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an individual, on behalf of himself and others similarly situated,

SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

GABRIEL BALTAZAR, an individual, on
behalf of himself and others similarly
situated,

Plaintiff,

vs.

SOUTHERN GLAZER'S WINE AND
SPIRITS, a Delaware Limited Liability
Company; and, DOES 1 through 50, inclusive,

Defendants.

Case No. CVRI 2306434

**CLASS ACTION & PAGA
COMPLAINT**

1. Failure to Pay All Wages Including Minimum and Overtime Wages;
2. Failure to Provide Meal Periods, Labor Code §§ 226.7, 512, Wage Orders § 11
3. Failure to Provide Rest Periods, Labor Code §§ 226.7, Wage Orders § 12;
4. Failure to Reimburse for Necessary Business Expenditures;
5. Violation of California's Quota Laws, Labor Code §§ 2100, *et seq.*;
6. Retaliation For Participating In A Protected Activity, Labor Code §§ 98.6, 98.7;
7. Failure to Provide Accurate Itemized Wage Statements in Violation of Labor Code §§ 226, 226.3, and 1174;
8. Failure to Waiting Time Penalties in violations of Labor Code §§ 201, 202, 203;
9. Unfair Business Practices in Violation of Cal. Bus. & Prof Code §§ 17200, *et seq.*
10. Enforcement of the Private Attorneys General Act of 2004

DEMAND FOR JURY TRIAL

1 Plaintiff GABRIEL BALTAZAR (“Plaintiff”), individually, and on behalf of all others
2 similarly situated, brings this class action complaint (“Complaint”) against Defendant SOUTHERN
3 GLAZER’S WINE AND SPIRITS, a Delaware Limited Liability Company, and DOES 1 through 50,
4 inclusive (collectively, “Defendants” or “SOUTHERN GLAZER’S”), and alleges as follows:
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6 **INTRODUCTION**

7 1. This is a class action brought on behalf of Plaintiff and the class she seeks to represent
8 (“Class” or “Class Members”). The Class consists of all current and former non-exempt employees
9 employed by Defendants in the State of California during the Class Period. The term “Class Period”
10 is defined as four (4) years prior to the filing of this class action until class certification. Plaintiff
11 reserves the right to amend this complaint to reflect a different “Class Period” as further discovery is
12 conducted.

13 2. Plaintiff, individually, and on behalf of Class, seeks relief against Defendants, for their
14 practices of violating the applicable Industrial Welfare Commission (“IWC”) Wage Orders, Code of
15 Regulations, and California Labor Code, including: (1) failure to pay all wages (including minimum,
16 regular, overtime, and double time compensation); (2) failure to provide meal periods or compensation
17 in lieu thereof; (3) failure to authorize or permit rest breaks or provide compensation in lieu thereof;
18 (4) failure to reimburse business expenses; (5) failure to provide accurate itemized wage statements;
19 and (6) failure to pay all wages due upon separation of employment. These violations concern current
20 and past non-exempt employees of Defendants.

21 3. At all relevant times herein, Defendants have consistently maintained and enforced
22 against Plaintiff and Class the unlawful practices and policies set forth herein.

23 4. Plaintiff seeks monetary relief against Defendants on behalf of himself and the
24 putative class to recover, among other things, unpaid wages, liquidated damages, restitution, interest,
25 attorneys’ fees, costs, and penalties pursuant to Labor Code sections 201-204, 206, 208, 226, 226.7,
26 227.3, 351, 510, 512, 1182.12, 1194, 1194.2, 1197, 1198, 2100-2112, 2802, and California
27 Code of Civil Procedure section 1021.5.
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JURISDICTION AND VENUE

5. This is a class action pursuant to California Code of Civil Procedure section 382. The monetary damages, restitution, penalties, and other amounts sought by Plaintiff exceeds the minimal jurisdictional limits of the Superior Court and will be established according to proof at trial.

6. This Court has jurisdiction over this action pursuant to the California Constitution, Article VI, section 10, which grants the Superior Court original jurisdiction in all causes, except those given by statutes to other courts. The statutes under which this action is brought do not specify any other basis for jurisdiction. All claims alleged herein arise under California law for which Plaintiff seeks relief authorized by California law.

7. This Court has jurisdiction over all Defendants because, upon information and belief, they have sufficient minimum contacts in California, or otherwise intentionally avail themselves of the California market so as to render the exercise of jurisdiction over them by the California courts consistent with traditional notions of fair play and substantial justice.

8. Venue is proper in this Court under Code of Civil Procedure sections 395(a) and 395.5 because, upon information and belief, Defendants reside, transact business, maintain offices, and/or have an agent or agents in this county, and the acts and omissions alleged herein took place in this county.

PARTIES

9. Plaintiff is a California citizen. Defendants employed Plaintiff as a non-exempt hourly employee during the Class Period. Plaintiff's job duties, at SOUTHERN GLAZER'S, included a sundry of non-exempt and quota related duties in which Plaintiff and putative class members are/were assigned or required to perform at a specified productivity speed, or perform a quantified number of tasks, or to handle or produce a quantified amount of material, within a defined time period and under which employees suffer adverse employment actions if they fail to complete the performance standard. Defendant's quotas violated and continue to violate Labor Code sections 2100 – 2112.

10. SOUTHERN GLAZER'S WINE AND SPIRITS, a Delaware Limited Liability Company; and, DOES 1 through 50, inclusive, are doing business in Riverside County and throughout the State of California. Employer owns and operates multiple warehouses, packaging, distribution

1 warehouses in California pursuant to Labor Code section 2100(f). SOUTHERN GLAZER'S is a joint
2 employer in conjunction with Doe entities and/or individual owners, managing agents, and managers
3 and employed Plaintiff as a non-exempt hourly employee in California during the liability period.

4 11. Plaintiff is informed and believes, and thereon alleges that at all times hereinafter
5 mentioned, Defendants were and are subject to the Labor Code and IWC Wage Orders as employers,
6 whose employees were and are engaged throughout this county and the State of California.

7 12. Defendant DOES 1 through 50, are sued under fictitious names pursuant to Code of
8 Civil Procedure section 474 because Plaintiff does not know their true names or capacities. Plaintiff
9 will seek leave of court to amend this Complaint and serve such fictitiously named Defendants when
10 their names and capacities are ascertained. Plaintiff is informed and believes, and thereon alleges, that
11 DOES 1 through 50 are or were the partners, agents, owners, shareholders, managers, or employees
12 of Defendants at all relevant times and were joint employers with SOUTHERN GLAZER'S.

13 13. Plaintiff is informed and believes, and thereon alleges, that each Defendant acted in all
14 respects pertinent to this action as the agent of the other Defendant, carried out a joint scheme, business
15 plan, or policy in all respects pertinent hereto, and the acts of each Defendant are legally attributable
16 to the other Defendants.

17 14. Plaintiff is informed and believes, and thereon alleges, that each Defendant directly or
18 indirectly, through agents or other persons or entities, employed or otherwise exercised control over
19 the wages, hours, and working conditions of Plaintiff. Furthermore, each Defendant in all respects
20 acted as the employer and/or joint employer of Plaintiff and the Class Members.

21 15. Plaintiff is informed and believes, and thereon alleges, that each and all of the acts and
22 omissions alleged herein were performed by, or are attributable to, Defendants and/or DOES 1 through
23 50, acting as the agent, alter ego, agent, servant, joint venturer, co-conspirator, and/or partner for the
24 other, within a common enterprise and legal authority to act on the other's behalf. The acts of any and
25 all Defendants were in accordance with, and represent, the official policy of Defendants.

26 16. At all relevant times, Defendants, and each of them, acted within the scope of such
27 agency or employment, or ratified each and every act or omission complained of herein. At all relevant
28 times, Defendants, and each of them, aided and abetted the acts and omissions of each and all the other

1 Defendants in proximately causing the damages herein alleged.

2 17. Plaintiff is informed and believes, and thereon alleges, that each of said Defendants is
3 in some manner intentionally, negligently, and/or otherwise responsible for the acts, omissions,
4 occurrences, and transactions alleged herein.

5 **CLASS ALLEGATIONS**

6 18. Plaintiff brings this class action pursuant to Code of Civil Procedure section 382 on
7 behalf of himself and all others similarly situated who were injured by Defendants' violations of the
8 Labor Code, Business and Professions Code sections 17200, *et seq.*, and IWC Wage Orders during
9 the Class Period.

10 19. Plaintiff's proposed Class consists of and is defined as follows:

11 Class

12 All current and former non-exempt employees employed by Defendants in the State of
13 California within four years prior to the filing of this action to the date of class
14 certification.

15 20. Plaintiff also seeks to certify the following Subclass:

16 Waiting Time Subclass

17 All Class Members who separated from their employment with Defendants at any time
18 within three years prior to the filing of this action to the date of class certification
19 ("Subclass" or "Waiting Time Subclass").

20 21. Members of the Class and Subclass described above will be collectively referred to as
21 "Class Members."

22 22. Plaintiff reserves the right to modify or re-define the Class or Subclass, establish
23 additional subclasses, or modify or re-define any class or subclass definition as appropriate based on
24 investigation, discovery, and specific theories of liability.

25 23. There is a well-defined community of interest in this litigation and the proposed Class
26 and Subclass are readily ascertainable.

27 24. **Commonality:** This action has been brought and may properly be maintained as a class
28 action under the California Code of Civil Procedure section 382 because there are common questions

1 of law and fact as to the Class Members that predominate over any questions affecting only individual
2 members including, but not limited to, the following:

- 3 (a) Whether Defendants paid Plaintiff and Class Members all legal wages, including
4 minimum, regular, overtime, and double time wages;
- 5 (b) Whether Defendants paid Plaintiff and Class Members the correct legal wages for all
6 hours worked, including the correct legal minimum wage, overtime and double
7 overtime rate, premium wages, sick pay, and vacation pay when Defendants paid
8 bonuses;
- 9 (c) Whether Defendants pay or vest sick pay wages in accordance with California law;
- 10 (d) Whether Defendants violated the vacation pay law in California pursuant to Labor
11 Code section 227.3;
- 12 (e) Whether Defendants practices and policies violated California's quota laws by enacting
13 quotas or speed production demands in violation of Labor Code section 2100-2112;
- 14 (f) Whether Defendant violated California's reporting time pay rules;
- 15 (g) Whether Defendants' rounding policy and practice favored Defendants by
16 systematically undercompensating Plaintiff and Class Members;
- 17 (h) Whether Defendants compensated Plaintiff and Class Members for time spent during
18 rest periods and/or meal periods while under the control of SOUTHERN GLAZER'S
19 during split shifts;
- 20 (i) Whether Defendants paid Plaintiff and Class Members the legal split-shift premium;
- 21 (j) Whether Defendants required Plaintiff and Class Members to work off-the-clock
22 without compensation;
- 23 (k) Whether Defendants required Plaintiff and Class Members to incur business expenses
24 without reimbursement;
- 25 (l) Whether Defendants provided Plaintiff and Class Members with compliant meal
26 periods or paid compensation in lieu thereof;
- 27 (m) Whether Defendants authorized and permitted compliant rest breaks to Plaintiff and
28 Class Members or paid compensation in lieu thereof;

- 1 (n) Whether Defendants paid Plaintiff and Class Members for rest periods or paid
2 compensation in lieu thereof;
- 3 (o) Whether Defendants failed to provide Plaintiff and Class Members with accurate
4 itemized wage statements;
- 5 (p) Whether Defendants failed to timely pay the Plaintiff and Class Members all wages
6 due immediately upon termination or within 72 hours of resignation;
- 7 (q) Whether Defendants' conduct was willful or reckless; and,
- 8 (r) Whether Defendants engaged in unfair business practices in violation of Business and
9 Professions Code sections 17200, *et seq.*

10 25. There is a well-defined community of interest. Further, Plaintiff and Class Members
11 have suffered common injuries as a result of Defendants' systemic employment policies and practices.
12 Looking to Defendants' employment policies and practices, the Court can adjudicate the lawfulness
13 of those policies and practices on a class-wide basis, according to proof, and issue an award to Plaintiff
14 and Class Members accordingly. In addition, answers to common questions raised in this Complaint
15 will advance resolution of each individual Class Member's claims.

16 26. **Numerosity:** The Class Members are so numerous that joinder of all members is
17 impractical. Although the members of the entire Class and Subclass are unknown to Plaintiff at this
18 time, on information and belief, the class is estimated to be greater than 500 individuals.

19 27. **Ascertainability:** The identities of the Class Members are readily ascertainable by
20 inspection of Defendants' employment and payroll records.

21 28. **Typicality:** The claims (or defenses, if any) of Plaintiff are typical of the claims of the
22 Class Members because Defendants' failure to comply with the provisions of California's wage and
23 hour laws entitled each Class Member to similar pay, benefits, and other relief. The injuries sustained
24 by Plaintiff are also typical of the injuries sustained by Class Members because they arise out of and
25 are caused by Defendants' common course of conduct as alleged herein.

26 29. **Adequacy:** Plaintiff will fairly and adequately represent and protect the interests of all
27 Class Members because it is in Plaintiff's best interest to prosecute the claims alleged herein to obtain
28 full compensation and penalties due to Plaintiff and the Class Members. Plaintiff's attorneys, as

proposed class counsel, are competent and experienced in litigating large employment class actions and versed in the rules governing class action discovery, certification, and settlement. Plaintiff has incurred and, throughout the duration of this action, will continue to incur attorneys' fees and costs that have been and will be necessarily expended for the prosecution of this action for the substantial benefit of the Class Members.

30. **Superiority:** The nature of this action makes use of class action adjudication superior to other methods. A class action will achieve economies of time, effort, and expense as compared with separate lawsuits and will avoid inconsistent outcomes because the same issues can be adjudicated in the same manner for the entire Class and Subclass at the same time. If appropriate, this Court can, and is empowered to, fashion methods to efficiently manage this case as a class action.

31. **Public Policy Considerations:** Employers in the State of California violate employment and labor laws every day. Current employees are often afraid to assert their rights out of fear of direct or indirect retaliation. Former employees are fearful of bringing actions because they believe their former employers might damage their future endeavors through negative references and/or other means. Class actions provide class members who are not named in the complaint with a type of anonymity that allows for the vindication of their rights while affording them privacy protections.

GENERAL ALLEGATIONS

32. **Background:** At all relevant times mentioned herein, Defendants employed Plaintiff and other persons as non-exempt employees at Defendants' locations within California. Defendants employed Plaintiff in a non-exempt position during her employment and continue to employ non-exempt employees within California.

33. Plaintiff is informed and believes, and thereon alleges, that at all times herein mentioned, Defendants were advised by skilled lawyers, employees, and other professionals who were knowledgeable about California's wage and hour laws, employment and personnel practices, and the requirements of California law.

34. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should have known they had a duty to compensate Plaintiff and Class Members, and Defendants had the

1 financial ability to pay such compensation but willfully, knowingly and intentionally failed to do so
2 all in order to increase Defendants' profits.

3 35. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should
4 have known they imposed systematic quota and production demands on Plaintiff and Class Members
5 which violated the rights of employees pursuant to Labor Code sections 2100 et. seq. SOUTHERN
6 GLAZER'S had a duty to ensure its production demands did not interfere with Plaintiff and Class
7 Members right to lawful meal periods, rest periods, bathroom breaks, and/or expose them to safety
8 hazards pursuant to Labor Code section 2100 et. seq. in which, "*Employees (are) not required to meet
9 improper quotas*)":

10 a) *An employee shall not be required to meet a quota that prevents compliance*
11 *with meal or rest periods, use of bathroom facilities, including reasonable travel time*
12 *to and from bathroom facilities, or occupational health and safety laws in the Labor*
13 *Code or division standards. An employer shall not take adverse employment action*
14 *against an employee for failure to meet a quota that does not allow a worker to comply*
15 *with meal and rest periods, or occupational health and safety laws in the Labor Code*
16 *or division standards, or for failure to meet a quota that has not been disclosed to the*
17 *employee pursuant to Section 2101.*

18 36. SOUTHERN GLAZER'S willfully, knowingly and intentionally failed to establish
19 quotas that did not harm Plaintiff and Class Members all in order to increase Defendants' profits
20 without concern for employee safety. Defendant employed Plaintiff and the Plaintiff Class as a non-
21 exempt hourly employee in California within the past year. Plaintiff and the Plaintiff Class employed
22 non-exempt employees duties included, among other items, driving, delivering, loading, packaging,
23 storing, wrapping, pulling and unloading, and a sundry of duties related to quota production demands
24 based upon speed, time, duration, frequency and other metrics related to excessive production goals.
25 Employer employed or currently employs other aggrieved employees in California. Plaintiff and the
26 Plaintiff's employees worked at Defendant's many production, warehouse, and distribution centers
27 throughout California. At many of these facilities, Defendant failed to maintain adequate temperature
28 which created excessive heat or humidity exposing Plaintiff and the Plaintiff to be exposed to extreme

1 temperature related hazards and maintained an uncomfortable working environment.

2 37. Defendant has previously been sued for the violations alleged herein, and rather than
3 change its policies, it continues to intentionally and willfully violate the law despite guidance of
4 counsel and its human resources department. More egregiously, Employer through its supervisors,
5 managers, leads and other agents enforced an illegal policy requiring employees under threat of
6 termination and retaliation if they did not agree to clock out and in for a meal period that was neither
7 permitted or provided. It is believed that employees who did not follow this policy had their time
8 cards manually or payroll software adjusted to record a meal period that was not permitted or provided.
9 In addition, Claimant and aggrieved employees were accused of “stealing time” from Employer if they
10 failed to comply with this blatantly illegal policy or if they took a meal period no specified. Employer
11 maintained an illegal policy where it forced employees to clock out/in for meal periods, did not permit
12 rest periods and/or interrupted rest periods, exposed them to unreasonable safety hazards but yet when
13 an employee attempted to take a rest and or meal period and failed to clock in within a certain time
14 period, Employer would terminate, retaliate, and/or reprimand for “stealing time.”

15 38. On information and belief, SOUTHERN GLAZER’S implemented and
16 maintained, “(e)m~~ployee~~ work speed data” and SOUTHERN GLAZER’S “collects, stores, analyzes,
17 or interprets relating to an individual employee's performance of a quota, including, but not limited
18 to, quantities of tasks performed, quantities of items or materials handled or produced, rates or speeds
19 of tasks performed, measurements or metrics of employee performance in relation to a quota, and time
20 categorized as performing tasks or not performing tasks.”

21 39. SOUTHERN GLAZER’S’ quota policies fall within the meaning of the Labor Code
22 section 2100 and are illegal:

23 a) “Quota” means a work standard under which an employee is assigned or required
24 to perform at a specified productivity speed, or perform a quantified number of
25 tasks, or to handle or produce a quantified amount of material, within a defined
26 time period and under which the employee may suffer an adverse employment
27 action if they fail to complete the performance standard.”

28 b) “An employee shall not be required to meet a quota that prevents compliance with

1 meal or rest periods, use of bathroom facilities, including reasonable travel time to
2 and from bathroom facilities, or occupational health and safety laws in the Labor
3 Code or division standards. An employer shall not take adverse employment action
4 against an employee for failure to meet a quota that does not allow a worker to
5 comply with meal and rest periods, or occupational health and safety laws in the
6 Labor Code or division standards, or for failure to meet a quota that has not been
7 disclosed to the employee pursuant to Section 2101." Ca. Lab. Code § 2102.

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9 40. SOUTHERN GLAZER'S violated and continues to violation Section 15 of the IWC
10 Wage Orders which require adequate and safe temperature controls:

- 11 a) *The temperature maintained in each work area shall provide reasonable comfort*
12 *consistent with industry-wide standards for the nature of the process and the work*
13 *performed.*
- 14 b) *If excessive heat or humidity is created by the work process, the employer shall take*
15 *all feasible means to reduce such excessive heat or humidity to a degree providing*
16 *reasonable comfort. Where the nature of the employment requires a temperature of*
17 *less than 60° F., a heated room shall be provided to which employees may retire*
18 *for warmth, and such room shall be maintained at not less than 68°.*

19 41. On information belief, SOUTHERN GLAZER'S failed to advise Plaintiff and the
20 Plaintiff class of the quota as required by Labor Code section 2101, which reads as follows:

21 **Written descriptions of quotas and adverse actions to be provided to employees**

- 22 a) *Each employer shall provide to each employee, upon hire, or within 30 days of the*
23 *effective date of this part, a written description of each quota to which the employee*
24 *is subject, including the quantified number of tasks to be performed or materials to be*
25 *produced or handled, within the defined time period, and any potential adverse*
26 *employment action that could result from failure to meet the quota. Ca. Lab. Code §*
27 *2101.*

28 42. **Unpaid Wages:** Plaintiff is informed and believes, and thereon alleges, that Defendants
knew or should have known that Plaintiff and Class Members were entitled to receive at least

1 minimum, regular, overtime, and double times wages and that they were not receiving minimum,
2 regular, overtime, and double time wages for all work that was required to be performed. During the
3 Class Period, Plaintiff and Class Members regularly worked in excess of eight (8) hours in a workday
4 and/or 40 hours in a workweek, and double time for all hours worked in excess of 12 hours in a
5 workday. In violation of the Labor Code and IWC Wage Orders, Defendants rounded, edited, and/or
6 input the incorrect times for Plaintiff's and Class Members' start times to reflect the scheduled start
7 time instead of the actual start time which should have included time spent arriving early to work, and
8 performing other preliminary duties and postliminary duties, and otherwise preparing for the workday.
9 Defendants also rounded Plaintiff's and Class Members' end time to reflect the scheduled end time
10 despite working past those hours. As such, Plaintiff and Class Members performed work off-the-clock
11 without compensation. Plaintiff and Class Members were not paid a split shift premium and were
12 required to work shifts which were sufficiently long and were counted as "meal period" and "rest
13 periods." While under the control of SOUTHERN GLAZER'S they remained under the control of
14 Defendant and were not paid the split shift interval. Defendants failed to compensate Plaintiff and
15 Class Members for all hours worked for work performed off-the-clock and for reporting time pay, and
16 overtime pay. Defendants failed to pay the appropriate and correct legal wages for bonus pay (i.e.,
17 premium pay, sick pay, vacation pay, overtime and double overtime) and vacation pay according to
18 California law. Defendant violated Labor Code section 351 by illegally withholding tips and or
19 engaging a tip pooling scheme with managers and other individuals not in the chain of service or who
20 were involved in table services;

21 **43. Meal Period Violations:** Plaintiff is informed and believes, and thereon alleges, that
22 Defendants knew or should have known that Plaintiff and Class Members were entitled to receive a
23 timely, off-duty, uninterrupted 30-minute meal period for every five hours of work, or payment of one
24 additional hour of pay at their regular rate of pay when they did not receive a compliant meal period.
25 Defendant enacted quotas that prevented Plaintiff and Class Members from taking lawful meal
26 periods. During the Class Period, Plaintiff and Class Members regularly worked in excess of five (5)
27 and/or 10 hours per workday. In violation of the Labor Code and IWC Wage Orders, Plaintiff and
28 Class Members did not receive compliant meal periods. Specifically, Defendants provided a single

1 one-hour-and-a-half (1.5) hour break that aggregated two 15-minute rest periods and one 30-minute
2 meal period. As such, Defendants failed to provide all required meal period, including second meal
3 periods when Plaintiff and Class Members worked in excess of 10 hours per workday. Even though
4 Plaintiff and other Class Members were prevented from taking compliant meal periods, Defendants
5 failed to provide them with premium pay for every non-compliant meal period. Furthermore,
6 SOUTHERN GLAZER'S violated Labor Code section 2103 because it requires and continues to
7 require on duty or on call meal periods. Labor Code section 2103 states, "**(n)**"*otwithstanding*
8 *subdivision (a), consistent with existing law, meal and rest breaks are not considered productive time*
9 *unless the employee is required to remain on call. Ca. Lab. Code § 2103.*

10 44. **Rest Period Violations:** Plaintiff is informed and believes, and thereon alleges, that
11 Defendants knew or should have known that Plaintiff and Class Members were entitled to receive a
12 ten-minute, off-duty, uninterrupted rest period for every four (4) hours worked, or major fraction
13 thereof, or payment of one (1) additional hour of pay at their regular rate of pay when they were not
14 permitted to take a compliant rest period. Defendant enacted quotas that prevented Plaintiff and Class
15 Members from taking lawful rest periods. During the Class Period, Plaintiff and Class Members
16 regularly worked in excess of four (4) hours or major fraction thereof. In violation of the Labor Code
17 and IWC Wage Orders, Plaintiff and Class Members were not permitted to take compliant rest breaks,
18 due to Defendants' unlawful policy and practice of aggregating two (2) 15-minute rest breaks and a
19 one (1) hour meal period into a single break. Consequently, Plaintiff and Class Members were not
20 authorized or permitted to take rest breaks, including first, second, and third rest breaks. Defendants
21 failed to pay Plaintiff and Class Members one additional hour of pay at their regular rate of pay when
22 they did not receive a compliant rest break.

23 45. **Waiting Time Penalties:** Plaintiff is informed and believes, and thereon alleges, that
24 Defendants knew or should have known that Plaintiff and Waiting Time Subclass Members who
25 separated from their employment with Defendants during the statutory period were entitled to timely
26 payment of all wages due. In violation of the Labor Code, Plaintiff and Waiting Time Class Members
27 did not receive payment of all wages owed upon separation within the permissible time period due to,
28 *inter alia*, Defendants' failure to pay all wages and meal and rest period premiums to Plaintiff and

1 Class Members.

2 46. **Wage Statement Violations:** Plaintiff is informed and believes, and thereon alleges
3 that Defendants knew or should have known that Plaintiff and Class Members were entitled to receive
4 complete and accurate wage statements. In violation of the Labor Code and IWC Wage Orders,
5 Plaintiff and Class Members were not furnished with complete and accurate wage statements that show
6 all of the information required by Labor Code section 226, including, but not limited to, the gross and
7 net wages earned, the total hours worked, all applicable hourly rates in effect during the pay period,
8 and the corresponding number of hours worked at each hourly rate.

9 **FIRST CAUSE OF ACTION**

10 **FAILURE TO PAY ALL WAGES**

11 **(As to all Defendants)**

12 47. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as though
13 fully set forth herein.

14 48. At all times herein relevant, Defendants had a duty to comply with Labor Code sections
15 204, 206, 227.3, 510, 1182.12, 1194, 1194.2, 1197, 1198, 2100 *et. seq.*, 2802, the applicable IWC
16 Wage Orders, and all applicable local minimum wage ordinances in effect throughout California.

17 49. Labor Code section 204 and the IWC Wage Orders require timely payment of all wages
18 owed on regularly scheduled paydays at least twice during each calendar month, on days designated
19 in advance by the employer as the regular paydays. All wages earned in excess of the normal work
20 period must be paid no later than the payday for the next regular payroll period.

21 50. Labor Code section 206 provides that in case of a dispute over wages, the employer
22 shall pay, without condition and promptly under the Labor Code all wages conceded due, leaving to
23 the employee all remedies she/she is otherwise entitled to as to any balance claimed.

24 51. The IWC Wage Orders define “hours worked” as “the time during which an employee
25 is subject to the control of an employer and includes all time the employee is suffered or permitted to
26 work, whether or not required to do so” including non-productive time and legal wages when bonuses
27 were paid. Plaintiff and Class Members were also not paid the legal rate for vacation pay or had to
28 forfeit vacation vested hours. Furthermore, Defendant required Plaintiff and the Plaintiff Class to

1 work through meal periods without paying the appropriate wage rate for working lunches and failed
2 to also compensate the legal premium wage rate.

3 52. Plaintiff and Class Members were not paid a split shift premium and were required to
4 work shifts which were sufficiently long and were counted as “meal periods” and “rest periods.”
5 During these long intervals between shifts, SOUTHERN GLAZER’S exercised direct and indirect
6 control of Plaintiff and Class Members and did not pay them for this controlled standby time, for hours
7 worked, and did not pay the split shift premium. Defendants failed to compensate Plaintiff and Class
8 Members for all hours worked for work performed off-the-clock and for reporting time pay, and
9 overtime pay.

10 53. Defendant failed to pay the correct reporting time pay in accordance with California
11 law, including but not limited to, reporting time pay.

12 54. Defendant further failed to pay the legal rate for sick pay, vacation pay, and premium
13 page when it paid bonuses.

14 55. Labor Code section 510 and the IWC Wage Orders require that employers pay
15 employees for all overtime hours at a rate of one and one-half times the employee’s regular rate of pay
16 for hours worked in excess of eight hours in one workday, 40 hours in one workweek, and after the
17 first eight hours on the seventh consecutive workday in one work week. Labor Code section 510 and
18 the IWC Wage Orders further require that employers pay employees double their regular rate of pay
19 for hours work in excess of 12 hours in a workday and after eight hours on the seventh consecutive
20 workday in one workweek. Labor Code section 510 requires payment of overtime wages at one-and
21 one-half times the “regular rate of pay,” including split shift premium pay, reporting time pay, sick
22 pay, reporting time, and vacation pay.

23 56. Labor Code section 1182.12 sets forth the minimum hourly wage that must be paid to
24 all employees in California for all hours worked. Local minimum wage ordinances, may provide for
25 higher minimum wage rates that must be paid to employees for all hours worked in those locales where
26 each local ordinance is in effect. Labor Code section 1197 affirms that it is unlawful to pay less than
27 the state or local minimum wage, whichever is higher, for any hour of work.

28 57. Labor Code section 1194 requires that employers pay employees at least the legal

1 minimum wage rate for all hours worked, notwithstanding any agreement to work for a lesser wage.
2 Labor Code section 1194 further authorizes any employee receiving less than the legal minimum wage
3 applicable to the employee to recover in a civil action the unpaid balance of the full amount of wages,
4 along with interest thereon, reasonable attorneys' fees and costs of suit.

5 58. Labor Code section 1194.2 authorizes the recovery of liquidated damages in an amount
6 equal to the wages unlawfully unpaid and interest thereon for unpaid wage violations.

7 59. Labor Code section 1198 prohibits employers from employing for longer hours or less
8 favorable conditions than those set forth in the Labor Code, IWC Wage Orders, or as otherwise set by
9 the Labor Commissioner.

10 60. During the relevant time-period, Defendants failed to pay Plaintiff and Class Members
11 all wages due, including minimum, regular, overtime, and double time wages due to Defendants'
12 unlawful rounding practice, failure to provide compensation for off-the-clock work, and failure to
13 compensate drive time, among other things.

14 61. In violation of California law, Defendants have knowingly and willfully refused to
15 perform their obligations and compensate Plaintiff and Class Members for all wages earned as alleged
16 above.

17 62. Defendants' failure to pay Plaintiff and Class Members all earned minimum and regular
18 wages in accordance with Labor Code sections 204, 206, 510, 1182.12, 1194, 1194.2, 1197, 1198, the
19 applicable IWC Wage Orders, and all applicable local minimum wage ordinances in effect throughout
20 California, Plaintiff and Class Members are entitled to recover the full amount of unpaid wages,
21 liquidated damages, prejudgment interest, and statutory penalties, along with attorneys' fees and costs
22 in amounts that will be established at trial.

23 **SECOND CAUSE OF ACTION**

24 **MEAL PERIOD VIOLATIONS**

25 **(Against all Defendants)**

26 63. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as though
27 fully set forth herein.

28 64. At all relevant times, Defendants had a duty to comply with Labor Code sections 226.7,

1 512, 2100-2112 and the applicable IWC Wage Orders. Defendant required employees to work
2 through, clock out and in, or have their breaks interrupted in violation of California's quota law.

3 65. Labor Code section 512 and the IWC Wage Orders prohibit an employer from
4 employing any person for a work period of more than 5 hours per day without providing the employee
5 with a meal period of not less than 30 minutes (commencing before the employee's fifth hour of work),
6 except that if the total work period per day is no more than 6 hours, the meal period may be waived
7 by mutual consent of the employer and employee. A second meal period of not less than 30 minutes
8 is required if an employee works more than 10 hours per day and must begin before the employee's
9 tenth hour of work, except if the total hours worked is no more than 12 hours, the second meal period
10 may be waived by mutual consent of the employer and employee, but only if the first meal period was
11 not waived. An employer must relieve an employee of all duties during meal periods and may not
12 charge breaks against time on task or any metric that measures productivity in any manner.

13 66. The applicable IWC Wage Orders state that "[u]nless the employee is relieved of all
14 duty during a 30-minute meal period, the meal period shall be considered an 'on duty' meal period
15 and counted as time worked."

16 67. Labor Code section 226.7(b) and the IWC Wage Orders prohibit an employer from
17 requiring any employee to work during a meal period mandated by any California statute, regulation,
18 standard or order. If an employer fails to provide an employee with a meal period in accordance with
19 state law, Labor Code section 226.7(c) and the IWC Wage Orders require that the employer pay the
20 employee one additional hour of pay at the employee's regular rate of compensation for each workday
21 that the meal period is noncompliant.

22 68. During the Class Period, Plaintiff and Class Members did not receive compliant meal
23 periods when working more than five (5) and/or 10 hours per day because Defendants provided only
24 one (1) break per workday. As such, Defendants failed to provide Plaintiff and Class Members with
25 all required meal periods, including second meal periods.

26 69. During the relevant time period, Defendants failed to pay Plaintiff and Class Members
27 meal period premiums for noncompliant meal periods pursuant to Labor Code section 226.7(b) and
28 the applicable IWC Wage Order.

70. As a result of Defendants' failure to provide compliant meal periods and pay meal period premiums to Plaintiff and Class Members in accordance with the IWC Wage Orders and Labor Code sections 226.7 and 512, Plaintiff and Class Members suffered and continue to suffer a loss of wages and compensation.

71. Because Plaintiff and Class Members were and/or are entitled to such meal periods or “premium pay” in lieu thereof, they are entitled to such payment per shift in an amount according to proof. To the extent such unpaid premiums are deemed unpaid wages, Plaintiff will also seek pre- and post-judgment interest as provided by law at 10% per annum, in an amount according to proof.

72. Also, pursuant to Code of Civil Procedure section 1021.5, Plaintiff will seek attorneys' fees and costs from Defendants in an amount subject to proof and approved by the Court.

THIRD CAUSE OF ACTION

REST PERIOD VIOLATIONS

(Against all Defendants)

73. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as though fully set forth herein.

74. At all relevant times, Defendants had a duty to comply with Labor Code section 226.7 and the applicable IWC Wage Orders. Defendant required employees to work through, clock out and in, or have their breaks interrupted in violation of California's quota law. An employer must relieve an employee of all duties during rest periods and may not charge breaks against time on task or any metric that measures productivity in any manner.

75. The IWC Wage Orders require employers to authorize and permit all employees to take 10-minute duty-free rest periods for each four hours worked, or major fraction thereof.

76. If an employer fails to provide an employee with a rest period in accordance with California law, Labor Code section 226.7(c) and the IWC Wage Orders require that the employer pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the rest period is noncompliant.

77. During the relevant time period, Defendants did not implement a compliant rest break policy or practice by providing only one (1) break per workday. As such, Defendants failed to provide

1 Plaintiff and Class Members with all required rest periods, including second and third rest periods.

2 78. During the relevant time period, Defendants failed to pay Plaintiff and Class Members
3 rest period premiums for noncompliant rest periods pursuant to Labor Code section 226.7(b) and the
4 applicable IWC Wage Order.

5 79. As a result of Defendants' failure to provide compliant rest periods and pay rest period
6 premiums to Plaintiff and Class Members in accordance with the IWC Wage Orders and Labor Code
7 sections 226.7 and 516, Plaintiff and Class Members suffered and continue to suffer a loss of wages
8 and compensation.

9 80. Because Plaintiff and Class Members were and/or are entitled to such rest periods or
10 "premium pay" in lieu thereof, they are entitled to such payment per shift in an amount according to
11 proof. To the extent such unpaid premiums are deemed unpaid wages, Plaintiff will also seek pre- and
12 post-judgment interest as provided by law at 10% per annum, in an amount according to proof.

13 81. Also, pursuant to Code of Civil Procedure section 1021.5, Plaintiff will seek attorneys'
14 fees and costs from Defendants in an amount subject to proof and approved by the Court.

15 **FOURTH CAUSE OF ACTION**
16 **(FAILURE TO REIMBURSE FOR BUSINESS EXPENSES)**
17 **(Against all Defendants)**

18 82. Plaintiff incorporates all previous s paragraphs of this Complaint as though fully set
19 forth herein.

20 83. Pursuant to Labor Code §2802, Defendants are required to reimburse Plaintiff for
21 business expenses incurred in the direct consequences of her discharge of her duties for Defendants,
22 including expenses associated with the purchase of equipment such as use of cell phones and digital
23 devices.

24 84. Within the four years before the filing of this Complaint and continuing until the
25 present time, Plaintiff has been required to incur expenses as a condition of and in the discharge of her
26 employment duties and has thereby incurred expenses for these items.

27 85. Defendant has failed to reimburse Plaintiff for said expenses.

28 **FIFTH CAUSE OF ACTION**

1 **(RETALIATION FOR PARTICIPATING IN A PROTECTED ACTIVITY)**

2 **(Against all Defendants)**

3 86. PLAINTIFF hereby incorporates by reference each and every allegation contained
4 above in this complaint as though fully set forth herein.

5 87. California Labor Code § 98.6 provides, in part, that:

6 *(a) A person shall not discharge an employee or in any manner discriminate,*
7 *retaliate, or take any adverse action against any employee or applicant for*
8 *employment because the employee or applicant [...] made a written or oral complaint*
9 *that he or she is owed unpaid wages, or because the employee has initiated any*
10 *action or notice pursuant to Section 2699, or has testified or is about to testify in a*
11 *proceeding pursuant to that section, or because of the exercise by the employee or*
12 *applicant for employment on behalf of himself, herself, or others of any rights*
13 *afforded him or her.*

14 *(b)(3) In addition to other remedies available, an employer who violates this section*
15 *is liable for a civil penalty not exceeding ten thousand dollars (\$10,000) per*
16 *employee for each violation of this section, to be awarded to the employee or*
17 *employees who suffered the violation.*

18 88. California Labor Code § 98.7 provides, in part, that:

19 *(a)(1) Any person who believes that they have been discharged or otherwise*
20 *discriminated against in violation of any law under the jurisdiction of the Labor*
21 *Commissioner may file a complaint with the division within one year after the*
22 *occurrence of the violation. The one-year period may be extended for good cause.*

23 89. In violation of the Labor Code, Defendants took adverse actions against Plaintiff and
24 the Plaintiff Class because of their protected activity of complaining about violations of their rights
25 under the Labor Code and other laws.

26 90. More egregiously, Defendant through its supervisors, managers, leads and other agents
27 enforced an illegal policy requiring employees under threat of termination and retaliation if they did
28 not agree to clock out and in for a meal period that was neither permitted or provided. It is believed
that employees who did not follow this policy had their time cards manually or payroll software
adjusted to record a meal period that was not permitted or provided. In addition, Claimant and
aggrieved employees were accused of “stealing time” from Employer if they failed to comply with
this blatantly illegal policy or if they took a meal period no specified. Defendant maintained an illegal

1 policy where it forced employees to clock out/in for meal periods, did not permit rest periods and/or
2 interrupted rest periods, exposed them to unreasonable safety hazards but yet when an employee
3 attempted to take a rest and or meal period and failed to clock in within a certain time period,
4 Defendant would terminate, retaliate, and/or reprimand for “stealing time.”

5 91. In engaging in the acts and omissions stated herein, Defendant violated California’s
6 quota law by subjecting them to adverse employment action for failure to comply with unreasonable
7 quotas.

8 92. Plaintiff and members of the Plaintiff Class regularly complained to Defendants
9 supervisors, foreman, human resources staff about excessive quotas which caused, among other things,
10 off-the-clock work, unpaid hours, the lack of SOUTHERN GLAZER’S compliance with meal and rest
11 period the number of sick hours on the pay stubs, to which they had access through a phone application
12 alone, not reflecting the number to which they were entitled under the law. They also asserted their
13 right to ten-minute breaks to supervisory and/or managerial staff of Defendants. Defendants’
14 personnel routinely retaliated by threatening, among other items, termination, less work or shortened
15 hours, or other punitive scheduling or assignment of less desirable work.

16 93. Furthermore, Defendants supervisors, foreman, human resources staff knowing that
17 excessive quotas prohibited Plaintiff and the Plaintiff from taking legal breaks and demanded
18 employees illegally clock in and out for meal periods. The practice is so common that is believed
19 Defendants also rounded and or programmed meal periods even when they were not legal provided.

20 94. Wherefore, PLAINTIFF requests relief as hereinafter provided.

21 **SIXTH CAUSE OF ACTION**

22 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

23 **(Against all Defendants)**

24 95. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as though
25 fully set forth herein.

26 96. At all relevant times, Defendants had a duty to comply with Labor Code section 226.

27 97. Labor Code section 226(e)(1) authorizes an employee suffering injury as a result of a
28 knowing and intentional failure by an employer to provide an accurate itemized wage statement to

1 recover the greater of all actual damages or \$50 for the initial pay violation and \$100 for each violation
2 in a subsequent pay period, not to exceed an aggregate penalty of \$4,000 per employee, in addition to
3 an award of costs and attorneys' fees.

4 98. During the relevant time period, Defendants have knowingly and intentionally failed
5 to comply with Labor Code section 226(a) on wage statements that were provided to Plaintiff and
6 Class Members. The deficiencies include, among other things, Defendants' failure to correctly state
7 the gross and net wages earned, the total hours worked, all applicable hourly rates in effect during the
8 pay period, and the corresponding number of hours worked at each hourly rate.

9 99. As a result of Defendants' violation of California Labor Code section 226(a), Plaintiff
10 and Class Members have suffered injury and damage to their statutorily protected rights. Specifically,
11 Plaintiff and Class Members have been injured by Defendants' intentional violation of California
12 Labor Code section 226(a) because they were denied both their legal right to receive, and their
13 protected interest in receiving, accurate itemized wage statements under California Labor Code section
14 226(a). Plaintiff has had to file this lawsuit in order to determine the extent of the underpayment of
15 wages, thereby causing Plaintiff to incur expenses and lost time. Plaintiff would not have had to engage
16 in these efforts and incur these costs had Defendants provided the accurate wages earned. This has
17 also delayed Plaintiff's ability to demand and recover the underpayment of wages from Defendants.

18 100. Defendants' violations of California Labor Code section 226(a) prevented Plaintiff and
19 Class Members from knowing, understanding and disputing the wages paid to them, and resulted in
20 an unjustified economic enrichment to Defendants. As a result of Defendants' knowing and intentional
21 failure to comply with California Labor Code section 226(a), Plaintiff and Class Members have
22 suffered an injury, and the exact amount of damages and/or penalties is all in an amount to be shown
23 according to proof at trial.

24 101. Plaintiff and Class Members are also entitled to injunctive relief under California Labor
25 Code section 226(h), compelling Defendants to comply with California Labor Code section 226, and
26 seek the recovery of attorneys' fees and costs incurred in obtaining this injunctive relief.
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1 Plaintiff will seek injunctive relief.

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3 **EIGHT CAUSE OF ACTION**
4 **(UNFAIR BUSINESS PRACTICES)**
5 **(Against all Defendants)**

6 110. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as though
7 fully set forth herein.

8 111. Plaintiff brings this claim individually and on behalf of Class Members.

9 112. Business & Professions Code section 17200 (“UCL”) prohibits unfair competition in
10 the form of any unlawful, unfair, or fraudulent business act or practice.

11 113. Business and Professions Code section 17204 allows “any person who has suffered
12 injury in fact and has lost money or property as a result of such unfair competition” to prosecute a civil
13 action for violation of the UCL.

14 114. Labor Code section 90.5, subdivision (a) states it is the public policy of California to
15 vigorously enforce minimum labor standards in order to ensure employees are not required to work
16 under substandard and unlawful conditions, and to protect employers who comply with the law from
17 those who attempt to gain competitive advantage at the expense of their workers by failing to comply
18 with minimum labor standards.

19 115. Beginning at an exact date unknown to Plaintiff, but at least since the date four years
20 prior to the filing of this complaint, Defendants have committed acts of unfair competition as defined
21 by the Unfair Business Practices Act, by engaging in the unlawful, unfair, and fraudulent business
22 practices and acts described in this complaint, including, but not limited to, violations of Labor Code
23 sections 201-204, 206, 226, 226.7, 227.3, 351, 510, 512, 1182.12, 1194, 1194.2, 1197, 1198, 2100-
24 2112, 2802 as well as other statutes.

25 116. The violations of these laws and regulations, as well as of fundamental California
26 public policies protecting workers, serve as unlawful predicate acts and practices for purposes of
27 Business and Professions Code sections 17200 et seq.

28 117. As a result of these actions, Plaintiff, on information and belief, alleges that Defendants
are able to unfairly compete with other comparable companies in the State of California in violation

1 of Business & Professions Code sections 17000 et. seq. and sections 17200 et. seq. Due to these
2 unlawful, unfair, and/or fraudulent business practices, Defendants have gained a competitive
3 advantage over other comparable companies doing business in the State of California.

4 118. The victims of these unlawful, unfair, and/or fraudulent business practices include, but
5 are not limited to, Plaintiff, putative class members, competing cannabis manufacturers in the State of
6 California, and the general public. Plaintiff is informed and believes, and thereon alleges, that
7 Defendants performed the above-mentioned acts with the intent of gaining an unfair competitive
8 advantage and thereby injuring Plaintiff, putative class members, other competitors, and the general
9 public.

10 119. Plaintiff's success in this action will enforce important rights affecting the public
11 interest and public policy. In this regard, Plaintiff sues on behalf of the public as well as on behalf of
12 himself.

13 120. Business and Professions Code sections 17203 provides that a court may make such
14 orders or judgments as may be necessary to prevent the use or employment by any person of any
15 practice which constitutes unfair competition. Injunctive relief is necessary and appropriate to prevent
16 Defendants from repeating their unlawful, unfair, and fraudulent business acts and business practices
17 alleged above.

18 121. Business and Professions Code section 17203 provides that the Court may restore to
19 any person in interest, any money or property that may have been acquired by means of such unfair
20 competition. Plaintiff and the Class are entitled to restitution pursuant to Business and Professions
21 Code section 17203 for wages and payments unlawfully withheld from employees, including the fair
22 value of the meal and rest periods and other losses alleged herein, during the four-year period prior to
23 the filing of this complaint. All remedies are cumulative pursuant to Business & Professions Code
24 section 17205.

25 122. Business and Professions Code section 17202 provides: "Notwithstanding section 3369
26 of the Civil Code, specific or preventative relief may be granted to enforce a penalty, forfeiture, or
27 penal law in a case of unfair competition." Plaintiff and Class are entitled to enforce all applicable
28 penalty provisions of the Labor Code pursuant to Business and Professions Code section 17202.

123. Plaintiff requests injunctive relief pursuant to Business & Professions Code section 17203 to enjoin Defendants from continuing the unfair/unlawful business practices alleged herein.

124. Plaintiff herein takes upon enforcement of these laws and lawful claims. There is a financial burden involved in pursuing this action. The action is seeking to vindicate a public right, and it would be against the interests of justice to penalize Plaintiff by forcing Plaintiff to pay attorneys' fees from the recovery in this action. Attorneys' fees are appropriate pursuant to Code of Civil Procedure section 1021.5 and others.

NINTH CAUSE OF ACTION

ENFORCEMENT OF THE PRIVATE ATTORNEYS GENERAL ACT OF 2004

125. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as though fully set forth herein.

126. Under Labor Code section 2699.3(a), a plaintiff may bring a cause of action under PAGA only after giving the LWDA and the employer notice of the Labor Code sections alleged to have been violated, and after receiving notice from the LWDA of its intention not to investigate or after 65 days have passed without notice from the LWDA.

127. Plaintiff gave written notice of the specified provisions alleged to have been violated, including the facts and theories to support the alleged violations, as required by Labor Code section 2699.3. This written notice was provided via certified mail to Defendants and to the LWDA by electronically filing the notice via the Department of Industrial Relations' website on August 17, 2023 ([LWDA-CM-975953-23](#)).

128. Labor Code section 2699.3(a)(2)(C), “Notwithstanding any other provision of law, a plaintiff may as a matter of right amend an existing complaint to add a cause of action arising under this part at any time within 60 days of the time periods specified in this part.” More than 65 days has passed since Plaintiff submitted his PAGA notice to the LWDA without notice from the LWDA. Accordingly, Plaintiff may amend the Complaint as a matter of right within this 60 day period as specified by Labor Code section 2699.3(a)(2)(C).

129. Pursuant to Labor Code section 2699(a), any provision of the Labor Code that provides for a civil penalty to be assessed and collected by the LWDA or any of its departments,

1 divisions, commissions, boards, agencies or employees for violation of the code may, as an
2 alternative, be recovered through a civil action brought by an aggrieved employee on behalf of
3 himself and other current or former employees pursuant to the procedures specified in Labor Code
4 section 2699.3.

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6 130. For all provisions of the Labor Code except those for which a civil penalty is
7 specifically provided, Labor Code section 2699(f) imposes upon Defendants a penalty of one
8 hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation and
9 two hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent pay
10 period in which Defendants violated these provisions of the Labor Code.

11 131. Defendants' conduct violates numerous Labor Code sections, including, but not
12 limited to, the following:

- 13 (a) Violation of Labor Code sections 2100 – 2112 for maintain unlawful quotas
- 14 (b) Violation of Labor Code sections 201-204, 210, 510, 558, 1182.12, 1194,
15 1194.2, 1197, 1197.1, and 1198 for failure to timely pay all earned wages
16 (including minimum, regular, overtime wages, bonus, premium, sick pay,
17 vacation pay, reporting time pay, double-overtime) owed to Plaintiff and other
18 aggrieved employees during employment and upon separation of employment as
19 herein alleged;
- 20 (c) Violation of Labor Code sections 226.7, 512, and 558 for failure to provide meal
21 periods to Plaintiff and other aggrieved employees and failure to pay premium
22 wages for missed meal periods as herein alleged;
- 23 (d) Violation of Labor Code sections 226.7 and 558 for failure to permit rest breaks
24 to Plaintiff and other aggrieved employees and failure to pay premium wages for
25 missed rest periods as herein alleged;
- 26 (e) Violation of Labor Code sections 226 and 226.3 for failure to provide accurate
27 itemized wage statements to Plaintiff and other aggrieved employees as herein
28 alleged;

- 1 (f) Violation of Labor Code sections 1174 and 1174.5 for failure to maintain
2 accurate records regarding the employment of Plaintiff and other aggrieved
3 employees as herein alleged.
4 (g) Violation of Labor Code section 2802 for failing to reimburse Plaintiff and other
5 aggrieved employees for necessary business expenditures incurred in the
6 discharge of their duties;
7 (h) Violations of Labor Code sections 98.6, 98.7, 226, and 1198.5.

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9 132. Further, Labor Code section 558(a) provides “[a]ny employer or other person acting
10 on behalf of an employer who violates, or causes to be violated, a section of this chapter or any
11 provision regulating hours and days of work in any order of the Industrial Welfare Commission
12 shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each
13 underpaid employee for each pay period for which the employee was underpaid . . . (2) For each
14 subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period
15 for which the employee was underpaid.”

16 133. Labor Code section 1197.1 also provides “[a]ny employer or other person acting
17 either individually or as an officer, agent, or employee of another person, who pays or causes to be
18 paid to any employee a wage less than the minimum fixed by an applicable state or local law, or by
19 an order of the commission shall be subject to a civil penalty . . . as follows: (1) For any initial
20 violation that is intentionally committed, one hundred dollars (\$100) for each underpaid employee
21 for each pay period for which the employee is underpaid . . . (2) For each subsequent violation for
22 the same specific offense, two hundred fifty dollars (\$250) for each underpaid employee for each
23 pay period for which the employee is underpaid regardless of whether the initial violation is
24 intentionally committed.

25 134. As set forth above, Defendants have violated numerous provisions of the Labor Code
26 regulating hours and days of work as well as the IWC Wage Orders. Accordingly, Plaintiff also
27 seeks the remedies set forth in Labor Code sections 558 and 1197.1 for himself, the underpaid
28 employees, and the State of California.

135. Plaintiff is an “aggrieved employee” because he was employed by the alleged violators and had one or more of the alleged violations committed against him, and therefore is properly suited to represent the interests of all other aggrieved employees.

136. Plaintiff has exhausted the procedural requirements under Labor Code section 2699.3 as to Defendants and is therefore able to pursue a claim for penalties on behalf of himself and all other aggrieved employees under PAGA.

137. Pursuant to Labor Code sections 2699(a), 2699.3 and 2699.5, Plaintiff is entitled to recover civil penalties, in addition to other remedies, for violations of the Labor Code sections cited above and alleged throughout this Complaint:

- a. Failure to pay all hours including compensable travel time;
- b. Failure to Pay All Wages Including Minimum and Overtime Wages §§ 204, 206, 226.2, 226.8, 227.3, 510, 1182.12, 1194, 1194.2, 1197;
- c. Failure to set reasonable quotas pursuant to Labor Code §§ 2100 - 2112;
- d. Failure to Provide Meal Periods in Violation of Labor Code §§ 226.7, 512 and Wage Order 5-2001, § 11;
- e. Failure to Provide Rest Periods in Violation of Labor Code §§ 226.7 and Wage Order 5-2001, § 12;
- f. Failure to Provide Accurate Itemized Wage Statements in Violation of Labor Code §§ 226, 226.3, and 1174;
- g. Failure to Pay Earned Wages in Violation of Labor Code §§ 204, 206, 216, 218.5, 218.6;
- h. Failure to Reimburse for Necessary Business Expenditures; Labor Code § 2802;

138. For bringing this action, Plaintiff is entitled to attorney's fees and costs incurred herein.

PRAYER FOR RELIEF

Plaintiff, individually and on behalf of all others similarly situated, prays for relief and judgment against Defendants, jointly and severally, as follows:

- a. For certification of this action as a class action, including certifying the Class and Subclass alleged by Plaintiff;

- b. For appointment of Plaintiffs, ELIO RUBEN ALONSO and GUADALUPE RODRIGO VILLALPANDO, as the class representatives;
- c. For appointment of JOSE GARAY, APLC as class counsel for all purposes;
- d. For compensatory damages in an amount according to proof with interest thereon;
- e. For economic and/or special damages in an amount according to proof with interest thereon;
- f. For damages, monetary relief, wages, premiums, benefits and penalties, including interest thereon;
- g. For vacation pay pursuant to Labor Code section 227.3;
- h. For waiting time penalties pursuant to Labor Code section 203;
- i. For split-shift premiums, according to proof;
- j. For reporting time pay, according to proof;
- k. For liquidated damages pursuant to Labor Code section 1194.2;
- l. For unreimbursed expenses pursuant to Labor Code section 2802;
- m. For statutory penalties to the extent permitted by law, including those pursuant to the Labor Code and IWC Wage Orders;
- n. For restitution to Plaintiff and Class Members of all money and property unlawfully acquired by Defendants through unfair or unlawful business practices pursuant to Business and Professions Code sections 17200 *et seq.*;
- o. For an order requiring Defendants to restore and disgorge all funds to each employee acquired by means of any act or practice declared by this Court to be unlawful, unfair or fraudulent and, therefore, constituting unfair competition under Business and Professions Code sections 17200, *et seq.*;
- p. For prejudgment interest on all sums recovered pursuant to Labor Code section 218.6 and Civil Code sections 3287 and 3289;
- q. For PAGA Penalties, civil penalties pursuant to 2698, *et seq.*;
- r. For recovery of attorneys' fees and costs provided by Labor Code sections 226, 1194, and Code of Civil Procedure section 1021.5;

- 1 s. For injunctive relief pursuant to Labor Code section 2108, 2107, 2107; and,
2 t. For such other relief as the Court deems just and proper.
3

4 Dated: November 30, 2023

JOSE GARAY, APLC

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7 By: _____

Jose R. Garay

8 Attorneys for Plaintiff GABRIEL BALTAZAR
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10 **DEMAND FOR JURY TRIAL**

11 Plaintiff hereby demands a jury trial with respect to all issues triable by jury.
12

13 Dated: November 30, 2023

JOSE GARAY, APLC

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16 By: _____

Jose R. Garay

17 Attorneys for Plaintiff GABRIEL BALTAZAR
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