours in a workday or in excess of forty hours in any workweek or for the first eight hours worked on the seventh day of work in any one workweek; or (b) twice their regular rate of pay for hours worked in excess of twelve hours in any one day or for hours worked in excess of eight hours on any seventh day of work in a workweek. Defendants had a consistent policy of not paying Employees wages for all hours worked, including by requiring off the clock work as addressed above and by under-reporting actual hours worked. With work shifts generally requiring eight hours or more of work on a given day, this unpaid off the clock work resulted in Aggrieved Employees working past eight hours on a shift or more than forty hours in a week, which required that they be paid at the correct overtime rate of 1.5 times their regular rate.

When considered in combination with the other wage violations addressed above, Aggrieved Employees were not properly compensated, nor were they paid overtime and double time rates for hours worked in excess of eight hours or twelve hours in a given day, and/or forty hours in a given week. Defendants did not make available to Employees a reasonable protocol for correcting time records when Employees worked overtime hours or to fix incorrect time entries or those that Defendants unlawfully under-recorded to the Employee's detriment. Defendants have also violated these provisions by requiring Plaintiff and other similarly situated Aggrieved Employees to work through meal periods when they were required to be clocked out or to otherwise work off the clock to complete their daily job duties.

In light of the forgoing, Aggrieved Employees seek to recover wages and penalties pursuant to the California Labor Code, including Labor Code §§ 204, 510, 558, 1174, 1194, 1198, 1199, and the relevant paragraphs of the IWC Wage Orders, including paragraphs 2(K), 2(S), 3(A), 4, and 20. Defendants are liable to Employees for the full amount of all their unpaid wages and overtime compensation, with interest, plus their reasonable attorneys' fees and costs, as well as the assessment of any statutory penalties against Defendants, and each of them, and any additional sums as provided by the Labor Code and/or other statutes and Wage Order provisions.

Under the PAGA, and following exhaustion of the notice period, Plaintiff is seeking all civil and statutory penalties available and applicable under Labor Code §§ 510, 558, 1194.2, 1197.1, 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Failure to Pay Vacation Wages

Pursuant to California Labor Code § 227.3, whenever a contract of employment or employment policy provides for paid vacation and an employee is terminated without having taken off her vested vacation time, all vested vacation shall be paid to her as wages at her final rate in accordance with said contract of employment or policy respecting eligibility or time served. Defendant failed to pay Plaintiff and Aggrieved Employees all earned and accrued vacation pay. Plaintiff accordingly seeks this relief available for Defendants' violations of section Labor Code § 227.3 in connection with Aggrieved Employees and seeking the civil and statutory penalties available and applicable under Labor Code § 227.3, 1194.2, 1197.1, 1198, 1199, 2699.3(b), and 2699(f)(2), and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

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Meal-Period Liability Under Labor Code §§ 226.7 and 512 and Penalties

Defendants have regularly required Aggrieved Employees to work shifts in excess of five hours without providing them with uninterrupted meal periods of not less than thirty minutes as required under Labor Code §§ 226.7, 512, and paragraph 11 of the applicable Wage Orders. Specifically, Aggrieved Employees were forced to incur shortened meal periods, were provided with breaks late and well after the fifth hour of work, could not be relieved to take breaks, or were required to remain on-duty at all times and were unable to take off-duty breaks or were otherwise not provided with the opportunity to take required breaks.

On the occasions when Aggrieved Employees were provided with a meal period, it was often untimely or interrupted by having to respond to work demands or remain under Defendant's control, in violation of the Labor Code and applicable Wage Orders. On shifts over ten hours, second meal periods were not provided. Defendants also failed to pay Aggrieved Employees "premium pay," i.e. one hour of wages at each Aggrieved Employee's effective regular rate of pay, for each meal period that Defendants failed to provide or deficiently provided, including by miscalculating any premium payments they did make. Therefore, pursuant to Labor Code § 226.7 and paragraphs 11 and 20 of the applicable IWC Wage Order, Aggrieved Employees are entitled to damages in an amount equal to one hour of wages at their correctly calculated regular rate of compensation for each meal period not provided or deficiently provided, as well as the assessment of any statutory penalties against the Defendants, and each of them, in a sum as provided by the Labor Code, including Labor Code § 558 and other applicable statutes and Wage Order provisions.

Under the PAGA, and following exhaustion of the notice period, Plaintiff is seeking all civil and statutory penalties and wages as available and applicable under Labor Code §§ 226.7, 512, 558, including sections 558(a)(1)-(3), 1199, 2699(f)(2) and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Rest-Break Liability Under Labor Code § 226.7 and Penalties

Defendants have consistently failed to provide Aggrieved Employees with paid rest breaks of not less than ten minutes for every work period of four or more consecutive hours, as required under Labor Code § 226.7. Specifically, Defendants provided rest periods untimely or for shortened durations, and Defendants' policies and procedures required Aggrieved Employees to remain under Defendants' control during breaks to respond to job requirements.

Defendants also failed to pay Aggrieved Employees premium pay for each day on which requisite rest breaks were not provided or were deficiently provided, or miscalculated any premiums paid. Therefore, pursuant to Labor Code § 226.7 and paragraphs 12 and 20 of the applicable IWC Wage Order, Aggrieved Employees are entitled to damages in an amount equal to one hour of wages at their correctly calculated regular rate of compensation for each rest period not provided or deficiently provided, as well as the assessment of any statutory penalties against the Defendants, and each of them, in a sum as provided by the Labor Code, including Labor Code § 558 and other applicable statutes and Wage Order provisions.

Under the PAGA, and following exhaustion of the notice period, Plaintiff is seeking all civil and statutory penalties and wages as available and applicable under Labor Code §§ 226.7, 512, 558,

including sections 558(a)(1)-(3), 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Failure to Reimburse for Necessary Business Expenditures in Violation of Labor Code § 2802

Defendants have consistently required Plaintiff and Aggrieved Employees to incur necessary business expenses in the execution of their duties under Defendants' employ. Specifically, Defendants have failed to reimburse Plaintiff and Aggrieved Employees for expenses necessarily incurred in the performance of their job duties for Defendants including, cost of cell phone usage which were necessary to perform their duties under Defendants' employ which was used throughout the course of Plaintiff and Aggrieved Employees' duties under Defendants' employ in violation of Labor Code § 2802. Defendants systematically and uniformly failed to reimburse those lawful and necessary work related expenses or losses incurred in direct discharge of their job duties during employment with Defendants and at the direction of the Defendants pursuant to Labor Code § 2802(a) and the applicable IWC Wage Orders, paragraph 9. Defendants are liable for PAGA penalties resulting from their failure to reimburse necessary business expenses incurred by the Aggrieved Employees. Accordingly, Aggrieved Employees are entitled to recover, and hereby seek through this Representative Action, all civil and statutory penalties authorized for violations of California Labor Code §§ 1198 and 2802, and Section 9(B) of the applicable IWC Wage Orders, and Plaintiff seeks all civil and statutory penalties available and applicable under Labor Code §§ 2802 and 2699(f)(2), and also attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Failure to Issue Accurate and Itemized Wage Statements in Violation of Labor Code § 226

California Labor Code § 226(a) requires an employer to furnish each employee with an accurate, itemized wage statements in writing. These statements must be appended to the detachable part of the check, draft, voucher, or whatever else serves to pay the employee's wages; or, if wages are paid by cash or personal check, these statements may be given to the employee separately from the payment of wages; in either case the employer must give the employee these statements twice a month or each time wages are paid. As a direct and proximate cause of Defendants' violation of Labor Code § 226(a), Aggrieved Employees suffered injuries, including among other things confusion over whether they received all wages owed them, the difficulty and expense involved in reconstructing pay records, and forcing them to make mathematical computations to analyze whether the wages paid in fact compensated them correctly for all hours worked.

Defendants failed to provide Aggrieved Employees with accurate itemized wage statements in writing, as required by the Labor Code. Specifically, Defendants failed to provide Employees with accurate itemized wage statements in writing, as required by the Labor Code. The wage statements given to Aggrieved Employees failed to accurately account for unpaid wages, overtime, premium pay for deficiently provided meal periods and rest breaks.

In light of these violations, and pursuant to Labor Code §§ 226(a) and 226(e) and paragraphs 4(b), 7, and 20 of the applicable IWC Wage Orders, Aggrieved Employees are entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) for each violation in a subsequent pay period,

not exceeding an aggregate penalty of four thousand dollars (\$4,000). They are also entitled to an award of costs and reasonable attorneys' fees.

Under the PAGA, and following exhaustion of the notice period, Plaintiff asserts PAGA claims for failure to provide Aggrieved Employees with accurate, itemized wage statements and failure to maintain employment records for Plaintiff and Aggrieved Employees under Labor Code §§ 226, 1174, and 1198.5, and Sections 7(A), 7(B), and 7(C) of the applicable IWC Wage Order(s) seeking all civil and statutory penalties and wages available and applicable under Labor Code §§ 226(e), 226.3, 558, 1174.5, 1199, and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Order, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1). More specifically, by providing inaccurate wage statements and failing to maintain records as required under Labor Code § 226(a), Defendants committed ongoing violations giving rise to civil penalties under Labor Code § 226.3, which in addition to other penalties provided by law, subjects Defendants to "a penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, ..."

Failure to Issue Semimonthly Payments in Violation of Labor Code § 204

In failing to pay Aggrieved Employees wages, overtime, premium pay, etc., and failing to provide them with checks and wage statements, Defendants failed to timely pay Aggrieved Employees wages on a semimonthly basis as required under Labor Code § 204. Defendants failed to maintain records showing accurate hours worked daily and the wages paid to Aggrieved Employees, as well as the meal and rest periods taken by Aggrieved Employees, as required by Labor Code § 1174 and the applicable IWC wage orders.

Defendants also required Aggrieved Employees to work hours off the clock for which they were not compensated, including during interrupted or otherwise on-duty meal and rest periods. Defendants also failed to pay all overtime premium wages owed for work conducted on a work shift and a workday or miscalculated these premiums by not including all forms of remuneration in the regular rate, as addressed above. Therefore, when Aggrieved Employees received wage statements and pay checks, they did not compensate all hours worked on a timely basis, resulting in Defendants' systematic failure to pay all wages owed to Aggrieved Employees twice monthly in accordance with the requirements of Labor Code § 204. Additionally, by not providing wage statements as required under section 204, Defendants systematically violated Labor Code § 204 and § 226.

Given the above described off the clock work, Plaintiff was not paid at the correct overtime rate for all hours he worked after eight hours into a shift or over forty in a work week and that he was not paid all double time owed either. Defendants' uniformly applied payroll policies and practices thus resulted in further systematic and ongoing violations of the requirements of Labor Code § 204.

In light of the foregoing, Plaintiff and Aggrieved Employees seek to recover wages and penalties, interest, fees and costs pursuant to Labor Code §§ 201.3, 210, 218.5, 558, and 1194. In failing to pay Aggrieved Employees minimum wages and overtime, off the clock work, by not providing proper meal and rest periods, failing to provide accurate itemized wage statements,

and failing to pay Employees wages upon termination or timely upon resignation, all discussed above, Defendants failed to timely pay Aggrieved Employees wages on a semimonthly basis as required under Labor Code § 204. Defendants also failed to maintain records showing accurate hours worked daily and the wages paid to Aggrieved Employees, as required by Labor Code § 1174 and paragraph 7 of the applicable IWC Wage Orders, entitling Aggrieved Employees to recover penalties pursuant to paragraph 20 of the applicable IWC Wage Orders.

Under the PAGA, and following exhaustion of the notice period, Plaintiff asserts PAGA claims for failure to timely pay all wages owed, including at least semi-monthly and upon separation or termination, under Labor Code §§ 203, 204, 2926, 2927, and 2699.5 seeking all civil penalties available and applicable under Labor Code §§ 204, 210, 558, 1197, 1198, 1199 and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Orders, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Failure to Keep Records In Accordance With Labor Code §§ 1174

Labor Code § 1174 requires employers to keep records showing payroll data and the hours worked daily by and the wages paid to employees. By failing to pay Aggrieved Employees proper wages, overtime, double time, premium pay, etc., and by not recording meal period start and end times, all discussed herein, Defendants failed to maintain proper employment records in accordance with Section 1174. In light of the forgoing, Plaintiff and Aggrieved Employees seek to recover penalties pursuant to Labor Code §§ 1174.5 and 2699, *et seq.* Defendants have also failed to comply with paragraph 7 of the applicable California IWC Wage Orders by failing to maintain time records showing when the employee begins and ends each work period, meal periods, wages earned pursuant to Labor Code § 226.7, and total daily hours worked by itemizing in wage statements all deductions from payment of wages and accurately reporting total hours worked by the Aggrieved Employees, and they are entitled to recover penalties pursuant to paragraph 20 of the applicable IWC Wage Orders.

Under the PAGA, and following exhaustion of the notice period, Plaintiff asserts PAGA claims for failure to provide Plaintiff and the Aggrieved Employees with accurate, itemized wage statements and failure to maintain employment records for Plaintiff and Aggrieved Employees under Labor Code §§ 226, 1174, 1198, and 1198.5, and Sections 7(A), 7(B), and 7(C) of the applicable IWC Wage Order(s) seeking all civil and statutory penalties and wages available and applicable under Labor Code §§ 558, 1174.5, 1199, and 2699(f)(2), 2699.5, and paragraph 20 of the applicable IWC Wage Order, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Waiting Time Penalties Pursuant to Labor Code § 203

Some Aggrieved Employees no longer work for Defendants; they either resigned or were terminated from Defendants' employ. Based on the forgoing, Defendants have had a consistent policy of failing to pay all wages earned by and owed to Aggrieved Employees at the time of their termination of within seventy-two hours of their resignation, as required by California under Labor Code § 203. In light of the forgoing, Plaintiff and Aggrieved Employees seek to recover wages and penalties pursuant to Labor Code § 558 and further specifically seek penalties and wages under Labor Code § 203, which provides that an employee's wages shall continue until paid for up to thirty (30) days from the date they were due.

Under the PAGA, and following exhaustion of the notice period, Plaintiff asserts PAGA claims for failure to timely pay all wages owed, including at least semi-monthly and upon separation or termination, under Labor Code §§ 201, 201, 203, 204, 1197.5, 2926, and 2927 seeking all civil penalties available and applicable under Labor Code §§ 201, 202, 203, 210, 558, 1197, 1198, 1199, 2699(f)(2), 2699.5, and paragraph 20 of the applicable IWC Wage Orders, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Failure to Reduce Excessive Heat to a Degree Providing Reasonable Comfort

The IWC Wage Order requires employers to maintain the temperature in each work area providing reasonable comfort consistent with industry wide standards for the nature of the process and the work performed,. The IWC Wage Order states: "the temperature maintained in each work area shall provide reasonable comfort consistent with industry-wide standards for the nature of the process and the work performed. If excessive heat or humidity is created by the work process, the employer shall take all feasible means to reduce such excessive heat or humidity to a degree providing reasonable comfort."

As addressed in detail above, Defendants failed to reduce excessive heat to a degree providing employees with reasonable comfort. The temperature in the warehouse was above what is legally allowed constituting violations of Labor Code § 1198 and § 2699(f)(2).

Under the PAGA, and following exhaustion of the notice period, Plaintiff asserts PAGA claims for failure to reduce excessive heat to a degree providing reasonable comfort under the IWC Wage Order and seeking all civil penalties available and applicable under Labor Code and IWC Wage Orders, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Unfair Competition Under Business and Professions Code § 17200, et seq.

Consequently, Defendants' conduct has been and continues to be unfair, unlawful, and harmful to Plaintiff and Aggrieved Employees and the general public in violation of Business & Professions Code § 17200 *et seq.*

Plaintiff's PAGA Claim under Labor Code § 2698 et seq. and Recovery Bases:

After complying with the notice procedures of Labor Code § 2699.3 and the running of the notice period after the filing of the attached Class Action Complaint, Plaintiff will file an amended Complaint asserting, as a representative action on behalf of the California Attorney General and the other similarly Aggrieved Employees, a PAGA claim for violations of the above addressed underlying claims and seeking penalties as specified by the applicable corresponding provisions.

Plaintiff and the Aggrieved Employees seek penalties under Labor Code §§ 2698 and 2699 for Defendants' violation of Labor Code provisions included under Labor Code § 2699.5, including the penalty provisions, without limitation, based, *inter alia*, on the following California Labor Code sections: §§ 201, 202, 203, 204, 210, 226, 226.3, 226.7, 510, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, 2698, 2699, *et seq.*, and 2802, including as follows:

(a) Wage Claims: For failure to provide Plaintiff and the Aggrieved Employees all earned regular pay and minimum wages for regular hours worked and for failure to pay overtime premium wages for overtime hours worked under Labor Code §§ 510, 1194(a), 1197, and 1198, and paragraphs 2(K), 3(A), 4(A), 4(B) and 20 of the applicable IWC Wage Order(s) seeking all civil and statutory penalties available and applicable under Labor Code §§ 510, 558, 1194.2, 1197.1, 1198, 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1);

(b) Meal and Rest Period Claims: For failure to provide Plaintiff and the Aggrieved Employees off-duty, timely, and unpaid meal periods and failure to authorize and permit them to take off-duty, timely, and paid rest periods, or pay one hour of regular pay in lieu thereof, under Labor Code §§ 512, 1198, and 226.7, and Sections 11, 12(A), and 12(B) of the applicable IWC Wage Order(s) seeking all civil and statutory penalties available and applicable, including under paragraph 20 of the applicable IWC Wage Orders, and wages under Labor Code §§ 226.7, 512, 558, including sections 558(a)(1)-(3), 1199 and 2699(f)(2), and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1);

(c) Inaccurate Wage Statements and Failure to Maintain Records: For failure to provide Plaintiff and the Aggrieved Employees with wage statements or with accurate, itemized wage statements and failure to maintain employment records for Plaintiff and Aggrieved Employees under Labor Code §§ 226, 1174, and 1198.5, and Sections 7(A), 7(B), and 7(C) of the applicable IWC Wage Order(s) seeking all civil and statutory penalties and wages available and applicable under Labor Code §§ 226(e), 226.3, 558, 1174.5, 1199, and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Order, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1). More specifically, by providing inaccurate wage statements and failing to maintain records as required under Labor Code § 226(a), Defendants committed ongoing violations giving rise to civil penalties under Labor Code § 226.3, which in addition to other penalties provided by law, subjects Defendants to "a penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, ...";

(d) Failure to Timely Pay Wages: For failure to timely pay all wages owed, including at least semi-monthly and upon separation or termination, under Labor Code §§ 201, 201, 203, 204, 1197.5, 2926, and 2927 seeking all civil penalties available and applicable under Labor Code §§ 201, 202, 203, 210, 558, 1197, 1198, 1199 and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Orders, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1);

(e) Failure to Reimburse Business Expenses: For Defendants' failure to reimburse the necessary work related expenses incurred under Labor Code §§ 1197, 1197.1, 1198, and 2802, and Sections 2(K), 4, 9, and 20 of the applicable IWC Wage Order(s), seeking civil penalties available and applicable under Labor Code §§ 1197, 1197.1, 1198, 2802, 2699.5, and 2699(f)(2) and paragraph 9 and 20 of the IWC Wage Orders, and also attorneys' fees and costs pursuant to Labor Code § 2699(g)(1);

(f) Failure to Reduce Excessive Heat to a Degree Providing Reasonable Comfort: For Defendants' failure to reduce excessive heat to a degree providing reasonable comfort under the IWC Wage Order(s), seeking civil penalties available and applicable the IWC Wage Orders, and also attorneys' fees and costs pursuant to Labor Code § 2699(g)(1);

(g) Failure to Pay Vacation Wages: For Defendants' failure to provide Employees with all their vacation days in violation of Labor Code § 227.3 and seeking the civil and statutory penalties available and applicable under Labor Code § 227.3, 1194.2, 1197.1, 1198, 1199, 2699.3(b), and 2699(f)(2), and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1);

(h) All Alleged Violations of the IWC Wage Orders: For any above addressed violation of the applicable provisions of the IWC Wage Orders constituting violations of Labor Code § 1198 and Labor Code § 2699.5, and seeking penalties available and applicable under Labor Code § 2699(f)(2) and paragraph 20 of the applicable IWC Wage Orders, and for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

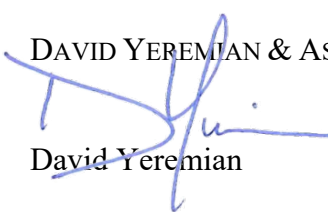
We have been constrained to initially move forward with the filing of this Complaint, alleging the causes of action discussed herein, without the PAGA claim. Thus, any action by the LWDA would not resolve the entirety of the case, and the interest of judicial economy will be served by allowing the case to proceed as a cohesive whole.

This letter and the attached Complaint therefore provide the requisite notice under the Act to the LWDA and Defendants by setting forth the specific provisions of the Labor Code and related provisions Plaintiff alleges have been violated, including the facts and relevant theories alleged against Coolish Holdings, LLC formerly known as Wildflour Bakery & Cafe LLC, Kanan Baking Company and any other named Defendants and joint employers. To prevent the violations described in the Complaint and herein from occurring, and to remedy past violations, Plaintiff respectfully requests that the LWDA conduct an investigation into Defendants' employment practices in accordance with the Act.

Wherefore we request that you advise us, by certified mail within sixty days of the postmark on this letter, whether you intend to proceed with these claims or whether Plaintiff and the Aggrieved Employees should include them in an amended Labor Code § 2698 *et seq.* claim under the Act in an amended Complaint.

Regards,

DAVID YEREMIAN & ASSOCIATES, INC.



David Yeremian

Cc: Coolish Holdings, LLC formerly known as Wildflour Bakery & Cafe LLC and Kanan Baking Company by
Certified Mail

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Attorneys for Plaintiff DAVID LORD LINDSAY,
on behalf of himself and others similarly situated

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

DAVID LORD LINDSAY, on behalf of
himself and others similarly situated,

Plaintiff,

vs.

COOLISH HOLDINGS, LLC formerly known
as WILDFLOUR BAKERY & CAFE LLC, a
California limited liability company; KANAN
BAKING COMPANY, an entity of unknown
form; and DOES 1 through 50, inclusive,

Defendants.

Case No.

CLASS ACTION

Assigned for All Purposes To:

Hon.

Dept.:

CLASS ACTION COMPLAINT FOR:

1. Failure to Pay Minimum Wages;
2. Failure to Pay Wages and Overtime
Under Labor Code § 510;
3. Meal-Period Liability Under Labor Code §
226.7;
4. Rest-Break Liability Under Labor Code §
226.7;
5. Failure to Pay Vacation Wages;
6. Reimbursement of Necessary Expenditures
Under Labor Code § 2802;
7. Violation of Labor Code § 226(a);
8. Failure to Keep Required Payroll
Records Under Labor Code §§ 1174, and
1174.5;
9. Failure to Produce Requested
Employment Records Under Labor Code
§§ 226 and 1198.5;
10. Penalties Pursuant to Labor Code § 203; and
11. Violation of Business & Professions Code §
17200 et seq.

DEMAND FOR JURY TRIAL

1 Plaintiff DAVID LORD LINDSAY, (hereinafter “Plaintiff”) on behalf of himself and all
2 others similarly situated (collectively, “Employees”; individually, “Employee”) complains of
3 Defendants, and each of them, as follows:

4 INTRODUCTION

5 1. Plaintiff brings this action on behalf of himself and all current and former
6 Employees within the State of California who, at any time four (4) years prior to the filing of this
7 lawsuit, are or were employed as non-exempt, hourly employees by Defendants COOLISH
8 HOLDINGS, LLC formerly known as WILDFLOUR BAKERY & CAFE LLC, a California
9 limited liability company, KANAN BAKING COMPANY, an entity of unknown, and DOES 1
10 through 50 (all defendants being collectively referred to herein as “Defendants”). Plaintiff alleges
11 that Defendants, and each of them, violated various provisions of the California Labor Code,
12 relevant orders of the Industrial Welfare Commission (IWC) and California Business &
13 Professions Code, and seeks redress therefore.

14 2. Plaintiff alleges that Defendants, and each of them routinely acquire consumer
15 reports to conduct background checks on Plaintiff and other prospective, current and former
16 employees and use information from consumer reports in connection with their hiring process
17 without providing proper disclosures and obtaining proper authorization in compliance with the
18 law.

19 3. Plaintiff is a resident of California and during the time period relevant to this
20 Complaint was employed by Defendants as a non-exempt hourly employee within the State of
21 California at Defendants’ facilities and offices in California. Plaintiff and the other Class members
22 worked for Defendants in Los Angeles County, and in other nonexempt positions, throughout
23 California and, and consistently worked at Defendants’ behest without being paid all wages due.
24 More specifically, Plaintiff and the other similarly situated Class members were employed by
25 Defendants and worked at Defendants’ offices and other facilities where the conduct giving rise to
26 the allegations in this Class Action Complaint occurred. Upon information and belief, Plaintiff
27 was employed by Defendants and (1) shared similar job duties and responsibilities, (2) was
28 subjected to the same policies and practices, and (3) endured similar violations at the hands of

1 Defendants as the other Employee Class members who served in similar and related positions.

2 4. Defendants required Plaintiff and the Employees in the Class to perform work
3 while remaining under Defendants' control during their meal breaks. Defendants thus failed to pay
4 Plaintiff and the Class members for all hours worked, and provided them with inaccurate wage
5 statements that prevented Plaintiff and the Class from learning of these unlawful pay practices.
6 Defendants also failed to provide Plaintiff and the Class with lawful meal and rest periods, as
7 employees were not provided with the opportunity to take timely, uninterrupted, and duty-free
8 meal and rest periods as required by the Labor Code.

9 **THE PARTIES**

10 **A. The Plaintiff**

11 5. Plaintiff DAVID LORD LINDSAY has resided in California and during the time
12 period relevant to this Complaint was employed by Defendants as a non-exempt hourly employee
13 within the State of California.

14 **B. The Defendants**

15 6. Defendant COOLISH HOLDINGS, LLC formerly known as WILDFLOUR
16 BAKERY & CAFE LLC, ("CH") is a California limited liability company with its principle
17 executive offices in Woodland Hills, California, and has been listed as the employer on
18 the wage statements issued to Plaintiff during the relevant time period. CH lists an address in
19 Woodland Hills, California with the California Secretary of State, and employs Plaintiff and the
20 Employees in Los Angeles County, including at Defendants' offices and facilities in Woodland
21 Hills, California, and throughout California and Defendants conduct business throughout
22 California.

23 7. Defendant KANAN BAKING COMPANY is an entity of unknown form with its
24 principle executive office in Los Angeles, California, and has been listed as the employer on
25 Plaintiff's personnel file during the relevant time period. KANAN BAKING COMPANY does not
26 list a California address with the California Secretary of State, but upon information and belief,
27 employs Plaintiff and the Class Members in Los Angeles County, including at Defendants' offices
28 and facilities in Woodland Hills, California, and throughout California and conducts business

throughout California.

8. The true names and capacities, whether individual, corporate, associate, or whatever else, of the Defendants sued herein as Does 1 through 50, inclusive, are currently unknown to Plaintiff, who therefore sues these Defendants by such fictitious names under Code of Civil Procedure § 474. Plaintiff is informed and believes and thereon alleges that Defendants designated herein as Does 1 through 50, inclusive, and each of them, are legally responsible in some manner for the unlawful acts referred to herein. Plaintiff will seek leave of court to amend this Complaint to reflect the true names and capacities of the Defendants designated herein as Does 1 through 50 when their identities become known.

9. Plaintiff is informed and believes and thereon alleges that each Defendant acted in all respects pertinent to this action as the agent of the other Defendants, that Defendants carried out a joint scheme, business plan, or policy in all respects pertinent hereto, and that the acts of each Defendant are legally attributable to the other Defendants. Furthermore, Defendants acted in all respects as the employers or joint employers of Employees. Defendants, and each of them, exercised control over the wages, hours or working conditions of Employees, or suffered or permitted Employees to work, or engaged, thereby creating a common law employment relationship, with Employees. Therefore, Defendants, and each of them, employed or jointly employed Employees.

JURISDICTION AND VENUE

10. This Court has jurisdiction over this Action pursuant to California Code of Civil Procedure § 410.10 and California Business & Professions Code § 17203. This Action is brought as a Class Action on behalf of similarly situated Employees of Defendants pursuant to California Code of Civil Procedure § 382. Venue as to Defendants is also proper in this judicial district pursuant to California Code of Civil Procedure § 395 *et seq.* Upon information and belief, the obligations and liabilities giving rise to this lawsuit occurred at least in part in Los Angeles County and Defendants maintain and operate company offices and facilities in Los Angeles County, and employ Plaintiff and other Class members in Los Angeles County and throughout California.

1 **FACTUAL BACKGROUND**

2 11. The Employees who comprise the Class and Collective, including Plaintiff, are
3 nonexempt employees pursuant to the applicable Wage Order of the IWC. Defendants hire
4 Employees who work in nonexempt positions at the direction of Defendants in the State of
5 California. Plaintiff and the Class members were either not paid by Defendants for all hours
6 worked or were not paid at the appropriate minimum, regular and overtime rates. Specifically,
7 Plaintiff and Employees were not paid for the time that they worked “pre-shift” and “post-shift”
8 without compensation by going through temperatures checks prior to entering the job site, waiting
9 in line to use the time clock, before clocking in and continuing work by cleaning, attending
10 mandatory meetings, and conducting food safety tests after clocking out and time spent working
11 while clocked out for meal breaks. Plaintiff also contends that Defendants failed to pay Plaintiff
12 and the Class members all wages due and owing, failed to provide meal and rest breaks, and failed
13 to furnish accurate wage statements, all in violation of various provisions of the California Labor
14 Code and applicable Wage Orders.

15 12. During the course of Plaintiff and the Class members’ employment with
16 Defendants, they were not paid all wages they were owed, including for all work performed and
17 for all overtime hours worked and were forced to work during their meal and rest breaks to keep
18 labor budgets low.

19 13. As a matter of uniform Company policy, Plaintiff and the Class members were
20 required to work during their meal and rest breaks which were not compensated by Defendants in
21 violation of the California Labor Code. Plaintiff and the Class members were also not paid
22 regular wages and overtime for the time they were required to comply with other requirements
23 imposed upon them, which they had to complete while working through their meal and rest
24 breaks and without compensation. As a result Plaintiff and the Class members worked shifts over
25 eight (8) hours in a day and over forty (40) hours in a work week, but they were not paid at the
26 appropriate overtime rate for all such hours, including by being required to perform work duties
27 and tasks without pay and while off-the-clock. As a result, Plaintiff and the Class members
28

1 worked substantial overtime hours during their employment with Defendants for which they were
2 not compensated, in violation of the California Labor Code, applicable IWC Wage Orders.

3 14. As a result of the above described the daily work demands and pressures to work
4 through breaks, and the other wage violations they endured at Defendants' hands, Plaintiff and the
5 Class members were not properly paid for all wages earned and for all wages owed to them by
6 Defendants, including when working more than eight (8) hours in any given day and/or more than
7 forty (40) hours in any given week. As a result of Defendants' unlawful policies and practices,
8 Plaintiff and Class members incurred overtime hours worked for which they were not adequately
9 and completely compensated. To the extent applicable, Defendants also failed to pay Plaintiff and
10 the Class members at an overtime rate of 1.5 times the regular rate for the first eight hours of the
11 seventh consecutive work day in a week and overtime payments at the rate of 2 times the regular
12 rate for hours worked over eight (8) on the seventh consecutive work day, as required under the
13 Labor Code, applicable IWC Wage Orders.

14 15. Therefore, from at least four (4) years prior to the filing of this lawsuit and
15 continuing to the present, Defendants had a consistent policy or practice of failing to pay
16 Employees for all hours worked, and failing to pay minimum wage for all time worked as required
17 by California Law.

18 16. Additionally from at least four (4) years prior to the filing of this lawsuit and
19 continuing to the present, Defendants had a consistent policy or practice of failing to pay
20 Employees overtime compensation at premium overtime rates for all hours worked in excess of
21 eight (8) hours a day and/or forty (40) hours a week, and double-time rates for all hours worked in
22 excess of twelve (12) hours a day, in violation of Labor Code § 510 and the corresponding
23 sections of IWC Wage Orders.

24 17. From at least four (4) years prior to the filing of this lawsuit and continuing to the
25 present, Defendants failed to pay Plaintiff and Employees all earned and accrued vacation pay.

26 18. Additionally from at least four (4) years prior to the filing of this lawsuit and
27 continuing to the present, Defendants have regularly required Employees to work shifts in excess
28 of five (5) hours without providing them with uninterrupted meal periods of not less than thirty

1 (30) minutes and shifts in excess of ten (10) hours without providing them with second meal
2 periods of not less than thirty minutes; nor did Defendants pay Employees “premium pay,” i.e. one
3 hour of wages at each Employee’s effective regular rate of pay, for each meal period that
4 Defendants failed to provide or deficiently provided.

5 19. From at least four (4) years prior to the filing of this lawsuit and continuing to the
6 present, Defendants have consistently failed to provide Employees with paid rest breaks of not less
7 than ten (10) minutes for every work period of four (4) or more consecutive hours; nor did
8 Defendant pay Employees premium pay for each day on which requisite rest breaks were not
9 provided or were deficiently provided at one hour of wages at each Employee’s effective regular
10 rate of pay, for each rest period that Defendants failed to provide or deficiently provided.

11 20. Additionally, from at least four (4) years prior to the filing of this lawsuit, and
12 continuing to the present, Defendants have consistently failed to provide Employees with timely,
13 accurate, and itemized wage statements, in writing, as required by California wage-and-hour laws.

14 21. Additionally, from at least four (4) years prior to the filing of this lawsuit, and
15 continuing to the present, Defendants have consistently failed to provide Employees with timely,
16 accurate, and itemized wage statements, in writing, as required by California wage-and-hour laws.

17 22. From at least four (4) years prior to the filing of this lawsuit and continuing to the
18 present, Defendants have failed to reimburse Employees for expenses necessarily incurred in the
19 performance of their job duties for Defendants including, but not limited to, cell phone usage
20 which were necessary to perform their duties under Defendants’ employ in violation of Labor
21 Code § 2802.

22 23. Additionally, from at least three (3) years prior to the filing of this lawsuit, and
23 continuing to the present, Defendants have consistently failed to keep accurate time and wage
24 records as required by California wage-and-hour laws.

25 24. Additionally, from at least four (4) years prior to filing this lawsuit and continuing
26 to the present, Defendants have had a consistent policy of denying Employees the right to inspect
27 and receive all of their payroll records, timecards, and personnel records.

28 25. Additionally, from at least four (4) years prior to filing this lawsuit and continuing

1 to the present, Defendants have had a consistent policy of failing to pay all wages fur and owed to
2 Employees at the time of their termination of within seventy-two (72) hours of their resignation, as
3 required by Califora wage-and-hour laws.

4 26. In light of the foregoing, Employees bring this action pursuant to, inter alia, Labor
5 Code §§ 201, 202, 203, 204, 226, 226.4, 226.7, 227.3, 510, 512, 558, 558.1, 1174, 1174.5,
6 1182.12, 1185, 1194, 1194.2 1197, 1198.5, 1199, and 2802.

7 27. Furthermore, pursuant to Business and Professions Code §§ 17200-17208,
8 Employees seek injunctive relief, restitution, and disgorgement of all benefits Defendants have
9 enjoyed from their violations of Labor Code.

10 CLASS ALLEGATIONS

11 28. Plaintiff brings this class action on behalf of himself an all others similarly situated
12 pursuant to Code of Civil Procedure § 382. Plaintiff seeks to represent a class defined as follows:
13 all individuals employed by Defendants, at any time within four (4) years of the filing of this
14 lawsuit, and have been employed by Defendants within the State of California.

15 29. Further, plaintiff seeks to represent the following Subclasses composed of and
16 defined as follows:

17 a. Subclass 1. Minimum Wages Subclass. All Class members who were not
18 compensated for all hours worked for Defendants at the applicable minimum wage.

19 b. Subclass 2. Wages and Overtime Subclass. All Class members who were not
20 compensated for all hours worked for Defendants at the required rates of pay, including for all
21 hours worked in excess of eight in a day and/or forty in a week.

22 c. Subclass 3. Meal Period Subclass. All Class members who were subject to
23 Defendants' policy and/or practice of failing to provide unpaid 30-minute uninterrupted and duty
24 free meal periods or one hour of pay at the Employee's regular rate of pay in lieu thereof.

25 d. Subclass 4. Rest Break Subclass. All Class members who were subject to
26 Defendants' policy and/or practice of failing to authorize and permit Employees to take
27 uninterrupted, duty-free, 10-minute rest periods for every four hours worked, or major fraction
28 thereof, and failing to pay one hour of pay at the Employee's regular rate of pay in lieu thereof.

e. Subclass 5. Payroll Records Subclass. All Class members who were subject to Defendants' policy and/or practice of failing to keep accurate time and wage records as required by California wage-and-hour laws.

f. Subclass 6. Wage Statement Subclass. All Class members who, within the applicable limitations period, were not provided with accurate itemized wage statements.

g. Subclass 7. Vacation Wages Subclass. All Class members who were not compensated at the Employee's regular rate of pay for their vacation wages.

h. Subclass 8. Failure to Reimburse for Necessary Business Expenditures Subclass. All Class members who were subject to Defendants failing to reimburse for expenses necessarily incurred in the performance of Employees job duties for Defendants which were necessary to perform their duties under Defendants' employ.

i. Subclass 9. Termination Pay Subclass. All Class members who, within the applicable limitations period, either voluntarily or involuntarily separated from their employment and were subject to Defendants' policy and/or practice of failing to timely pay wages upon termination.

j. Subclass 10. Failure To Produce Requested Employment Records Subclass. All Class members who, within the applicable limitations period, were denied the right to inspect and receive all of their payroll records, timecards, and personnel records.

k. Subclass 11. UCL Subclass. All Class members who are owed restitution as a result of Defendants' business acts and practices, to the extent such acts and practices are found to be unlawful, deceptive, and/or unfair.

30. Plaintiff reserves the right under California Rule of Court 3.765 to amend or modify the class description with greater particularity or further division into subclasses or limitation to particular issues.

31. This action has been brought and may properly be maintained as a class action under the provisions of Code of Civil Procedure § 382 because there is a well-defined community of interest in litigation and proposed class is easily ascertainable.

///

1 **A. Numerosity**

2 32. The potential members of the class as defined are so numerous that joinder of all
3 the member of the class is impracticable. While the precise number of class member has not been
4 determined at this time, Plaintiff is informed and believes that Defendants employ or, during the
5 time period relevant to this lawsuit, employed more than 100 individuals were employed by
6 Defendant's within the State of California.

7 33. Accounting for employee turnover during the relevant time period increases this
8 number substantially. Plaintiff alleges that Defendants' employment records will provide
9 information as to the number and location of all class members.

10 **B. Commonality**

11 34. There are questions of law and fact common to the class that predominate over any
12 questions affecting only individual class members. These common questions of law and fact
13 include:

- 14 a. Whether Defendants failed to pay Employees minimum wages;
15 b. Whether Defendants failed to pay Employees wages for all hours worked;
16 c. Whether Defendants failed to pay Employees overtime as required under Labor
17 Code § 510;
18 d. Whether Defendants failed to pay Employees vacation wages as required under
19 Labor Code § 227.3;
20 d. Whether Defendants violated Labor Code §§ 226.7 and 512, and the applicable
21 IWC Wage Orders, by failing to provide Employees with requisite meal periods or
22 premium pay in lieu thereof;
23 e. Whether Defendants violated Labor Code §§ 226.7, and the applicable IWC Wage
24 Orders, by failing to provide Employees with requisite rest breaks or premium pay
25 in lieu thereof;
26 f. Whether Defendants violated Labor Code § 226(a);
27 h. Whether Defendants violated Labor Code §§ 1174 and 1174.5;
28 i. Whether Defendants failed to reimburse Employees for necessary business

1 expenses;

- 2 j. Whether Defendants violated Labor Code §§ 201, 202, and 203 by failing to pay
- 3 wages and compensation due and owing at the time of termination of employment;
- 4 k. Whether Defendants violated Labor Code §§ 226 and 1198;
- 5 l. Whether Defendants violated Business and Professions Code § 17200 et seq.; and
- 6 m. Whether Employees are entitled to equitable relief pursuant to Business and
- 7 Professions Code § 17200 et seq.

8 **C. Typicality**

9 35. The claims of the named plaintiff are typical of those of the other Employees.
10 Employees all sustained injuries and damages arising out of and caused by Defendant's common
11 course of conducts in violation of statutes, as well as regulations that have the force and effect of
12 law, as alleged herein.

13 **D. Adequacy of Representation**

14 36. Plaintiff will fairly and adequately represent and protect the interest of Employees.
15 Counsel who represents Employees are experienced and competent in litigating employment class
16 actions.

17 **E. Superiority of Class Action**

18 37. A class action is superior to other available means for the fair and efficient
19 adjudication of this controversy. Individual joinder of all Employees is not practicable, and
20 questions of law and fact common to all Employees predominate over any questions affecting only
21 individual Employees. Each Employee has been damaged and is entitled to recovery by reason of
22 Defendants' illegal policies or practices of failing to compensate Employees properly.

23 38. Class action treatment will allow those persons similarly situated to litigate their
24 claims in the manner that is most efficient and economical for the parties and the judicial system.
25 Plaintiff is unaware of any difficulties in managing this case that should preclude class action.

26 ///

27 ///

28 ///

FIRST CAUSE OF ACTION
FAILURE TO PAY MINIMUM WAGES
(Against All Defendants)

39. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

40. Defendants failed to pay Employees minimum wages for all hours worked. Defendants had a consistent policy of misstating Employees time records and failing to pay Employees for all hours worked. Employees would work hours and not receive wages, including as alleged above in connection with working during meal breaks, worked “pre-shift” and “post-shift” without compensation by going through temperatures checks prior to entering the job site, waiting in line to use the time clock, before clocking in and continuing work by cleaning, attending mandatory meetings, and conducting food safety tests after clocking out. Additionally, Defendants had a consistent policy of failing to pay Employees for hours worked during alleged meal periods for which Employees were consistently denied, as also addressed herein. Moreover, Defendants did not pay Plaintiff and Employees at the applicable minimum wage for all hours worked. Defendants’ uniform pattern of unlawful wage and hour practices manifested, without limitation, applicable to the Class as a whole, as a result of implementing a uniform policy and practice that denied accurate compensation to Plaintiff and the other members of the Class as to minimum wage pay.

41. California Labor Code § 1197, entitled “Pay of Less Than Minimum Wage” states:

The minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than the minimum so fixed is unlawful.

42. The applicable minimum wages fixed by the commission for work during the relevant period is found in the Wage Orders. Pursuant to the Wage Orders, Employees are therefore entitled to double the minimum wage during the relevant period.

43. The minimum wage provisions of California Labor Code are enforceable by private civil action pursuant to California Labor Code § 1194(a) which states:

1 Notwithstanding any agreement to work for a lesser wage, any
2 employee receiving less than the legal minimum wage or the legal
3 overtime compensation applicable to the employee is entitled to
4 recover in a civil action the unpaid balance of the full amount of
5 this minimum wage or overtime compensation, including interest
6 thereon, reasonable attorney's fees and costs of suit.

7 44. As described in California Labor Code §§ 1185 and 1194.2, any action for wages
8 incorporates the applicable Wage Order of the California Industrial Welfare Commission.

9 45. California Labor Code § 1194.2 also provides for the following remedies:

10 In any action under Section 1194 . . . to recover wages because of
11 the payment of a wage less than the minimum wages fixed by an
12 order of the commission, an employee shall be entitled to recover
13 liquidated damages in an amount equal to the wages unlawfully
14 unpaid and interest thereon.

15 46. Defendants have the ability to pay minimum wages for all time worked and have
16 willfully refused to pay such wages with the intent to secure for Defendants a discount upon this
17 indebtedness with the intent to annoy, harass, oppress, hinder, delay, or defraud Employees.

18 47. Wherefore, Employees are entitled to recover the unpaid minimum wages
19 (including double minimum wages), liquidated damages in an amount equal to the minimum
20 wages unlawfully unpaid, interest thereon and reasonable attorney's fees and costs of suit pursuant
21 to California Labor Code § 1194(a).

22 **SECOND CAUSE OF ACTION**

23 **FAILURE TO PAY WAGES AND OVERTIME UNDER LABOR CODE § 510**

24 **(Against All Defendants)**

25 48. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
26 full herein.

27 49. By their conduct, as set forth herein, Defendants violated California Labor Code §
28 510 (and the relevant orders of the Industrial Welfare Commission) by failing to pay Employees:
(a) time and one-half their regular hourly rates for hours worked in excess of eight (8) hours in a
workday or in excess of forty (40) hours in any workweek or for the first eight (8) hours worked
on the seventh day of work in any one workweek; or (b) twice their regular rate of pay for hours
worked in excess of twelve (12) hours in any one (1) day or for hours worked in excess of eight

(8) hours on any seventh day of work in a workweek. Defendants had a consistent policy of not paying Employees wages for all hours worked including time off the clock working “pre-shift” and “post-shift” without compensation by going through temperatures checks prior to entering the job site, waiting in line to use the time clock, before clocking in and continuing work by cleaning, attending mandatory meetings, and conducting food safety tests after clocking out and the uncompensated time included the time Employees worked off-the-clock during meal periods. Employees regularly worked over 8 hours on a given day without receiving overtime compensation.

50. Defendants’ failure to pay compensation in a timely fashion also constituted a violation of California Labor Code § 204, which requires that all wages shall be paid semimonthly. From four (4) years prior to the filing of this lawsuit to the present, in direct violation of that provision of the California Labor Code, Defendants have failed to pay all wages and overtime compensation earned by Employees. Each such failure to make a timely payment of compensation to Employees constitutes a separate violation of California Labor Code § 204.

51. Employees have been damaged by these violations of California Labor Code §§ 204 and 510 (and the relevant orders of the Industrial Welfare Commission).

52. Consequently, pursuant to California Labor Code §§ 204, 510, and 1194 (and the relevant orders of the Industrial Welfare Commission), Defendants are liable to Employees for the full amount of all their unpaid wages and overtime compensation, with interest, plus their reasonable attorneys’ fees and costs.

THIRD CAUSE OF ACTION

MEAL-PERIOD LIABILITY UNDER LABOR CODE § 226.7

(Against All Defendants)

53. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

54. Employees regularly worked shifts greater than five (5) hours and greater than ten (10) hours. Pursuant to Labor Code § 512 an employer may not employ someone for a shift of more than five (5) hours without providing him or her with a meal period of not less than thirty

1 (30) minutes or for a shift of more than ten (10) hours without providing him or her with a second
2 meal period of not less than thirty (30) minutes.

3 55. Defendants failed to provide Employees with meal periods as required under the
4 Labor Code. Employees were consistently required to work through their meal periods which they
5 were consistently denied. Employees were also required to take meal periods after working well
6 beyond the five (5) hour shifts. Furthermore, Employees were regularly required to work for more
7 than 10 hours in a given shift without receiving a second uninterrupted thirty (30) minute meal
8 period as required by law.

9 56. Moreover, Defendants failed to compensate Employees for each meal period not
10 provided or inadequately provided, as required under Labor Code § 226.7 and paragraphs 11 and
11 20 of the applicable IWC Wage Orders, which provide that, if an employer fails to provide an
12 employee a meal period in accordance with this section, the employer shall pay the employee one
13 hour of pay at the employee's regular rate of compensation for each workday that the meal period
14 is not provided. Defendants failed to compensate the Employees in the Class for each meal period
15 not provided or inadequately provided, as required under Labor Code § 226.7 and paragraphs 11
16 and 20 of the applicable IWC Wage Order.

17 57. Therefore, pursuant to Labor Code § 226.7, Employees are entitled to damages in
18 an amount equal to one (1) hour of wages at their effective hourly rates of pay for each meal
19 period not provided or deficiently provided, a sum to be proven at trial.

20 **FOURTH CAUSE OF ACTION**

21 **REST-BREAK LIABILITY UNDER LABOR CODE § 226.7**

22 **(Against All Defendants)**

23 58. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
24 full herein.

25 59. Employees consistently worked consecutive four (4) hour shifts. Pursuant to the
26 Labor Code and the applicable IWC Wage Order, Employees were entitled to paid rest breaks of
27 not less than ten (10) minutes for each consecutive four (4) hour shift.

28 60. Defendants failed to provide Employees with timely rest breaks of not less than ten

1 (10) minutes for each consecutive four (4) hour shift.

2 61. Moreover, Defendants failed to compensate Employees for each rest period not
3 provided or inadequately provided, as required under Labor Code § 226.7 and the applicable IWC
4 Wage Orders, which provide that, if an employer fails to provide an employee a rest period in
5 accordance with this section, the employer shall pay the employee one hour of pay at the
6 employee's regular rate of compensation for each workday that the rest period is not provided.
7 Defendants failed to compensate the Employees in the Class for each rest period not provided or
8 inadequately provided, as required under Labor Code § 226.7 and the applicable IWC Wage
9 Order.

10 62. Therefore, pursuant to Labor Code § 226.7, Employees are entitled to damages in
11 an amount equal to one (1) hour of wages at their effective hourly rates of pay for each day
12 worked without the required rest breaks, a sum to be proven at trial.

13 **FIFTH CAUSE OF ACTION**
14 **FAILURE TO PAY VACATION WAGES**
15 **(Against All Defendants)**

16 63. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
17 full herein.

18 64. Pursuant to California Labor Code § 227.3, whenever a contract of employment or
19 employment policy provides for paid vacation and an employee is terminated without having
20 taken off his vested vacation time, all vested vacation shall be paid to him as wages at his final rate
21 in accordance with said contract of employment or policy respecting eligibility or time served.

22 65. Defendants failed to pay Plaintiff and Aggrieved Employees all earned and accrued
23 vacation pay.

24 66. Therefore, pursuant to, Plaintiff and Employees seek to recover penalties pursuant
25 to Labor Code § 227.3.

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1 **SIXTH CAUSE OF ACTION**
2 **FAILURE TO REIMBURSE FOR NECESSARY BUSINESS EXPENDITURES**
3 **IN VIOLATION OF LABOR CODE § 2802**
4 **(Against All Defendants)**

5 67. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
6 full herein.

7 68. Under Labor Code § 2802(a) an employer must indemnify its employees for all
8 necessary expenditures or losses incurred by the employee in direct consequence of the discharge
9 of his or her duties, or of his or her obedience to the directions of the employer.

10 69. Employees incurred necessary expenditures in the performance of their job duties
11 for Defendants, cell phone usage which were necessary to perform their duties under Defendants'
12 employ. From four (4) years prior to the original filing of this lawsuit and continuing to the
13 present, Defendants consistently failed to reimburse Employees for these necessarily incurred
14 business expenses.

15 70. As a result of the unlawful acts of Defendants, Employees have been deprived of
16 reimbursement in amounts to be determined at trial; they are entitled to recovery of such amounts,
17 plus interest and penalties thereon, attorneys' fees, and costs.

18 **SEVENTH CAUSE OF ACTION**
19 **VIOLATION OF LABOR CODE § 226(a)**
20 **(Against All Defendants)**

21 71. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
22 full herein.

23 72. California Labor Code § 226(a) requires an employer to furnish each of his or her
24 employees with an accurate, itemized statement in writing showing the gross and net earnings,
25 total hours worked, and the corresponding number of hours worked at each hourly rate; these
26 statements must be appended to the detachable part of the check, draft, voucher, or whatever else
27 serves to pay the employee's wages; or, if wages are paid by cash or personal check, these
28 statements may be given to the employee separately from the payment of wages; in either case the

1 employer must give the employee these statements twice a month or each time wages are paid.

2 73. Defendants failed to provide Employees with accurate itemized wage statements in
3 writing, as required by the Labor Code. Specifically, the wage statements given to Employees by
4 Defendants failed to accurately account for wages, overtime, and premium pay for deficient meal
5 periods and rest breaks, all of which Defendants knew or reasonably should have known were
6 owed to Employees, as alleged hereinabove. The wage statements provided to Employees were
7 confusing and required Employees to engage in discovery and refer to outside sources to verify
8 whether their pay was correct and potentially resulting in a miscalculation by the Employees.

9 74. As a direct and proximate cause of Defendants' violation of Labor Code § 226(a),
10 Employees suffered injuries, including among other things confusion over whether they received
11 all wages owed them, the difficulty and expense involved in reconstructing pay records, and
12 forcing them to make mathematical computations to analyze whether the wages paid in fact
13 compensated them correctly for all hours worked.

14 75. Pursuant to Labor Code §§ 226(a) and 226(e), Employees are entitled to recover
15 the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation
16 occurs and one hundred dollars (\$100) for each violation in a subsequent pay period, not
17 exceeding an aggregate penalty of four thousand dollars (\$4,000). They are also entitled to an
18 award of costs and reasonable attorneys' fees.

19 76. With respect to violations of Labor Code § 226, Labor Code § 226.3 imposes a
20 civil penalty of two hundred and fifty dollars (\$250) for initial violations for each employee for
21 each pay period, and one thousand dollars (\$1000) for each subsequent violation for each
22 employee for each pay period.

23 77. Plaintiff is seeking penalties against Defendants under Labor Code § 226.3, and
24 any other applicable statute allowing recovery of penalties as alleged herein in an amount to be
25 shown according to proof.

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EIGHTH CAUSE OF ACTION
FAILURE TO KEEP REQUIRED PAYROLL RECORDS UNDER LABOR CODE §§ 1174
and 1174.5
(Against All Defendants)

78. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

79. California Labor Code § 1174 requires that all employers shall keep accurate time and wage records for all employees. California Labor Code § 1174.5 further requires that any employee suffering injury due to a willful violation of the aforementioned obligations may seek damages, including civil penalties, from the employer.

80. During the course of Plaintiff's and Employees' employment, Defendants consistently failed to maintain accurate time and wage records for Plaintiff and Employees as required by California Labor Code § 1174 by failing to pay Plaintiff and Employees proper wages, overtime, and premium pay as discussed above.

81. Defendants are also required by the California Labor Code § 1198 and the applicable Wage Order to maintain a tracking system that accurately records the times at which Employees works.

82. Defendants have maintained a common unlawful policy and practice of failing to accurately record meal breaks. At all times relevant hereto, Defendants had maintained an unlawful uniform policy and practice of editing the time records entered by its Employees to change the actual meal break times recorded by the employee, in order to make it appear as though Defendants' Employees took timely and compliant meal breaks.

83. Defendants' failure to pay wages, as alleged above, was willful in that Defendants knew wages to be due but failed to pay them.

84. Accordingly, Defendants are liable for civil penalties pursuant to the California Labor Code including §§ 1174.5. for the three (3) years prior to the filing of this Complaint.

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NINTH CAUSE OF ACTION
FAILURE TO PRODUCE REQUESTED EMPLOYMENT RECORDS UNDER LABOR
CODE §§ 226 and 1198
(Against All Defendants)

85. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

86. Pursuant to California Labor Code § 226, current and former employees have the right to inspect or receive a copy of their records pertaining to their employment, upon reasonable request to their employer. Under this statute, an employer that receives a request to inspect or receive a copy of records pertaining to a current or former employee must comply with the request as soon as practicable, but no later than twenty-one (21) calendar days from the date of the request..

87. Pursuant to California Labor Code § 1198.5(a), every current and former employee, or his or her representative, has the right to inspect and receive a copy of the personnel records that the employer maintains relating to the employee's performance or to any grievance concerning the employee. Under this statute, upon written request from a current or former employee or his or her representative, an employer must make the contents of those personnel records available for inspection or provide a copy of the personnel records to the current or former employee, or his or her representative, not later than thirty (30) calendar days from the date the employer receives the written request, subject to some limited exceptions. Failure to comply with these requests allows for a civil penalty seven hundred fifty dollars (\$750), pursuant to Labor Code §§ 1198.5(k) and 226(f).

88. Plaintiff sent written requests through his counsel to Defendants for their payroll records, timecards, and personnel records. However, Plaintiff has not received all of his requested records as of the date of this Complaint

89. Defendants violated California Labor Code §§ 226 and 1198.5 by failing to timely produce the required records requested by Plaintiff.

90. On information and belief, Defendants' failure to provide Plaintiff with all of his

1 requested employment records is not an isolated incident, but was instead consistent with
2 Defendants' policy and practice that applied to Plaintiff and Employees.

3 91. Pursuant to California Labor Code § 1198.5, Plaintiff and Employees are entitled to
4 a penalty of seven hundred fifty dollars (\$750) from Defendants and attorneys' fees and costs.

5 92. Pursuant to California Labor Code § 226, Plaintiff is entitled to a penalty of seven
6 hundred fifty dollars (\$750) from Defendants and attorneys' fees and cost.

7 **TENTH CAUSE OF ACTION**
8 **VIOLATION OF LABOR CODE § 203**
9 **(Against All Defendants)**

10 93. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
11 full herein.

12 94. Numerous Employees are no longer employed by Defendants; they either quit
13 Defendants' employ or were fired therefrom.

14 95. Defendants failed to pay these Employees all wages due and certain at the time of
15 termination or within seventy-two (72) hours of resignation.

16 96. The wages withheld from these Employees by Defendants remained due and owing
17 for more than thirty (30) days from the date of separation of employment.

18 97. Defendants' failure to pay wages, as alleged above, was willful in that Defendants
19 knew wages to be due but failed to pay them; this violation entitles these Employees to penalties
20 under Labor Code § 203, which provides that an employee's wages shall continue until paid for up
21 to thirty (30) days from the date they were due.

22 **ELEVENTH CAUSE OF ACTION**
23 **VIOLATION OF BUSINESS & PROFESSIONS CODE § 17200 ET SEQ.**
24 **(Against All Defendants)**

25 98. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
26 full herein.

27 99. Plaintiff, on behalf of himself, Employees, and the general public, brings this claim
28 pursuant to Business & Professions Code § 17200 et seq. The conduct of Defendants as alleged in

1 this Complaint has been and continues to be unfair, unlawful, and harmful to Employees and the
2 general public. Plaintiff seeks to enforce important rights affecting the public interest within the
3 meaning of Code of Civil Procedure
4 § 1021.5.

5 100. Plaintiff is a “person” within the meaning of Business & Professions Code
6 § 17204, has suffered injury, and therefore has standing to bring this cause of action for injunctive
7 relief, restitution, and other appropriate equitable relief.

8 101. Business & Professions Code § 17200 et seq. prohibits unlawful and unfair
9 business practices.

10 102. Wage-and-hour laws express fundamental public policies. Paying employees their
11 wages and overtime, providing them with meal and rest periods, etc., are fundamental public
12 policies of California. Labor Code § 90.5(a) articulates the public policies of this State vigorously
13 to enforce minimum labor standards, to ensure that employees are not required or permitted to
14 work under substandard and unlawful conditions, and to protect law-abiding employers and their
15 employees from competitors who lower costs to themselves by failing to comply with minimum
16 labor standards.

17 103. Defendants have violated statutes and public policies. Through the conduct alleged
18 in this Complaint Defendants have acted contrary to these public policies, have violated specific
19 provisions of the Labor Code, and have engaged in other unlawful and unfair business practices in
20 violation of Business & Professions Code § 17200 et seq.; which conduct has deprived Plaintiff,
21 and all persons similarly situated, and all interested persons, of the rights, benefits, and privileges
22 guaranteed to all employees under the law.

23 104. Defendants’ conduct, as alleged hereinabove, constitutes unfair competition in
24 violation of the Business & Professions Code § 17200 et seq.

25 105. Defendants, by engaging in the conduct herein alleged, by failing to pay wages and
26 overtime, failing to provide meal and rest periods, etc., either knew or in the exercise of reasonable
27 care should have known that their conduct was unlawful; therefore their conduct violates the
28 Business & Professions Code § 17200 et seq.

106. As a proximate result of the above-mentioned acts of Defendants, Employees have been damaged, in a sum to be proven at trial.

107. Unless restrained by this Court Defendants will continue to engage in such unlawful conduct as alleged above. Pursuant to the Business & Professions Code this Court should make such orders or judgments, including the appointment of a receiver, as may be necessary to prevent the use by Defendants or their agents or employees of any unlawful or deceptive practice prohibited by the Business & Professions Code, including but not limited to the disgorgement of such profits as may be necessary to restore Employees to the money Defendants have unlawfully failed to pay.

RELIEF REQUESTED

WHEREFORE, Plaintiff prays for the following relief:

1. For an order certifying this action as a class action;
2. For compensatory damages in the amount of the unpaid minimum wages for work performed by Employees and unpaid overtime compensation from at least four (4) years prior to the filing of this action, as may be proven;
3. For liquidated damages in the amount equal to the unpaid minimum wage and interest thereon, from at least four (4) years prior to the filing of this action, according to proof;
4. For compensatory damages in the amount of the hourly wage made by Employees for each missed or deficient meal period where no premium pay was paid therefor from four (4) years prior to the filing of this action, as may be proven;
5. For compensatory damages in the amount of the hourly wage made by Employees for each day requisite rest breaks were not provided or were deficiently provided where no premium pay was paid therefor from at least four (4) years prior to the filing of this action, as may be proven;
6. For penalties pursuant to Labor Code § 226(e) for Employees, as may be proven;
7. For penalties pursuant to Labor Code § 226.3, as may be proven;
8. For penalties pursuant to Labor Code §§ 226 and 1198.5, as may be proven;
9. For penalties pursuant to Labor Code § 203 for all Employees who quit or were

1 fired in an amount equal to their daily wage times thirty (30) days, as may be proven;

2 10. For penalties pursuant to Labor Code § 227.3, as may be proven;

3 11. For penalties pursuant to Labor Code § 1174.5, as may be proven;

4 12. For penalties pursuant to Labor Code §§ 226 and 1198.5, as may be proven;

5 13. For restitution for unfair competition pursuant to Business & Professions Code
6 § 17200 et seq., including disgorgement or profits, as may be proven;

7 14. For compensatory damages in the amount of all previously unreimbursed business
8 expenditures necessarily incurred by Employees in the discharge of their job duties for Defendants
9 from four (4) years prior to the original filing of this action, as may be proven;

10 15. For an order enjoining Defendants and their agents, servants, and employees, and
11 all persons acting under, in concert with, or for them, from acting in derogation of any rights or
12 duties adumbrated in this Complaint;

13 16. For all general, special, and incidental damages as may be proven;

14 17. For an award of pre-judgment and post-judgment interest;

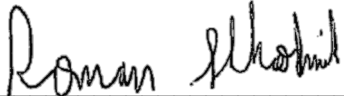
15 18. For an award providing for the payment of the costs of this suit;

16 19. For an award of attorneys' fees; and

17 20. For such other and further relief as this Court may deem proper and just.

18
19 DATED: August 21, 2023

DAVID YEREMIAN & ASSOCIATES, INC.

20 By 
21 David Yeremian
22 Roman Shkodnik
23 Attorneys for Plaintiff
24 DAVID LORD LINDSAY
25 and the putative class
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DATED: August 21, 2023

By Roman Shkodnik
David Yeremian
Roman Shkodnik
Attorneys for Plaintiff
DAVID LORD LINDSAY
and the putative class

EXHIBIT 2

Lindsay v. Coolish Holdings, LLC

Litigation Costs

Service Date	Details	Provider	Amount
8/22/23	LWDA Letter	LWDA	\$ 75.00
8/22/23	Summons & Complaint	Rapid Legal	\$ 1,494.74
8/24/23	Process of Service - Summons & Complaint	Rapid Legal	\$ 106.09
8/24/23	Process of Service - Summons & Complaint	Rapid Legal	\$ 106.09
9/25/23	POS of Summons - Summons & Complaint	Rapid Legal	\$ 17.72
9/26/23	Notice of Association	Rapid Legal	\$ 17.72
10/26/23	First Amended Complaint	Rapid Legal	\$ 17.72
11/3/23	Process of Service - First Amended Complaint	Rapid Legal	\$ 118.45
11/3/23	Process of Service - First Amended Complaint	Rapid Legal	\$ 118.45
11/8/23	POS of FAC	Rapid Legal	\$ 17.72
12/11/23	Joint Status Conference Statement & Notice	Rapid Legal	\$ 17.72
3/5/24	Case Anywhere	Case Anywhere	\$ 124.95
3/25/24	Mediation Fee	JAMS	\$ 6,750.00
3/27/24	Joint Status Conference Statement	Rapid Legal	\$ 15.66
5/7/24	Data Consulting	Berger Consulting	\$ 1,920.00
5/22/24	Joint Status Conference Statement	Rapid Legal	\$ 15.66
6/5/24	Case Anywhere	Case Anywhere	\$ 159.00
6/26/24	Data Consulting	Berger Consulting	\$ 920.00
7/24/24	Joint Status Conference Statement	Rapid Legal	\$ 15.66
9/5/24	Case Anywhere	Case Anywhere	\$ 153.00
10/3/24	Notice of Change of Address	Rapid Legal	\$ 15.66
12/9/24	Case Anywhere	Case Anywhere	\$ 153.00
12/10/24	Request for Dismissal; Notice; POS	Rapid Legal	\$ 17.25
12/19/24	Request for Dismissal; Notice; POS	Rapid Legal	\$ 17.25
12/20/24	FAC - Rejected (Ford)	Rapid Legal	\$ 11.33
1/6/25	Case Anywhere	Case Anywhere	\$ 98.22
1/16/25	Notice of Association	Rapid Legal	\$ 17.72
2/20/25	Motion for PAGA Approval	Rapid Legal	\$ 66.25

Total \$ 12,578.03

EXHIBIT 3