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 IMELDA LEON-MARTINEZ and
 MARIA ARGUELLO

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

IMELDA LEON-MARTINEZ and MARIA
 ARGUELLO individually, and on behalf of other
 members of the general public similarly situated,

Plaintiffs,

vs.

ITTELLA INTERNATIONAL, INC.; and DOES
 1 through 25, inclusive,

Defendants.

Case No.: 23STCV17207

Assigned to Honorable Maren Nelson, Dept. 17

**FIRST AMENDED CLASS ACTION
 COMPLAINT FOR DAMAGES AND
 ENFORCEMENT ACTION UNDER THE
 PRIVATE ATTORNEYS GENERAL ACT,
 CALIFORNIA LABOR CODE §§ 2698 ET
 SEQ.**

- (1) Violation of Cal. Labor Code §§ 510 and 1198 (Unpaid Overtime);
- (2) Violation of Cal. Labor Code §§ 1194, 1197 and 1197.1 (Unpaid Minimum Wages);
- (3) Violation of Cal. Labor Code §§ 226.7 and 512(a) (Unpaid Meal Period Premiums);
- (4) Violation of Cal. Labor Code § 226.7 (Unpaid Rest Period Premiums);

FILED
 Superior Court of California
 County of Los Angeles

12/07/2023

David W. Slayton, Executive Officer / Clerk of Court

By: R. Lozano Deputy

1 (5) Violation of Cal. Labor Code §§ 204
2 and 210 (Wages Not Timely Paid
3 During Employment);

4 (6) Violation of Cal. Labor Code § 226(a)
5 (Failure to Provide Accurate Wage
6 Statements);

7 (7) Violation of Cal. Labor Code §§ 201,
8 202 and 203 (Untimely Final Wages);

9 (8) Violation of Cal. Labor Code §§ 2800
10 and 2802 (Failure to Reimburse
11 Necessary Business Expenses);

12 (9) Violation of Cal. Business &
13 Professions Code § 17200, *et seq.*; and

14 (10) Violation of Cal. Labor Code § 2699,
15 *et seq.* (Private Attorneys General
16 Act)

17 DEMAND FOR JURY TRIAL
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1 Plaintiffs IMELDA LEON-MARTINEZ and MARIA ARGUELLO (“Plaintiff Leon-
2 Martinez” and “Plaintiff Arguello” respectively; collectively, “Plaintiffs”), individually and on behalf
3 of all members of the general public similarly situated, and on behalf of other aggrieved employees
4 pursuant to the California Labor Code Private Attorneys General Act, and allege as follows against
5 Defendants ITTELLA INTERNATIONAL, INC. and DOES 1 through 25, inclusive (“Defendants”):

6 **INTRODUCTION**

7 1. Plaintiffs bring this action against ITTELLA INTERNATIONAL, INC. and DOES 1
8 through 25 (hereinafter also collectively referred to as “Defendants”) for California Labor Code
9 violations, unfair business practices, and civil penalties stemming from Defendants’ failure to pay
10 overtime compensation, failure to pay the minimum wage, failure to provide meal periods, failure to
11 authorize and permit rest periods, failure to timely pay wages during and upon termination of
12 employment, failure to provide accurate wage statements, failure to maintain accurate time and payroll
13 records, and failure to reimburse necessary business-related expenses.

14 2. Plaintiffs’ First through Ninth Causes of Action are brought as a class action on behalf
15 of Plaintiffs and similarly situated current and former employees of Defendants (hereinafter
16 collectively referred to as the “Class” or “Class Members”) pursuant to California Code of Civil
17 Procedure section 382. The monetary damages and restitution sought by Plaintiffs exceed the minimal
18 jurisdiction limits of the Superior Court and will be established according to proof at trial.

19 3. Plaintiffs’ Tenth Cause of Action is brought as a representative action on behalf of
20 Plaintiffs and certain other current and former employees of Defendant ITTELLA INTERNATIONAL,
21 INC., against whom one or more of the alleged violations was committed (hereinafter collectively
22 referred to as the “Aggrieved Employees”) pursuant to California Labor Code sections 2698, *et seq.* of
23 the Private Attorneys General Act of 2004 (“PAGA”), Plaintiffs are aggrieved employees against
24 whom one or more of the alleged violations occurred. The civil penalties sought by Plaintiffs exceed
25 the minimal jurisdiction limits of the Superior Court and will be established according to proof at trial.

26 **JURISDICTION AND VENUE**

27 4. This action is brought pursuant to California Code of Civil Procedure section 382 and
28 California Labor Code sections 2698, *et seq.*

5. The monetary damages, restitution, statutory penalties, and other applicable legal and equitable relief sought by Plaintiffs exceed the minimal jurisdiction 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 other causes” except those given by statute to other courts. The statutes under which this action is brought do not specify any other basis for jurisdiction.

7. This Court has jurisdiction over all Defendants because, upon information and belief, Defendants are either citizens of California, 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. Further, no federal question is at issue because the claims asserted herein are based solely on California law.

8. Venue is proper in this Court because, upon information and belief, Defendants maintain offices, have agents, employ individuals, and/or transact business in the State of California, County of Los Angeles. The majority of the acts, events, and violations alleged herein relating to Plaintiffs occurred in the State of California, County of Los Angeles.

THE PARTIES

9. At all times herein mentioned, Plaintiff Leon-Martinez is and was an individual residing in Los Angeles County in the State of California.

10. At all times herein mentioned, Plaintiff Arguello is and was an individual residing in Los Angeles County in the State of California.

11. At all times herein mentioned, Defendant ITTELLA INTERNATIONAL, INC. was and is, an employer organized under the laws of the state of California, who does business in California, with locations throughout the state of California, and whose employees are engaged throughout Los Angeles County and the State of California, including at Defendant's Paramount, California location.

12. Plaintiffs are unaware of the true names or capacities of the Defendants sued herein

1 under the fictitious names DOES 1 through 25 but will seek leave of this Court to amend the complaint
2 and serve such fictitiously named Defendants once their names and capacities become known.

3 13. Plaintiffs are informed and believe, and thereon allege, that each and all of the acts and
4 omissions alleged herein were performed by, or are attributable to Defendants ITTELLA
5 INTERNATIONAL, INC. and/or DOES 1 through 25, each acting as the agent, employee, alter ego,
6 and/or joint venturer of, or working in concert with, each of the other co-Defendants and within the
7 course and scope of such agency, employment, joint venture, or concerted activity with legal authority
8 to act on the others' behalf. The acts of any and all Defendants represent and were in accordance with
9 Defendants' official policies.

10 14. At all relevant times, Defendants were the employers of Plaintiffs within the meaning
11 of all applicable state laws and statutes. Defendants directly or indirectly controlled or affected the
12 working conditions, wages, working hours, and conditions of employment of Plaintiffs so as to make
13 each of said Defendants employers and employers liable under the statutory provisions set forth herein.

14 15. Defendants had the authority to hire and terminate Plaintiffs and the other class
15 members and aggrieved employees, to set work rules and conditions governing their employment,
16 and to supervise their daily employment activities.

17 16. Defendants exercised sufficient authority over the terms and conditions of Plaintiffs
18 and the other class members and aggrieved employees' employment for them to be their joint
19 employers.

20 17. Defendants directly hired and paid wages and benefits to Plaintiffs and the other class
21 members and aggrieved employees.

22 18. Defendants continue to employ hourly paid and/or non-exempt employees within the
23 State of California.

24 19. At all relevant times, Defendants, and each of them, ratified each and every act or
25 omission complained of herein. At all relevant times, Defendants, and each of them, aided and abetted
26 the acts and omissions of each and all the other Defendants in proximately causing the damages herein
27 alleged.

28 20. Plaintiffs are informed and believe, and thereon allege, that each of said Defendants is

1 in some manner intentionally, negligently, or otherwise responsible for the acts, omissions,
2 occurrences, and transactions alleged herein.

3 **GENERAL ALLEGATIONS**

4 21. Plaintiff Leon-Martinez worked for Defendants from approximately June of 2020
5 through at least August 2023, as a non-exempt, hourly-paid employee. During her employment with
6 Defendants, Plaintiff Leon-Martinez was employed in the production and packaging warehouse
7 operation at Defendant's Paramount, California location at 6305 Alondra Boulevard, Paramount,
8 California, 90723-3750.

9 22. Plaintiff Arguello worked for Defendants from approximately February of 2018 to
10 approximately December 2, 2022, as a non-exempt, hourly-paid employee. During her employment
11 with Defendants, Plaintiff Arguello was employed in the production and packaging warehouse
12 operation at Defendant's Paramount, California location at 6305 Alondra Boulevard, Paramount,
13 California, 90723-3750.

14 23. Defendants are grocery and related food product merchant wholesalers, produce and
15 distribute food products under such brands as Tattooed Chef and Positive Pizza People, and maintain
16 employees throughout California, including in Los Angeles County.

17 24. Plaintiffs are informed and believe, and thereon allege that Defendants engaged in a
18 pattern and practice of wage abuse against their hourly-paid and/or non-exempt employees. As set
19 forth in more detail below, this pattern and practice of wage abuse involved, *inter alia*, requiring
20 Plaintiffs and the other class members and aggrieved employees to work off-the-clock without
21 compensation, failing to properly pay overtime wages and minimum wages or regular rate/straight
22 time wages for all hours worked, failing to provide all meal and rest breaks to which they were entitled
23 and failing to pay meal and rest break premiums when due, failing to timely pay wages during
24 employment and upon termination of employment, failing to provide accurate wage statements, failing
25 to reimburse necessary business-related expenses and failing to adhere to other related protections
26 afforded by the California Labor Code and the applicable Industrial Welfare Commission Wage Order.

27 25. Defendants knew or should have known that they had a duty to compensate Plaintiffs
28 and the other class members and aggrieved employees pursuant to California law. Defendants had the

1 financial ability to pay such compensation, but willfully, knowingly, and intentionally failed to do so
2 to increase Defendant's profits.

3 **CLASS ACTION ALLEGATIONS**

4 26. Plaintiffs bring this lawsuit as a class action on behalf of Plaintiffs and all others
5 similarly situated, as members of a proposed class pursuant to California Code of Civil Procedure
6 section 382. The class satisfies the numerosity, commonality, typicality, adequacy, predominance,
7 and superiority requirements under California Code of Civil Procedure section 382.

8 27. The proposed class is defined as follows:

9 **All current and former hourly-paid and/or non-exempt employees**
10 **who worked for Defendants in the State of California at any time**
11 **during the period from July 21, 2019, until final judgment.**

12 28. Plaintiffs reserve the right to establish additional subclasses as appropriate.

13 29. There is a well-defined community of interest in the litigation and the Class is easily
14 ascertainable.

15 30. The Class is so numerous that the individual joinder of all its members is impracticable.
16 While the exact number and identities of class members are unknown to Plaintiffs at this time, the
17 exact numbers of class members and their identities can be ascertained through appropriate discovery
18 from records maintained by Defendants and their agents.

19 31. Common questions of fact and law exist as to all class members, which predominate
20 over any questions affecting only individual members of the Class. The common legal and factual
21 questions which do not vary from class member to class member, and which may be determined
22 without reference to the individual circumstances of any class member include, but are not limited to,
23 the following:

- 24 i. Whether Defendants had a policy and practice of failing to pay overtime wages to
25 Plaintiffs and the other class members for all overtime hours worked;
26 ii. Whether Defendants had a policy and practice of failing to pay minimum wages to
27 Plaintiffs and the other class members for all hours worked;
28 iii. Whether Defendants had a policy and practice of failing to provide meal periods to

1 Plaintiffs and the other class members;

2 iv. Whether Defendants had a policy and practice of failing to provide rest periods to
3 Plaintiffs and the other class members;

4 v. Whether Defendants failed to pay their hourly-paid and/or non-exempt employees in
5 the State of California for all hours worked, and for all missed, short, late, and/or
6 interrupted meal periods and rest breaks;

7 vi. Whether Defendants failed to timely pay all wages due to Plaintiffs and the other class
8 members during their employment;

9 vii. Whether Defendants' failure to pay wages, without abatement or reduction, in
10 accordance with the California Labor Code, was willful;

11 viii. Whether Defendants failed to pay all wages due to Plaintiffs and the other class
12 members within the required time upon their discharge or resignation;

13 ix. Whether Defendants failed to comply with wage reporting as required by the California
14 Labor Code; including, *inter alia*, section 226;

15 x. Whether Defendants failed to reimburse Plaintiffs and the other class members for
16 necessary business-related expenses and costs;

17 xi. Whether Defendants' conduct was willful or reckless;

18 xii. Whether Defendants engaged in unfair business practices in violation of California
19 Business & Professions Code section 17200, *et seq.*;

20 xiii. The appropriate amount of damages, restitution, and/or monetary penalties resulting
21 from Defendants' violation of California law; and

22 xiv. Whether Plaintiffs and the other class members are entitled to compensatory damages
23 pursuant to the California Labor Code.

24 32. Plaintiffs claims are typical of the claims of the Class, and Plaintiffs interests are
25 coincident with and not antagonistic to those of the other class members Plaintiffs seek to
26 represent. Plaintiffs will fairly and adequately protect the interests of the members of
27 the Class. Plaintiffs have retained attorneys experienced in the prosecution of class actions and
28 Plaintiffs intend to prosecute this action vigorously.

33. A class action is superior to other available methods for the fair and efficient adjudication of this controversy since individual litigation of the claims of all class members is impracticable. Even if every class member could afford individual litigation, the court system could not. It would be unduly burdensome on the courts in which individual litigation of numerous cases would proceed. Individualized litigation would also present the potential for varying, inconsistent or contradictory judgments and would magnify the delay and expense to all parties and to the court system resulting from multiple trials of the same complex factual issues. By contrast, the conduct of this action as a class action, with respect to some or all of the issues presented in this Complaint, presents fewer management difficulties, conserves the resources of the parties and of the court system, and protects the rights of each class member.

34. Certification of this lawsuit as a class action will advance public policy objectives. Employers of this great state violate employment and labor laws every day. Current employees are often afraid to assert their rights out of fear of direct or indirect retaliation. However, class actions provide the class members who are not named in the complaint anonymity that allows for the vindication of their rights.

PAGA ALLEGATIONS

35. At all times set forth herein, PAGA applied to Plaintiffs employment with Defendants.

36. PAGA provides that any provision of law under the California Labor Code that provides for a civil penalty, including unpaid wages and premium wages, to be assessed and collected by the California Labor & Workforce Development Agency (“LWDA”) for violations of the California Labor Code may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself and other current or former employees pursuant to procedures outlined in California Labor Code section 2699.3.

37. Pursuant to PAGA, a civil action may be brought by an “aggrieved employee,” who is any person that was employed by the alleged violator and against whom one or more of the alleged violations was committed.

38. Plaintiffs were employed by Defendants and the alleged violations were committed against Plaintiffs during Plaintiffs' time of employment with Defendants and Plaintiffs are, therefore,

aggrieved employees. Plaintiffs and the other employees are “aggrieved employees” as defined by California Labor Code section 2699(c) in that they are current or former employees of Defendants and one of more of the alleged violations were committed against them.

39. Pursuant to California Labor Code sections 2699.3 and 2699.5, an aggrieved employee, including Plaintiffs, may pursue a civil action arising under PAGA after the following requirements have been met:

(a) The aggrieved employee shall give written notice by certified mail (hereinafter “Employee’s Notice”) to the LWDA and the employer of the specific provisions of the Labor Code alleged to have been violated, including the facts and theories to support the alleged violations.

(b) The LWDA shall provide notice (hereinafter “LWDA Notice”) to the employer and the aggrieved employee by certified mail that it does not intend to investigate the alleged violation within sixty (60) calendar days of the postmark date of the Employee’s Notice. Upon receipt of the LWDA Notice, or if the LWDA Notice is not provided within sixty-five (65) calendar days of the postmark date of the Employee’s Notice, the aggrieved employee may commence a civil action pursuant to California Labor Code section 2699 to recover civil penalties in addition to any other penalties to which the employee may be entitled.

40. On August 7, 2023, Plaintiffs provided notice by electronic submission to the LWDA and by certified mail to Defendants regarding the specific provisions of the Labor Code alleged to have been violated, including the facts and theories to support the alleged violations, pursuant to Labor Code section 2699.3. **A true and correct copy of the Employees’ Notice is attached hereto as Exhibit A.**

41. Plaintiffs did not receive an LWDA Notice within sixty-five calendar days of providing the Employees’ Notice.

42. Therefore, the administrative prerequisites under California Labor Code section 2699.3(a) to recover civil penalties against Defendants, in addition to other remedies for violations of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197,

1 1197.1, 1198, 2800 and 2802 have been satisfied.

2 **FIRST CAUSE OF ACTION**

3 **VIOLATION OF LABOR CODE SECTIONS 510 AND 1198**

4 **Unpaid Overtime**

5 **(Against All Defendants and DOES 1 – 25)**

6 43. Plaintiffs incorporate herein by specific reference, as though fully set forth, the
7 allegations in all preceding paragraphs.

8 44. California Labor Code section 1198 and the applicable Industrial Welfare Commission
9 (“IWC”) Wage Order provide that it is unlawful to employ persons without compensating them at a
10 rate of pay either time-and-one-half or two-times that person’s regular rate of pay, depending on the
11 number of hours worked by the person on a daily and/or weekly basis.

12 45. Specifically, the applicable IWC Wage Order provides that Defendants were required
13 to pay Plaintiffs and the other class members at the rate of time-and-one-half for all hours worked in
14 excess of eight (8) hours in a day, in excess of forty (40) hours in a workweek and/or the first eight
15 (8) hours worked on the seventh consecutive day in a workweek.

16 46. The applicable IWC Wage Order further provides that Defendants were required to pay
17 Plaintiffs and the other class members overtime compensation at a rate of two (2) times their regular
18 rate of pay for all hours worked in excess of twelve (12) hours in a day and/or for all hours worked in
19 excess of eight (8) hours on the seventh consecutive day in a workweek.

20 47. California Labor Code section 510 codifies the right to overtime compensation at one-
21 and-one half times the regular hourly rate for hours worked in excess of eight (8) hours in a day, forty
22 (40) hours in a week, or for the first eight (8) hours worked on the seventh day of work, and to overtime
23 compensation at twice the regular hourly rate for hours worked in excess of twelve (12) hours in a day
24 or in excess of eight (8) hours in a day on the seventh day of work.

25 48. Plaintiffs and the other class members regularly worked in excess of eight (8) hours in
26 a day, in excess of twelve (12) hours in a day, in excess of forty (40) hours in a week and/or seven (7)
27 consecutive days in a workweek. However, Defendants did not record Plaintiffs and the other class
28 members’ actual hours worked and intentionally and willfully failed to pay all overtime wages owed

1 to Plaintiffs and the other class members. Defendants' failure to pay correct overtime wages included,
2 *inter alia*: (a) when the combined total of the off-the-clock work discussed *infra* and the on-the-clock
3 work exceed the number of hours that trigger the payment of overtime wages under Labor Code
4 sections 510 and 1198 and/or the applicable Wage Order; (b) when Defendants intentionally, willfully
5 and/or negligently mischaracterized overtime as regular rate/straight time or minimum wage, or
6 similarly mischaracterized double time as time-and-a-half, regular rate/straight time, or minimum
7 wage; (c) when Defendants assigned more work than could reasonably be completed in a workday or
8 workweek to Plaintiffs and class members, but refused to authorize the overtime necessary for them
9 to complete the assigned work; and (d) when Defendants failed to include all required wages and
10 renumeration when calculating setting the overtime rate.

11 49. Defendants' failure to pay Plaintiffs and the other class members as outlined above
12 violates California Labor Code sections 510 and 1198 and the applicable Wage Order and is therefore
13 unlawful.

14 50. Pursuant to California Labor Code section 1194, Plaintiffs and the other class members
15 are entitled to recover their unpaid overtime compensation, as well as interest, costs, and attorneys'
16 fees.

17 **SECOND CAUSE OF ACTION**

18 **VIOLATION OF LABOR CODE SECTIONS 1194, 1197, AND 1197.1**

19 **Failure to Pay Minimum Wage**

20 **(Against All Defendants and DOES 1 – 25)**

21 51. Plaintiffs incorporate herein by specific reference, as though fully set forth, the
22 allegations in all preceding paragraphs.

23 52. California Labor Code sections 1194, 1197 and 1197.1 provide that the minimum wage
24 for employees fixed by the Industrial Welfare Commission is the minimum wage to be paid to
25 employees, and the payment of a wage less than the minimum so fixed is unlawful. Plaintiffs and the
26 other class members were frequently suffered or permitted to work "off-the-clock", such that they
27 were not paid minimum wage for all hours worked.

28 53. Such "off-the-clock" work that Plaintiffs and class members were suffered and/or

1 permitted to work, and for which Plaintiffs and class members did not receive minimum wage include
2 *inter alia*, requiring Plaintiffs and class members to wait until production was completed to clock-in
3 and begin their packaging shifts, and working during times Plaintiffs and other class members were
4 clocked out for meal periods, assuring that Defendants would fail to properly pay Plaintiffs and other
5 class members at least the minimum wage for all time worked in violation of California Labor Code
6 sections 1194, 1197, and 1197.1.

7 54. Moreover, Defendants had a policy, practice and procedure of rounding employee time
8 such that Plaintiffs and some or all class members were systematically unpaid and/or underpaid for
9 time worked over the course of their employment.

10 55. Accordingly, Defendants regularly failed to pay at least minimum wages to Plaintiffs
11 and the other class members for all hours they worked in violation of California Labor Code sections
12 1194, 1197, and 1197.1.

13 56. Defendants knew or should have known that Plaintiffs and class members were
14 performing such work “off-the-clock” because, among other things, Defendants’ management
15 witnessed, authorized, was made aware of, and/or required Plaintiffs and class members to perform
16 such work.

17 57. Defendants’ failure to pay Plaintiffs and the other class members the minimum wage
18 as required violates California Labor Code sections 1194, 1197 and 1197.1. Pursuant to those sections,
19 Plaintiffs and the other class members are entitled to recover the unpaid balance of their minimum
20 wage compensation, as well as interest, costs, and attorney’s fees.

21 58. Pursuant to California Labor Code section 1194.2, Plaintiffs and the other class
22 members are entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid
23 and interest thereon.

24 **THIRD CAUSE OF ACTION**

25 **VIOLATION OF LABOR CODE SECTIONS 226.7 AND 512**

26 **Meal Break Violations**

27 **(Against All Defendants and DOES 1 – 25)**

28 59. Plaintiffs incorporate herein by specific reference, as though fully set forth, the

1 allegations in all preceding paragraphs.

2 60. California Labor Code sections 226.7 and 512(a) and the applicable Wage Order
3 govern Plaintiffs and the other class members' employment by Defendants.

4 61. California Labor Code section 226.7 provides that no employer shall require an
5 employee to work during any meal period mandated by an applicable IWC Order.

6 62. The applicable IWC Wage Order and California Labor Code section 512(a) provide
7 that an employer may not require, cause, or permit an employee to work for a period of more than five
8 (5) hours per day without providing the employee with a meal period of not less than thirty (30)
9 minutes, except that if the total work period per day of the employee is not more than six (6) hours,
10 the meal period may be waived by mutual consent of both the employer and the employee.

11 63. The applicable IWC Wage Order and California Labor Code section 512(a) further
12 provides that an employer may not require, cause, or permit an employee to work a work period of
13 more than ten (10) hours per day without providing the employee with a second uninterrupted meal
14 period of not less than thirty (30) minutes, except if the total hours worked is no more than twelve (12)
15 hours, the second meal period may be waived by mutual consent of the employer and the employee
16 only if the first meal period was not waived.

17 64. Plaintiffs and the other class members who were scheduled to work for shifts no longer
18 than six (6) hours, and who did not waive their legally mandated meal periods by mutual consent, were
19 required to work for periods longer than five (5) hours without an uninterrupted meal period of not
20 less than thirty (30) minutes.

21 65. Plaintiffs and the other class members who were scheduled to work for shifts in excess
22 of ten (10) hours but no longer than twelve (12) hours, and who did not waive their legally mandated
23 meal periods by mutual consent, were required to work for periods longer than ten (10) hours without
24 an uninterrupted meal period of not less than thirty (30) minutes.

25 66. Defendants intentionally and willfully required Plaintiffs and the other class members
26 to work during meal periods and failed to compensate Plaintiffs and the other class members for work
27 performed during meal periods. This includes, among other things, requiring Plaintiffs and class
28 members to work through their lunch breaks, permitting and/or requiring Plaintiffs and class members

1 to take late lunch breaks, permitting and/or requiring Plaintiffs and class members to take short lunch
2 breaks, interrupting and/or allowing others to interrupt Plaintiffs and class members during their lunch
3 breaks, failing to relieve Plaintiffs and class members of all duties during their lunch breaks, and
4 restricting Plaintiffs and class members from leaving the premises during their lunch breaks.

5 67. Further, because of Defendants' rounding policy, meal breaks were at times incorrectly
6 recorded as compliant, when in reality they were untimely and/or cut short.

7 68. During the relevant time period, Defendants failed to pay Plaintiffs and the other class
8 members all meal period premiums due pursuant to California Labor Code section 226.7 and 512 and
9 the applicable Wage Order.

10 69. Defendants' conduct therefore violates the applicable IWC Wage Order, and California
11 Labor Code sections 226.7 and 512(a).

12 70. Pursuant to the applicable IWC Wage Order and California Labor Code section
13 226.7(b), Plaintiffs and the other class members are entitled to recover from Defendants one additional
14 hour of pay at their regular rate of compensation for each workday that a compliant meal
15 period was not provided.

16 **FOURTH CAUSE OF ACTION**

17 **VIOLATION OF LABOR CODE SECTION 226.7**

18 **Rest Break Violations**

19 **(Against All Defendants and DOES 1 – 25)**

20 71. Plaintiffs incorporate herein by specific reference, as though fully set forth, the
21 allegations in all preceding paragraphs.

22 72. California Labor Code section 226.7 and the applicable IWC Wage Order govern
23 Plaintiffs and the other class members' employment by Defendants.

24 73. California Labor Code section 226.7 provides that no employer shall require an
25 employee to work during any rest period mandated by an applicable order of the California IWC.

26 74. The applicable IWC Wage Order provides that "[e]very employer shall authorize and
27 permit all employees to take rest periods, which insofar as practicable shall be in the middle of each
28 work period" and that the "rest period time shall be based on the total hours worked daily at the rate

of ten (10) minutes net rest time per four (4) hours or major fraction thereof” unless the total daily work time is less than three and one-half (3½) hours.”

75. Defendants routinely required Plaintiffs and the other class members to work three and one-half (3 ½) or more hours without authorizing or permitting a compliant ten (10) minute rest period per each four (4) hour period, or major fraction thereof, worked.

76. Moreover, Defendants willfully required, suffered and permitted Plaintiffs and the other class members to work during what should have been their rest periods. Defendants also failed to relieve Plaintiffs and the other class members of all duties for ten (10) minutes as required for compliant rest breaks.

77. As a result, Plaintiffs worked through rest periods, took late rest periods, took interrupted rest periods, and/or took short rest periods, if at all.

78. Pursuant to the applicable IWC Wage Order and California Labor Code section 226.7(b), Plaintiffs and the other class members were entitled to recover from Defendants one (1) additional hour of pay at their regular hourly rate of compensation for each workday that compliant rest period(s) were not provided.

79. Defendants had no policy and/or practice to pay a premium when rest periods were missed, short, late, and/or interrupted, or otherwise failed to comply with California law, and thus Defendants failed to pay Plaintiffs and the other class members the full rest period premium due to them in violation of California Labor Code section 226.7 and the applicable IWC Wage Orders.

80. Pursuant to the applicable IWC Wage Orders and California Labor Code section 226.7(c), Plaintiffs and the other class members are entitled to recover from Defendants one additional hour of pay at their regular rate of compensation for each workday complaint rest period(s) were not provided.

FIFTH CAUSE OF ACTION

VIOLATION OF CALIFORNIA LABOR CODE §§ 204 AND 210

Failure to Timely Pay Wages During Employment

(Against All Defendants and DOES 1 – 25)

81. Plaintiffs incorporate herein by specific reference, as though fully set forth, the

1 allegations in all preceding paragraphs.

2 82. California Labor Code section 204 provides that all wages earned by any person in any
3 employment between the 1st and 15th days, inclusive, of any calendar month, other than those wages
4 due upon termination of an employee, are due and payable between the 16th and 26th day of the month
5 during which the labor was performed.

6 83. California Labor Code section 204 provides that all wages earned by any person in any
7 employment between the 16th and the last day, inclusive, of any calendar month, other than those
8 wages due upon termination of an employee, are due and payable between the 1st and the 10th day of
9 the following month.

10 84. California Labor Code section 204 provides that all wages earned for labor in excess
11 of the normal work period shall be paid no later than the payday for the next regular payroll period.

12 85. As a result of the violations set forth in detail above (failure to pay overtime, failure to
13 pay minimum wages or regular rate/straight time wages, meal break violations, rest break violations,
14 and failure to pay any other wages, remuneration, pay, or monies as they became due, *e.g.*, accrued
15 gratuities, bonuses, commissions, etc.), Defendants intentionally and willfully failed to timely pay
16 Plaintiffs and other class members all wages due to them, within the period permissible under
17 California Labor Code section 204.

18 86. Plaintiffs and other class members are entitled to recover all available remedies for
19 Defendant's violations of California Labor Code section 204, including statutory penalties pursuant to
20 Labor Code section 210(b).

21 **SIXTH CAUSE OF ACTION**

22 **VIOLATION OF LABOR CODE SECTION 226(a)**

23 **Failure to Provide Accurate Wage Statements**

24 **(Against All Defendants and DOES 1 – 25)**

25 87. Plaintiffs incorporate herein by specific reference, as though fully set forth, the
26 allegations in all preceding paragraphs.

27 88. At all material times set forth herein, California Labor Code section 226(a) provides
28 that every employer shall furnish each of its employees an accurate itemized wage statement in writing,

including, but not limited to, the name and address of the legal entity that is the employer, total hours worked, and all applicable hourly rates.

89. As a result of the violations set forth in detail above (failure to pay overtime, failure to pay minimum wages or regular rate/straight time wages, meal break violations, rest break violations, and failure to pay any other wages, remuneration, pay, or monies as they became due, *e.g.*, accrued gratuities, bonuses, commissions, etc.), Defendants intentionally and willfully failed to provide Plaintiffs and the other class members with complete and accurate wage statements. The deficiencies include, among other things, the failure to state all hours worked, the failure to state the actual gross wages earned, the failure to include meal and rest break premiums, and the failure to include correct rates of pay. Accordingly, Defendants violated California Labor Code 226(a).

90. As a result of Defendants' violation of California Labor Code section 226(a), Plaintiffs and the other class members have suffered injury and damage to their statutorily protected rights.

91. Specifically, Plaintiffs and the other class members have been injured by Defendants' intentional violation of California Labor Code section 226(a) because they were denied both their legal right to receive, and their protected interest in receiving, accurate, itemized wage statements under California Labor Code section 226(a). In addition, because Defendants failed to provide the accurate number of total hours worked on wage statements, Plaintiffs and the other class members have been prevented by Defendants from determining if all hours worked were paid and the extent of the underpayment. Plaintiffs had to file this lawsuit, and will further have to conduct discovery, reconstruct time records, and perform computations in order to analyze whether in fact Plaintiffs and the other class members were paid correctly and the extent of the underpayment, thereby causing Plaintiffs to incur expenses and lost time. Plaintiffs would not have had to engage in these efforts and incur these costs had Defendants provided the accurate number of total hours worked. This has also delayed Plaintiffs' ability to demand and recover the underpayment of wages from Defendants.

92. Plaintiffs and the other class members are entitled to recover from Defendants the greater of their actual damages caused by Defendants' failure to comply with California Labor Code section 226(a), or an aggregate penalty not exceeding four thousand dollars (\$4,000).

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1 **SEVENTH CAUSE OF ACTION**

2 **VIOLATION OF LABOR CODE SECTIONS 201, 202, AND 203**

3 **Final Wages Not Timely Paid**

4 **(Against All Defendants and DOES 1 – 25)**

5 93. Plaintiffs incorporate herein by specific reference, as though fully set forth, the
6 allegations in all preceding paragraphs.

7 94. Pursuant to California Labor Code sections 201, 202, and 203, Defendants are required
8 to timely pay all earned and unpaid wages to an employee who is discharged. California Labor Code
9 section 201 mandates that if an employer discharges an employee, the employee's wages accrued and
10 unpaid at the time of discharge are due and payable immediately. California Labor Code section 202
11 mandates that if an employee quits, his or her wages shall become due and payable not later than
12 seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours' notice of
13 his or her intention to quit, in which case the employee is entitled to his or her wages at the time of
14 quitting.

15 95. California Labor Code section 203 provides that if an employer willfully fails to pay,
16 in accordance with California Labor Code sections 201 and 202, any wages of an employee who is
17 discharged or who quits, the wages of the employee shall continue as a penalty from the due date
18 thereof at the same rate until paid or until an action therefore is commenced; but the wages shall not
19 continue for more than thirty (30) days.

20 96. As a result of the violations set forth in detail above (failure to pay overtime, failure to
21 pay minimum wages or regular rate/straight time wages, meal break violations, rest break violations,
22 and failure to pay any other wages, remuneration, pay, or monies as they became due, *e.g.*, accrued
23 gratuities, bonuses, commissions, etc.), at the time that Plaintiffs and the other class
24 members' employment with Defendants ended, Defendants knowingly and willfully failed to pay
25 Plaintiffs and the other class members all wages owed to them pursuant to California Labor Code
26 sections 201 and 202, including, without limitation, failure to pay overtime, failure to pay minimum
27 wages or regular rate/straight time wages, meal break violations, rest break violations, and failure to
28 pay any other wages, remuneration, pay, or monies due, *e.g.*, accrued gratuities, bonuses,

1 commissions, etc., as required per California Labor Code sections 204.

2 97. As a result, Plaintiffs and the other class members are entitled to all available
3 statutory penalties, including the waiting time penalties provided in California Labor Code section
4 203, together with interest thereon, as well as other available remedies.

5 **EIGHTH CAUSE OF ACTION**

6 **VIOLATION OF LABOR CODE SECTIONS 2800 AND 2802**

7 **Failure to Reimburse Necessary Business Expenses**

8 **(Against All Defendants and DOES 1 – 25)**

9 98. Plaintiffs incorporate herein by specific reference, as though fully set forth, the
10 allegations in all preceding paragraphs.

11 99. Pursuant to California Labor Code sections 2800 and 2802, an employer must
12 reimburse its employees for all necessary expenditures incurred by the employee in direct consequence
13 of the discharge of his or her job duties or in direct consequence of his or her job duties or in direct
14 consequence of his or her obedience to the directions of the employer.

15 100. Plaintiffs and the other class members incurred necessary business-related expenses
16 and costs that were not fully reimbursed by Defendants, including, but not limited to the usage of
17 personal cell phones for work-related purposes.

18 101. Defendants intentionally and willfully failed to reimburse Plaintiffs and the other class
19 members for all necessary business-related expenses and costs. Plaintiffs and the other class members
20 are entitled to recover from Defendants their business-related expenses and costs incurred during the
21 course and scope of employment, plus interest accrued from the date on which Plaintiffs and the other
22 class members incurred the necessary expenditures at the same rate as judgments in civil actions in
23 the State of California.

24 **NINTH CAUSE OF ACTION**

25 **VIOLATION OF CAL. BUS. & PROF. CODE §§ 17200 ET. SEQ.**

26 **Unfair and Unlawful Business Practices**

27 **(Against All Defendants and DOES 1 – 25)**

28 102. Plaintiffs incorporate herein by specific reference, as though fully set forth, the

1 allegations in all preceding paragraphs.

2 103. Each and every one of Defendants' acts and omissions in violation of the California
3 Labor Code and/or the applicable IWC Wage Order as alleged herein, including but not limited to
4 Defendants' failure and refusal to pay overtime compensation, Defendants' failure and refusal to pay
5 minimum wages or regular rate/straight time wages, Defendants' failure and refusal to provide
6 required meal periods and/or pay meal period premiums, Defendants' failure and refusal to provide
7 required rest periods and/or pay the required rest break premiums, Defendants' failure to timely pay
8 wages at the correct rate during employment, Defendants' failure and refusal to furnish accurate
9 itemized wage statements, Defendants' failure and refusal to reimburse business-related expenses, and
10 Defendants' failure to timely pay wages upon termination constitutes an unfair and unlawful business
11 practice under California Business and Professions Code § 17200 *et seq.*

12 104. Defendants' violations of California wage and hour laws constitute an unfair and
13 unlawful business practice because Defendants' aforementioned acts and omissions were done
14 repeatedly over a significant period of time, and in a systematic manner, to the detriment of Plaintiffs
15 and the other class members.

16 105. Defendants have avoided payment of minimum wages or regular rate/straight time
17 wages, overtime wages, meal period premiums, rest period premiums, timely wages at the correct rate
18 of pay, and other benefits as required by the California Labor Code, the California Code of
19 Regulations, and the applicable IWC Wage Order. Further, Defendants have failed to record, report,
20 and pay the correct sums of assessment to the state authorities under the California Labor Code and
21 other applicable regulations.

22 106. As a result of Defendants' unfair and unlawful business practices, Defendants have
23 reaped unfair and illegal profits during Plaintiffs and the other class members' tenure at the expense
24 of Plaintiffs, the other class members, and members of the public. Defendants should be made to
25 disgorge their ill-gotten gains and to restore them to Plaintiffs and the other class members.

26 107. Defendants' unfair and unlawful business practices entitle Plaintiffs and the other class
27 members to seek preliminary and permanent injunctive relief, including but not limited to orders that
28 Defendants account for, disgorge, and restore to Plaintiffs and the other class members the wages and

1 other compensation unlawfully withheld from them. Plaintiffs and the other class members are entitled
2 to restitution of all monies to be disgorged from Defendants in an amount according to proof at the
3 time of trial.

4 **TENTH CAUSE OF ACTION**

5 **VIOLATION OF CALIFORNIA LABOR CODE §§ 2699, *ET SEQ.***

6 **(Against All Defendants and DOES 1 – 25)**

7 108. Plaintiffs incorporate herein by specific reference, as though fully set forth, the
8 allegations in all preceding paragraphs.

9 109. PAGA expressly provides for a private right of action to recover civil penalties for
10 violations of the Labor Code as follows: “Notwithstanding any other provision of law, any provision
11 of this code that provides for a civil penalty to be assessed and collected by the Labor and Workforce
12 Development Agency or any of its departments, divisions, commissions, boards, agencies, or
13 employees, for a violation of this code, may, as an alternative, be recovered through a civil action
14 brought by an aggrieved employee on behalf of himself or herself and other current or former
15 employees pursuant to the procedures specified in Section 2699.3.” Cal. Lab. Code § 2699(a).

16 110. Whenever the LWDA, or any of its departments, divisions, commissions, boards,
17 agencies, or employees has discretion to assess a civil penalty, a court in a civil action is authorized to
18 exercise the same discretion, subject to the same limitations and conditions, to assess a civil penalty.

19 111. Plaintiffs and the other hourly-paid, non-exempt employees are “Aggrieved
20 Employees” as defined by California Labor Code section 2699(c) in that they are all current or former
21 employees of Defendants, and one or more of the alleged violations were committed against them.

22 112. Defendants’ conduct, as alleged herein, violates numerous sections of the California
23 Labor Code, including, but not limited to, the following:

- 24 a. Violation of California Labor Code sections 510 and 1198 for failure to pay overtime
25 wages, as set forth more fully below;
- 26 b. Violation of California Labor Code sections 1194, 1197, and 1197.1 for failure to pay
27 minimum wages, as set forth more fully below;
- 28 c. Violation of California Labor Code sections 226.7 and 512(a) for failure to provide

legally required meal periods, as set forth more fully below;

- d. Violation of California Labor Code sections 226.7 and 512(a) for failure to pay required meal period premiums, as set forth more fully below;
- e. Violation of California Labor Code section 226.7 for failure to provide legally required rest periods, as set forth more fully below;
- f. Violation of California Labor Code section 226.7 for failure to pay required rest period premiums, as set forth more fully below;
- g. Violation of California Labor Code section 204 for failure to timely pay wages to Plaintiffs and aggrieved employees during employment, as set forth more fully before;
- h. Violation of California Labor Code sections 201, 202, and 203 for failure to pay all wages at time of discharge from employment, as set forth more fully below;
- i. Violation of California Labor Code section 226(a) for failure to provide accurate wage statements to Plaintiffs and aggrieved employees, as set forth more fully below;
- j. Violation of California Labor Code section 1174(d) for failure to keep complete and accurate payroll records relating to Plaintiffs and aggrieved employees, as set forth more fully below; and
- k. Violation of California Labor Code sections 2800 and 2802 for failure to reimburse Plaintiffs and aggrieved employees for necessary business-related expenses, as set forth more fully below.

113. Pursuant to PAGA, and in particular Labor Code sections 2699(a), 2699.3, and 2699.5, Plaintiffs, acting in the public interest as a private attorney general, seek assessment and collection of civil penalties for Plaintiffs, all Aggrieved Employees, and the State of California against Defendants for violations of Labor Code sections set forth herein, including penalties under California Labor Code sections 2699, 558, 210, 1197.1, 226, 226.3, 1174.5, and 1197.1, penalties under the applicable IWC Wage Order, and any and all additional penalties and remedies as provided by the California Labor Code and/or other statutes.

114. Pursuant to California Labor Code section 2699(i), civil penalties recovered by Aggrieved Employees shall be distributed as follows: seventy-five percent (75%) to the LWDA for

1 the enforcement of labor laws and education of employers and employees about their rights and
2 responsibilities and twenty-five (25%) to the Aggrieved Employees.

3 115. Plaintiffs retained counsel to file this court action, and to assess and collect the civil
4 penalties owed by Defendants. Plaintiffs therefore seeks an award of reasonable attorney's fees and
5 costs pursuant to Labor Code §§ 210, 218.5, 2699(g)(1), and any other applicable statute.

6 **Failure to Pay Proper Overtime Wages**

7 116. Labor Code section 510 and the applicable IWC Wage Order require Defendants to pay
8 Plaintiffs and Aggrieved Employees who worked more than eight (8) hours in a day; more than forty
9 (40) hours in a workweek, and/or seven (7) consecutive days, at the rate of one-and-a-half times their
10 regular rate for all such hours worked.

11 117. Labor Code section 510 and the applicable IWC Wage Order further requires
12 Defendants to pay Plaintiffs and Aggrieved Employees who worked more than twelve (12) hours in a
13 day or more than eight (8) hours on the seventh consecutive day, overtime compensation at a rate of
14 two (2) times their regular rate of pay for all such hours worked.

15 118. During the relevant time period, Plaintiffs and Aggrieved Employees regularly worked
16 in excess of eight (8) hours in a day, in excess of twelve (12) hours in a day, in excess of forty (40)
17 hours in a workweek and/or for seven (7) or more consecutive days, but Defendants routinely failed
18 to properly account for all such overtime hours and further failed to compensate Plaintiffs and
19 Aggrieved Employees at the correct overtime rates.

20 119. Defendants' failure to pay correct overtime wages included, *inter alia*: (a) when the
21 combined total of the off-the-clock work discussed *supra* and *infra* and the on-the-clock work exceed
22 the number of hours that trigger the payment of overtime wages under Labor Code sections 510 and/or
23 the applicable Wage Order; (b) when Defendants intentionally, willfully and/or negligently
24 mischaracterized overtime as straight time/regular rate or minimum wage, or else mischaracterized
25 double time as time-and-a-half, straight time/regular rate, or minimum wage; (c) when Defendants
26 assigned more work than could reasonably be completed in a workday or workweek to Plaintiffs and
27 Aggrieved Employees, but refused to authorize the overtime necessary for them to complete the
28 assigned work; and (d) when Defendants failed to include all required wages and remuneration when

1 calculating the overtime rate.

2 120. Defendants' failure to pay Plaintiffs and Aggrieved Employees proper overtime
3 compensation, as required by California law, violates the provisions of California Labor Code section
4 510, and is therefore unlawful.

5 **Failure to Pay Minimum Wages**

6 121. California Labor Code sections 1194, 1197 and 1197.1 provide that the minimum wage
7 for employees fixed by the IWC is the minimum wage to be paid to employees, and the payment of a
8 wage less than the minimum so fixed is unlawful.

9 122. The IWC set the minimum wage for Plaintiffs and the Aggrieved Employees in the
10 applicable IWC Wage Order.

11 123. Plaintiffs and the other Aggrieved Employees were frequently suffered or permitted to
12 work "off-the-clock", such that they were not paid minimum wage for all hours worked.

13 124. Such "off-the-clock" work that Plaintiffs and Aggrieved Employees were suffered
14 and/or permitted to work, and for which Plaintiffs and Aggrieved Employees did not receive minimum
15 wage include *inter alia*, requiring Plaintiffs and Aggrieved Employees to wait until production was
16 completed to clock-in and begin their packaging shifts, and working during times Plaintiffs and other
17 Aggrieved Employees were clocked out for meal periods, assuring that Defendants would fail to
18 properly pay Plaintiffs and other Aggrieved Employees at least the minimum wage for all time worked
19 in violation of California Labor Code sections 1194, 1197, and 1197.1.

20 125. Moreover, Defendants had a policy, practice and procedure of rounding employee time
21 such that Plaintiffs and Aggrieved Employees were systematically unpaid and/or underpaid for time
22 worked over the course of their employment.

23 126. Accordingly, Defendants regularly failed to pay at least minimum wages to Plaintiffs
24 and the Aggrieved Employees for all hours they worked in violation of California Labor Code sections
25 1194, 1197, and 1197.1.

26 **Failure to Provide Meal Periods**

27 127. California Labor Code section 226.7 provides that no employer shall require an
28 employee to work during any meal period mandated by an applicable IWC Order.

1 128. California Labor Code section 512(a) provides that an employer may not require, cause,
2 or permit an employee to work for a period of more than five (5) hours per day without providing the
3 employee with a meal period of not less than thirty (30) minutes, except that if the total work period
4 per day of the employee is not more than six (6) hours, the meal period may be waived by mutual
5 consent of both the employer and the employee.

6 129. California Labor Code section 512(a) further provides that an employer may not
7 employ an employee for a work period of more than 10 hours per day without providing the employee
8 with a second meal period of not less than 30 minutes, except that if the total hours worked is no more
9 than 12 hours, the second meal period may be waived by mutual consent of the employer and the
10 employee only if the first meal period was not waived.

11 130. The applicable IWC Wage Order sets forth the same requirements for meal breaks.

12 131. Plaintiffs and Aggrieved Employees who were scheduled to work for no longer than
13 six (6) hours, and who did not waive their legally mandated meal periods by mutual consent, were
14 required to work for periods longer than five (5) hours without a meal period of not less than thirty
15 (30) minutes.

16 132. Plaintiffs and the Aggrieved Employees who were scheduled to work for more than six
17 (6) hours were required to work for periods longer than five (5) hours without an uninterrupted meal
18 period of not less than thirty (30) minutes.

19 133. Plaintiffs and the Aggrieved Employees, who were scheduled to work for more than
20 ten (10) hours but no longer than twelve (12) hours, and who did not waive their legally mandated meal
21 periods by mutual consent, were required to work in excess of ten (10) hours without receiving a
22 second uninterrupted meal period of not less than thirty (30) minutes.

23 134. Plaintiffs and the Aggrieved Employees, who were scheduled to work for a period of
24 time in excess of twelve (12) hours, were required to work for periods longer than ten (10) hours
25 without a second uninterrupted meal period of not less than thirty (30) minutes.

26 135. Moreover, when meal breaks were provided, they were often interrupted, cut short,
27 and/or Plaintiffs and the Aggrieved Employees were not relieved of all duties as required by law.

28 136. Such conduct violates California Labor Code sections 226.7 and 512(a) and the

1 applicable IWC Wage Order.

2 **Failure to Pay Compliant Meal Break Premiums**

3 137. California Labor Code section 226.7 provides: “[i]f an employer fails to provide an
4 employee a [meal] period in accordance with a state law, including, but not limited to, an applicable
5 statute or applicable regulation, standard, or order of the Industrial Welfare Commission... the
6 employer shall pay the employee one additional hour of pay at the employee's regular rate of
7 compensation for each workday that the [meal] period is not provided.

8 138. The applicable IWC Wage Order provides: “[i]f an employer fails to provide an
9 employee a meal period in accordance with the applicable provisions of this Order, the employer shall
10 pay the employee one (1) hour of pay at the employee’s regular rate of compensation for each work
11 day that the meal period is not provided.”

12 139. Defendants failed to pay Plaintiffs and Aggrieved Employees meal period premiums
13 due in violation of California Labor Code sections 226.7 and 512 on each day when a complete, timely,
14 and uninterrupted meal period of at least thirty (30) minutes was not provided.

15 140. Moreover, if and when meal break premiums were provided, Defendants failed to
16 incorporate all nondiscretionary payments for work performed by Plaintiffs and the Aggrieved
17 Employees in the regular rate of compensation for purposes of such premiums.

18 141. Defendants’ conduct violates the applicable IWC Wage Orders and California Labor
19 Code section 226.7.

20 **Failure to Provide Rest Periods**

21 142. California Labor Code section 226.7 provides that no employer shall require an
22 employee to work during any rest period mandated by an applicable order of the California IWC.

23 143. The applicable IWC Wage Order provides that “[e]very employer shall authorize and
24 permit all employees to take rest periods, which insofar as practicable shall be in the middle of each
25 work period” and that the “rest period time shall be based on the total hours worked daily at the rate
26 of ten (10) minutes net rest time per four (4) hours or major fraction thereof” unless the total daily
27 work time is less than three and one-half (3½) hours.

28 144. Defendants required Plaintiffs and the Aggrieved Employees to work four (4) or more

1 hours without authorizing or permitting a timely ten (10) minute uninterrupted rest period during
2 which time they were relieved of their duties per each four (4) hour period, or major fraction thereof
3 worked.

4 145. Defendants' conduct therefore violates the applicable IWC Wage Orders and California
5 Labor Code section 226.7.

6 **Failure to Pay Rest Break Premiums**

7 146. California Labor Code section 226.7 provides: "[i]f an employer fails to provide an
8 employee a meal or rest or recovery period in accordance with a state law, including, but not limited
9 to, an applicable statute or applicable regulation, standard, or order of the Industrial Welfare
10 Commission,... the employer shall pay the employee one additional hour of pay at the employee's
11 regular rate of compensation for each workday that the [rest] period is not provided.

12 147. The applicable IWC Wage Order provides: "[i]f an employer fails to provide an
13 employee a rest period in accordance with the applicable provisions of this Order, the employer shall
14 pay the employee one (1) hour of pay at the employee's regular rate of compensation for each work
15 day that the rest period is not provided.

16 148. Defendants failed to pay Plaintiffs and Aggrieved Employees required rest break
17 premiums due when compliant rest periods were not provided.

18 149. Such conduct is in direct violation of California Labor Code section 226.7.

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

20 150. California Labor Code section 204 provides that all wages earned by any person in any
21 employment between the 1st and 15th days, inclusive, of any calendar month, other than those wages
22 due upon termination of an employee, are due and payable between the 16th and the 26th day of the
23 month during which the labor was performed. It further provides all wages earned by any person in
24 any employment between the 16th and the last day, inclusive, of any calendar month, other than those
25 wages due upon termination of an employee, are due and payable between the 1st and the 10th day of
26 the following month.

27 151. California Labor Code section 204 provides that all wages earned for labor in excess
28 of the normal work period shall be paid no later than the payday for the next regular payroll period.

1 152. During the relevant time period, Defendants intentionally and willfully failed to pay
2 Plaintiffs and the Aggrieved Employees all wages due to them, within any time period permissible
3 under California Labor Code section 204, including wages for overtime wages, minimum wage
4 compensation, regular rate/straight time compensation, meal period premiums, rest period premiums,
5 and all other wages, remuneration, pay, or monies as they became due, *e.g.*, accrued gratuities,
6 bonuses, commissions, etc.

7 153. Such conduct violates Labor Code section 204.

8 **Failure to Timely Pay Wages Upon Termination**

9 154. Pursuant to California Labor Code sections 201, 202, and 203, Defendants are required
10 to timely pay all earned and unpaid wages to an employee who is discharged.

11 155. California Labor Code section 201 mandates that if an employer discharges an
12 employee, the employee's wages accrued and unpaid at the time of discharge are due and payable
13 immediately.

14 156. California Labor Code section 202 mandates that if an employee quits, his or her wages
15 shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee
16 has given seventy-two (72) hours' notice of his or her intention to quit, in which case the employee
17 is entitled to his or her wages at the time of quitting.

18 157. California Labor Code section 203 provides that if an employer willfully fails to pay,
19 in accordance with California Labor Code sections 201 and 202, any wages of an employee who is
20 discharged or who quits, the wages of the employee shall continue as a penalty from the due date
21 thereof at the same rate until paid or until an action therefore is commenced; but the wages shall not
22 continue for more than thirty (30) days.

23 158. At the time that Plaintiffs and Aggrieved Employees' employment with Defendants
24 ended, Defendants knowingly and willfully failed to pay Plaintiffs and the Aggrieved Employees all
25 wages owed to them pursuant to California Labor Code sections 201 and 202, including, without
26 limitation, wages for overtime wages, minimum wage compensation, regular rate/straight time
27 compensation, meal period premiums, rest period premiums, and all other wages, remuneration, pay,
28 or monies as they became due, *e.g.*, accrued gratuities, bonuses, commissions, etc.

1 159. Such conduct violates Labor Code sections 201, 202 and 203.

2 **Failure to Provide Compliant Wage Statements**

3 160. California Labor Code section 226(a) provides that every employer shall furnish each
4 of its employees an accurate itemized statement in writing showing (1) gross wages earned, (2) total
5 hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate
6 if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on
7 written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6)
8 the inclusive dates of the period for which the employee is paid, (7) the name of the employee and his
9 or her social security number, (8) the name and address of the legal entity that is the employer, and (9)
10 all applicable hourly rates in effect during the pay period and the corresponding number of hours
11 worked at each hourly rate by the employee.

12 161. Defendants intentionally and willfully failed to provide employees with complete and
13 accurate wage statements. The deficiencies include, among other things, the failure to state all correct
14 rates of pay, all hours worked, all meal period premium wages earned, and all rest period premium
15 wages earned.

16 162. Such conduct violates Labor Code section 226.

17 **Failure to Keep Requisite Payroll Records**

18 163. California Labor Code section 1174(d) requires an employer to keep, at a central
19 location in the state or at the plants or establishments at which employees are employed, payroll
20 records showing the hours worked daily by and the wages paid to, and the number of piece-rate units
21 earned by and any applicable piece rate paid to, employees employed at the respective plants or
22 establishments. These records shall be kept in accordance with rules established for this purpose by
23 the commission, but in any case shall be kept on file for not less than three years.

24 164. Defendants intentionally and willfully failed to keep accurate and complete payroll
25 records showing the hours worked daily and the wages paid to Plaintiffs and the Aggrieved Employees.

26 165. As a result of Defendants' violation of California Labor Code section 1174(d),
27 Plaintiffs and the Aggrieved Employees have suffered injury and damage to their statutorily protected
28 rights.

1 166. More specifically, Plaintiffs and the Aggrieved Employees have been injured by
2 Defendants' intentional and willful violation of California Labor Code section 1174(d) because they
3 were denied both their legal right and protected interest, in having available, accurate and complete
4 payroll records pursuant to California Labor Code section 1174(d).

5 **Failure to Reimburse Necessary Business Expenses**

6 167. Pursuant to California Labor Code sections 2800 and 2802, an employer must
7 reimburse its employees for all necessary expenditures incurred by the employee in direct consequence
8 of the discharge of his or her job duties or in direct consequence of his or her job duties or in direct
9 consequence of his or her obedience to the directions of the employer.

10 168. Plaintiffs and the Aggrieved Employees incurred necessary business-related expenses
11 and costs that were not fully reimbursed by Defendants, including, but not limited to the use of
12 personal cell phones and related internet usage for work-related purposes.

13 169. Defendants intentionally and willfully failed to reimburse Plaintiffs and the Aggrieved
14 Employees for all necessary business-related expenses and costs.

15 170. Such conduct violates Labor Code sections 2802.

16 **PRAYER FOR RELIEF**

17 Plaintiffs, on behalf of all others similarly situated, pray for relief and judgment against
18 Defendants, jointly and severally, as follows:

19 **Class Certification**

- 20 1. That this action be certified as a class action;
21 2. That Plaintiffs be appointed as the representative of the Class;
22 3. That counsel for Plaintiffs be appointed as Class Counsel; and
23 4. That Defendants provide to Class Counsel immediately the names and most current/last
24 known contact information (address, e-mail and telephone numbers) of all class members.

25 **As to the First Cause of Action**

- 26 5. That the Court declare, adjudge and decree that Defendants violated California Labor
27 Code sections 510 and 1198 and applicable IWC Wage Orders by willfully failing to pay all overtime
28 wages due to Plaintiffs and the other class members;

6. For general unpaid wages at overtime wage rates and such general and special damages as may be appropriate;

7. For pre-judgment interest on any unpaid overtime compensation commencing from the date such amounts were due;

8. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California Labor Code section 1194;

9. For such other and further relief as the Court may deem just and proper.

As to the Second Cause of Action

10. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 1194, 1197, and 1197.1 by willfully failing to pay minimum wages to Plaintiffs and the other class members;

11. For general unpaid wages and such general and special damages as may be appropriate;

12. For statutory wage penalties pursuant to California Labor Code section 1197.1 for Plaintiffs and the other class members in the amount as may be established according to proof at trial;

13. For pre-judgment interest on any unpaid compensation from the date such amounts were due;

14. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California Labor Code section 1194(a);

15. For liquidated damages pursuant to California Labor Code section 1194.2;

16. For such other and further relief as the Court may deem just and proper.

As to the Third Cause of Action

17. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 226.7 and 512 and applicable IWC Wage Orders by willfully failing to provide all meal periods, (including second meal periods) to Plaintiffs and the other class members;

18. That the Court make an award to Plaintiffs and the other class members of one (1) hour of pay at each employee's regular rate of compensation for each workday that a meal period was not provided;

19. For all actual, consequential, and incidental losses and damages, according to proof;

20. For premium wages pursuant to California Labor Code section 226.7(c);
21. For pre-judgment interest on any unpaid wages from the date such amounts were due;
22. For reasonable attorneys' fees and costs of suit incurred herein;
23. For such other and further relief as the Court may deem just and proper.

As to the Fourth Cause Action

24. That the Court declare, adjudge and decree that Defendants violated California Labor Code section 226.7 and applicable IWC Wage Orders by willfully failing to provide all rest periods to Plaintiffs and the other class members;

25. That the Court make an award to Plaintiffs and the other class members of one (1) hour of pay at each employee's regular rate of compensation for each workday that a rest period was not provided;

26. For all actual, consequential, and incidental losses and damages, according to proof;
27. For premium wages pursuant to California Labor Code section 226.7(c);
28. For pre-judgment interest on any unpaid wages from the date such amounts were due;
29. For such other and further relief as the Court may deem just and proper.

As to the Fifth Cause of Action

30. That the Court declare, adjudge and decree that Defendants violated California Labor Code section 204 by willfully failing to pay all compensation owed at the time required by California Labor Code section 204 to Plaintiffs and the Class;

31. For statutory penalties pursuant to California Labor Code section 210;
32. For such other and further relief as the Court deems just and proper.

As to the Sixth Cause of Action

33. That the Court declare, adjudge and decree that Defendants violated the record keeping provisions of California Labor Code section 226(a) and applicable IWC Wage Orders as to Plaintiffs and the other class members, and willfully failed to provide accurate itemized wage statements thereto;

34. For actual, consequential and incidental losses and damages, according to proof;
35. For statutory penalties pursuant to California Labor Code section 226(e);
36. For injunctive relief to ensure compliance with this section, pursuant to

California Labor Code section 226(g);

37. For such other and further relief as the Court may deem just and proper.

As to the Seventh Cause of Action

38. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 201, 202, and 203 by willfully failing to pay all compensation owed at the time of termination of the employment of Plaintiffs and the other class members no longer employed by Defendants;

39. For all actual, consequential, and incidental losses and damages, according to proof;

40. For statutory wage penalties pursuant to California Labor Code section 203 for Plaintiffs and the other class members who have left Defendants' employ;

41. For pre-judgment interest on any unpaid compensation from the date such amounts were due;

42. For such other and further relief as the Court may deem just and proper.

As to the Eight Cause of Action

43. That the Court declare, adjudge, and decree that Defendants violated California Labor Code sections 2800 and 2802 by willfully failing to reimburse Plaintiffs and the other class members for all necessary business-related expenses as required by California Labor Code sections 2800 and 2802;

44. For actual, consequential and incidental losses and damages, according to proof;

45. For the imposition of civil penalties and/or statutory penalties;

46. For punitive damages and/or exemplary damages according to proof at trial;

47. For reasonable attorneys' fees and costs of suit incurred herein; and

48. For such other and further relief as the Court may deem just and proper.

As to the Ninth Cause of Action

49. That the Court declare, adjudge and decree that Defendants violated the following California Labor Code sections as to Plaintiffs and the other class members: 510 and 1198 (by failing to pay overtime wages); 1194, 1197, and 1197.1 (by failing to pay minimum wages); 226.7 and 512(a) (by failing to provide meal and rest periods or compensation in lieu thereof); 204 (by failing to timely

1 pay wages during employment); 226(a) (by failing to provide accurate wage statements); and 201,
2 202, and 203 (by failing to pay all wages owed upon termination); and 2800 and 2802 (by failing to
3 reimburse business-related expenses);

4 50. For restitution of unpaid wages to Plaintiffs and all the other class members and all pre-
5 judgment interest from the day such amounts were due and payable;

6 51. For the appointment of a receiver to receive, manage and distribute any and all funds
7 disgorged from Defendants and determined to have been wrongfully acquired by Defendants as a
8 result of violation of California Business and Professions Code sections 17200, *et seq.*;

9 52. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California
10 Code of Civil Procedure section 1021.5; and

11 53. For injunctive relief to ensure compliance with this section, pursuant to California
12 Business and Professions Code sections 17200, *et seq.*

13 **As to the Tenth Cause of Action**

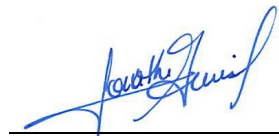
14 54. For civil penalties pursuant to California Labor Code sections 2699(a), (f), and (g), plus
15 costs and attorneys' fees for violation of California Labor Code sections 201, 202, 203, 204, 226(a),
16 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802; and

17 55. For such other and further relief as the Court may deem proper.

18
19 DATED: December 7, 2023

BLACKSTONE LAW, APC

20
21 By:



22 Jonathan M. Genish, Esq.
23 Barbara DuVan-Clarke, Esq.
24 Alexander K. Spellman, Esq.
25 P.J. Van Ert, Esq.

26 Attorneys for Plaintiffs
27 IMELDA LEON-MARTINEZ
28 MARIA AGUELLO

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EXHIBIT A

August 7, 2023

PAGA Claim Notice Via Online Electronic Submission

California Labor & Workforce Development Agency

800 Capitol Mall, Suite 5000 (MIC-55)

Sacramento, CA 95814

<https://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-Act.html>

RE: *Maria Lucia Arguello and Imelda Leon-Martinez v. Ittella International, LLC and Tattooed Chef, Inc.*

Dear Representative:

This office represents Maria Lucia Arguello and Imelda Leon-Martinez (“Claimant Arguello” and “Claimant Leon-Martinez”, respectively; collectively, “Claimants”) with respect to their claims under the California Labor Code against employers Ittella International, LLC and Tattooed Chef, Inc. (including any and all affiliates, subsidiaries, parents, directors, and officers thereof) (collectively referred to herein as “Employers”). This letter is being sent simultaneously to Employers by certified mail.

Employers employed Claimant Arguello from approximately February 2018 through approximately December 2022 as a non-exempt, hourly-paid employee. During Claimant’s employment with Employers, Claimant Arguello was employed as a Machine Operator. Employers employed Claimant Leon-Martinez from approximately June 2022 through approximately January 2023. During Claimant Leon-Martinez’s employment with Employers, Claimant Leon-Martinez was employed as a Packager. Claimants worked at Employers’ facilities located at 6305 Alondra Blvd, Paramount, California 90723. Employers produce, package, and distribute foods and have employees throughout the state of California.

Claimants intend to bring a representative action seeking penalties for violations of the California Labor Code which are recoverable under the Labor Code Private Attorneys General Act of 2004, California Labor Code section 2698, *et seq.* (“PAGA”). Claimants are seeking penalties on behalf of Claimants and in a representative capacity on behalf of the State of California and all current and former hourly-paid and/or non-exempt employees who worked for Employers in the State of California during the relevant statutory period (“Aggrieved Employees”). This letter is being sent in compliance with California Labor Code section 2699.3 and shall serve as Claimants’ notice of the provisions of the California Labor Code alleged to have been violated, including the

facts and theories in support thereof.

As detailed below, Employers violated several of California's wage and hour laws during Claimants' employment, including but not limited to California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 2800, 2802, and the Industrial Welfare Commission Wage Orders ("IWC Wage Order"). The claims made on behalf of Claimants and Aggrieved Employees are based upon the following facts and theories:

1. FAILURE TO PAY FOR ALL TIME WORKED AT CORRECT RATES OF PAY, INCLUDING MINIMUM WAGES, STRAIGHT TIME WAGES, AND OVERTIME COMPENSATION

Employers have engaged in numerous unlawful practices which resulted in the failure to pay Claimants and other Aggrieved Employees for all time worked at the correct rates of pay, including minimum wages, straight time wages, and overtime compensation.

California Labor Code sections 1194, 1197, and 1197.1 and the applicable IWC Wage Orders require employers to pay at least the legal minimum wage to their employees. California Labor Code sections 510 and 1198 and the applicable IWC Wage Orders further require employers to pay no less than one and one-half times the regular rate of pay of the employee for hours worked in excess of eight (8) hours in one workday, for hours worked in excess of forty (40) hours in one workweek, and for the first eight (8) hours worked on the seventh day of work in any one workweek, and to pay no less than twice the regular rate of pay of the employee for hours worked in excess of twelve (12) hours in one workday and for any work in excess of eight (8) hours on any seventh day of a workweek.

Throughout the relevant time period, Employers regularly required Claimants and other Aggrieved Employees to perform work off-the-clock. This off-the-clock work included, *inter alia*: (1) requiring Claimants and other Aggrieved Employees to arrive at work early and wait under Employers' dominion and control prior to being allowed to clock in for the day; (2) working while clocked out for meal periods; and (3) responding to work-related communications between work shifts. Employers failed to compensate Claimants and other Aggrieved Employees for any of this off-the-clock work, in violation of California law.

Employers also failed to accurately record the actual time worked by Claimants and Aggrieved Employees. Moreover, the uncompensated work described herein was often performed when Claimants and other Aggrieved Employees had already worked eight (8) hours in a day and/or forty (40) hours in week resulting in a failure to pay overtime compensation. regular employees failed to pay overtime to Claimants and Aggrieved Employees for all overtime hours worked based on regular rates of pay correctly calculated to include all applicable remuneration, including non-discretionary commissions, non-discretionary bonuses, and non-discretionary performance pay.

As a result of the foregoing practices, Employers have failed to pay Claimants and other Aggrieved Employees for all wages earned at the correct rates of pay, including minimum wages, straight time wages, and overtime compensation. Accordingly, Employers violated the IWC Wage Orders and California Labor Code sections 204, 510, 1194, 1197, 1197.1 and 1198.

Claimants and Aggrieved Employees will therefore seek PAGA default penalties pursuant to California Labor Code section 2699; penalties pursuant to the penalties section of the applicable IWC Wage Orders; penalties pursuant to California Labor Code sections 558, 1197.1, and 1199; and attorneys' fees and costs.

2. FAILURE TO PROVIDE MEAL PERIODS AND PAY MEAL PERIOD PREMIUMS

California law requires employers to provide employees with an opportunity to take an uninterrupted meal period of no less than thirty (30) minutes before the end of the fifth hour of work when an employee works more than five (5) hours in a day. Cal. Lab. Code §§ 226.7, 512(a). A second meal period of no less than thirty (30) minutes rest must be provided before the end of the tenth hour of work when an employee works more than ten (10) hours in a day. Cal. Lab. Code §§ 226.7, 512(a). When an employer fails to provide a meal or rest period, an hour of pay at the employee's regular rate of compensation is owed to the employee. Cal. Lab. Code § 226.7(c).

During the relevant time period, Employers failed to provide Claimants and other Aggrieved Employees with legally compliant 30-minute meal periods. Claimants and other Aggrieved Employees were required by Employers to work more than five (5) hours per day but were not provided with uninterrupted 30-minute meal periods. Further, Claimants and other Aggrieved Employees were not provided with a second uninterrupted 30-minute meal period when they worked over ten (10) hours per day. Employers regularly required Claimants and other Aggrieved Employees to work through their first and second meal periods, to take their first meal period after their fifth (5th) hour of work, and/or to take their second meal periods after their tenth (10th) hour of work. Meal periods, when provided, were oftentimes interrupted or cut short.

Employers' policies, practices, and procedures were responsible for the violations alleged above and prevented Claimants and other Aggrieved Employees from taking timely, complete and duty-free meal periods because, amongst other reasons: (1) Employers did not have legally-compliant policies regarding the provision and timing of meal periods or systematically disregarded its own purported meal period policies; (2) Employers' management at various levels failed and refused to implement and enforce legally compliant meal period policies and practices; (3) Employers failed to adequately inform and train Claimants and other Aggrieved Employees regarding their right to take timely, uninterrupted, and duty-free meal periods; (4) Employers failed to adequately inform and train Claimants and other Aggrieved Employees about their right to premium wages for non-compliant meal periods; (5) Employers failed to ensure that there was adequate staffing to allow Claimants and other Aggrieved Employees to take timely,

uninterrupted, and duty-free meal periods; (6) Employers required Claimants and other Aggrieved Employees to respond to work-related requests at all times, including during meal periods; and (7) Employers' policy and culture prevented Claimants and other Aggrieved Employees from taking timely, uninterrupted, and duty-free meal periods because of the priority placed on maximizing profits over employees' right to receive timely, uninterrupted, and duty-free meal periods.

Claimants and other Aggrieved Employees did not receive an extra hour of wages at their regular rate of pay for the meal periods which were not provided to them in compliance with California law.

Accordingly, Employers violated the IWC Wage Orders and California Labor Code sections 226.7, 512(a) and 1198.

Claimants and Aggrieved Employees will therefore seek PAGA default penalties pursuant to California Labor Code section 2699; penalties pursuant to the penalties section of the applicable IWC Wage Orders; penalties pursuant to California Labor Code sections 558 and 1199; and attorneys' fees and costs.

3. FAILURE TO AUTHORIZE AND PERMIT REST PERIODS AND PAY REST PERIOD PREMIUMS

California law requires employers to authorize and permit employees to take an uninterrupted rest period of no less than ten (10) minutes for every four (4) hours, or major fraction thereof, worked. Cal. Lab. Code § 226.7. When an employer fails to authorize and permit a rest period, an hour of pay at the employee's regular rate of compensation is owed to the employee. Cal. Lab. Code § 226.7(c).

Employers failed to authorize and permit Claimants and other Aggrieved Employees to take legally compliant 10-minute rest periods. Employers required Claimants and other Aggrieved Employees to work through rest periods. Claimants and Aggrieved Employees were not provided with uninterrupted, duty-free rest periods when they worked more than four (4) hours or a major fraction thereof. Further, Claimants and other Aggrieved Employees were not provided with a second uninterrupted, duty-free rest period when they worked more than six (6) hours in a day, or a third uninterrupted, duty-free rest period after working more than ten (10) hours in day. In the rare event that a rest period was taken, it was frequently interrupted or cut short. Moreover, Claimants and other Aggrieved Employees were not completely relieved of duty as required by *Augustus v. ABM Security Services, Inc.*, 2 Cal.5th 257 (2016).

Employers' policies, practices, and procedures were responsible for the violations alleged above and prevented Claimants and other Aggrieved Employees from taking timely and complete

rest periods because, amongst other reasons: (1) Employers did not have legally-compliant policies regarding the provision and timing of rest periods or systematically disregarded its own purported rest period policies; (2) Employers' management at various levels failed and refused to implement and enforce legally compliant rest period policies and practices; (3) Employers failed to adequately inform and train Claimants and other Aggrieved Employees regarding their right to take timely, uninterrupted, and duty-free rest periods; (4) Employers failed to adequately inform and train Claimants and other Aggrieved Employees about their right to premium wages for non-compliant rest periods; (5) Employers failed to ensure that there was adequate staffing to allow Claimants and other Aggrieved Employees to take timely, uninterrupted, and duty-free rest periods; (6) Employers required Claimants and other Aggrieved Employees to respond to work-related requests at all times, including during rest periods; and (7) Employers' policy and culture prevented Claimants and other Aggrieved Employees from taking timely, uninterrupted, and duty-free rest periods because of the priority placed on completing job requirements over employees' right to receive rest periods.

Claimants and other Aggrieved Employees did not receive an extra hour of wages at their regular rate of pay for the rest periods which were not provided to them in compliance with California law.

Accordingly, Employers violated IWC Wage Orders and California Labor Code sections 226.7, and 1198.

Claimants and Aggrieved Employees will therefore seek PAGA default penalties pursuant to California Labor Code section 2699; penalties pursuant to the penalties section of the applicable IWC Wage Orders; California Labor Code sections 558 and 1199 penalties; and attorneys' fees and costs.

4. FAILURE TO TIMELY PAY WAGES DURING EMPLOYMENT

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. During the relevant time period, Employers have failed to timely pay all wages earned because Claimants and other Aggrieved Employees were not paid all the wages they were owed including, *inter alia*, straight time wages, minimum wages, overtime wages, and meal and rest period premiums, in addition to any other wages (*e.g.*, gratuities, bonuses, commissions, etc.). Accordingly, Employers violated California Labor Code section 204(a).

Claimants and Aggrieved Employees will therefore seek PAGA default penalties pursuant to Labor Code section 2699; penalties pursuant to California Labor Code sections 210 and 1199; and attorneys' fees and costs.

5. FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS

California Labor Code section 226(a) requires an employer semimonthly or at the time of each payment of wages to furnish wage statements to its employees setting forth, *inter alia*, (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, and (8) the name and address of the legal entity that is the employer.

As a result of the practices described herein, the wage statements provided to Claimants and other Aggrieved Employees failed to include the actual hours worked (including time spent working off-the-clock), the actual gross wages earned (including wages owed for time spent working off the clock and meal and rest period premiums), and the correct rates of pay. The wage statements provided to Claimants and other Aggrieved Employees also failed to include the name of the legal entity that employed Claimants and the Aggrieved Employees. Accordingly, Employers violated California Labor Code section 226(a).

Claimants and Aggrieved Employees will therefore seek PAGA default penalties; penalties pursuant to California Labor Code section 226.3; and attorneys' fees and costs.

6. FAILURE TO MAINTAIN ACCURATE RECORDS

California Labor Code section 1174(d) requires an employer to keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept with rules established for this purpose by the commission, but in any case, shall be kept on file for not less than two years. During the relevant time period, Employers have failed to maintain accurate records relating to Claimants and other Aggrieved Employees' work periods, meal periods, total daily hours worked, and total hours worked per payroll period. Accordingly, Employers violated the IWC Wage Orders and California Labor Code sections 1198.5 and 1174(d).

Claimants and Aggrieved Employees will therefore seek PAGA default penalties pursuant to California Labor Code section 2699; penalties pursuant to the penalties section of the applicable IWC Wage Order; California Labor Code section 1174.5 penalties; and attorneys' fees and costs.

7. FAILURE TO REIMBURSE NECESSARY EXPENDITURES

California Labor Code sections 2800 and 2802 require an employer to reimburse its employees for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her job duties or in direct consequence of his or her obedience to the directions of the employer. The IWC Wage Orders require employers to provide employees with the tools or equipment necessary for the performance of their job. During the relevant time period, Claimants and Aggrieved Employees incurred necessary business-related expenses and costs that were not fully reimbursed by Employers. These costs include but are not limited to the purchase of specialized clothing for the temperature in the warehouses and the usage of personal cell phones for business-related purposes.

Accordingly, Employers violated the IWC Wage Orders and California Labor Code sections 2800 and 2802. Claimants and Aggrieved Employees will therefore seek PAGA default penalties pursuant to California Labor Code section 2699; penalties pursuant to the penalties section of the applicable IWC Wage Order; and attorneys' fees and costs.

8. FAILURE TO TIMELY PAY ALL WAGES UPON TERMINATION OF EMPLOYMENT

California Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and if an employee quits his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours' notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

During the relevant time period, upon the termination of employment (including but not limited to when they were temporarily laid off, laid off, discharged, and/or resigned), Aggrieved Employees were not paid all wages due to them within twenty-four (24) hours or even within seventy-two (72) hours for those who resigned. Specifically, as a result of Employers' practices of requiring Aggrieved Employees to work off-the-clock without compensation, failing to pay proper overtime compensation, unlawful rounding practices, failure to properly calculate regular rates, and failure to accurately record all hours actually worked, Employers failed to pay Aggrieved Employees for all straight time wage, minimum wages and overtime compensation owed to them upon termination of their employment. Employers also failed to pay Aggrieved Employees for meal period premiums and rest period premiums they were owed, amongst other wages.

Accordingly, Employers violated California Labor Code sections 201 and 202.

Claimants and Aggrieved Employees will therefore seek PAGA default penalties pursuant to California Labor Code section 2699; penalties pursuant to California Labor Code sections 203 and 1199; and attorneys' fees and costs.

9. EMPLOYER'S OTHER VIOLATIONS OF THE CALIFORNIA LABOR CODE

Finally, pursuant to *Huff v. Securitas Security Services USA, Inc.* (2018) 25 Cal.App.5th 745 ("*Huff*"), as an Aggrieved Employee, Claimants have standing, and intend, on behalf of LWDA, to pursue civil penalties against Employer for any and all other Labor Code violations committed by Employer. In *Huff*, the California Court of Appeals held that an employee alleging a single violation of the Labor Code under PAGA may also bring PAGA claims against Employer for all other alleged Labor Code violations, even those suffered by other employees of the same employer. According to the *Huff* decision, Claimants, as "aggrieved" employees affected by at least one Labor Code violation may, and hereby do, pursue penalties on behalf of LWDA for unrelated Labor Code violations by Employer.

Employers are in direct violation of numerous California wage and hour laws including but not limited to said sections stated above. We hereby provide notice under the California Labor Code Private Attorneys General Act of 2004, California Labor Code Sections 2698, *et seq.*, and specifically ask for an investigation, or if the agency does not intend to investigate the alleged violations, a letter confirming the same so that we may allege a cause of action under PAGA against Employers for the violations discussed in this letter.

This letter is sent in compliance with the reporting requirements of California Labor Code section 2699.3. By law, an employee alleging a violation of one of the above referenced sections must notify his or her employer and the Labor and Workforce Development Agency (LWDA) before he or she can invoke the provisions of Sections 2699, *et seq.*, by seeking redress in court. Cal. Lab. Code § 2699.3(a)(1). The LWDA must then notify the employer and the employee within 60 calendar days regarding whether it intends to investigate the alleged violation. Cal. Lab. Code § 2699.3(a)(2)(B). If the LWDA advises it will not investigate, or if no notice is provided within 65 calendar days, the employee may file a lawsuit invoking the provisions under Labor Code § 2699. Cal. Lab. Code § 2699.3(a)(2)(A). It is Claimant's intention to file a civil complaint and to bring the appropriate claims under California Labor Code § 2699 on behalf of themselves, the State of California and all Aggrieved Employees should your office not address Employers' alleged violations within this time.

If you have any questions or require additional information, please do not hesitate to contact my office. Thank you for your attention to this matter.

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BLACKSTONE LAW

Patricia J. Van Ert

P.J. Van Ert, Esq.

cc: By U.S. Certified Mail, Return Receipt Requested

Ittella International, LLC
6305 Alondra Blvd.
Paramount, California 90723

Ittella International, LLC
ATTN: Matthew Marzucco, Agent for Service of Process
2804 Gateway Oaks Dr.
Sacramento, California 95833

Tattooed Chef, Inc.
6305 Alondra Boulevard
Paramount, California 90723

Tattooed Chef, Inc.
ATTN: Matthew Marzucco, Agent for Service of Process
Paracorp Incorporated
2804 Gateway Oaks Dr.
Sacramento, California 95833

Tattooed Chef, Inc.
ATTN: Barbara Geiger, Agent for Service of Process
Paracorp Incorporated
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Tattooed Chef, Inc.
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Tattooed Chef, Inc.
ATTN: Jody Moua, Agent for Service of Process
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Tattooed Chef, Inc.
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2804 Gateway Oaks Dr.
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Tattooed Chef, Inc.
ATTN: Abigale Peterson, Agent for Service of Process
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Tattooed Chef, Inc.
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Tattooed Chef, Inc.
ATTN: Vanessa Flanagan, Agent for Service of Process
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Tattooed Chef, Inc.
ATTN: Chris Mays, Agent for Service of Process
Paracorp Incorporated
2804 Gateway Oaks Dr.
Sacramento, California 95833

Tattooed Chef, Inc.
ATTN: Saida Galan, Agent for Service of Process
Paracorp Incorporated
2804 Gateway Oaks Dr.
Sacramento, California 95833

PROOF OF SERVICE

IMELDA LEON-MARTINEZ and MARIA ARGUELLO v. ITTELLA INTERNATIONAL, INC.
Case No. 23STCV17207

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I, Yesenia Lomeli certify and declare as follows:

I am over eighteen years of age and not a party to the within action; my business address is 8383 Wilshire Blvd, Suite 745, Beverly Hills, California 90211. On November 29, 2023 I served a copy of the following document(s):

FIRST AMENDED CLASS ACTION COMPLAINT FOR DAMAGES AND ENFORCEMENT ACTION UNDER THE PRIVATE ATTORNEYS GENERAL ACT, CALIFORNIA LABOR CODE §§ 2698 ET SEQ.

on the interested parties as follows:

Via US Mail

1505 Corporation PARACORP INCORPORATED -Agent For Service of Process
2804 GATEWAY OAKS DR.
SACRAMENTO, CA

☒ **BY MAIL:** I enclosed the above documents in a sealed envelope with postage thereon fully prepaid and placed for collection and mailing on the above date in accordance with ordinary business practices. I am readily familiar with this firm's practice of collection and processing of correspondence for mailing with the United States Postal Service, and that the correspondence shall be deposited with the United States Postal Service the same day in the ordinary course of business pursuant to Cal. Code Civ. Proc. § 1013(a).

☒ **STATE** – I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on December 7, 2023 at Beverly Hills, California.



Yesenia Lomeli