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DEBORAH GODINEZ

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

DEBORAH GODINEZ, an individual,

Plaintiff,

vs.

FOREST MUSHROOM FOOD, INC. DBA
GUAN'S MUSHROOM, a corporation; and
DOES 1 through 10 inclusive,

Defendant.

Case No. 23STCV20788

***[AMENDED AS A MATTER OF RIGHT
PURSUANT TO LABOR CODE SECTION
2699.3(a)(2)(C)]***

**PLAINTIFF'S FIRST AMENDED
COMPLAINT FOR:**

- 1. HARASSMENT IN VIOLATION OF
GOVERNMENT CODE SECTION
12940(j)**
- 2. FAILURE TO PREVENT IN
VIOLATION OF GOVERNMENT
CODE SECTION 12940(k)**
- 3. FAILURE TO PAY OVERTIME IN
VIOLATION OF SECTIONS 510,
1194, 1198**
- 4. FAILURE TO AUTHORIZE AND
PERMIT MEAL BREAKS IN
VIOLATION OF LABOR CODE
SECTIONS 226.7 AND 512**
- 5. FAILURE TO AUTHORIZE AND
PERMIT REST BREAKS IN
VIOLATION OF LABOR CODE
SECTION 226.7**

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6. **FAILURE TO PROVIDE ACCURATE
WAGE STATEMENTS IN
VIOLATION OF LABOR CODE
SECTION 226(a)**

7. **FAILURE TO PAY WAGES OWED
TIMELY IN VIOLATION OF LABOR
CODE SECTIONS 201 TO 203**

8. **FAILURE TO REIMBURSE
NECESSARY EXPENSES IN
VIOLATION OF LABOR CODE
SECTION 2802**

9. **PRIVATE ATTORNEY’S GENERAL
ACT (LABOR CODE SECTION 2698)**

JURY TRIAL DEMANDED

Plaintiff Deborah Godinez (“Plaintiff”) alleges and complains against Defendants Forest Mushroom Food, Inc. dba Guan’s Mushroom and Does 1 through 10 (collectively, “Defendant”) as follows:

PARTIES | JURISDICTION | VENUE

1. Plaintiff, at all times relevant hereto, is and has been a resident of the State of California.

2. Defendant Forest Mushroom Food, Inc., doing business as Guan’s Mushroom, “is a leading grower and distributor of fresh specialty mushrooms in North America, with three farms in California and five distribution centers located in San Francisco, Los Angeles, New York, West Grove and Toronto.” Defendant operates a worksite at 299 N. Euclid Avenue, Suite 475, Pasadena, California 91101.

3. Defendant conducts business in the State of California.

4. Under California Code of Civil Procedure section 395(a), venue is proper in this County because Defendant resides in this County and/or Plaintiff’s alleged injuries herein occurred in this County.

1 5. The true names and capacities of the defendants named herein as Does 1 through 10,
2 inclusive, whether individual, corporate, associate or otherwise, are unknown to Plaintiff who therefore
3 sues such defendants by fictitious names pursuant to California Code of Civil Procedure section 474.
4 Plaintiff believes that all of the Doe defendants are California residents. Plaintiff will amend this
5 Complaint to show such true names and capacities when they have been determined. Defendant and Doe
6 Defendants are collectively referred to as "Defendant," "Defendants" or "Defendant Employers."

7 6. Plaintiff believes that, at all times relevant herein, each defendant designated, including
8 Does 1 through 10, was the agent, managing agent, principal, owner, partner, joint venturer, representative,
9 manager, servant, employee, and/or co-conspirator of each of the other defendants, and was at all times
10 mentioned herein acting within the course and scope of said agency and employment, and that all acts or
11 omissions alleged herein were duly committed with the ratification, knowledge, permission,
12 encouragement, authorization, and consent of each defendant designated herein.

13 7. Defendant, and each of them, acted in concert with one another to commit the wrongful
14 acts alleged herein, and aided, abetted, incited, compelled and/or coerced one another in the wrongful acts
15 alleged herein, and/or attempted to do so, including pursuant to Government Code section 12940(i).
16 Defendant, and each of them, formed and executed a conspiracy or common plan pursuant to which they
17 would commit the unlawful acts alleged herein, with all such acts alleged herein done as part of and
18 pursuant to said conspiracy, intended to cause and actually causing Plaintiff harm.

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ALTER EGO | AGENCY | JOINT EMPLOYER

8. There exists such a unity of interest and ownership between Defendant Employers that the individuality and separateness of Defendant Employers have ceased to exist. At all times relevant hereto, Defendant Employers, and each of them, were the agents, employees, managing agents, supervisors, coconspirators, parent corporation, joint employers, alter egos, successors, and/or joint ventures of the other Defendant Employers, and each of them, and in doing the things alleged herein, were acting at least in part within the course and scope of said agency, employment, conspiracy, joint employer, alter ego status, successor status and/or joint venture and with the permission and consent of each of the other Defendant Employers. Whenever and wherever reference is made in this complaint to any act or failure to act by a defendant or co-defendant, such allegations and references shall also be deemed to mean the acts and/or failures to act by each defendant acting individually, jointly and severally.

9. Plaintiff believes Defendant Employers were both Plaintiff's joint employer and are liable under the joint employer and single enterprise theories. *See Laird v. Capital Cities* (1998) 68 Cal.App.4th 727, 737-38 (four factors to prove single enterprise are "interrelation of operations, common management, centralized control of labor relations, and common ownership or financial control. ... Although courts consider the four factors together, they often deem centralized control of labor relations the most important."); *see also Vernon v. State of California* (2004) 116 Cal.App.4th 114, 128 (separate entities can also be deemed a "joint employer" by having the right to control the employment relationship, as evaluated by focusing on "an examination of defendant's role with respect to the right to hire, fire, transfer, promote, discipline, set the terms, conditions and privileges of employment, train and pay the plaintiff.")).

10. Defendant Employers were Plaintiff's employers, joint employers and/or special employers within the meaning of Government Code sections 12926 (d), 12940 (a),(h),(1), (h)(3)(A), (i), and, 12950, and regularly employ five (5) or more persons and are therefore subject to the jurisdiction of this Court. Defendant Employers were Plaintiff's employers, joint employers and/or special employers within the meaning of the Labor Code and the applicable Industrial Welfare Commission Order, and are each an "employer or other person acting on behalf of an employer" as such term is used in Labor Code sections 558 and/or 558.1, and liable to Plaintiff on that basis. Defendant Employers are Plaintiff's joint employers by virtue of a joint enterprise, and that Plaintiff was an employee of Defendant Employers.

1 Plaintiff performed services for each and every one of Defendant Employers, and to the mutual benefit
2 of all Defendant Employers, and all Defendant Employers shared control of Plaintiff as an employee,
3 either directly or indirectly, and the manner in which Defendant Employers' business was and is
4 conducted.

5 11. Labor Code section 558.1 provides that an employer or "other person acting on behalf of
6 an employer" who violates certain California wage and hour laws "may be held liable as the employer for
7 such violation." Labor Code section 558.1 defines "other person acting on behalf of an employer" as a
8 "natural person who is an owner, director, officer, or managing agent" of the employer. Labor Code
9 section 558.1(b). *See* Labor Code section 558(a) (authorizing civil penalties against "any employer or
10 other person acting on behalf of an employer" who causes overtime pay violations to occur."); *see Atempa*
11 *v. Pedrazzani*, 27 Cal.App.5th 809, 823-824 (2018); Labor Code section 1197.1 ("Any employer or other
12 person acting either individually or as an officer, agent, or employee of another person" for failure to pay
13 minimum wages."); *see Reynolds v. Bement*, 36 Cal.4th 1075, 1089 (2005) ("aggrieved employees may
14 ... maintain civil actions to recover such penalties"); *see Reynolds v. Bement*, 36 Cal.4th 1075, 1089, fn.
15 10 (2005) (alter ego doctrine may be used in wage claim actions to impose liability on controlling directors
16 and shareholders); *see* Government Code section 12925(d) (defining "Person" as one *or more* individuals,
17 partnerships, associations, corporations, limited liability companies, legal representatives, trustees,
18 trustees in bankruptcy, and receivers or other fiduciaries).

19 12. Despite the formation of purported corporate existence, Defendant Employers are, in
20 reality, one and the same, including, but not limited to because: (a) Defendant Employers are completely
21 dominated and controlled by one another, who personally committed the frauds and violated the laws as
22 set forth in this complaint, and who have hidden and currently hide behind Defendant Employers to
23 perpetrate frauds, circumvent statutes, or accomplish some other wrongful or inequitable purpose; (b)
24 Defendant Employers derive actual and significant monetary benefits by and through one another's
25 unlawful conduct, and by using one another as the funding source for their own personal expenditures;
26 (c) Defendant Employers, while really one and the same, were segregated to appear as though separate
27 and distinct for purposes of perpetrating a fraud, circumventing a statute, or accomplishing some other
28 wrongful or inequitable purpose; (d) Defendant Employers does not comply with all requisite corporate

1 formalities to maintain a legal and separate corporate existence; (e) the business affairs of Defendant
2 Employers are, and at all times relevant were, so mixed and intermingled that the same cannot
3 reasonably be segregated, and the same are in inextricable confusion. Defendant Employers are, and at
4 all times relevant hereto were, used by one another as a mere shell and conduit for the conduct of certain
5 of Defendant Employers' affairs, and are, and were, the alter ego of one another. The recognition of
6 the separate existence of each of the Defendant Employers would not promote justice, in that it would
7 permit Defendant Employers to insulate themselves from liability to Plaintiff for violations of the law.
8 The corporate existence of Defendant Employers should each be disregarded in equity and for the ends of
9 justice because such disregard is necessary to avoid fraud and injustice to Plaintiff herein. Accordingly,
10 Defendant Employers constitute the alter ego of one another, and the fiction of their separate corporate
11 existence must be disregarded.

12 **ADMINISTRATIVE EXHAUSTION**

13 13. Plaintiff exhausted administrative requirements for Plaintiff's claims.

14 14. On August 25, 2023, Plaintiff filed a complaint with the California Civil Rights Department
15 (CRD) (formerly known as the Department of Fair Employment and Housing (DFEH)) setting forth the
16 allegations and claims herein. Plaintiff obtained an immediate Right to Sue from the CRD.

17 15. On August 2, 2023, Plaintiff's counsel gave written notice by online filing with the
18 California Labor & Workforce Development Agency ("LWDA") and by sending via certified mail to
19 Defendants a letter specifying the California Labor Code provisions Defendants violated, including the
20 facts and theories supporting the alleged violations. More than sixty-five (65) days have passed since
21 Plaintiff's counsel submitted the letter to the LWDA and certified-mailed the letter to Defendants, and the
22 LWDA has not provided notice of intent to investigate the alleged violations, nor have Defendants
23 provided notice of intent or any efforts to cure. Accordingly, the statutory period for any investigation or
24 response has concluded and Plaintiff may commence this lawsuit pursuant to Labor Code section 2699,
25 as provided by subsection 2699.3.

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FACTUAL ALLEGATIONS

16. **Defendant.** Defendant Forest Mushroom Food, Inc., doing business as Guan’s Mushroom, “is a leading grower and distributor of fresh specialty mushrooms in North America, with three farms in California and five distribution centers located in San Francisco, Los Angeles, New York, West Grove and Toronto.” Defendant operates a worksite at 299 N. Euclid Avenue, Suite 475, Pasadena, California 91101 (the “worksite”).

17. **Plaintiff’s Hire.** On or about March 15, 2023, Defendant hired Plaintiff Deborah Godinez, a Hispanic woman, as an employee in the job position of Human Resources Manager to work at the worksite. Plaintiff was an exemplary employee throughout her employment.

18. **Plaintiff’s Job Details.** Plaintiff’s job duties included on-boarding new hires, recruiting, and employee relations. However, throughout her employment, Defendant’s supervisors micromanaged Plaintiff and allowed her almost no discretion to perform her job duties.

19. Defendant classified Plaintiff as an “exempt” employee, and thus did not pay Plaintiff overtime or provide Plaintiff with statutory breaks. Defendant paid Plaintiff an annual salary of \$115,000.

20. Plaintiff was the only non-Chinese person in management. Plaintiff was treated differently based on her national origin throughout her employment.

21. Plaintiff reported to COO *Sareth Yip* and VP of Operations *Jim Guan*.

22. Plaintiff’s work schedule was typically Monday through Friday, 8am to 5pm, plus before and after hours away from the worksite when Defendant required Plaintiff to complete work and respond to work-related communications. Even though she was classified as “exempt,” Defendant required Plaintiff to clock in and out while working at the worksite. Plaintiff did additional off-the-clock work at home and after hours.

23. Upon hire, Sareth Yip told Plaintiff that Plaintiff’s start time was flexible since Plaintiff was supporting multiple farm locations, and thus Plaintiff was provided a key to enter the worksite after normal work hours in order to perform work. However, Administrator *Jan Chan* then demanded Plaintiff maintain and communicate certain work hours.

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1 24. At first, Plaintiff was informed that she would supervise the receptionist, *Fei Yuan*.
2 However, he resigned within days of Plaintiff's start date. Plaintiff also supervised *Leticia Zavala*.
3 However, like the receptionist, Leticia Zavala also resigned, leaving Plaintiff with no one to supervise.

4 25. Plaintiff's on-boarding was not smooth, and the difficulties continued throughout the
5 employment relationship.

6 26. **Defendant Harasses Plaintiff Based On Race & National Origin.** Defendant's all-
7 Chinese senior management employees harassed Plaintiff based on Plaintiff's Hispanic race and national
8 origin. The harassment ranged from refusing to provide Plaintiff the necessary support to do her job and
9 outright sabotaging Plaintiff's work, to direct comments about Plaintiff's different race.

10 27. Plaintiff sent several WeChat messages to VP of Operations Jim Guan seeking help.
11 However, Jim Guan never initiated an investigation into why the only non-Chinese senior manager was
12 being isolated and setup for failure. Instead, Jim Guan simply referred Plaintiff back to Sareth Yip (who
13 would continue to ignore Plaintiff's pleas for help) and let the problems continue.

14 28. Plaintiff was given circular and conflicting work instructions. When Plaintiff would ask
15 questions, one person would direct her to another person, who would similarly not assist Plaintiff and
16 instead direct Plaintiff back to the original person that Plaintiff asked. Then, Jan Chan and Manager
17 **Cedric Lam** told Plaintiff to not ask questions and instead wait for instructions. Examples include (1)
18 when Plaintiff would ask Jan Chan for information about the accounts used for job postings and payments,
19 he would snap at her "do it yourself" or "you do not have authorization" but would rarely provide
20 information or help; and (2) on or about March 21, 2023, there was a safety incident resulting in employee
21 injury at Defendant's Pescadero location. Plaintiff asked Cedric Lam for information about the clinic to
22 which the Pescadero location sent injured employees for treatment in the past. Cedric Lam responded
23 repeatedly with "I don't know" and "you [Plaintiff] tell me" statements that were unhelpful and passive-
24 aggressive. Plaintiff asked Cedric Lam whether the Pescadero location ever previously had an employee
25 injury or sent an employee to the occupational clinic. Cedric Lam refused to answer Plaintiff's questions.
26 **Niki Chung** witnessed this phone call, and Jim Guan was aware of the confusion it caused. Plaintiff then
27 was able to reach **Jovany Rios** who provided the clinic name and told Plaintiff, "we always send
28 employees there."

29. On or about March 21, 2023, Jan Chan disparaged and offended Plaintiff. Jan Chan told Plaintiff that Plaintiff “wanted to be Superwoman” because of her questions and that ***Plaintiff “should go back to Mexico.”*** Plaintiff was shocked and responded with “what?” to which Jan Chan ignored Plaintiff and walked away.

30. On or about April 11, 2023, Sareth Yip and Jan Chan chastised Plaintiff for working outside the office after work hours and on weekends. Plaintiff was confused and went to Jim Guan asking for help.

31. On April 11, 2023, Plaintiff emailed Sareth Yip about being “confused with work flow here and asking for your help.” Exhibit 1. Plaintiff forwarded her email to Jim Guan to keep him “in the loop.” Sareth Yip and Jim Guan ignored Plaintiff’s email.

32. On May 1, 2023, Plaintiff sent a WeChat message to Jim Guan that she was “not getting the support to do my job” and that her email sent to Sareth Yip and forwarded to Jim Guan was “ignored.” Exhibit 2. Jim Guan agreed to talk to Plaintiff about it. However, when they talked, one of the explanations Jim Guan gave to Plaintiff was that it was a “***cultural thing***.” Exhibit 3. In response, Plaintiff emailed Jim Guan a detailed list of the job duties she had been performing. Exhibit 4. But still, nothing changed.

33. On May 3, 2023, Plaintiff sent Jim Guan WeChat messages about how Sareth Yip, Jan Chan, and Cedric Lam mistreated her and how she was “working 100% on my own....” Exhibit 2 (pages 3-5).

34. On May 5, 2023, Plaintiff and Jim Guan exchanged WeChat messages again about the mistreatment at work. Exhibit 5. Plaintiff wrote that “the person that knows how to legally protect companies (me) was mistreated in ways that can be used against a company (Guans) in a legal matter.” Expressing her frustration with how she was treated even though she is was in a human resources role, Plaintiff wrote, “I help setup how to protect companies which means that I know how to sue a company but I was treated poorly by a company.” In response, Jim Guan did not investigate or inquire about the claims of illegal treatment. Instead, he offered Plaintiff the day off and instructed her to take it up with one of her harassers, Sareth Yip. Exhibit 5.

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1 35. **Plaintiff Quits In The Face Of Unaddressed Harassment.** On May 25, 2023, the
2 workplace had become overwhelming to Plaintiff. Because the mistreatment continued, Plaintiff resigned.
3 Plaintiff sent a WeChat message to Jim Guan:

4 *Jim. I will not be returning to Guans. The confusion of communication or*
5 *lack of communication, unfair treatment & constant changes to requests by*
6 *different people that are not on the same page with work that you all would*
7 *like me to do has been extremely overwhelming. I've had constant*
8 *headaches, and now I see it caused errors. I was so focused to leave at 8*
9 *hrs on Tuesday to satisfy what Sara asked of me with work hours. I've been*
10 *trying to continue working in an uncomfortable work environment and still*
11 *giving efforts. I am not sure if the company knew exactly what to want or*
12 *request from an HR role as most of the work I was doing was brought up by*
13 *me by just reviewing what's in place or being asked questions by other*
14 *people that would open my interest to know more. Sara speaking to me on*
15 *Friday saying she doesn't want me working past 8 hrs a day or on weekends*
16 *bcz the company doesn't do that and using an emergency like the shooting*
17 *as an example reason for an exception: then both Jan & Cedric both*
18 *sending me an email on Saturday to tell me something casual was another*
19 *confusing thing. Made me question: are these things only being said to me?*
20 *Is this confusion & mistreatment only for me? Last time I felt so stressed &*
21 *frustrated I stood home to work. And now I've decided I cannot continue to*
22 *work under these conditions for a company. I wish you all the best. -*
23 *Deborah Godinez*

24 Exhibit 6. In response, Jim Guan again ignored Plaintiff's complaints of illegal conduct and instead wrote
25 "best of luck" and sought return of company property. Exhibit 6.

26 36. **Plaintiff's Misclassification As Exempt.** Defendant misclassified Plaintiff as "exempt"
27 as Plaintiff should have been "non-exempt" thus entitled to overtime and breaks.

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37. Even though Defendant paid Plaintiff the requisite minimum salary threshold, Defendant did not allow Plaintiff to customarily and regularly exercise discretion and independent judgment in performing her job duties, presumably under the Administrative Exemption, as required by California Code of Regulations, Title 8, Section 11040(1)(A)(2). Defendant's employees that supervised Plaintiff constantly micromanaged and essentially did Plaintiff's job for her, allowing almost zero discretion or independent judgment.

38. **Overtime Work.** Defendant failed to pay Plaintiff for work in excess of eight (8) hours in a day or more than forty (40) hours in a workweek at the rate of time-and-one-half (1.5) times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek, and for work in excess of twelve (12) hours in a day overtime compensation at a rate of two (2) times the regular rate of pay.

39. **Meal Break Violations.** Defendant failed to provide Plaintiff with first or second timely, uninterrupted 30-minute meal break as required by law, according to proof. For instance, among other things according to proof: Plaintiff did not get meal breaks at all; Plaintiff was forced to work throughout Plaintiff's meal breaks; Plaintiff was "on-call" during meal breaks; Defendant automatically deducted unpaid meal break time from Plaintiff's time worked even though Plaintiff performed work during such time; Defendant rounded Plaintiff's clock in and out times for the start and end of meal breaks; Plaintiff's meal breaks were not timely; Plaintiff's meal breaks were interrupted; Plaintiff's meal breaks were less than the full 30 minutes; and/or Defendant required Plaintiff to remain on premises at the worksite during meal breaks.

40. **Rest Break Violations.** Defendant failed to authorize and permit Plaintiff to take a 10-minute rest break per each four (4) hour period worked or a major fraction thereof, according to proof. For instance, among other things according to proof: Plaintiff did not get rest breaks at all; Plaintiff was forced to work throughout Plaintiff's rest breaks; Plaintiff was "on-call" during rest breaks; Plaintiff's rest breaks were not timely; Plaintiff's rest breaks were interrupted; Plaintiff's rest breaks were less than the full 10 minutes; and/or Defendant required Plaintiff to remain on premises at the worksite during rest breaks.

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41. **Unreimbursed Expenses.** Defendant failed to fully reimburse Plaintiff's reasonable business expenses incurred, according to proof, including: home internet usage costs.

42. **Wage Statements.** Defendant knowingly and intentionally failed to provide Plaintiff with uniform, complete, and accurate wage statements because the wage statements provided to Plaintiff failed to list the: accurate totals of the hours worked; number of hours worked at each hourly rate; net wages earned; and/or gross wages earned.

43. **Final Pay.** Defendant failed to pay Plaintiff all wages owed to Plaintiff immediately upon Plaintiff's termination of employment, including earned and unpaid wages, such as: minimum wages; overtime wages; meal and rest period premium wages; and/or all wages owed for the final day of work.

FIRST CAUSE OF ACTION

HARASSMENT AND HOSTILE WORK ENVIRONMENT IN VIOLATION OF GOVERNMENT CODE SECTION 12490(j)

44. Plaintiff incorporates by reference all preceding and subsequent paragraphs.

45. At all times mentioned herein, California Government Code section 12940 *et seq.* was in full force and effect and was binding on Defendant, as it regularly employs five (5) or more persons.

46. California Government Code section 12940(j)(1) makes it unlawful for "an employer . . . or any other person, because of race, religious creed, color, national origin, ancestry . . . to harass an employee."

47. California Government Code section 12940(j)(3) provides for individual liability on the part of the supervisor for such harassment: "An employee of an entity subject to this subdivision is personally liable for any harassment prohibited by this section that is perpetrated by the employee, regardless of whether the employer or covered entity knows or should have known of the conduct and fails to take immediate and appropriate corrective action."

48. California laws also provides for strict liability on the part of the employer for such harassment by a supervisor. *See Myers v. Trendwest Resorts, Inc.*, 148 Cal.App.4th 1403, 1419 (2007).

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1 49. The operative regulations promulgated by California’s Department of Fair Employment
2 and Housing, specifically defines “harassment” to include “(A) Verbal harassment, e.g., epithets,
3 derogatory comments or slurs on a basis enumerated in the Act.” Cal. Code of Regs., tit. 2, section
4 11019(b).

5 50. California Government Code section 12940(j)(3) provides for individual liability on the
6 part of the harassing employee for such harassment: “An employee of an entity subject to this subdivision
7 is personally liable for any harassment prohibited by this section that is perpetrated by the employee,
8 regardless of whether the employer or covered entity knows or should have known of the conduct and
9 fails to take immediate and appropriate corrective action.”

10 51. Plaintiff was subjected Plaintiff to a hostile work environment harassment based on race
11 and/or national origin as alleged herein.

12 52. As a proximate result of the aforesaid acts, Plaintiff has lost, and will continue to lose,
13 substantial earnings, promotional opportunities, fringe benefits and has suffered and/or will suffer other
14 actual, consequential, and incidental financial losses, in an amount to be proven at trial in excess of the
15 jurisdictional minimum of this court.

16 53. As a proximate result of the aforesaid acts, Plaintiff has become mentally upset, distressed,
17 embarrassed, humiliated, and aggravated in a sum in excess of the jurisdictional minimum of this court.

18 54. The actions alleged herein were taken by managing agents and/or officers of Defendant
19 and/or ratified by managing agents and/or officers of Defendant, including but not limited Sareth Yip,
20 Cedric Lam, and/or Jim Guan, and said managing agents and/or officers of Defendant acted with
21 oppression, fraud, and malice, as those terms are used in California Civil Code section 3294. As such,
22 Plaintiff is entitled to an award of punitive damages.

23 55. As a proximate result of the wrongful acts of Defendant, Plaintiff has been forced to hire
24 attorneys to prosecute Plaintiff’s claims herein, and has incurred and is expected to continue to incur
25 attorneys’ fees and costs in connection therewith. Plaintiff is entitled to recover attorneys’ fees and costs
26 under California Government Code section 12965(b).

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1 **SECOND CAUSE OF ACTION**

2 **FAILURE TO PREVENT HARASSMENT AND/OR DISCRIMINATION IN VIOLATION OF**
3 **GOVERNMENT CODE SECTION 12940(k)**

4 56. Plaintiff incorporates by reference all preceding and subsequent paragraphs.

5 57. At all times mentioned herein, California Government Code section 12940 *et seq.* was in
6 full force and effect and was binding on Defendant, as it regularly employs five (5) or more persons.

7 58. California Government Code section 12940(k) makes it illegal "For an employer...to fail
8 to take all reasonable steps necessary to prevent discrimination and harassment from occurring."

9 59. Defendant failed to take all reasonable steps necessary to prevent the discrimination that
10 Plaintiff suffered, as alleged herein, and other conduct according to proof.

11 60. As a direct and proximate result of the aforesaid acts of Defendant, Plaintiff has lost, and
12 will continue to lose, substantial earnings and fringe benefits and has suffered and/or will suffer other
13 actual, consequential and incidental financial losses, in an amount to be proven at trial in excess of the
14 jurisdictional minimum of this Court.

15 61. As a direct and proximate result of the aforesaid acts of Defendant, Plaintiff was and is
16 mentally upset, severely distressed (physically and mentally), embarrassed, humiliated and aggravated.
17 As a result of the aforesaid acts of Defendant, Plaintiff suffered harm to Plaintiff's reputation and claims
18 general damages for such mental and physical distress and aggravation in a sum in excess of the
19 jurisdictional minimum of this Court.

20 62. The actions alleged herein were taken by managing agents and/or officers of Defendant
21 and/or ratified by managing agents and/or officers of Defendant, including but not limited to Sareth Yip,
22 Cedric Lam, and/or Jim Guan, and said managing agents and/or officers of Defendant acted with
23 oppression, fraud and malice, as those terms are used in California Civil Code section 3294. As such,
24 Plaintiff is entitled to an award of punitive damages.

25 63. As a proximate result of the wrongful acts of Defendant, Plaintiff has been forced to hire
26 attorneys to prosecute the claims herein, and has incurred and is expected to continue to incur attorneys'
27 fees and costs in connection therewith. Plaintiff is entitled to recover attorneys' fees and costs under
28 California Government Code section 12965(b).

1 **THIRD CAUSE OF ACTION**

2 **FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF**
3 **LABOR CODE SECTIONS 510, 1194, 1198, AND 1199 AND WAGE ORDER**

4 64. Plaintiff incorporates by reference all preceding and subsequent paragraphs.

5 65. At all relevant times, Plaintiff was subject to the provisions of the California Industrial
6 Welfare Commission's Wage Orders and California Labor Code.

7 66. The applicable Industrial Welfare Commission Wage Order provides that: "(A) Daily
8 Overtime – General Provisions. (1) The following overtime provisions are applicable to employees 18
9 years of age or over and to employees 16 or 17 years of age who are not required by law to attend school
10 and are not otherwise prohibited by law from engaging in the subject work. Such employees shall not be
11 employed more than eight (8) hours in any workday or more than 40 hours in any workweek unless the
12 employee receives one and one-half (1 ½) times such employee's regular rate of pay for all hours worked
13 over 40 hours in the workweek. Eight (8) hours of labor constitutes a day's work. Employment beyond
14 eight (8) hours in any workday or more than six (6) days in any workweek is permissible provided the
15 employee is compensated for such overtime at not less than: (a) One and one-half (1 ½) times the
16 employee's regular rate of pay for all hours worked In excess of eight (8) hours up to and including twelve
17 (12) hours in any workday, and for the first eight (8) hours worked on the seventh (7th) consecutive day
18 of work in a workweek.; and (b) Double the employee's regular rate of pay for all hours worked in excess
19 of 12 hours in any workday and for all hours worked in excess of eight (8) hours on the seventh (7th)
20 consecutive day of work in a workweek. (c) The overtime rate of compensation required to be paid to a
21 nonexempt full-time salaried employee shall be computed by using the employee's regular hourly salary
22 as one fortieth (1/40) of the employee's weekly salary.

23 67. California Labor Code section 510 provides that: (a) Eight hours of labor constitutes a
24 day's work. Any work in excess of eight hours in one workday and any work in excess of 40 hours in any
25 one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be
26 compensated at the rate of no less than one and one-half times the regular rate of pay for an employee.
27 Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the
28 regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of

1 a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.

2 68. California Labor Code section 1194 provides in relevant part: (a) Notwithstanding any
3 agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the
4 legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid
5 balance of the full amount of this minimum wage or overtime compensation, including interest thereon,
6 reasonable attorney's, and costs of suit.

7 69. California Labor Code section 218.5 provides in relevant part: In any action brought for
8 the nonpayment of wages, fringe benefits, or health and welfare or pension fund contributions, the court
9 shall award reasonable attorney's fees and costs to the prevailing party if any party to the action requests
10 attorney's fees and costs upon the initiation of the action.

11 70. At all relevant times, throughout Plaintiff's employment, Plaintiff regularly and with
12 Defendant's knowledge worked more than eight (8) hours in working day.

13 71. Defendant did not pay 1 ½ times the legal minimum hourly wage rate for all the hours
14 worked over eight (8) hours in a work day and/or 40 hours in a work week, and Defendant did not pay
15 two times the legal minimum hourly rate for all the hours worked over twelve (12) hours in a work day as
16 alleged herein.

17 72. During the relevant time period, Defendant intentionally and willfully failed to pay for all
18 hours Defendant suffered and/or permitted Plaintiff to work, including for overtime hours.

19 73. Plaintiff alleges that wages are due to Plaintiff for all hours worked during which Plaintiff
20 was not paid proper overtime wages pursuant California Labor Code sections 510 and 1194 and all
21 applicable laws, rules, orders, requirements and regulations.

22 74. Plaintiff demands all applicable reimbursements, interest and penalties for lost overtime
23 wages.

24 75. Plaintiff further demands reasonable attorneys' fees and costs of suit pursuant to California
25 Labor Code sections 218.5 and 1194, and any other applicable statute or regulation.

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FOURTH CAUSE OF ACTION

**FAILURE TO PROVIDE MEAL PERIODS IN VIOLATION OF
LABOR CODE SECTIONS 226.7 AND 512 AND WAGE ORDER**

76. Plaintiff incorporates by reference all preceding and subsequent paragraphs.

77. At all relevant times, Plaintiff was subject to the provisions of the California Industrial Welfare Commission's Wage Orders and California Labor Code.

78. California Labor Code section 512(a) states (in relevant part): "An employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes, except that if the total work period per day of the employee is no more than six hours, the meal period may be waived by mutual consent of both the employer and employee."

79. The applicable Industrial Welfare Commission Wage Order provides that: No employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, except that when a work period of not more than six (6) hours will complete the day's work the meal period may be waived by mutual consent of the employer and the employee.

80. California Labor Code section 226.7(b) provides: If an employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each work day that the meal or rest period is not provided.

81. During the relevant time period, Defendant worked Plaintiff more than five hours per day without an off-duty, timely, and/or uninterrupted 30-minute meal period as required by California Labor Code section 512 and the applicable Industrial Welfare Commission Wage Order. During the relevant time period, Plaintiff worked more than six (6) hours in a workday and did not waive the right to a meal period by mutual consent. Defendant's policy and practice was not to compensate Plaintiff with the full amount of pay due and owing as required by California Labor Code section 226.7, and the applicable Industrial Welfare Commission order (i.e., one hour of pay per day per lunch period at the employee's regular rate of compensation).

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82. Plaintiff demands all applicable reimbursements, interest, and penalties for Plaintiff's lost wages.

83. Plaintiff demands reasonable attorneys' fees and costs of suit pursuant to California Labor Code sections 218.5 and 1194, and any other applicable statute or regulation.

FIFTH CAUSE OF ACTION

**FAILURE TO AUTHORIZE AND PERMIT REST PERIODS IN VIOLATION OF
LABOR CODE SECTION 226.7 AND WAGE ORDER 4-2001**

84. Plaintiff incorporates by reference all preceding and subsequent paragraphs.

85. At all relevant times, Plaintiff was subject to the provisions of the California Industrial Welfare Commission's Wage Orders and California Labor Code.

86. California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California Industrial Welfare Commission.

87. The applicable Industrial Welfare Commission Wage Order provides that "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each 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 (3 ½) hours."

88. Defendant's conduct violates applicable Wage Orders and California Labor Code section 226.7. During the relevant time period, Defendant required Plaintiff to work four (4) or more hours without authorizing or permitting a ten (10) minute rest period per each four (4) hour period worked. During the relevant time period, Defendant willfully required Plaintiff to work during rest periods and failed to pay Plaintiff the full rest period premium for work performed during rest periods. During the relevant time period, Defendant failed to pay Plaintiff the full rest period premium due pursuant to California Labor Code section 226.7.

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89. Pursuant to the applicable Industrial Welfare Commission Wage Order and California Labor Code section 226.7(b), Plaintiff is entitled to recover from Defendant one additional hour of pay at the employee's regularly hourly rate of compensation for each work day that the rest period was not provided.

SIXTH CAUSE OF ACTION

**FAILURE TO FURNISH COMPLIANT WAGE STATEMENTS IN VIOLATION OF
LABOR CODE SECTION 226(a)**

90. Plaintiff incorporates by reference all preceding and subsequent paragraphs.

91. At all relevant times, Plaintiff was subject to the provisions of the California Industrial Welfare Commission's Wage Orders and California Labor Code.

92. California Labor Code section 226(a) provides that every employer shall furnish each of their employees an accurate itemized statement in writing showing (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 their or their social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

93. California Labor Code section 226 requires employers to list on an itemized wage statement "all amounts earned and now owing, not just those amounts actually paid." *Naranjo v. Spectrum Security Services, Inc.*, 2022 WL 1613499, at *13 (Cal., May 23, 2022).

94. California Labor Code section 226(e)(1) provides that "[a]n employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney's fees."

95. California Labor Code section 226.3 provides that “Any employer who violates subdivision (a) of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage deduction statement or fails to keep the records required in subdivision (a) of Section 226. The civil penalties provided for in this section are in addition to any other penalty provided by law.”

96. Plaintiff has suffered injury and damage to Plaintiff's statutory-protected rights as Defendant intentionally and willfully failed to provide Plaintiff with complete and accurate wage statements as alleged herein. The deficiencies include, but are not limited to, the failure to include: total hours worked by the employee; the inclusive dates of the period for which the employee is paid; the name of the employee and their social security number; the name and address of the legal entity that is the employer, and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

97. Plaintiff is entitled to recover from Defendant the greater of Plaintiff's actual damages caused by Defendant's failure to comply with California Labor Code section 226(a), or pursuant to California Labor Code section 226(e), an aggregate penalty not exceeding four thousand dollars per employee, and an award of costs and reasonable attorney's fees.

SEVENTH CAUSE OF ACTION

**FAILURE TO PAY ALL WAGES OWED UPON TERMINATION IN VIOLATION OF
LABOR CODE SECTIONS 201 TO 203**

98. Plaintiff incorporates by reference all preceding and subsequent paragraphs.

99. At all relevant times, Plaintiff was subject to the provisions of the California Industrial Welfare Commission's Wage Orders and California Labor Code.

100. California Labor Code sections 201 and 203 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately. For these purposes, wages include meal and rest break period premiums.

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110. Plaintiff seeks reimbursement for the excess costs of these expenses as alleged herein. Plaintiff seeks damages for all necessary expenditures and loses, including attorney's fees and costs pursuant to Labor Code section 2802(c).

NINTH CAUSE OF ACTION

**PAGA REPRESENTATIVE ACTION FOR PENALTIES PURSUANT TO
LABOR CODE SECTION 2698**

111. Plaintiff incorporates by reference all preceding and subsequent paragraphs.

112. Under the California Private Attorneys General Act of 2004 ("PAGA"), Labor Code sections 2698-2699.5, private parties may recover civil penalties for violations of the Labor Code. These penalties are in addition to any other relief available under the Labor Code. As set forth above, Defendant has committed numerous violations of the Labor Code against Plaintiff, including but not limited to:

- **Labor Code §§ 201, 201.5, 202, 203.** Failure to pay all wages immediately upon termination or within 72 hours after notice of separation.
- **Labor Code § 204.** Failure to pay all earned wages within the time prescribed in Labor Code §§ 204(a) and 204(b).
- **Labor Code § 206.** Failure to pay all undisputedly owed wages.
- **Labor Code § 210.** Failure to pay wages as required by Labor Code §§ 201.3, 204, 204b, 204.1, 204.2, 205, 205.5, and/or 1197.5.
- **Labor Code § 213.** Unauthorized payment of final wages via direct deposit.
- **Labor Code § 221.** Failure to not collect and receive owed wages.
- **Labor Code § 226.** Failure to provide timely and accurate wage statements.¹
- **Labor Code § 226.3.** Failure to comply with Labor Code § 226(a).
- **Labor Code § 226.7.** Failure to provide rest periods and failure to provide an additional hour of pay at the regular rate of compensation in lieu of the rest periods.
- **Labor Code §§ 226.7 and 512.** Failure to provide meal periods and failure to provide an additional hour of pay at the regular rate of compensation in lieu of the meal periods.

¹ *Bernstein v. Virgin America, Inc.*, 3 F.4th 1127 (9th Cir. 2021) (awarding nearly \$4.4 million in statutory Labor Code § 226 penalties and an additional \$5 million in PAGA civil penalties for Labor Code § 226 violations).

- 1 • **Labor Code § 256.** Failure to pay all wages immediately upon termination or within 72 hours
2 after notice of separation.
- 3 • **Labor Code §§ 510 and 1194.** Failure to pay overtime and double time compensation.
- 4 • **Labor Code §§ 510, 1194, 1194.2, and 1197.** Failure to pay minimum wages, including overtime
5 and double time compensation at the minimum wage rate.
- 6 • **Labor Code § 558.** Violation of a section of the chapter of the Labor Code starting with Labor
7 Code § 500, *et seq.*, or any provision regulating hours and days of work in any order of the
8 Industrial Welfare Commission.
- 9 • **Labor Code § 558.1.** Violation any provision regulating minimum wages or hours and days of
10 work in any order of the Industrial Welfare Commission, and violating Labor Code §§ 203, 226,
11 226.7, 1193.1, and/or 1194.
- 12 • **Labor Code § 1174.** Failure to maintain compliant employee and payroll records.
- 13 • **Labor Code § 1197.1.** Failure to pay minimum wage.
- 14 • **Labor Code § 1199.** Violation of an order of the Industrial Welfare Commission.
- 15 • **Labor Code § 1198.** Violation of the following sections of orders of the Industrial Welfare
16 Commission for conditions of labor prohibited by such:
 - 17 ○ **Wage Order 1-2001 (or other applicable Wage Order), Section 3,** requiring an
18 employer to pay overtime and double time compensation.
 - 19 ○ **Wage Order 1-2001 (or other applicable Wage Order), Section 4,** requiring an
20 employer to pay minimum wages, including overtime and double time compensation at the
21 minimum wage rate.
 - 22 ○ **Wage Order 1-2001 (or other applicable Wage Order), Section 7,** requiring an
23 employer to maintain accurate information with respect to each employee; provide
24 employees with thorough and accurate itemized wage statements; and, provide clocks
25 within a reasonable distance from employees' work areas.
 - 26 ○ **Wage Order 1-2001 (or other applicable Wage Order), Section 11,** requiring an
27 employer to provide its employees with adequate meal periods and an additional hour of
28 pay at the regular rate of compensation in lieu of the rest periods.

- **Wage Order 1-2001 (or other applicable Wage Order), Section 12**, requiring an employer to provide its employees with adequate rest periods and an additional hour of pay at the regular rate of compensation in lieu of the rest periods.

- **Labor Code § 2802**. Failure to reimburse necessary business expenses.

113. Plaintiff is an “aggrieved employee” within the meaning of California Labor Code section 2699(c), and a proper representative to bring a civil action on behalf of Plaintiff and other current and former employees of Defendant pursuant to the procedures specified in California Labor Code section 2699.3, because Plaintiff is employed by Defendant and the alleged violations of the California Labor Code were committed against Plaintiff.

114. Pursuant to California Labor Code section 2699.3, Plaintiff gave written notice on August 2, 2023, by online filing to the California Labor and Workforce Development Agency (“LWDA”) and by certified mail to Defendant of the specific provisions of the California Labor Code and IWC Wage Orders alleged to have been violated, including the facts and theories to support the alleged violations. More than 65 days have passed since Plaintiff provided written notice to the LWDA. The LWDA has not provided notice that it intends to investigate Plaintiff’s claims.

115. Pursuant to California Labor Code section 2699.3, Plaintiff served Defendant with the aforementioned LWDA notice via certified mail on August 2, 2023. More than 33 days have passed since that date. Defendant provided Plaintiff with notice that it cured its Labor Code section 226(a)(8) violation and the LWDA determined that Defendant did, in fact, cure.

116. Per the tolling provision in Labor Code section 2699.3(g), the period of liability under Plaintiff’s PAGA claim extends one year and sixty-five days before the filing of this complaint (the “PAGA Liability Period”).

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

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118. Pursuant to PAGA, Plaintiff seeks civil penalties due to Plaintiff, other aggrieved employees, and the State of California according to proof, pursuant to the California Labor Code, including California Labor Code sections 2699(a) and 2699(f), which provides for \$100 for each initial violation and \$200 for each subsequent violation per employee pay period. In addition, pursuant to PAGA, Plaintiff seeks to recover civil penalties, including but not limited to penalties under Labor Code sections 210, 225.5, 226.3, 558, 1174.5, 1197.1, and 1199 from Defendant in a representative action for the violations set forth above. Plaintiff is entitled to an award of reasonable attorneys' fees and costs pursuant to Labor Code section 2699(g)(1).

JURY TRIAL DEMANDED

Plaintiff demands a jury as to all causes of action.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays judgment against Defendant as follows:

- a. For general economic damages according to proof;
- b. For general non-economic damages according to proof;
- c. For special damages according to proof;
- d. For penalties where provided by law;
- e. For punitive damages where allowed by law;
- f. For prejudgment interest pursuant to California Labor Code section 218.6, California Civil Code section 3287 and/or California Civil Code section 3288 and/or any other provision of law providing for prejudgment interest;
- g. For attorneys' fees where allowed by law;
- h. For costs of suit incurred herein; and

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1 i. For such other and further relief as deemed just and proper.
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3 DATED: October 26, 2023

COLBY LAW FIRM, PC

4 
5

6 By: _____

AARON N. COLBY

ZOE YUZNA

7 Attorneys for Plaintiff

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EXHIBIT 1

Subject: Fwd: Lets Speak Please
From: Deborah Godinez <Deborah.godinez@guansmushroom.com>
Date: 4/11/2023, 9:52 AM
To: Jim Guan <jim.guan@ca-terragarden.com>

Hi Jim,

Keeping you in the loop. I believe that you and I have build very good rapport. Please tell me if I am mistaken or please correct me if needed.

Thank you,

Deborah

----- Forwarded Message -----

Subject: Lets Speak Please
Date: Tue, 11 Apr 2023 09:46:09 -0700
From: Deborah Godinez <Deborah.godinez@guansmushroom.com>
To: Sareth Yip <sareth@guansmushroom.com>

Hi Sara,

I'm so happy to see you back, in the best health as possible. I'm actually glad you're back because I wanted to speak with you. I am slightly confused with the work flow here and am asking for your help. Everyone has been extremely nice and welcoming with the exception of 1 person. I am really hoping it is a misunderstanding and I say this respectfully. Jan has not been very helpful. I almost feel like he is working against me instead of with me or welcoming me to the company. Jan has a nice demeanor but when it comes to work functions, isn't so cooperative.

Many things have happened. Again, I am hoping they are misunderstandings. So I have the following questions:

- Do I report to Jan, is Jan my boss?
- Is Jan handling HR for some locations and I am overseeing other locations?
- Who is the custodian of record for the files?
- Am I allowed to speak to certain locations?

You said, told both Jan and I that you didnt want me to go to the locations until you returned. But immediately when you went on vacation Jan told me that Bandini has many many HR problems and he wanted us to go on Monday or Tuesday of the following week right after you left. I was confused because you said we will wait therefore I did not agree.

There are many scenarios when he says Bandini has a problem when I ask if I should speak with Cyrus or Cindy he says no, that he will. He walked over to my office and when I asked him to call them on the phone he told me no his cell phone didnt have service, so I called from the office line.

The timeclock here in Pasadena, he told me that I was trained and was positive that I was trained even told me

that he knew you trained me on the timeclock that he saw you training me how to work on the timeclock. I told him absolute no, he is confused you did not train me.

The schedule, my work hours in the office and punching in. You told me to come in anytime between 8-9 and were very nice about it. Then Jan walked to my office and told me that he wanted me to tell him a time when I would arrive. When I told him what you told me, I suggested that us three speak so we can all be on the same page and he told me no. He said that I did not need to speak to you. Also aside from office hours, I do take phone calls or emails outside of the punched office hours so I am still working.

Enter new hires before you and I sat to review ADP. He have me two new hires and told me to enter them, when I told him you and I havent met he told me just enter them. Then on the day that you reviewed with me, Jim, Jan and I went right into a meeting after. In the meeting, Jan told me that he had something to ask me. He said I checked with Midco and she told me that you havent entered the new hires and wanted to know why. I asked why he was asking me that, he literally saw me with you then walked over to the conference room with him; when was I going to enter them since the time that he saw me with you and the meeting. He said ok I only had that question and walked away.

Aside from the above, I have to approach Jan or ask for follow up items because he only gives me pieces of items to work with. Lets speak when you have a moment. Again, I am being optimistic. Maybe its a misunderstanding.

Best regards,
Deborah Godínez
Forest Mushroom Food Inc|Guan's Mushroom
Human Resources Dept.
O.(323)490-7890 x 114

EXHIBIT 2



Jim Guan



5/1 6:59 AM

Hi Jim. We need to speak openly later today. I'm not getting the support to do my job. I sent that email to you and Sara and it was ignored. Yes I am an HR person that knows how to recruit for specialty positions but general labor jobs shld be the responsibility of the location or the office assistant, which I might hire today. But I don't feel ok with hiring the office/ HR assistant. Something needs to be figured out or Guans isn't the company for me and I am going to need to resign. If the company wants me to focus on recruiting then a majority of time will be focused on that. And fyi I have been supporting many people with employee



6:00

LTE 



Jim Guan



focused on that. And fyi I have been supporting many people with employee relations or matters to reduce claims. I can ignore certain risk areas if that's what you request of me.

5/1 7:08 AM



What time are you available today to discuss?

5/1 7:45 AM

Driving. Let me get into the office and send you some ideas that I have.



5/1 8:16 AM



Okay.

5/1 10:01 AM





5/3 4:46 PM

Jim, your realization and note is absolutely amazing.

Though I humbly appreciate it, the apology is not needed.

We're professionals with the same business goals and

moreover we're adults. I'm

thrilled to be a part of the

company. I agree 100%

what's done is done: can't

reverse time. We just move

forward. I always say "always

hope for the best, prepare to

the worst!" What I don't like

is the resistance. I've literally

had to walk out of the office

in frustration bcz Jan has

been a very poor coworker to

me and has influenced

Cedric. Jan has played many

games with what is

supposedly my work and that

I don't appreciate. A person

cannot like me and that's ok





supposedly my work and that I don't appreciate. A person may not like me and that's ok but don't mess with my work. Especially at the risk of harming a company. I'm very loyal to my employers & very accountable but I'm gonna say this respectfully. The onboarding at Guans has been the worst that I've ever encountered. Imagine that an HR person is saying this. I've accomplished things only with the help of others except for my alleged close peers. That accounting team at the office is amazing. But my direct supposedly partners have not been so kind to me. Jan says I am not allowed to speak to Sara. Sara tells me I can ask Jan. Jan tells me he doesn't know things to ask Sara or to ask Cedric then Cedric tells me





Jim Guan



to ask Jan. Then Cedric talks to me with disrespect on the phone; not to ask him questions, for me to tell him what papers to use. That's been the company introduction to me. I have more to say but will be the bigger person.

5/3 4:54 PM



Do you mind if I forward this to Juliet to try to address the issue?

No, I don't mind. But I already sent a few "help S-O-S" emails and seems they've been ignored. Hence, why I said the things I said yesterday morning to you. I'm basically working 100% on my own and getting stuff accomplished like that.



EXHIBIT 3

Subject: Fwd: Lunch Breaks
From: Deborah Godinez <deborah.godinez@guansmushroom.com>
Date: 5/1/2023, 10:47 PM
To: Deborah Godinez <deborah.godinez@guansmushroom.com>

Begin forwarded message:

From: Deborah Godinez <Deborah.godinez@guansmushroom.com>
Date: May 1, 2023 at 10:46:44 PM PDT
To: Deborah Godinez <Deborah.godinez@guansmushroom.com>
Cc: Jim Guan <jim.guan@dncfresh.com>
Subject: Re: Lunch Breaks

Also just so you know. I didn't bring any of this up at the office. Both Midco and Niki brought the concern to me.

I simply answered questions and clarified.

After our discussion today, you may be correct. It might be a cultural thing and the company may not want things to be different. Guans is use to doing things a certain way as you mention. Jim, I'd like for you to know, that in the case of compliance; VP's and owners can face criminal charges or fines for knowing doing the same violations repeatedly.

Best,
Deborah

On May 1, 2023, at 10:38 PM, Deborah Godinez <Deborah.godinez@guansmushroom.com> wrote:

Hi Jim,

It's great that you researched it. The wording is not particular to The Department of Labor standards. I've represented employees and I've also represented employers: I've seen it first hand attending depositions at the labor board. It's not whether we offer it, it's what's documented. And what an EE states.

If you elect not to do anything per your note: that's fine. You're making a voluntary decision to do so.

The claim from Bandini with the estimated \$50k claim, is including wage and our claim for meal & breaks. Juliet & Jan are aware of it or at least they had the paperwork. If it's just the offering, that employee wouldn't have a leg to stand on but he does.

Have a good night,

Deborah

On May 1, 2023, at 9:51 PM, Jim Guan <jim.guan@dncfresh.com> wrote:

Hi Deborah,

<https://michellawyers.com/employers-responsibilities-for-employee-meal-period-breaks/>

I think the above article states our case the best. As long as we provide the breaks, then we aren't responsible if they don't follow through. We do, however, want to document everything.

Thus, I don't think we need to pay an hour penalty to the 18 DNC employees and 2 VTG employees this pay period.

Best,

Jim Guan, Vice-President

DNC Fresh (USA) Inc.

4440 Olivas Park Dr.

Ventura, CA 93001

Cell: 805-515-9560

On 5/1/23 9:45 PM, Jim Guan wrote:

Hi Deborah,

I'm doing some research on lunch breaks and according to (<https://scalirasmussen.com/news/2019/03/04/what-to-do-when-an-employee-refuses-to-take-appropriate-lunch-or-rest-breaks/>), "if the break is offered in a compliant manner and the employee chooses to take it differently, or not at all, that does not require premium pay." From the same article, " As long as the employee is not skipping breaks or working through them due to the employer's (or a manager's) failure to offer the break or due to the press of business, employers are not required to "police" the break and make sure the employee takes the break, takes it at the correct time, or for enough time."

From (<https://www.shouselaw.com/ca/labor/wage-and-hour/meal-and-rest-breaks/lunch-breaks/>), they used an example of an employee deciding to skip her lunch break because she wanted to make a sales commission. They said the employer may not be responsible because April voluntarily decided to continue working.

According to (<https://sempers.com/lunch-break/california-lunch-break-laws.html>), employees "are free to skip your lunch or rest break if you want to. Your employer cannot force you to take a meal break. Your employer's responsibility is to provide the opportunity for you to have an uninterrupted 30-minute meal break, but whether to take a lunch break it up to you."

After reading through everything, it seems that as an employer, we're fine as long as we provide them with the opportunity for a 30-minute lunch break. We're not required to check on them or ensure that they take the full 30-minutes. HOWEVER, we probably do want to start documenting that they are voluntarily forgoing the full 30-minutes. Thus, maybe we should have them all sign a document that their lunch time is from 11:30 to 12:00 (or at least 30 minutes if they take their break a little later due to finishing up work) and that if they take shorter, it's due to their own volition. What do you think?

Best,

EXHIBIT 4

Subject: Thank you- Discussion Today

From: Deborah Godinez <Deborah.godinez@guansmushroom.com>

Date: 5/1/2023, 6:05 PM

To: Jim Guan <jim.guan@venturaterragarden.com>

Hi Jim,

Thank you for the discussion today, speaking about things goes a long way. Since you couldn't recall which position was brought to your attention, here's an overview and more details of the work that I'm doing. Again this is an overview only.

AR (Pasadena) the position was posted on 3/27, candidates were being sent with much experience then on 4/13 I was informed by Midco, not too much experience more entry level because Jasmine will train. Then 4/26 Midco informed me only Mandarin/ Cantonese language so on 4/28 I asked Jan to help with the ads on Chinese newspapers. [Per Midco, the position has been available for several months.](#)

Office / HR assistant (Pasadena) I met with Niki on 4/16 to review duties, job posted 4/16 (candidates experience was not compatible with industry) Redid job post 4/28. Located candidate 4/28. [Hire pending. Candidate located in 13 calendar days.](#)

Office / Sales Assistant job posted 4/25, I asked Stella for her job duties (I approached Stella on my own). Candidate located 4/28. [Hire pending. Candidate located in 3 calendar days.](#)

I have constant interaction with Jose, Niki, Midco, Cyrus, Milton and will train the Pasadena front desk person.

Items that I support with

- Pay penalties (final, late)
- Meal breaks
- Employee relations
- When I see that Jan has not asked for something, or there's a red flag with a claim (I speak up)
- Drafting documentation to support a better opportunity for the company, reduce a potential claim

Examples of when I have gotten involved

Claim with Jorge (Bandini)- No one told our Insurance of insubordination (many Guans staff were aware). EE has had 2 WC claims and legal representation. If insurance would of been told about the behavior they would of approached the deposition differently. Now if the EE refuses the offer, we are forced to have a high risk insubordinate EE in the building versus encouraging a resignation.

Claim with Erik (Bandini) incidents were not documented and I am following up to gather details because the EE is seeking 50k in damages. We do have supporting details for our defense but no one

gathered / compiled them. Jan walked over and handed me the legal letter of representation. I read, asked questions and am gathering the details for the defense.

With claims like the above examples, my comment is: with organization, we can get ahead of allegations like these if the company wants. Otherwise the company may grow great profit margins only to repeatedly pay for legal claims.

I have been with the company for 6 weeks. First 1.5 weeks was the investigation with Carmela & Dulce. So with that exception, I am saying I have had 4.5 wks of on-boarding that I am learning mostly by asking questions on my own. BUT I'm a self starter and am confident in my work experience so its not a problem. In my opinion, I think I'm doing great work with the little answers or support that I've been given.

Best regards,
Deborah Godinez
Forest Mushroom Food Inc | Guan's Mushroom
Human Resources Dept.
O.(323)490-7890 x 114

EXHIBIT 5



5/5 8:17 AM

Hi Jim. Sorry. I got a splitting headache yesterday after the meeting. I'm going to be fully transparent with you. After weeks of not feeling supported, and now actually talking to someone (you) about what's been happening: I finally cried. Not for any emotional reasons, sympathy is not needed. My frustration was bottled up. I have been holding it in while having to reach out to others on my own in a new company for everything. No one made any efforts to introduce me to documents, processes: anything. After the first 3 wks Jan became more socially friendly with me saying good morning, bye and answering questions to things that I found out on my own about





found out on my own about the company. I actually started to ask him more questions to show him that I am capable & will not be stopped of doing my HR work. I will say: I respect Jans efforts but he does not know HR and I also think maybe he thought he was going to be my boss. Fei was also uncomfortable with Jan, he told me and said he didn't want to document it. He told me that it was nice working with me and maybe if I wld of started sooner maybe he wld of stood longer. Makes me wonder is this the trend that happens at the office. But look at this: the person that knows how to legally protect companies (me) was mistreated in ways that can be used against a company (Guans) in a legal manner.





Jim Guan



(Guans) in a legal manner. I'm not saying I'm going to do anything but look at the logic, I help set up how to protect companies which means that I know how to sue a company but I was treated poorly by a company. Do you see how that makes no sense. That makes no sense to I'm above frustrated and games and I will move forward but doesn't change the fact that I have a splitting headache. I will still work from home today & I also have options for us to review about the meal breaks. I'll send via email.

5/5 8:43 AM

Typo sorry- That makes no sense to Im above...





Jim Guan



5/5 8:43 AM

Typo sorry- That makes no sense to Im above...



5/5 9:16 AM



How are you feeling right now? If you're feeling that bad, I think you should take the day off and not work. You shouldn't push yourself.



I know that Sara is more available now, so I think your best course of action is to schedule a meeting with her. She will be better able to address your concerns than me as I don't know how the Pasadena office operates.

5/5 9:55 AM

I'm good. I have Tylenol 👍





5/5 9:55 AM

I'm good, I have Tylenol 🍊
I'm sure it was just tension & frustration build up. Jim I've been working 6/7 days since I started bcz there's quite a bit of stuff that's missing in the company. Things that will eventually catch up to Guans. No one has said do this do that (except we need to hire). I don't even know what I shld focus on. Shld I ignore all the red flags that are harmful to Guans and 100% focus on recruiting or still try to help as an HR person: I have no idea. And I understand your position. You're told I report to Sara so you're on the sidelines but also you're the 1 and only person that has offered discussion. I get it. I'm saying this from a place of care: if





discussion. I get it. I'm saying this from a place of care: if you guys (Guans) don't start fixing things then the company is only going to be working hard to pay off lawsuits bcz you're going to keep doing things the exact same way and not improving it. And fyi Sara and I already had a sit down after I sent the first email about Jan. It lasted like 3 minutes and she did not say a single thing about Jan she wanted me to tell her about recruiting. So maybe I do ignore everything else of HR and only focus on recruiting.

5/5 1:27 PM



As a company, we're always looking to improve our processes and address any

concerns that are brought



Jim Guan



about Jan she wanted me to tell her about recruiting. So maybe I do ignore everything else of HR and only focus on recruiting.

5/5 1:27 PM



As a company, we're always looking to improve our processes and address any concerns that are brought up. I hear your concerns and appreciate you doing your best to minimize risks for the company. At this point, I would recommend sending a follow up email to Sara, and request a formal meeting to specifically address the issues that you have noticed. As your supervisor, Sara would best be able to provide you concrete answers and feedback.



EXHIBIT 6



5/25 9:05 AM

Jim. I will not be returning to Guans. The confusion of communication or lack of communication, unfair treatment & constant changes to requests by different people that are not on the same page with work that you all would like me to do has been extremely overwhelming. I've had constant headaches, and now I see it caused errors. I was so focused to leave at 8 hrs on Tuesday to satisfy what Sara asked of me with work hours. I've been trying to continue working in an uncomfortable work environment and still giving efforts. I am not sure if the company knew exactly what to want or request from an HR role as most of the work I was doing was brought up by me by just reviewing what's





was doing was brought up by me by just reviewing what's in place or being asked questions by other people that would open my interest to know more. Sara speaking to me on Friday saying she doesn't want me working past 8 hrs a day or on weekends bcz the company doesn't do that and using an emergency like the shooting as an example reason for an exception: then both Jan & Cedric both sending me an email on Saturday to tell me something casual was another confusing thing. Made me question: are these things only being said to me? Is this confusion & mistreatment only for me? Last time I felt so stressed & frustrated I stood home to work. And now I've decided I cannot continue to work under these conditions for a company. I wish you all the best. Deborah Cedric





Jim Guan



something casual was another confusing thing. Made me question: are these things only being said to me? Is this confusion & mistreatment only for me? Last time I felt so stressed & frustrated I stood home to work. And now I've decided I cannot continue to work under these conditions for a company. I wish you all the best. -Deborah Godinez

5/25 9:32 AM



I wish you best of luck in your future endeavors. Someone from the office will be in contact with you regarding returning the company property under your possession. In the meantime, can you please provide me with the account information that you posted the HR Generalist position under?



PROOF OF SERVICE

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 13263 Ventura Boulevard, Suite 203, Studio City, California 91604

On October 26, 2023, I served the following document(s) on the following person(s):

Document(s) Served

- **PLAINTIFF'S FIRST AMENDED COMPLAINT**

Recipient(s)

- John Haubrich (jhaubrich@ohaganmeyer.com)
- Natasha Covarrubias (ncovarrubias@ohaganmeyer.com)
- Jessica Rodgers (jrodgers@ohaganmeyer.com)

VIA ELECTRONIC MAIL – I served a true and correct copy of the above document(s) by electronic delivery pursuant to C.C.P. 1010.6, calling for agreement to accept service by electronic delivery, to the interested parties in this action as indicated above.

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

Executed on October 26, 2023 at Los Angeles, California.

KAYLEE ALVAREZ

Print Name



Signature

PROOF OF SERVICE