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and aggrieved

Additional Counsel on Next Page

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CRUZ

JUANA MATIAS, CARMEN CHAVEZ
FERNANDEZ, and YOLANDA
MEMBRENO DE AYALA, individually,
and on behalf of other members of the
general public similarly situated, and as
aggrieved employees pursuant to the Private
Attorneys General Act ("PAGA"), and
MARIA RODRIGUEZ DE PAZ, as an
aggrieved employee pursuant to PAGA,

Plaintiffs,

v.

HOSPITALITY STAFFING SOLUTIONS,
LLC, a Delaware limited liability company;
KELLERMEYER BERGENSONS
SERVICES, LLC, a Delaware limited
liability company; and DOES 1 through 10,
inclusive,

Defendants.

Case No.: 23CV00490

**THIRD AMENDED CLASS ACTION
COMPLAINT & ENFORCEMENT
ACTION UNDER THE PRIVATE
ATTORNEYS GENERAL ACT,
CALIFORNIA LABOR CODE §§ 2698, ET
SEQ.**

- (1) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime);
- (2) Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 (Unpaid Minimum Wages);
- (3) Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 (Failure to Provide Meal Periods);
- (4) Violation of California Labor Code §§ 226.7, 516, and 1198 (Failure to Authorize and Permit Rest Periods);
- (5) Violation of California Labor Code §§ 226(a), 1174(d), and 1198 (Non-Compliant Wage Statements and Failure to Maintain Payroll Records);
- (6) Violation of California Labor Code §§ 201, 201.3, and 202 (Wages Not Timely Paid Upon Termination);
- (7) Violation of California Labor Code

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§§ 201.3 and 204 (Failure to Timely Pay Wages During Employment);

- (8) Violation of Labor Code § 1198 and California Code of Regulations, Title 8, Section 11050 Subdivision 5(A) (Failure to Provide Reporting Time Pay);
- (9) Violation of California Labor Code § 2802 (Unreimbursed Business Expenses);
- (10) Civil Penalties for Violations of California Labor Code, Pursuant to PAGA, §§ 2698, *et seq.*;
- (11) Violation of California Business & Professions Code §§ 17200, *et seq.* (Unlawful Business Practices); and
- (12) Violation of California Business & Professions Code §§ 17200, *et seq.* (Unfair Business Practices)

Jury Trial Demanded

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and aggrieved

1 Plaintiffs Juana Matias, Carmen Chavez Fernandez, Yolanda Membreno de Ayala,
2 Hannah H. Knoerzer, Heriberto Chavez Rodriguez, Maria Rodriguez De Paz, and Graciela
3 Lopez, individually and on behalf of all other members of the public similarly situated, and as
4 aggrieved employees and on behalf of all aggrieved employees, allege as follows.

5 JURISDICTION AND VENUE

6 1. This class action is brought pursuant to California Code of Civil Procedure
7 section 382 and California Labor Code sections 2698, *et seq.* (“PAGA”) to recover civil
8 penalties and any other available relief on behalf of Plaintiffs, the State of California, and other
9 current and former employees who worked for Defendants in California as non-exempt, hourly
10 paid employees and received at least one wage statement and against whom one or more
11 violations of any provision in Division 2 Part 2 Chapter 1 of the Labor Code or any provision
12 regulating hours and days of work in the applicable Industrial Welfare Commission (“IWC”)
13 Wage Order were committed, as set forth in this complaint. The monetary damages, penalties,
14 and restitution sought by Plaintiffs exceed the minimal jurisdiction limits of the Superior Court
15 and will be established according to proof at trial. This Court has jurisdiction over this action
16 pursuant to the California Constitution, Article VI, section 10. The statutes under which this
17 action is brought do not specify any other basis for jurisdiction. Plaintiffs’ share of damages,
18 penalties, and other relief sought in this action do not exceed \$75,000.

19 2. This Court has jurisdiction over Defendants because Defendants are either
20 citizens of California, have sufficient minimum contacts in California, or otherwise
21 intentionally avail themselves of the California market so as to render the exercise of jurisdiction
22 over them by the California courts consistent with traditional notions of fair play and substantial
23 justice.

24 3. Venue is proper in this Court, because Defendants employ persons in this county,
25 and employed Plaintiffs in this county, and thus a substantial portion of the transactions and
26 occurrences related to this action occurred in this county.

27 THE PARTIES

28 4. Plaintiff Juana Matias (“Plaintiff Matias”) is a resident of Watsonville, in Santa

1 Cruz County, California. Defendants employed Plaintiff Matias as an hourly paid, non-exempt
2 employee from approximately January 2019 to August 2022. Plaintiff Matias worked as a
3 Housekeeper for Defendants at their jobsite located in Aptos, California. During her
4 employment, Plaintiff Matias typically worked eight (8) hours per day or more, and five (5)
5 days per week or more. At the time Plaintiff Matias's employment with Defendants ended, she
6 was compensated approximately \$20.00 per hour. Plaintiff Matias's primary job duties
7 included, without limitation, making beds, replacing towels and toiletries, vacuuming, and
8 disinfecting kitchens and bathrooms.

9 5. Plaintiff Carmen Chavez Fernandez ("Plaintiff Chavez Fernandez") is a resident
10 of Gustine, in Merced County, California. Defendants employed Plaintiff Chavez Fernandez as
11 an hourly paid, non-exempt employee from approximately December 2018 to August 2022.
12 Plaintiff Chavez Fernandez worked as a Housekeeper for Defendants at their jobsite located in
13 Aptos, California. During her employment, Plaintiff Chavez Fernandez typically worked eight
14 (8) hours per day or more, and five (5) days per week or more. At the time Plaintiff Chavez
15 Fernandez's employment with Defendants ended, she was compensated approximately \$20.00
16 per hour. Plaintiff Chavez Fernandez's primary job duties included, without limitation, making
17 beds, replacing towels and toiletries, vacuuming, and disinfecting kitchens and bathrooms.

18 6. Plaintiff Yolanda Membreno de Ayala ("Plaintiff Membreno de Ayala") is a
19 resident of Watsonville, in Santa Cruz County, California. Defendants employed Plaintiff
20 Membreno de Ayala as an hourly paid, non-exempt employee from approximately June 2019 to
21 August 2022. Plaintiff Membreno de Ayala worked as a Housekeeper for Defendants at their
22 jobsite located in Aptos, California. During her employment, Plaintiff Membreno de Ayala
23 typically worked six (6) hours per day or more, and five (5) days per week or more. At the time
24 Plaintiff Membreno de Ayala's employment with Defendants ended, she was compensated
25 approximately \$20.00 per hour. Plaintiff Membreno de Ayala's primary job duties included,
26 without limitation, making beds, replacing towels and toiletries, vacuuming, and disinfecting
27 kitchens and bathrooms.

28 7. Plaintiff Hannah H. Knoerzer ("Plaintiff Membreno de Ayala") is a resident of

1 California. She was a non-exempt hourly employee that worked for HSS from September 2021
2 through October 2021. Plaintiff Knoerzer was staffed at Walgreens distribution facility in
3 Moreno Valley, California. She performed various cleaning functions at the facility, including
4 cleaning and mopping bathrooms, breakroom, kitchen, and restocking the break room. She
5 earned

6 8. Plaintiff Heriberto Chavez Rodriguez (“Plaintiff Rodriguez”) is a resident of the
7 State of California. At all relevant times herein, Plaintiff is informed and believes, and based
8 thereon alleges, that Defendants employed Plaintiff as a non-exempt employee, with duties that
9 included, but were not limited to, cleaning. Plaintiff is informed and believes, and based thereon
10 alleges, that Plaintiff Heriberto Chavez Rodriguez worked for Defendants from approximately
11 March of 2021 through approximately February of 2022.

12 9. Plaintiff Maria Rodriguez De Paz (“Plaintiff Rodriguez de Paz”) is a resident of
13 Moreno Valley, in Riverside County, California. Defendants employed Plaintiff Rodriguez De
14 Paz as an hourly paid, non-exempt employee from approximately September 2021 to February
15 2022. Plaintiff Rodriguez De Paz worked for Defendants as an Operator in Defendants’ client’s
16 facility in Riverside County, California. Plaintiff Rodriguez De Paz typically worked eight (8)
17 hours per day and five (5) days per week. At the time Plaintiff Rodriguez De Paz’s employment
18 with Defendants ended, she was compensated approximately \$17.00 per hour. As an Operator,
19 Plaintiff Rodriguez De Paz’s job duties included, without limitation, preparing crate machinery
20 for daily use, inspecting machinery for safety, stacking crates, and cleaning work areas.

21 10. Plaintiff Graciela Lopez (“Plaintiff Lopez”) is a resident of California.
22 Defendants employed Plaintiff Lopez as an hourly paid, non-exempt employee.

23 11. HOSPITALITY STAFFING SOLUTIONS, LLC was and is, upon information
24 and belief, a Delaware limited liability company, and at all times hereinafter mentioned, an
25 employer whose employees are engaged throughout this county, the State of California.

26 12. KELLERMEYER BERGENSONS SERVICES, LLC was and is, upon
27 information and belief, a Delaware limited liability company, and at all times hereinafter
28 mentioned, an employer whose employees are engaged throughout this county, the State of

1 California.

2 13. Plaintiffs are unaware of the true names or capacities of the Defendants sued
3 herein under the fictitious names DOES 1 through 10, but will seek leave of this Court to amend
4 the complaint and serve such fictitiously named Defendants once their names and capacities
5 become known.

6 14. Plaintiffs are informed and believe, and thereon allege, that DOES 1 through 10
7 were the partners, agents, owners, or managers of HOSPITALITY STAFFING SOLUTIONS,
8 LLC and KELLERMEYER BERGENSONS SERVICES, LLC, at all relevant times.

9 15. Plaintiffs are informed and believe, and thereon allege, that each and all of the
10 acts and omissions alleged herein was performed by, or is attributable to, HOSPITALITY
11 STAFFING SOLUTIONS, LLC; KELLERMEYER BERGENSONS SERVICES, LLC; and/or
12 DOES 1 through 10 (collectively, “Defendants” or “HSS”), each acting as the agent, employee,
13 alter ego, and/or joint venturer of, or working in concert with, each of the other co-Defendants
14 and was acting within the course and scope of such agency, employment, joint venture, or
15 concerted activity with legal authority to act on the others’ behalf. The acts of any and all
16 Defendants were in accordance with, and represent, the official policy of Defendants.

17 16. At all relevant times, Defendants, and each of them, ratified each and every act
18 or omission complained of herein. At all relevant times, Defendants, and each of them, aided
19 and abetted the acts and omissions of each and all the other Defendants in proximately causing
20 the damages herein alleged.

21 17. Plaintiffs are informed and believe, and thereon allege, that each of said
22 Defendants is in some manner intentionally, negligently, or otherwise responsible for the acts,
23 omissions, occurrences, and transactions alleged herein.

24 18. Under California law, Defendants are jointly and severally liable as employers
25 for the violations alleged herein because they have each exercised sufficient control over the
26 wages, hours, working conditions, and employment status of Plaintiffs and class members. Each
27 Defendant had the power to hire and fire Plaintiffs and class members, supervised and controlled
28 their work schedule and/or conditions of employment, determined their rate of pay, and

1 maintained their employment records. Defendants suffered or permitted Plaintiffs and class
2 members to work and/or “engaged” Plaintiffs and class members so as to create a common-law
3 employment relationship. As joint employers of Plaintiffs and class members, Defendants are
4 jointly and severally liable for the civil penalties available to Plaintiffs and class members under
5 the law.

6 19. Plaintiffs are informed and believe, and thereon allege, that at all relevant times,
7 Defendants, and each of them, have acted as joint employers with respect to Plaintiffs and class
8 members because Defendants have:

- 9 (a) jointly exercised meaningful control over the work performed by
10 Plaintiffs and class members;
- 11 (b) jointly exercised meaningful control over Plaintiffs’ and class members’
12 wages, hours, and working conditions, including the quantity, quality
13 standards, speed, scheduling, and operative details of the tasks performed
14 by Plaintiffs and class members;
- 15 (c) jointly required that Plaintiffs and class members perform work which is
16 an integral part of Defendants’ businesses; and
- 17 (d) jointly exercised control over Plaintiffs and class members as a matter of
18 economic reality in that Plaintiffs and class members were dependent on
19 Defendants, who shared the power to set the wages of Plaintiffs and class
20 members and determined their working conditions, and who jointly
21 reaped the benefits from the underpayment of their wages and
22 noncompliance with other statutory provisions governing their
23 employment.

24 20. Plaintiffs are informed and believe, and thereon allege, that at all relevant times
25 there has existed a unity of interest and ownership between Defendants such that any
26 individuality and separateness between the entities has ceased.

27 21. HOSPITALITY STAFFING SOLUTIONS, LLC; KELLERMEYER
28 BERGENSONS SERVICES, LLC; and/or DOES 1 through 10 are therefore alter egos of each

1 other.

2 22. Adherence to the fiction of the separate existence of Defendants would permit an
3 abuse of the corporate privilege, and would promote injustice by protecting Defendants from
4 liability for the wrongful acts committed by them under the name HSS.

5 23. Plaintiffs further allege, upon information and belief, that the Defendants
6 HOSPITALITY STAFFING SOLUTIONS, LLC and KELLERMEYER BERGENSONS
7 SERVICES, LLC are alter egos of each other for the following reasons:

8 (a) According to Defendant HOSPITALITY STAFFING SOLUTIONS,
9 LLC's website (<https://www.hssstaffing.com/history/>), HOSPITALITY
10 STAFFING SOLUTIONS, LLC was acquired by KELLERMEYER
11 BERGENSONS SERVICES, LLC in 2020;

12 (b) On information and belief, HOSPITALITY STAFFING SOLUTIONS,
13 LLC and KELLERMEYER BERGENSONS SERVICES, LLC together
14 specialize in staffing the hospitality, facility, and janitorial services
15 industries; and

16 (c) On information and belief, HOSPITALITY STAFFING SOLUTIONS,
17 LLC and KELLERMEYER BERGENSONS SERVICES, LLC utilize the
18 same standardized employment forms and issue the same employment
19 policies.

20 GENERAL ALLEGATIONS

21 24. Defendants are a staffing agency offering staffing services for the hospitality,
22 housekeeping, food service, and janitorial industries across the United States with at least 10
23 agency branch locations in California. Upon information and belief, Defendants maintain a
24 single, centralized Human Resources ("HR") department at their company headquarters in
25 Atlanta, Georgia, which is responsible for the recruiting and hiring of new employees, and
26 communicating and implementing Defendants' company-wide policies, including timekeeping
27 policies and meal and rest period policies, to employees throughout California.

28 25. In particular, Plaintiffs and class members, on information and belief, received

1 the same standardized documents and/or written policies. Upon information and belief, the
2 usage of standardized documents and/or written policies, including new-hire documents,
3 indicate that Defendants dictated policies at the corporate level and implemented them
4 company-wide, regardless of their employees' assigned locations or positions. Upon
5 information and belief, Defendants set forth uniform policies and procedures in several
6 documents provided at an employee's time of hire.

7 26. Upon information and belief, Defendants maintain a centralized Payroll
8 department at their company headquarters in Atlanta, Georgia, which processes payroll for all
9 non-exempt, hourly paid employees working for Defendants at their various locations and
10 jobsites in California, including Plaintiffs and class members. Based upon information and
11 belief, Defendants issue the same formatted wage statements to all non-exempt, hourly paid
12 employees in California, irrespective of their work locations. Upon information and belief,
13 Defendants process payroll for departing employees in the same manner throughout the State
14 of California, regardless of the manner in which each employee's employment ends.

15 27. Defendants continue to employ non-exempt or hourly paid employees in
16 California.

17 28. Plaintiffs are informed and believe, and thereon allege, that at all times herein
18 mentioned, Defendants were advised by skilled lawyers and other professionals, employees and
19 advisors knowledgeable about California labor and wage law, employment and personnel
20 practices, and about the requirements of California law.

21 29. Plaintiffs are informed and believe, and thereon allege, that Plaintiffs and class
22 members were not paid for all hours worked because all hours worked were not recorded.

23 30. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
24 should have known that Plaintiffs and class members were entitled to receive certain wages for
25 overtime compensation and that they were not receiving certain wages for overtime
26 compensation.

27 31. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
28 should have known that Plaintiffs and class members were entitled to receive at least minimum

1 wages for compensation and that they were not receiving at least minimum wages for work that
2 was required to be done off-the-clock. In violation of the California Labor Code, Plaintiffs and
3 class members were not paid at least minimum wages for work done off-the-clock.

4 32. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
5 should have known that Plaintiffs and class members were entitled to meal periods in
6 accordance with the California Labor Code and applicable IWC Wage Order or payment of one
7 (1) additional hour of pay at their regular rates of pay when they were not provided with timely,
8 uninterrupted, thirty (30) minute meal periods and that Plaintiffs and class members were not
9 provided with all meal periods or payment of one (1) additional hour of pay at their regular rates
10 of pay when they did not receive a timely, uninterrupted, thirty (30) minute meal period.

11 33. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
12 should have known that Plaintiffs and class members were entitled to rest periods in accordance
13 with the California Labor Code and applicable IWC Wage Order or payment of one (1)
14 additional hour of pay at their regular rates of pay when they were not authorized and permitted
15 to take a compliant rest period. In violation of the Labor Code, Plaintiffs and class members
16 were not authorized and permitted to take compliant rest periods, nor did Defendants provide
17 Plaintiffs and class members with payment of one (1) additional hour of pay at their regular
18 rates of pay when they were not authorized and permitted to take a compliant rest period.

19 34. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
20 should have known that Plaintiffs and class members were entitled to receive complete and
21 accurate wage statements in accordance with California law. In violation of the California
22 Labor Code, Plaintiffs and class members were not provided complete and accurate wage
23 statements.

24 35. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
25 should have known that they had a duty to maintain accurate and complete payroll records in
26 accordance with the California Labor Code and applicable IWC Wage Order, but willfully,
27 knowingly, and intentionally failed to do so.

28 36. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or

1 should have known that Plaintiffs and class members were entitled to timely payment of all
2 wages earned upon termination of employment. In violation of the California Labor Code,
3 Plaintiffs and class members did not receive payment of all wages due, including, but not limited
4 to, overtime wages, minimum wages, meal and rest period premiums, and/or reporting time pay,
5 within permissible time periods.

6 37. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
7 should have known that Plaintiffs and class members were entitled to timely payment of wages
8 during their employment. In violation of the California Labor Code, Plaintiffs and class
9 members did not receive payment of all wages, including, but not limited to, overtime wages,
10 minimum wages, meal and rest period premiums, and/or reporting time pay, within permissible
11 time periods.

12 38. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
13 should have known that Plaintiff Matias and class members were entitled to the portion of wages
14 previously paid and subsequently unlawfully deducted by Defendants.

15 39. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
16 should have known that Plaintiff Matias and class members were entitled to payment of wages
17 as designated by statute. In violation of the California Labor Code, Defendants secretly paid
18 Plaintiff Matias and class members lower wages than required by statute while purporting to
19 pay them proper wages.

20 40. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
21 should have known that Plaintiffs Chavez Fernandez and Membreno de Ayala and class
22 members were entitled to receive all reporting time pay when Plaintiffs Chavez Fernandez and
23 Membreno de Ayala and class members were required to report to work but were put to work
24 for less than half of their usual or scheduled shift. In violation of the California Labor Code
25 and applicable IWC Wage Order, Plaintiffs Chavez Fernandez and Membreno de Ayala and
26 class members were not paid all reporting time pay.

27 41. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
28 should have known that Plaintiffs and class members were entitled to receive full reimbursement

1 for all business-related expenses and costs they incurred during the course and scope of their
2 employment and that they did not receive full reimbursement of applicable business-related
3 expenses and costs incurred.

4 42. Plaintiffs are informed and believe, and thereon allege, that at all times herein
5 mentioned, Defendants knew or should have known that Defendants had a duty to provide
6 Plaintiffs and class members with written notice of the material terms of their employment with
7 Defendants as required by the California Wage Theft Prevention Act, but failed to do so.

8 43. Plaintiffs are informed and believe, and thereon allege, that at all times herein
9 mentioned, Defendants knew or should have known that they had a duty to compensate
10 Plaintiffs and class members for all hours worked, and that Defendants had the financial ability
11 to pay such compensation, but willfully, knowingly, and intentionally failed to do so, and falsely
12 represented to Plaintiffs and class members that they were properly denied wages, all in order
13 to increase Defendants' profits.

14 **PAGA REPRESENTATIVE ALLEGATIONS**

15 44. At all times herein set forth, PAGA provides that any provision of law under the
16 Labor Code and applicable IWC Wage Order that provides for a civil penalty to be assessed and
17 collected by the LWDA for violations of the California Labor Code and applicable IWC Wage
18 Order may, as an alternative, be recovered by aggrieved employees in a civil action brought on
19 behalf of themselves and other current or former employees pursuant to procedures outlined in
20 California Labor Code section 2699.3.

21 45. PAGA defines an "aggrieved employee" in Labor Code section 2699(c) as "any
22 person who was employed by the alleged violator and against whom one or more of the alleged
23 violations was committed."

24 46. Plaintiffs and other current and former employees of Defendants are "aggrieved
25 employees" as defined by Labor Code section 2699(c) in that they are all Defendants' current
26 or former employees and one or more of the alleged violations were committed against them.

27 47. Pursuant to California Labor Code sections 2699.3 and 2699.5, an aggrieved
28 employee, including Plaintiffs, may pursue a civil action arising under PAGA after the

1 following requirements have been met:

- 2 (a) The aggrieved employee or representative shall give written notice by
3 online filing with the LWDA and by certified mail to the employer of the
4 specific provisions of the California Labor Code alleged to have been
5 violated, including the facts and theories to support the alleged violation.
- 6 (b) An aggrieved employee's notice filed with the LWDA pursuant to
7 2699.3(a) and any employer response to that notice shall be accompanied
8 by a filing fee of seventy-five dollars (\$75).
- 9 (c) The LWDA shall notify the employer and the aggrieved employee or
10 representative by certified mail that it does not intend to investigate the
11 alleged violation ("LWDA Notice") within sixty (60) calendar days of the
12 postmark date of the aggrieved employee's notice. Upon receipt of the
13 LWDA Notice, or if no LWDA Notice is provided within sixty-five (65)
14 calendar days of the postmark date of the aggrieved employee's notice,
15 the aggrieved employee may commence a civil action pursuant to
16 California Labor Code section 2699 to recover civil penalties.

17 48. Pursuant to California Labor Code section 2699.3(c), aggrieved employees,
18 through Plaintiffs, may pursue a civil action arising under PAGA for violations of any provision
19 other than those listed in Section 2699.5 after the following requirements have been met:

- 20 (a) The aggrieved employee or representative shall give written notice by
21 online filing with the LWDA and by certified mail to the employer of the
22 specific provisions of the California Labor Code alleged to have been
23 violated (other than those listed in Section 2699.5), including the facts
24 and theories to support the alleged violation.
- 25 (b) An aggrieved employee's notice filed with the LWDA pursuant to
26 2699.3(c) and any employer response to that notice shall be accompanied
27 by a filing fee of seventy-five dollars (\$75).
- 28 (c) The employer may cure the alleged violation within thirty-three (33)

1 calendar days of the postmark date of the notice sent by the aggrieved
2 employee or representative. The employer shall give written notice
3 within that period of time by certified mail to the aggrieved employee or
4 representative and by online filing with the LWDA if the alleged violation
5 is cured, including a description of actions taken, and no civil action
6 pursuant to Section 2699 may commence. If the alleged violation is not
7 cured within the 33-day period, the aggrieved employee may commence
8 a civil action pursuant to Section 2699.

9 49. On July 26, 2022, Plaintiff Rodriguez de Paz provided written notice by online
10 filing to the LWDA and by certified mail to Defendants of the specific provisions of the
11 California Labor Code alleged to have been violated, including facts and theories to support the
12 alleged violations, in accordance with California Labor Code section 2699.3. Plaintiff
13 Rodriguez de Paz's written notice was accompanied with the applicable filing fee of seventy-
14 five dollars (\$75). The LWDA PAGA Administrator has confirmed receipt of Plaintiff
15 Rodriguez de Paz's written notice and assigned Plaintiff Rodriguez de Paz PAGA Case Number
16 LWDA-CM-897793-22. A true and correct copy of Plaintiff Rodriguez de Paz's written notice
17 to the LWDA and Defendants dated July 26, 2022, is attached hereto as "Exhibit 1."

18 50. On March 30, 2023, Plaintiff Matias provided written notice by online filing to
19 the LWDA and by Certified Mail to Defendants of the specific provisions of the California
20 Labor Code alleged to have been violated, including facts and theories to support the alleged
21 violations, in accordance with California Labor Code section 2699.3. Plaintiff Matias's written
22 notice was accompanied with the applicable filing fee of seventy-five dollars (\$75). The LWDA
23 PAGA Administrator confirmed receipt of Plaintiff Matias's written notice and assigned
24 Plaintiff Matias PAGA Case Number LWDA-CM-945532-23. A true and correct copy of
25 Plaintiff Matias's written notice to the LWDA and Defendants is attached hereto as "Exhibit 2."

26 51. On March 30, 2023, Plaintiff Chavez Fernandez provided written notice by
27 online filing to the LWDA and by Certified Mail to Defendants of the specific provisions of the
28 California Labor Code alleged to have been violated, including facts and theories to support the

1 alleged violations, in accordance with California Labor Code section 2699.3. Plaintiff Chavez
2 Fernandez's written notice was accompanied with the applicable filing fee of seventy-five
3 dollars (\$75). The LWDA PAGA Administrator confirmed receipt of Plaintiff Chavez
4 Fernandez's written notice and assigned Plaintiff Chavez Fernandez PAGA Case Number
5 LWDA-CM-945533-23. A true and correct copy of Plaintiff Chavez Fernandez's written notice
6 to the LWDA and Defendants is attached hereto as "Exhibit 3."

7 52. On March 30, 2023, Plaintiff Membreno de Ayala provided written notice by
8 online filing to the LWDA and by Certified Mail to Defendants of the specific provisions of the
9 California Labor Code alleged to have been violated, including facts and theories to support the
10 alleged violations, in accordance with California Labor Code section 2699.3. Plaintiff
11 Membreno de Ayala's written notice was accompanied with the applicable filing fee of seventy-
12 five dollars (\$75). The LWDA PAGA Administrator confirmed receipt of Plaintiff Membreno
13 de Ayala's written notice and assigned Plaintiff Membreno de Ayala PAGA Case Number
14 LWDA-CM-945534-23. A true and correct copy of Plaintiff Membreno de Ayala's written
15 notice to the LWDA and Defendants is attached hereto as "Exhibit 4."

16 53. As of the filing date of this complaint, over 65 days have passed since Plaintiffs
17 sent the notices described above to the LWDA, and the LWDA has not responded that it intends
18 to investigate Plaintiffs' claims and Defendants have not cured the violations.

19 54. Thus, Plaintiffs have satisfied the administrative prerequisites under California
20 Labor Code section 2699.3(a) and 2699.3(c) to recover civil penalties against Defendants for
21 violations of California Labor Code sections 96, 200, 201, 201.3, 202, 203, 204, 210, 218.5,
22 218.6, 221, 222, 222.5, 223, 224, 226, 226.3, 226.7, 232, 232.5, 245, 245.5, 246, 246.5, 247,
23 247.5, 248, 248.1, 248.2, 248.3, 248.5, 248.6, 248.7, 249, 432, 432.5, 432.6, 510, 512, 516, 558,
24 558.1, 1174, 1174.5, 1182.12, 1194, 1194.2, 1195, 1197, 1197.1, 1197.5, 1198, 1198.5, 2802,
25 2804, 2810.3, 2810.5, 6401, 6402, 6403, the California Wage Orders, and California Code of
26 Regulations, Title 8, § 11000 *et seq.*

27 55. Labor Code section 558(a) provides "[a]ny employer or other person acting on
28 behalf of an employer who violates, or causes to be violated, a section of this chapter or any

1 provision regulating hours and days of work in any order of the Industrial Welfare Commission
2 shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for
3 each underpaid employee for each pay period for which the employee was underpaid. . . . (2)
4 For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for
5 each pay period for which the employee was underpaid. . . .” Labor Code section 558(c)
6 provides “[t]he civil penalties provided for in this section are in addition to any other civil or
7 criminal penalty provided by law.” Labor Code section 558.1 provides for personal liability for
8 owners, officers, directors and managing agents who violate or cause violations of certain
9 California wage and hour laws.

10 56. Defendants, at all times relevant to this complaint, were employers or persons
11 acting on behalf of an employer(s) who violated Plaintiffs’ and other aggrieved employees’
12 rights by violating various sections of the California Labor Code as set forth above.

13 57. As set forth below, Defendants have violated numerous provisions of both the
14 Labor Code sections regulating hours and days of work as well as the applicable IWC Wage
15 Order.

16 58. Pursuant to PAGA, and in particular, California Labor Code sections 2699(a),
17 2699.3(a), 2699.3(c), and 2699.5, and section 558, Plaintiffs, acting in the public interest as
18 private attorneys general, seek assessment and collection of civil penalties for themselves, all
19 other aggrieved employees, and the State of California against Defendants for violations of
20 California Labor Code sections 201, 201.3, 202, 204, 221, 223, 224, 226(a), 226.7, 510, 512(a),
21 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 1198.5, 2802, and 2810.5.

22 CLASS ACTION ALLEGATIONS

23 **(As to Plaintiff Matias, Plaintiff Chavez Fernandez, and Plaintiff Membreno de Ayala)**

24 59. Plaintiffs bring this action on their own behalf, as well as on behalf of each and
25 all other persons similarly situated, and thus seek class certification under California Code of
26 Civil Procedure section 382.

27 60. All claims alleged herein arise under California law for which Plaintiffs seek
28 relief authorized by California law.

1 61. Plaintiffs’ proposed class consists of and is defined as follows:

2 All persons who worked for Defendants as non-exempt, hourly
3 paid employees in California, at any time from November 9, 2021,
 until the date of trial (“Class”).

4 62. Plaintiffs’ proposed subclass consists of and is defined as follows:

5 All persons who worked for Defendants as non-exempt, hourly
6 paid employees in California and who received at least one wage
7 statement within one (1) year prior to the filing of the initial
 complaint until the date of trial (“Subclass”).

8 63. Members of the Class and Subclass are referred to herein as “class members.”

9 64. Plaintiffs reserve the right to redefine the Class and Subclass and to add
10 additional subclasses as appropriate based on further investigation, discovery, and specific
11 theories of liability.

12 65. There are common questions of law and fact as to class members that
13 predominate over questions affecting only individual members, including, but not limited to:

- 14 (a) Whether Defendants required Plaintiffs and class members to work over
15 eight (8) hours per day, over twelve (12) hours per day, or over forty (40)
16 hours per week and failed to pay all legally required overtime
17 compensation to Plaintiffs and class members;
- 18 (b) Whether Defendants failed to pay Plaintiffs and class members at least
19 minimum wages for all hours worked;
- 20 (c) Whether Defendants failed to provide Plaintiffs and class members meal
21 periods;
- 22 (d) Whether Defendants failed to authorize and permit Plaintiffs and class
23 members to take rest periods;
- 24 (e) Whether Defendants provided Plaintiffs and class members with
25 complete and accurate wage statements as required by California Labor
26 Code section 226(a);
- 27 (f) Whether Defendants maintained accurate payroll records as required by
28 California Labor Code section 1174(d);

- (g) Whether Defendants failed to pay earned overtime wages, minimum wages, meal and rest period premiums, and/or reporting time pay due to Plaintiffs and class members upon their discharge;
- (h) Whether Defendants failed to timely pay overtime wages, minimum wages, meal and rest period premiums, and/or reporting time pay to Plaintiffs and class members during their employment;
- (i) Whether Defendants unlawfully deducted a portion of wages previously paid to Plaintiff Matias and class members, in violation of California Labor Code sections 221 and 224;
- (j) Whether Defendants secretly paid Plaintiff Matias and class members lower wages than required by statute while purporting to pay the proper wages, in violation of California Labor Code section 223;
- (k) Whether Defendants required Plaintiffs Chavez Fernandez and Membreno de Ayala and class members to report to work, but failed to provide them with work or provided them with less than half their usual or scheduled day's work, without properly compensating them as required by California Code of Regulations, Title 8, section 11050(5);
- (l) Whether Defendants failed to reimburse Plaintiffs and class members for necessary and required business-related expenditures and/or losses incurred by them in the scope of their employment;
- (m) Whether Defendants failed to provide written notice of information material to Plaintiffs' and class members' employment with Defendants;
- (n) Whether Defendants engaged in unlawful and unfair business practices in violation of California Business & Professions Code sections 17200, *et seq.*; and
- (o) The appropriate amount of damages, restitution, or monetary penalties resulting from Defendants' violations of California law.

66. There is a well-defined community of interest in the litigation and the class

members are readily ascertainable:

- (a) Numerosity: The class members are so numerous that joinder of all members would be unfeasible and impractical. The membership of the entire class is unknown to Plaintiffs at this time; however, the class is estimated to be greater than one hundred (100) individuals and the identity of such membership is readily ascertainable by inspection of Defendants' employment records.
- (b) Typicality: Plaintiffs are qualified to, and will, fairly and adequately protect the interests of each class member with whom they have a well-defined community of interest, and Plaintiffs' claims (or defenses, if any) are typical of all class members as demonstrated herein.
- (c) Adequacy: Plaintiffs are qualified to, and will, fairly and adequately protect the interests of each class member with whom they have a well-defined community of interest and typicality of claims, as demonstrated herein. Plaintiffs acknowledge that they have an obligation to make known to the Court any relationship, conflicts or differences with any class member. Plaintiffs' attorneys, the proposed class counsel, are versed in the rules governing class action discovery, certification, and settlement. Plaintiffs have incurred, and throughout the duration of this action, will continue to incur costs and attorneys' fees that have been, are, and will be necessarily expended for the prosecution of this action for the substantial benefit of each class member.
- (d) Superiority: The nature of this action makes the use of class action adjudication superior to other methods. A class action will achieve economies of time, effort, and expense as compared with separate lawsuits, and will avoid inconsistent outcomes because the same issues can be adjudicated in the same manner and at the same time for the entire class.

1 (e) Public Policy Considerations: Employers in the State of California
2 violate employment and labor laws every day. Current employees are
3 often afraid to assert their rights out of fear of direct or indirect retaliation.
4 Former employees are fearful of bringing actions because they believe
5 their former employers might damage their future endeavors through
6 negative references and/or other means. Class actions provide the class
7 members who are not named in the complaint with a type of anonymity
8 that allows for the vindication of their rights while simultaneously
9 protecting their privacy.

10 **FIRST CAUSE OF ACTION**

11 **Violation of California Labor Code §§ 510 and 1198—Unpaid Overtime** 12 **(By Plaintiffs Matias, Chavez Fernandez, and Membreno de Ayala Against All** 13 **Defendants)**

14 67. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and
15 every allegation set forth above.

16 68. Labor Code section 1198 makes it illegal to employ an employee under
17 conditions of labor that are prohibited by the applicable IWC Wage Order. California Labor
18 Code section 1198 requires that “. . . the standard conditions of labor fixed by the commission
19 shall be the . . . standard conditions of labor for employees. The employment of any employee
20 . . . under conditions of labor prohibited by the order is unlawful.”

21 69. California Labor Code section 1198 and the applicable IWC Wage Order provide
22 that it is unlawful to employ persons without compensating them at a rate of pay either time-
23 and-one-half or two-times that person’s regular rate of pay, depending on the number of hours
24 worked by the person on a daily or weekly basis.

25 70. Specifically, the applicable IWC Wage Order provides that Defendants are and
26 were required to pay Plaintiffs and class members working more than eight (8) hours in a day
27 or more than forty (40) hours in a workweek, at the rate of time and one-half (1 ½) for all hours
28 worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek.

1 71. The applicable IWC Wage Order further provides that Defendants are and were
2 required to pay Plaintiffs and class members working more than twelve (12) hours in a day,
3 overtime compensation at a rate of two (2) times their regular rate of pay. An employee's
4 regular rate of pay includes all remuneration for employment paid to, or on behalf of, the
5 employee, including nondiscretionary bonuses and incentive pay.

6 72. California Labor Code section 510 codifies the right to overtime compensation
7 at one and one-half (1 ½) times the regular rate of pay for hours worked in excess of eight (8)
8 hours in a day or forty (40) hours in a week or for the first eight (8) hours worked on the seventh
9 (7th) day of work, and to overtime compensation at twice the employee's regular rate of pay for
10 hours worked in excess of twelve (12) hours in a day or in excess of eight (8) hours in a day on
11 the seventh (7th) day of work.

12 73. During the relevant time period, Defendants willfully failed to pay all overtime
13 wages owed to Plaintiffs and class members. During the relevant time period, Plaintiffs and
14 class members were not paid overtime premiums for all of the hours they worked in excess of
15 eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40)
16 hours in a week, because all hours worked were not recorded.

17 74. First, Defendants had, and continue to have, a company-wide policy and/or
18 practice of discouraging and impeding Plaintiffs and class members from recording hours
19 worked that were outside their scheduled shifts, in order to limit the amount of overtime
20 employees could accrue. On information and belief, this policy of limiting overtime, coupled
21 with Defendants' practice of understaffing and assignment of heavy workloads (*see infra*), led
22 Plaintiffs and class members to work off-the-clock before and after their scheduled shift times
23 in order to complete their assigned tasks.

24 75. For example, Plaintiffs Matias and Chavez Fernandez were required to arrive
25 prior to their scheduled shift-start times and begin working—preparing their cleaning caddy
26 bags, re-filling spray bottles with cleaning solution, and gathering replacement toiletries for
27 hotel guest rooms and suites, in order to meet Defendants' expectations of completing daily
28 tasks within their scheduled shift hours. For the same reasons, Plaintiffs Matias and Chavez

1 Fernandez were required to continue working after their scheduled shift end-times, completing
2 tasks such as finishing guest suite and room turnover, disposing of cleaning liquids, and
3 returning their cleaning caddy bags to the housekeeping storage area, before they could leave
4 for the day. When this occurred, Plaintiffs were unable to record this off-the-clock work
5 because Defendants' management prohibited them from recording these overtime hours and did
6 not provide them a means to account for this time. This off-the-clock work could have been
7 recorded by Defendants, but they refused to do so to avoid payment of overtime wages to
8 Plaintiffs and class members.

9 76. Second, during the relevant time period, Defendants only provided Plaintiffs and
10 class members with a single timekeeping machine at their clients' facilities to clock in for a
11 shift, thus exacerbating the amount of time Plaintiffs and class members waited in line off-the-
12 clock and under Defendants' control, time for which they were paid. For example, Plaintiffs
13 would be ready to clock in for the start of their shifts, but were required to wait in a line of 25-
14 30 housekeeping employees and wait at least several minutes to clock in. Moreover, Defendants
15 implemented, on a company-wide basis, an employer-imposed requirement that Plaintiffs and
16 class members undergo mandatory COVID-19 temperature checks. Prior to their shifts,
17 Plaintiffs and class members were required to spend time undergoing a temperature check,
18 before being permitted to clock in for their shifts. Even though Defendants required these
19 temperature checks, Defendants did not provide Plaintiffs and class members a mechanism to
20 record this time worked so they could be compensated for the time spent undergoing mandatory
21 temperature checks.

22 77. Third, as stated, Defendants had, and continue to have, a company-wide policy
23 and/or practice of understaffing their jobsites while assigning heavy workloads, resulting in a
24 failure to provide Plaintiffs and class members with adequate meal period coverage. As a result
25 of this lack of meal period coverage, Plaintiffs and class members were not always afforded
26 uninterrupted 30-minute meal periods during shifts when they were entitled to receive a meal
27 period. In addition, Defendants also had a practice of failing to schedule meal periods, which
28 further caused Plaintiffs and class members to not be relieved of their duties for compliant meal

1 periods. For example, Plaintiff Matias was required to work through her meal periods in order
2 to complete her assigned duties. As another example, Plaintiff Chavez Fernandez's meal
3 periods were interrupted because she would be required to answer questions from her supervisor
4 regarding the status of completing her assigned guest rooms or to inform her that a guest had
5 arrived early to the hotel and was ready to check in for their room. Thus, Plaintiff Matias,
6 Plaintiff Chavez Fernandez, and class members worked through their meal periods and/or had
7 meal periods interrupted or cut short in order to complete their assigned workloads. Defendants
8 did not pay Plaintiffs and class members for the time they continued to perform tasks during
9 meal periods.

10 78. Fourth, on information and belief, Defendants maintained a company-wide on-
11 premises meal period policy, which mandated that Plaintiffs and class members remain on
12 Defendants' premises during their unpaid meal periods. Because Plaintiffs and class members
13 were restricted from leaving the premises during meal periods, they were denied the ability to
14 use their meal periods freely for their own purposes. For example, Plaintiffs and class members
15 were unable to run personal errands because they were unable to leave the work premises. Thus,
16 Defendants effectively maintained control over Plaintiffs and class members during their unpaid
17 meal periods.

18 79. Fifth, on information and belief, because Defendants frowned upon employees
19 accruing meal period penalties, Defendants falsified and/or adjusted Plaintiffs' and/or class
20 members' time records and/or pressured Plaintiffs and/or class members to clock out for meal
21 periods to reflect compliant meal periods, even when they did not receive a compliant meal
22 period. For example, while Plaintiff Matias was busy completing her assigned tasks, she would
23 receive calls from her supervisor requesting she give him her employee PIN code so he could
24 clock out Plaintiff Matias for her meal periods in order to make them appear compliant. As
25 another example, while Plaintiff Chavez Fernandez was too busy with her workload to take a
26 compliant meal period, her supervisor would tell her not to worry about accruing a meal period
27 penalty because she would adjust Plaintiff Chavez Fernandez's meal period punch times to make
28 them appear compliant.

80. Furthermore, Defendants' company-wide timekeeping system prevented Plaintiffs and class members from recording all hours worked when their meal periods were shortened or interrupted, because the system locked out Plaintiffs and class members once they clocked out for a meal period, and would not permit them to clock back in from a meal period before 30 minutes had elapsed. Thus, Defendants did not record all hours worked during meal periods and Plaintiffs and class members performed work during meal periods for which they were not paid.

81. Defendants knew or should have known that, as a result of these company-wide practices and/or policies, Plaintiffs and class members were performing their assigned duties off-the-clock before and after their shifts and during meal periods, and were suffered or permitted to perform work for which they were not paid. Because Plaintiffs and class members worked shifts of eight (8) hours a day or more, or forty (40) hours a week or more, some of this off-the-clock work qualified for overtime premium pay. Therefore, Plaintiffs and class members were not paid overtime wages for all of the overtime hours they actually worked.

82. Defendants' failure to pay Plaintiffs and class members the balance of overtime compensation as required by California law, violates the provisions of California Labor Code sections 510 and 1198. Pursuant to California Labor Code section 1194, Plaintiffs and class members are entitled to recover from Defendants their unpaid overtime compensation, as well as interest, costs, and attorneys' fees.

SECOND CAUSE OF ACTION

Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198—Unpaid Minimum Wages

(By Plaintiffs Matias, Chavez Fernandez, and Membreno de Ayala Against All Defendants)

83. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and every allegation set forth above.

84. At all relevant times, California Labor Code sections 1182.12, 1194, 1197, and 1198 provide that the minimum wage for employees fixed by the IWC is the minimum wage to

1 be paid to employees, and the payment of a wage less than the minimum so fixed is unlawful.
2 Compensable work time is defined in IWC Wage Order No. 5-2001 as “the time during which
3 an employee is subject to the control of an employer, and includes all the time the employee is
4 suffered or permitted to work, whether or not required to do so.” Cal. Code Regs. tit. 8,
5 § 11050(2)(K) (defining “Hours Worked”).

6 85. As stated above, due to Defendants’ company-wide practice of restricting
7 overtime accrual by not recording hours worked that were outside of employees’ scheduled
8 shifts, Defendants systematically failed to pay Plaintiffs and class members for actual hours
9 worked before and after their scheduled shifts, because these hours were not accurately
10 recorded. Thus, Plaintiffs and class members were required to perform work off-the-clock,
11 including, but not limited to, completing work-related tasks, waiting to clock in, and submitting
12 to mandatory pre-shift COVID-19 temperature checks, and were not compensated for this time.
13 Additionally, as set forth above, due to Defendants’ uniform practices of understaffing,
14 assignment of heavy workloads, failure to schedule meal periods, requiring employees to stay
15 on the work premises during meal periods, and resultant lack of meal period coverage, Plaintiffs
16 and class members were impeded from taking all uninterrupted meal periods to which they were
17 entitled and were required to work off-the-clock.

18 86. Moreover, as stated, on information and belief, in order to limit the meal penalties
19 that Defendants would otherwise owe, Defendants falsified and/or adjusted Plaintiffs’ and/or
20 class members’ times records and/or pressured Plaintiffs and/or class members to clock out for
21 meal periods to reflect compliant meal periods, even when they did not receive a compliant
22 meal period. Also, as set forth above, during the relevant time period, Defendants
23 systematically failed to pay Plaintiffs and class members for actual hours worked during unpaid
24 meal periods, because Defendants’ timekeeping system locked out Plaintiffs and class members
25 for 30 minutes when they clocked out for a meal period. Thus, Defendants systematically failed
26 to pay Plaintiffs and class members for actual hours worked during unpaid meal periods because
27 these hours were not always correctly recorded.

28 87. Defendants did not pay minimum wages for all hours worked by Plaintiffs and

1 class members. To the extent that these off-the-clock hours did not qualify for overtime
2 premium payment, Defendants did not pay at least minimum wages for those hours worked off-
3 the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198.

4 88. Defendants' failure to pay Plaintiffs and class members minimum wages violates
5 California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Pursuant to California
6 Labor Code section 1194.2, Plaintiffs and class members are entitled to recover from
7 Defendants liquidated damages in an amount equal to the wages unlawfully unpaid and interest
8 thereon.

9 **THIRD CAUSE OF ACTION**

10 **Violations of California Labor Code §§ 226.7, 512(a), 516, and 1198—Meal Period**

11 **Violations**

12 (By Plaintiffs Matias, Chavez Fernandez, and Membreno de Ayala Against All
13 Defendants)

14 89. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and
15 every allegation set forth above.

16 90. At all relevant times herein set forth, the applicable IWC Wage Order and
17 California Labor Code sections 226.7, 512(a), 516, and 1198 were applicable to Plaintiffs' and
18 class members' employment by Defendants. At all relevant times herein set forth, California
19 Labor Code section 512(a) provides that an employer may not require, cause, or permit an
20 employee to work for a period of more than five (5) hours per day without providing the
21 employee with a meal period of not less than thirty (30) minutes, except that if the total work
22 period per day of the employee is not more than six (6) hours, the meal period may be waived
23 by mutual consent of both the employer and the employee. Under California law, first meal
24 periods must start after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal.
25 4th 1004, 1041-1042 (2012).

26 91. At all relevant times herein set forth, California Labor Code sections 226.7,
27 512(a), 516, and 1198 provide that no employer shall require an employee to work during any
28 meal period mandated by an applicable order of the IWC.

1 92. At all relevant times herein set forth, Labor Code sections 226.7 and 512(a) and
2 the applicable IWC Wage Order also require employers to provide a second meal period of not
3 less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an
4 employee one (1) additional hour of pay at the employee's regular rate, except that if the total
5 hours worked is no more than twelve (12) hours, the second meal period may be waived by
6 mutual consent of the employer and the employee only if the first meal period was not waived.

7 93. First, as stated, Defendants had, and continue to have, company-wide policies
8 and/or practices of understaffing, while simultaneously assigning heavy workloads, which
9 resulted in a lack of meal period coverage and prevented Plaintiffs and class members from
10 taking all timely, uninterrupted meal periods to which they were entitled. Further, as stated,
11 Defendants had a company-wide practice of failing to schedule meal periods, which further
12 prevented Plaintiffs and class members from taking all compliant meal periods. As a result of
13 Defendants' practices and/or policies, Plaintiffs and class members were forced to work in
14 excess of five (5) hours before taking a meal period and, at times, had their meal periods
15 interrupted, and/or had to forgo their meal periods altogether. For example, Plaintiffs were
16 required to take their meal periods late in order to meet guest check-in timeframes and to keep
17 up with Defendants' productivity expectations. As another example, Plaintiff Matias and
18 Plaintiff Chavez Fernandez had their meal periods interrupted or cut short by supervisors
19 discussing the status of assigned guest rooms.

20 94. Second, as stated, on information and belief, Defendants maintained a company-
21 wide on-premises meal period policy, which mandated that Plaintiffs and class members remain
22 on the work premises during their meal periods. Because Plaintiffs and class members were
23 restricted from leaving the premises during meal periods, they were denied the ability to use
24 their meal periods freely for their own purposes, such as running personal errands. Thus,
25 Defendants effectively maintained control over Plaintiffs and class members during meal
26 periods.

27 95. Third, as set forth above, on information and belief, in order to limit the meal
28 penalties that Defendants would otherwise owe, Defendants falsified and/or adjusted Plaintiffs'

1 and/or class members' time records and/or pressured Plaintiffs and/or class members to clock
2 out for meal periods to reflect compliant meal periods, even when they did not receive a
3 compliant meal period. Also, as set forth above, during the relevant time period, Defendants
4 systematically failed to pay Plaintiffs and class members for actual hours worked during unpaid
5 meal periods, because Defendants' timekeeping system locked out Plaintiffs and class members
6 for 30 minutes when they clocked out for a meal period.

7 96. Fourth, Defendants did not provide Plaintiff Matias and class members with
8 second 30-minute meal periods on days that they worked in excess of ten (10) hours in one day.
9 For example, during the relevant time period, Plaintiff Matias worked shifts in excess of ten
10 (10) hours per day but was not provided a second 30-minute meal period. Plaintiffs and class
11 members did not sign valid meal period waivers on days that they were entitled to meal periods
12 and were not relieved of all duties.

13 97. Moreover, Defendants had a company-wide policy of requiring all newly hired
14 employees to sign blanket meal period waivers at or near their time of hire. Defendants took
15 the position that non-exempt, hourly paid employees had waived their rights to first and/or
16 second meal periods for the entirety of their employment and, on that basis, did not provide
17 them with all meal periods to which they were entitled. Moreover, Defendants' meal period
18 waiver form requires employees provide written notice should they wish to revoke the waiver.
19 Defendants' presumption that meal periods would not be provided for shifts in excess of five
20 (5) hours but less than six (6) hours and for shifts in excess of ten (10) hours but less than twelve
21 (12) hours, due to blanket meal period waivers signed at or near the time of hire, and imposition
22 on employees to revoke the waivers in writing, discouraged and impeded Plaintiffs and class
23 members from taking all meal periods to which they were entitled.

24 98. Furthermore, an employer's obligation to provide a meal period is only
25 "triggered" when the employer "employs an employee for a work period of more than five hours
26 per day." *Brinker*, 53 Cal. 4th at 1039 ("If an employer engages, suffers, or permits anyone to
27 work for a full five hours, its meal break obligation is triggered.").

28 [A]fter the meal break obligation is triggered . . . an employer is put to a

choice: it must (1) afford an off-duty meal period; (2) consent to a mutually agreed-upon waiver if one hour or less will end the shift; or (3) obtain written agreement to an on-duty meal period if circumstances permit. Failure to do one of these will render the employer liable for premium pay.

Id. (citing Cal. Labor Code § 226.7; Wage Order No. 5, subd. 11(A), (B)). That Defendants required Plaintiffs and class members to sign meal period waivers simultaneously at and/or near their time of hire (as opposed to on a specific work day) renders them invalid and unenforceable, because Defendants' obligation to provide Plaintiffs and class members with meal periods did not arise until they had employed them for a full five (5) hours.

99. At all times mentioned herein, Defendants knew or should have known that as a result of their policies, Plaintiffs and class members were not actually relieved of all duties to take timely, uninterrupted meal periods. Defendants further knew or should have known that they did not pay Plaintiffs and class members meal period premiums when meal periods were late, interrupted, shortened, and/or missed.

100. Furthermore, Defendants engaged in a company-wide practice and/or policy of not paying meal period premiums owed when compliant meal periods are not provided. Because of this practice and/or policy, Plaintiffs and class members have not received premium pay for missed, late, and interrupted meal periods. As a result, Defendants failed to provide Plaintiffs and class members compliant meal periods in violation of California Labor Code sections 226.7, 512(a), and 516 and failed to pay the full meal period premiums due.

101. Defendants' conduct violates the applicable IWC Wage Order, and California Labor Code sections 226.7, 512(a), 516, and 1198. Plaintiffs and class members are therefore entitled to recover from Defendants one (1) additional hour of pay at the employee's regular rate of compensation for each work day that the meal period was not provided.

FOURTH CAUSE OF ACTION

Violation of California Labor Code §§ 226.7, 516, and 1198—Rest Period Violations

(By Plaintiffs Matias, Chavez Fernandez, and Membreno de Ayala Against All Defendants)

102. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and

every allegation set forth above.

103. At all relevant times herein set forth, the applicable IWC Wage Order and California Labor Code sections 226.7, 516, and 1198 were applicable to Plaintiffs' and class members' employment by Defendants.

104. At all relevant times, the applicable IWC 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.

105. At all relevant times, 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 IWC. To comply with its obligation to authorize and permit rest periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer must "relinquish any control over how employees spend their break time, and relieve their employees of all duties—including the obligation that an employee remain on call. A rest period, in short, must be a period of rest." *Augustus v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 273 (2016). Pursuant to the applicable IWC Wage Order and California Labor Code section 226.7(c), Plaintiffs and class members are entitled to recover from Defendants one (1) additional hour of pay at their regular rates of pay for each work day that a required rest period was not authorized and permitted.

106. During the relevant time period, Defendants regularly failed to authorize and permit Plaintiffs and class members to take a ten (10) minute rest period per each four (4) hour period worked or major fraction thereof. As with meal periods, Defendants' policies and/or practices of understaffing and assigning heavy workloads prevented Plaintiffs and class members from being relieved of all duty in order to take compliant rest periods. Defendants also failed to schedule rest periods, which, coupled with Defendants' failure to provide adequate rest period coverage, further led to Plaintiffs and class members not being authorized and

1 permitted to take rest periods.

2 107. Furthermore, Defendants maintained a company-wide on-premises rest period
3 policy, which mandated that Plaintiffs and class members remain on the work premises during
4 their rest periods. Because Plaintiffs and class members were restricted from leaving the
5 premises during rest periods, they were denied the ability to use their rest periods freely for their
6 own purposes, such as running personal errands. Thus, Defendants effectively maintained
7 control over Plaintiffs and class members during rest periods.

8 108. As a result of Defendants' practices and policies, Plaintiffs and class members
9 worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without
10 receiving all uninterrupted 10-minute rest periods to which they were entitled. For example,
11 Plaintiffs would sometimes have to forego their rest periods altogether due to the heavy
12 workload and lack of rest period coverage. When Plaintiffs were able to take their rest periods,
13 they were often interrupted because they were required to discuss the status of completing their
14 assigned guest rooms.

15 109. Defendants also have engaged in a company-wide practice and/or policy of not
16 paying rest period premiums owed when compliant rest periods are not authorized and
17 permitted. Because of this practice and/or policy, Plaintiffs and class members have not
18 received premium pay for all missed rest periods.

19 110. Defendants' conduct violates the applicable IWC Wage Order and California
20 Labor Code sections 226.7, 516, and 1198. Plaintiffs and class members are therefore entitled
21 to recover from Defendants one (1) additional hour of pay at the employee's regular rate of
22 compensation for each work day that a compliant rest period was not authorized and permitted.

23 **FIFTH CAUSE OF ACTION**

24 **Violation of California Labor Code §§ 226(a), 1174(d), and 1198—Non-Compliant Wage** 25 **Statements and Failure to Maintain Accurate Payroll Records**

26 (By Plaintiffs Matias, Chavez Fernandez, and Membreno de Ayala Against All
27 **Defendants)**

28 111. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and

every allegation set forth above.

112. At all relevant times herein set forth, California Labor Code section 226(a) provides that every employer shall furnish each of his or her employees an accurate and complete itemized wage statement in writing, including, but not limited to, the name and address of the legal entity that is the employer, the inclusive dates of the pay period, total hours worked, and all applicable rates of pay.

113. At all relevant times, Defendants have knowingly and intentionally provided Plaintiffs and Subclass members with uniform, incomplete, and inaccurate wage statements. For example, Defendants issued uniform wage statements to Plaintiffs and Subclass members that fail to correctly list: gross wages earned; total hours worked; net wages earned; the name and address of the legal entity that is the employer, and all applicable hourly rates in effect during the pay period, including rates of pay for overtime wages, and the corresponding number of hours worked at each hourly rate. Specifically, Defendants violated sections 226(a)(1), 226(a)(2), 226(a)(5), 226(a)(8), and 226(a)(9).

114. Because Defendants did not accurately record the time Plaintiffs and Subclass members spent working off-the-clock and deducted time from their records for meal periods that were interrupted and/or missed (and therefore time for which they should have been paid), Defendants did not list the correct amount of gross wages and net wages earned by Plaintiffs and Subclass members in compliance with sections 226(a)(1) and 226(a)(5). For the same reason, Defendants failed to accurately list the total number of hours worked by Plaintiffs and Subclass members in violation of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay period and corresponding accurate number of work hours worked at each hourly rate in violation of section 226(a)(9).

115. Additionally, and separately from these violations, Defendants issued uniform wage statements to Plaintiffs and Subclass members that failed to list the name and address of the legal entity of the actual employer in violation of 226(a)(8). The purpose of section 226(a)(8) is to provide California employees with transparency as to the true identity of their employer, to allow the employee to contact their employer during employment or in the future

1 for various reasons, including filing an administrative claim, judicial claim, or other action to
2 seek relief against their employer, to obtain unemployment benefits, etc. During the relevant
3 time period, Defendants systematically, and on a company-wide basis, issued wage statements
4 to Plaintiffs and Subclass members that fail to list the employing entity's name and address.

5 116. The wage statement deficiencies also include, without limitation, failing to list
6 the number of piece-rate units earned and any applicable piece rate if the employee is paid on a
7 piece-rate basis; failing to list all deductions; failing to list the inclusive dates of the period for
8 which employees were paid; failing to list the name of the employee and only the last four digits
9 of his or her social security number or an employee identification number other than a social
10 security number; and/or failing to state all hours worked as a result of not recording or stating
11 hours worked off-the-clock.

12 117. California Labor Code section 1174(d) provides that “[e]very person employing
13 labor in this state shall . . . [k]eep a record showing the names and addresses of all employees
14 employed and the ages of all minors” and “[k]eep, at a central location in the state or at the
15 plants or establishments at which employees are employed, payroll records showing the hours
16 worked daily by and the wages paid to, and the number of piece-rate units earned by and any
17 applicable piece rate paid to, employees employed at the respective plants or
18 establishments. . . .” Labor Code section 1174.5 provides that employers are subject to a \$500
19 civil penalty if they fail to maintain accurate and complete records as required by section
20 1174(d). During the relevant time period, and in violation of Labor Code section 1174(d),
21 Defendants willfully failed to maintain accurate payroll records for Plaintiffs and Subclass
22 members the daily hours they worked and the wages paid thereto as a result of failing to record
23 the off-the-clock hours that they worked.

24 118. California Labor Code section 1198 provides that the maximum hours of work
25 and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set
26 forth in the applicable IWC Wage Order. Section 1198 further provides that “[t]he employment
27 of any employees for longer hours than those fixed by the order or under conditions of labor
28 prohibited by the order is unlawful.” Pursuant to the applicable IWC Wage Order, employers

are required to keep accurate time records showing when the employee begins and ends each work period and meal period. During the relevant time period, Defendants engaged in company-wide practices and/or policies of failing to record actual hours worked (including falsifying time records by recording that compliant meal periods were taken regardless of if or when meal periods were actually taken), and thereby failed to keep accurate records of work and meal period start and stop times for Plaintiffs and Subclass members, in violation of section 1198. Furthermore, in light of Defendants' failure to provide Plaintiff Matias and Subclass members with second 30-minute meal periods to which they were entitled, Defendants kept no records of meal start and end times for second meal periods.

119. Plaintiffs and Subclass 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) per employee.

SIXTH CAUSE OF ACTION

Violation of California Labor Code §§ 201, 201.3, and 202—Wages Not Timely Paid

Upon Termination

(By Plaintiffs Matias, Chavez Fernandez, and Membreno de Ayala Against All Defendants)

120. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and every allegation set forth above.

121. At all times relevant herein set forth, California Labor Code sections 201, 201.3, 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 that if an employee voluntarily leaves 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 previous 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.

122. During the relevant time period, on information and belief, Defendants had a

1 company-wide practice or policy of paying departing employees their final wages on the next
2 regular pay cycle, instead of adhering to the time requirements set forth in Labor Code sections
3 201 and 202. For example, Defendants terminated Plaintiffs on or about August 28, 2022.
4 However, Defendants did not provide them with their final paycheck until one (1) week later.
5 Thus, Defendants failed to pay Plaintiffs their final wages immediately, in violation of Labor
6 Code sections 201 and/or 201.3.

7 123. Additionally, Defendants willfully failed to pay Plaintiffs and class members
8 who are no longer employed by Defendants the earned and unpaid wages set forth above,
9 including but not limited to, overtime wages, minimum wages, meal and rest period premiums,
10 and/or reporting time pay, either at the time of discharge, or within seventy-two (72) hours of
11 their leaving Defendants' employ.

12 124. Defendants' failure to pay Plaintiffs and class members who are no longer
13 employed by Defendants their wages earned and unpaid at the time of discharge, or within
14 seventy-two (72) hours of their leaving Defendants' employ, violates Labor Code sections 201,
15 201.3, and 202. Plaintiffs and class members are therefore entitled to recover from Defendants
16 the statutory penalty wages for each day they were not paid, at their regular rate of pay, up to a
17 thirty (30) day maximum pursuant to California Labor Code section 203.

18 SEVENTH CAUSE OF ACTION

19 Violation of California Labor Code §§ 201.3 and 204—Failure to Timely Pay Wages

20 During Employment

21 (By Plaintiffs Matias, Chavez Fernandez, and Membreno de Ayala Against All 22 Defendants)

23 125. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and
24 every allegation set forth above.

25 126. This cause of action is dependent upon, and wholly derivative of, the overtime
26 wages, minimum wages, meal and rest period premiums, and/or reporting time pay that were
27 not timely paid to Plaintiffs and class members during their employment.

28 127. At all relevant times herein set forth, California Labor Code section 204 requires

1 that all wages earned by any person in any employment between the 1st and the 15th days,
2 inclusive, of any calendar month, other than those wages due upon termination of an employee,
3 are due and payable between the 16th and the 26th day of the month during which the labor was
4 performed. Labor Code section 204 further provides that all wages earned by any person in any
5 employment between the 16th and the last day, inclusive, of any calendar month, other than
6 those wages due upon termination of an employee, are due and payable between the 1st and the
7 10th day of the following month.

8 128. At all relevant times herein, California Labor Code section 204 also requires that
9 all wages earned for labor in excess of the normal work period shall be paid no later than the
10 payday for the next regular payroll period. Alternatively, at all relevant times herein, Labor
11 Code section 204 provides that the requirements of this section are deemed satisfied by the
12 payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more
13 than seven (7) calendar days following the close of the payroll period.

14 129. At all relevant times herein, California Labor Code section 201.3 requires that if
15 an employee of a temporary services employer is assigned to work for a client, that employee's
16 wages are due and payable no less frequently than weekly, regardless of when the assignment
17 ends, and wages for work performed during any calendar week shall be due and payable not
18 later than the regular payday of the following calendar week.

19 130. During the relevant time period, Defendants willfully failed to pay Plaintiffs and
20 class members all wages due including, but not limited to, overtime wages, minimum wages,
21 meal and rest period premiums, and/or reporting time pay, within the time periods specified by
22 California Labor Code sections 201.3 and/or 204.

23 131. Defendants' failure to pay Plaintiffs and class members all wages due violates
24 Labor Code sections 201.3 and 204. Plaintiffs and class members are therefore entitled to
25 recover from Defendants the statutory penalty wages pursuant to California Labor Code section
26 210.

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1 **EIGHTH CAUSE OF ACTION**

2 **Violation of Labor Code § 1198 and California Code of Regulations Title 8, Section**
3 **11050 Subdivision 5(A)—Failure to Provide Reporting Time Pay**
4 **(By Plaintiffs Chavez Fernandez and Membreno de Ayala Against All Defendants)**

5 132. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and
6 every allegation set forth above.

7 133. California Labor Code section 1198 dictates that no employer may employ an
8 employee under conditions of labor that are prohibited by the applicable IWC Wage Order.
9 California Labor Code section 1198 further requires that “. . . the standard conditions of labor
10 fixed by the commission shall be the . . . standard conditions of labor for employees. The
11 employment of any employee . . . under conditions of labor prohibited by the order is unlawful.”

12 134. The applicable IWC Wage Order, California Code of Regulations, Title 8,
13 section 11050(5)(A), provides that “[e]ach workday an employee is required to report for work
14 and does report, but is not put to work or is furnished less than half said employee’s usual or
15 scheduled day’s work, the employee shall be paid for half the usual or scheduled day’s work,
16 but in no event for less than two (2) hours nor more than four (4) hours, at the employee’s
17 regular rate of pay, which shall not be less than the minimum wage.” The “primary purpose of
18 the reporting time regulation” is “to guarantee at least partial compensation for employees who
19 report to work expecting to work a specified number of hours, and who are deprived of that
20 amount because of inadequate scheduling or lack of proper notice by the employer.” *Aleman v.*
21 *AirTouch Cellular*, 209 Cal. App. 4th 556 (2012).

22 135. During the relevant time period, Defendants violated California Labor Code
23 section 1198 and California Code of Regulations, Title 8, section 11050(5)(A), because
24 Defendants failed to pay Plaintiffs Chavez Fernandez and Membreno de Ayala and class
25 members reporting time pay when they reported to work for their usual or scheduled shift but
26 were put to work for less than half of their usual or scheduled day’s work.

27 136. Defendants had a company-wide practice of sending Plaintiffs and class
28 members home early from their shifts, including before they had worked at least half of their

1 usual or scheduled shift, but would not pay Plaintiffs and class members for half of their
2 scheduled shift. For example, Defendants’ managers sent Plaintiff Chavez Fernandez home
3 within one (1) hour from the start of her shift because business was slow, but she was only paid
4 for the time she had worked. Similarly, Defendants’ managers sent Plaintiff Membreno de
5 Ayala home within three (3) hours from the start of her shift because business was slow, but she
6 was only paid for the time she had worked. Although Plaintiffs and class members reported to
7 work based on the schedule that was provided to them, Defendants would send them home
8 before they worked at least half of their usual or scheduled shifts. When this occurred,
9 Defendants did not pay Plaintiffs and class members for at least half of their scheduled day’s
10 work or the minimum reporting time pay.

11 137. Accordingly, Plaintiffs and class members were not properly compensated with
12 reporting time pay in violation of California Labor Code section 1198 and California Code of
13 Regulations, Title 8, section 11050(5)(A). Plaintiffs and class members are therefore entitled
14 to recover from Defendants unpaid wages and interest.

15 **NINTH CAUSE OF ACTION**

16 **Violation of California Labor Code § 2802—Unpaid Business-Related Expenses** 17 **(Against All Defendants)**

18 138. Plaintiffs incorporate and re-allege as if fully stated herein each and every
19 allegation set forth above.

20 139. At all times herein set forth, California Labor Code section 2802 provides that
21 an employer must reimburse employees for all necessary expenditures and losses incurred by
22 the employee in the performance of his or her job. The purpose of Labor Code section 2802 is
23 to prevent employers from passing off their cost of doing business and operating expenses on
24 to their employees. *Cochran v. Schwan’s Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144
25 (2014). The applicable wage order, IWC Wage Order No. 5-2001, provides that: “[w]hen tools
26 or equipment are required by the employer or are necessary to the performance of a job, such
27 tools and equipment shall be provided and maintained by the employer, except that an employee
28 whose wages are at least two (2) times the minimum wage provided herein may be required to

1 provide and maintain hand tools and equipment customarily required by the trade or craft.”

2 140. During the relevant time period, Defendants, on a company-wide basis, required
3 that Plaintiffs and class members use their own personal mobile devices, including, but not
4 limited to, cellular phones, and/or mobile data to carry out their job duties, but failed to
5 reimburse them for the costs of their work-related mobile device expenses. Specifically,
6 Plaintiffs used their personal cellular phones to communicate with managers regarding the status
7 of cleaning their assigned guest suites and other work-related tasks, and were further required
8 to watch training videos on proper cleaning techniques on their personal cellular phones.
9 Although Defendants required Plaintiffs and class members to utilize their personal mobile
10 devices and/or mobile data to carry out their work-related responsibilities, Defendants failed to
11 reimburse them for this cost.

12 141. Defendants could have provided Plaintiffs and class members with the actual
13 equipment for use on the job, such as company mobile devices, or, Defendants could have
14 reimbursed employees for the costs of their mobile device usage. Instead, Defendants passed
15 these operating costs off onto Plaintiffs and class members. At all relevant times, Plaintiffs did
16 not earn at least two (2) times the minimum wage.

17 142. Defendants’ company-wide policy and/or practice of passing on their operating
18 costs to Plaintiffs and class members violates California Labor Code section 2802. Defendants
19 have intentionally and willfully failed to reimburse Plaintiffs and class members for necessary
20 business-related expenses and costs.

21 143. Plaintiffs and class members are entitled to recover from Defendants their
22 business-related expenses incurred during the course and scope of their employment, plus
23 interest.

24 **TENTH CAUSE OF ACTION**

25 **For Civil Penalties Pursuant to California Labor Code §§ 2698, *et seq.***

26 **(Against All Defendants)**

27 144. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and
28 every allegation set forth above.

1 145. California Labor Code §§ 2698, *et seq.* (“PAGA”) permits Plaintiffs to recover
2 civil penalties for the violation(s) of the Labor Code sections enumerated in Labor Code section
3 2699.5. Section 2699.5 enumerates Labor Code sections 96, 201, 201.3, 202, 203, 204, 221,
4 223, 224, 226(a), 226.7, 232, 232.5, 510, 512(a), 516, 1174(d), 1194, 1197, 1197.1, 1198, and
5 2802. Labor Code section 2699.3(c) permits aggrieved employees, including Plaintiffs, to
6 recover civil penalties for violations of those Labor Code sections not found in section 2699.5,
7 including sections 516, 1182.12, and 2810.5.

8 146. The relevant period for claims alleged pursuant to PAGA by Plaintiff Rodriguez
9 de Paz is one year prior to the filing of Plaintiff Rodriguez de Paz’s pre-filing written notice to
10 the Labor and Workforce Development Agency (“LWDA”) on July 26, 2022, until judgment.
11 The facts and theories supporting the PAGA claims of Plaintiff Rodriguez de Paz are set forth
12 below.

13 147. The relevant period for claims alleged pursuant to PAGA by Plaintiffs Matias,
14 Chavez Fernandez, and Membreno de Ayala is one year prior to the filing of Plaintiffs Matias,
15 Chavez Fernandez, and Membreno de Ayala’s pre-filing written notices to the Labor and
16 Workforce Development Agency (“LWDA”) in this case on March 30, 2023, until judgment.
17 The facts and theories supporting the PAGA claims of Plaintiff Matias, Chavez Fernandez, and
18 Membreno de Ayala are set forth in the allegations above and where indicated below.

19 148. Defendants’ conduct, as alleged herein, violates numerous sections of the
20 California Labor Code, including, but not limited to, the following:

- 21 (a) Violation of Labor Code sections 510 and 1198, and the applicable IWC
22 Wage Order for Defendants’ failure to compensate Plaintiffs and other
23 aggrieved employees with all required overtime pay, as alleged herein
24 and as set forth below;
- 25 (b) Violation of Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198,
26 and the applicable IWC Wage Order for Defendants’ failure to
27 compensate Plaintiffs and other aggrieved employees with at least
28 minimum wages for all hours worked, as alleged herein and as set forth

below;

- (c) Violation of Labor Code sections 226.7, 512(a), 516, and 1198, and the applicable IWC Wage Order for Defendants' failure to provide Plaintiffs and other aggrieved employees with meal periods, as alleged herein and as set forth below;
- (d) Violation of Labor Code sections 226.7, 516, and 1198, and the applicable IWC Wage Order for Defendants' failure to authorize and permit Plaintiffs and other aggrieved employees to take rest periods, as alleged herein and as set forth below;
- (e) Violation of Labor Code sections 226(a) and 1198, and the applicable IWC Wage Order for failure to provide accurate and complete wage statements to Plaintiffs and other aggrieved employees, as alleged herein and as set forth below;
- (f) Violation of Labor Code sections 1174(d) and 1198, and the applicable IWC Wage Order for failure to maintain payroll records, as alleged herein and as set forth below;
- (g) Violation of Labor Code sections 201, 201.3, and 202 for failure to pay all earned wages upon termination, as alleged herein and as set forth below;
- (h) Violation of Labor Code sections 201.3 and 204 for failure to pay all earned wages during employment, as alleged herein and as set forth below;
- (i) Violation of Labor Code sections 221 and 224 for unlawfully deducting a portion of wages previously paid to Plaintiff Matias and other aggrieved employees, as set forth below;
- (j) Violation of Labor Code section 223 for secretly paying Plaintiff Matias and other aggrieved employees lower wages than required by statute, while purporting to pay the proper wages, as set forth below;

- 1 (k) Violation of Labor Code section 1198 and the applicable IWC Wage
2 Order for failing to pay reporting time pay to Plaintiffs Chavez Fernandez
3 and Membreno de Ayala, and other aggrieved employees, as alleged
4 herein;
- 5 (l) Violation of Labor Code section 2802 for failure to reimburse Plaintiffs
6 and other aggrieved employees for all business expenses necessarily
7 incurred, as alleged herein and as set forth below; and
- 8 (m) Violation of Labor Code section 2810.5(a)(1)(A)-(C) for failure to
9 provide written notice of information material to Plaintiffs' and other
10 aggrieved employees' employment with Defendants, as set forth below
- 11 (n) Violation of Labor Code sections 245 - 249 for failure to comply with the
12 California Healthy Workplaces, Health Families Act of 2014.
- 13 (o) Violation of Labor Code section 432 for failing to provide a copy of all
14 signed instruments to employees upon request;
- 15 (p) Violation of Labor Code sections 432.5 and 432.6 for alleged unlawful
16 contracts and/or applications for employment;
- 17 (q) Violation of Labor Code section 1198.5 for failure to permit inspection
18 of or provide copies of personnel records;
- 19 (r) Violation of Labor Code section 6401-6403 for failure to furnish and use
20 safety devices and safeguards which are reasonably adequate to render
21 employees' place of employment safe and healthful;

22 149. Labor Code section 1198 makes it illegal to employ an employee under
23 conditions of labor that are prohibited by the applicable wage order. California Labor Code
24 section 1198 requires that ". . . the standard conditions of labor fixed by the commission shall
25 be the . . . standard conditions of labor for employees. The employment of any employee . . .
26 under conditions of labor prohibited by the order is unlawful."

27 150. California Labor Code section 1198 and the applicable IWC Wage Order provide
28 that it is unlawful to employ persons without compensating them at a rate of pay either time-

1 and-one-half or two-times that person's regular rate of pay, depending on the number of hours
2 worked by the person on a daily or weekly basis.

3 151. Specifically, the applicable IWC Wage Order provides that Defendants are and
4 were required to pay Plaintiff Rodriguez de Paz and other aggrieved employees working more
5 than eight (8) hours in a day or more than forty (40) hours in a workweek, at the rate of time
6 and one-half (1 ½) for all hours worked in excess of eight (8) hours in a day or more than forty
7 (40) hours in a workweek.

8 152. The applicable IWC Wage Order further provides that Defendants are and were
9 required to pay Plaintiff Rodriguez de Paz and other aggrieved employees working more than
10 twelve (12) hours in a day, overtime compensation at a rate of two (2) times their regular rate
11 of pay. An employee's regular rate of pay includes all remuneration for employment paid to,
12 or on behalf of, the employee, including nondiscretionary bonuses and incentive pay.

13 153. California Labor Code section 510 codifies the right to overtime compensation
14 at one and one-half (1 ½) times the regular rate of pay for hours worked in excess of eight (8)
15 hours in a day or forty (40) hours in a week or for the first eight (8) hours worked on the seventh
16 (7th) day of work, and to overtime compensation at twice the employee's regular rate of pay for
17 hours worked in excess of twelve (12) hours in a day or in excess of eight (8) hours in a day on
18 the seventh (7th) day of work.

19 154. During the relevant time period, Defendants willfully failed to pay all overtime
20 wages owed to Plaintiff Rodriguez de Paz and other aggrieved employees. During the relevant
21 time period, Plaintiff Rodriguez de Paz and other aggrieved employees were not paid overtime
22 premiums for all of the hours they worked in excess of eight (8) hours in a day, in excess of
23 twelve (12) hours in a day, and/or in excess of forty (40) hours in a week, because all hours
24 worked were not recorded.

25 155. First, during the relevant period, Defendants had, and continue to have, a
26 company-wide policy and/or practice of discouraging and impeding Plaintiff Rodriguez de Paz
27 and other aggrieved employees from recording hours worked that were outside of their
28 scheduled shifts, in order to limit the amount of overtime employees could accrue. On

1 information and belief, this policy of limiting overtime, coupled with Defendants' practice of
2 understaffing and assignment of heavy workloads, deadlines, and productivity requirements,
3 led Plaintiff Rodriguez de Paz and other aggrieved employees to work off-the-clock before and
4 after their scheduled shift times in order to complete their assigned tasks. For example,
5 Defendants required Plaintiff Rodriguez de Paz and other aggrieved employees to prepare a
6 minimum of two pallets, with 160 boxes stacked on each pallet before the end of a shift.
7 Approximately twice per week, Plaintiff Rodriguez de Paz was required to clock out and
8 continue working for up to 15 minutes to complete the preparation of pallets at the request of
9 management. When this occurred, Plaintiff Rodriguez de Paz was unable to record this off-the-
10 clock work because Defendants' management prohibited her from recording these overtime
11 hours. This off-the-clock work could have been recorded by Defendants, but they refused to do
12 so to avoid payment of overtime wages to Plaintiff Rodriguez de Paz and other aggrieved
13 employees.

14 156. Further, during the relevant period, Defendants implemented, on a company-
15 wide basis, an employer-imposed requirement that other aggrieved employees undergo
16 mandatory COVID-19 temperature checks and/or health screenings before clocking in for their
17 scheduled shifts. Prior to their shifts, employees were required to spend time filling out a health
18 screening form and undergoing a temperature check, before being permitted to clock in for their
19 shifts. Even though Defendants required these health screenings, Defendants did not provide
20 other aggrieved employees a mechanism to record this time worked so they could be
21 compensated for the time spent undergoing mandatory temperature checks and/or health
22 screenings.

23 157. Second, Defendants' company-wide policies and/or practices of understaffing
24 their job sites while assigning heavy workloads and deadlines resulted in a failure to provide
25 Plaintiff Rodriguez de Paz and/or other aggrieved employees with adequate meal period
26 coverage to permit them to take compliant meal periods. Defendants also failed to schedule
27 meal periods, which further caused Plaintiff Rodriguez de Paz and/or other aggrieved employees
28 to not be relieved of their duties for compliant meal periods. As a result, other aggrieved

1 employees missed meal periods and/or had meal periods cut short or interrupted in order to
2 handle their workloads. Further, on information and belief, because Defendants frowned upon
3 employees accruing meal period penalties, Defendants pressured employees to clock out for
4 meal periods and/or adjusted their time records to reflect compliant meal periods, even when
5 they did not receive a compliant meal period. Consequently, other aggrieved employees
6 performed work during meal periods for which they were not paid.

7 158. Defendants knew or should have known that, as a result of these company-wide
8 practices and/or policies, Plaintiff Rodriguez de Paz and other aggrieved employees were
9 performing their assigned duties during meal periods and while off-the-clock, and were suffered
10 or permitted to perform work for which they were not paid. Because Plaintiff Rodriguez de Paz
11 and other aggrieved employees worked shifts of eight (8) hours a day or more, or forty (40)
12 hours a week or more, some of this off-the-clock work qualified for overtime premium pay.
13 Therefore, Plaintiff Rodriguez de Paz and other aggrieved employees were not paid overtime
14 wages for all of the overtime hours they actually worked.

15 159. Defendants' failure to pay Plaintiff Rodriguez de Paz and other aggrieved
16 employees the balance of overtime compensation as required by California law, violates the
17 provisions of California Labor Code sections 510 and 1198. Plaintiff Rodriguez de Paz and
18 other aggrieved employees are therefore entitled to recover civil penalties pursuant to Labor
19 Code sections 558 and/or 2699(a), (f), and (g).

20 160. At all relevant times, California Labor Code sections 1182.12, 1194, 1197, and
21 1198 provide that the minimum wage for employees fixed by the IWC is the minimum wage to
22 be paid to employees, and the payment of a wage less than the minimum so fixed is unlawful.
23 Compensable work time is defined in IWC Wage Order No. 9-2001 as "the time during which
24 an employee is subject to the control of an employer, and includes all the time the employee is
25 suffered or permitted to work, whether or not required to do so." Cal. Code. Regs. tit. 8,
26 § 11090(2)(H) (defining "Hours Worked").

27 161. As set forth above, as a result of Defendants' company-wide practice of
28 restricting overtime accrual by not recording hours worked that were outside of employees'

1 scheduled shifts, Defendants systematically failed to pay Plaintiff Rodriguez de Paz and other
2 aggrieved employees for actual hours worked before and after their scheduled shifts, because
3 these hours were not accurately recorded. Thus, Plaintiff Rodriguez de Paz and/or other
4 aggrieved employees were required to perform work off-the-clock before and after their
5 scheduled shifts, including completing work-related tasks and submitting to mandated pre-shift
6 COVID-19 temperature checks and health screenings, but were not compensated for this time.
7 Additionally, as set forth above, due to Defendants' uniform practices of understaffing;
8 assigning heavy workloads, deadlines, and productivity requirements; failing to schedule meal
9 periods; and the resulting lack of coverage, Plaintiff Rodriguez de Paz and/or other aggrieved
10 employees were impeded from taking all uninterrupted meal periods to which they were entitled
11 and were required to work off-the-clock. Moreover, as stated, in order to limit meal penalties
12 that Defendants would otherwise owe, Defendants pressured employees to clock out for meal
13 periods and/or adjusted their time records to reflect compliant meal periods, but required them
14 to continue working, time for which they were not paid.

15 162. Thus, Defendants did not pay minimum wages for all hours worked by Plaintiff
16 Rodriguez de Paz and other aggrieved employees. To the extent that these off-the-clock hours
17 did not qualify for overtime premium payment, Defendants did not pay at least minimum wages
18 for those hours worked off-the-clock in violation of California Labor Code sections 1182.12,
19 1194, 1197, and 1198.

20 163. Defendants' failure to pay Plaintiff Rodriguez de Paz and other aggrieved
21 employees minimum wages violates California Labor Code sections 1182.12, 1194, 1197, and
22 1198. Plaintiff Rodriguez de Paz and other aggrieved employees are therefore entitled to
23 recover civil penalties pursuant to Labor Code sections 2699(a), (f), and (g).

24 164. At all relevant times herein set forth, the applicable IWC Wage Order and
25 California Labor Code sections 226.7, 512(a), 516, and 1198 were applicable to Plaintiff
26 Rodriguez de Paz's and other aggrieved employees' employment by Defendants.

27 165. At all relevant times herein set forth, California Labor Code section 512(a)
28 provides that an employer may not require, cause, or permit an employee to work for a period

1 of more than five (5) hours per day without providing the employee with a meal period of not
2 less than thirty (30) minutes, except that if the total work period per day of the employee is not
3 more than six (6) hours, the meal period may be waived by mutual consent of both the employer
4 and the employee. Under California law, first meal periods must start after no more than five
5 hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (2012).

6 166. At all relevant times herein set forth, California Labor Code sections 226.7,
7 512(a), 516, and 1198 provide that no employer shall require an employee to work during any
8 meal period mandated by an applicable order of the IWC.

9 167. At all relevant times herein set forth, Labor Code sections 226.7, 512(a), 1198,
10 and the applicable IWC Wage Order also require employers to provide a second meal period of
11 not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an
12 employee one (1) additional hour of pay at the employee's regular rate, except that if the total
13 hours worked is no more than twelve (12) hours, the second meal period may be waived by
14 mutual consent of the employer and the employee only if the first meal period was not waived.

15 168. As set forth above, Defendants had, and continue to have, a company-wide policy
16 and/or practice of understaffing their locations while simultaneously assigning heavy
17 workloads, deadlines, and productivity requirements, which resulted in a lack of meal period
18 coverage and prevented Plaintiff Rodriguez de Paz and other aggrieved employees from taking
19 all timely, uninterrupted meal periods to which they were entitled. Further, Defendants had a
20 company-wide practice of failing to schedule meal periods, which further prevented Plaintiff
21 Rodriguez de Paz and other aggrieved employees from taking all compliant meal periods. As a
22 result of Defendants' practices and/or policies, Plaintiff Rodriguez de Paz and other aggrieved
23 employees were forced to work in excess of five (5) hours before taking a meal period and, at
24 times, had their meal periods interrupted, and/or had to forgo their meal periods altogether. For
25 example, approximately three (3) times per week, Plaintiff Rodriguez de Paz was unable to take
26 her meal period until her sixth hour of work, in order to meet productivity requirements and
27 finish her assigned duties.

28 169. Furthermore, as set forth above, on information and belief, because Defendants

1 frowned upon employees accruing meal period penalties, Defendants' management pressured
2 Plaintiff Rodriguez de Paz and other aggrieved employees to clock out for meal periods and/or
3 adjusted their time records to reflect compliant meal periods, even when they did not receive a
4 compliant meal period, in order to strictly limit meal penalties that Defendants would otherwise
5 owe. For example, at Defendants' management direction, Plaintiff Rodriguez de Paz would log
6 that her meal period had been taken within the first five (5) hours of her shift, even though she
7 was unable to take her meal periods until after her sixth hour of work.

8 170. Moreover, Defendants did not provide Plaintiff Rodriguez de Paz and other
9 aggrieved employees with second 30-minute meal periods on days that they worked in excess
10 of 10 hours in one day. Plaintiff Rodriguez de Paz and other aggrieved employees did not sign
11 valid meal period waivers on days that they were entitled to meal periods and were not relieved
12 of all duties.

13 171. Moreover, Defendants had a company-wide policy of requiring all newly hired
14 employees to sign blanket meal period waivers at or near their time of hire. Defendants took
15 the position that non-exempt, hourly paid employees had waived their rights to first and/or
16 second meal periods for the entirety of their employment and, on that basis, did not provide
17 them with all meal periods to which they were entitled. Moreover, Defendants' meal period
18 waiver form requires employees provide written notice should they wish to revoke the waiver.
19 Defendants' presumption that meal periods would not be provided for shifts in excess of five
20 (5) hours but less than six (6) hours, and for shifts in excess of ten (10) hours but less than
21 twelve (12) hours due to blanket meal period waivers signed at or near the time of hire, and
22 imposition on employees to revoke the waivers in writing, discouraged and impeded Plaintiff
23 Rodriguez de Paz and other aggrieved employees from taking all meal periods to which they
24 were entitled.

25 172. Furthermore, an employer's obligation to provide a meal period is only
26 "triggered" when the employer "employs an employee for a work period of more than five hours
27 per day." *Brinker*, 53 Cal. 4th at 1039 ("If an employer engages, suffers, or permits anyone to
28 work for a full five hours, its meal break obligation is triggered.").

1 [A]fter the meal break obligation is triggered . . . an employer is put to a
2 choice: it must (1) afford an off-duty meal period; (2) consent to a mutually
3 agreed-upon waiver if one hour or less will end the shift; or (3) obtain
4 written agreement to an on-duty meal period if circumstances permit.
Failure to do one of these will render the employer liable for premium pay.

5 *Id.* (citing Cal. Labor Code § 226.7; Wage Order No. 5, subd. 11(A), (B)). That
6 Defendants required Plaintiff Rodriguez de Paz and other aggrieved employees to sign meal
7 period waivers simultaneously at or near their time of hire (as opposed to on a specific work day)
8 renders them invalid and unenforceable, because Defendants' obligation to provide Plaintiff
9 Rodriguez de Paz and other aggrieved employees with meal periods did not arise until they had
10 employed them for a full five (5) hours.

11 173. At all times mentioned herein, Defendants knew or should have known that as a
12 result of their policies, Plaintiff Rodriguez de Paz and other aggrieved employees were not
13 actually relieved of all duties to take timely, uninterrupted meal periods. Defendants further
14 knew or should have known that they did not pay Plaintiff Rodriguez de Paz and other aggrieved
15 employees meal period premiums when meal periods were late, interrupted, shortened, and/or
16 missed.

17 174. Furthermore, Defendants engaged in a company-wide practice and/or policy of
18 not paying all meal period premiums owed when compliant meal periods are not provided.
19 Because of this practice and/or policy, Plaintiff Rodriguez de Paz and other aggrieved
20 employees have not received premium pay for missed, late, and interrupted meal periods.

21 175. Defendants' conduct violates the applicable IWC Wage Order, and California
22 Labor Code sections 226.7, 512(a), 516, and 1198. Plaintiff Rodriguez de Paz and other
23 aggrieved employees are therefore entitled to recover civil penalties pursuant to Labor Code
24 sections 558 and/or 2699(a), (f), and (g).

25 176. At all relevant times herein set forth, the applicable IWC Wage Order and
26 California Labor Code sections 226.7, 516, and 1198 were applicable to Plaintiff Rodriguez de
27 Paz's and other aggrieved employees' employment by Defendants.

28 177. At all relevant times, the applicable IWC Wage Order provides that "[e]very

1 employer shall authorize and permit all employees to take rest periods, which insofar as
2 practicable shall be in the middle of each work period” and that the “rest period time shall be
3 based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4)
4 hours or major fraction thereof” unless the total daily work time is less than three and one-half
5 (3 ½) hours.

6 178. At all relevant times, California Labor Code section 226.7 provides that no
7 employer shall require an employee to work during any rest period mandated by an applicable
8 order of the California IWC. To comply with its obligation to authorize and permit rest periods
9 under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer
10 must “relinquish any control over how employees spend their break time, and relieve their
11 employees of all duties—including the obligation that an employee remain on call. A rest
12 period, in short, must be a period of rest.” *Augustus v. ABM Security Services, Inc.*, 2 Cal. 5th
13 257, 269-270 (2016).

14 179. Pursuant to the applicable IWC Wage Order and California Labor Code section
15 226.7(c), Plaintiff Rodriguez de Paz and other aggrieved employees are entitled to recover from
16 Defendants one (1) additional hour of pay at their regular rates of pay for each work day that a
17 required rest period was not authorized and permitted.

18 180. During the relevant time period, Defendants regularly failed to authorize and
19 permit Plaintiff Rodriguez de Paz and other aggrieved employees to take a ten (10) minute rest
20 period per each four (4) hour period worked or major fraction thereof. As with meal periods,
21 Defendants’ company-wide policies and/or practices, including understaffing and assigning
22 heavy workloads, deadlines, and productivity requirements, prevented Plaintiff Rodriguez de
23 Paz and other aggrieved employees from being relieved of all duty to take their rest periods.
24 Additionally, Defendants failed to schedule rest periods, which, coupled with Defendants’
25 failure to provide adequate rest period coverage, further led to Plaintiff Rodriguez de Paz and
26 other aggrieved employees not being authorized and permitted to take rest periods.

27 181. Furthermore, Defendants maintained a company-wide on-premises rest period
28 policy, which effectively required that Plaintiff Rodriguez de Paz and other aggrieved

1 employees remain on or near the work premises during their rest periods. Because Plaintiff
2 Rodriguez de Paz and other aggrieved employees were restricted from leaving the premises
3 during rest periods, they were denied the ability to use their rest periods freely for their own
4 purposes, such as running personal errands. Thus, Defendants effectively maintained control
5 over Plaintiff Rodriguez de Paz and other aggrieved employees during rest periods.

6 182. As a result of Defendants' practices and policies, Plaintiff Rodriguez de Paz and
7 other aggrieved employees worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in
8 excess of 10 hours without receiving all uninterrupted 10-minute rest periods to which they
9 were entitled. For example, throughout her employment, Plaintiff Rodriguez de Paz had to
10 forego many of her rest periods altogether due to the heavy workload and deadlines assigned to
11 her.

12 183. Defendants have also engaged in a systematic, company-wide practice and/or
13 policy of not paying rest period premiums owed when rest periods are not authorized and
14 permitted. Because of this practice and/or policy, Plaintiff Rodriguez de Paz and other
15 aggrieved employees have not received premium pay for all missed rest periods.

16 184. Accordingly, Defendants failed to authorize and permit all compliant rest periods
17 and failed to pay the full rest period premiums due. Defendants' conduct violates the applicable
18 IWC Wage Order and California Labor Code sections 226.7, 516, and 1198. Plaintiff Rodriguez
19 de Paz and other aggrieved employees are therefore entitled to recover civil penalties pursuant
20 to Labor Code sections 558 and/or 2699(a), (f), and (g).

21 185. At all relevant times herein, California Labor Code section 226(a) provides that
22 every employer shall furnish each of his or her employees an accurate and complete itemized
23 wage statement in writing, including, but not limited to, the name and address of the legal entity
24 that is the employer, the inclusive dates of the pay period, total hours worked, and all applicable
25 rates of pay.

26 186. During the relevant time period, Defendants have knowingly and intentionally
27 provided Plaintiff Rodriguez de Paz and other aggrieved employees with uniform, incomplete,
28 and inaccurate wage statements. For example, Defendants issued uniform wage statements to

1 Plaintiff Rodriguez de Paz and other aggrieved employees that fail to correctly list: gross wages
2 earned; total hours worked; net wages earned; and all applicable hourly rates in effect during
3 the pay period, including rates of pay for overtime wages and/or meal and rest period premiums,
4 and the corresponding number of hours worked at each hourly rate. Specifically, Defendants
5 violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

6 187. Because Defendants did not record the time Plaintiff Rodriguez de Paz and other
7 aggrieved employees spent working off-the-clock and deducted time from their records for meal
8 periods that were interrupted and/or missed (and therefore time for which they should have been
9 paid), Defendants did not list the correct amount of gross wages and net wages earned by
10 Plaintiff Rodriguez de Paz and other aggrieved employees in compliance with section 226(a)(1)
11 and section 226(a)(5), respectively. For the same reason, Defendants failed to accurately list
12 the total number of hours worked by Plaintiff Rodriguez de Paz and other aggrieved employees,
13 in violation of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect
14 during the pay period and the corresponding accurate number of hours worked at each hourly
15 rate, in violation of section 226(a)(9).

16 188. The wage statement deficiencies also include, among other things, failing to list
17 the number of piece-rate units earned and any applicable piece rate if the employee is paid on a
18 piece-rate basis; failing to list all deductions; failing to list the inclusive dates of the period for
19 which aggrieved employees were paid; failing to list the name of the employee and only the last
20 four digits of his or her social security number or an employee identification number other than
21 a social security number; failing to list the name and address of the legal entity that is the
22 employer; and/or failing to state all hours worked as a result of not recording or stating the hours
23 they worked off-the-clock.

24 189. California Labor Code section 1174(d) provides that “[e]very person employing
25 labor in this state shall . . . [k]eep a record showing the names and addresses of all employees
26 employed and the ages of all minors” and “[k]eep, at a central location in the state or at the
27 plants or establishments at which employees are employed, payroll records showing the hours
28 worked daily by and the wages paid to, and the number of piece-rate units earned by and any

1 applicable piece rate paid to, employees employed at the respective plants or
2 establishments. . . .” Labor Code section 1174.5 provides that employers are subject to a \$500
3 civil penalty if they fail to maintain accurate and complete records as required by section
4 1174(d). During the relevant time period, and in violation of Labor Code section 1174(d),
5 Defendants willfully failed to maintain accurate payroll records for Plaintiff Rodriguez de Paz
6 and other aggrieved employees showing the daily hours they worked and the wages paid thereto
7 as a result of failing to record the off-the-clock hours that they worked.

8 190. California Labor Code section 1198 provides that the maximum hours of work
9 and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set
10 forth in the applicable IWC Wage Order. Section 1198 further provides that “[t]he employment
11 of any employees for longer hours than those fixed by the order or under conditions of labor
12 prohibited by the order is unlawful.” Pursuant to the applicable IWC Wage Order, employers
13 are required to keep accurate time records showing when the employee begins and ends each
14 work period and meal period. During the relevant time period, Defendants engaged in company-
15 wide practices and/or policies of failing to record actual hours worked (including falsifying time
16 records by recording that compliant meal periods were taken regardless of if or when meal
17 periods were actually taken), and thereby failed to keep accurate records of work period and
18 meal period start and stop times for Plaintiff Rodriguez de Paz and other aggrieved employees,
19 in violation of section 1198. Furthermore, in light of Defendants’ failure to provide other
20 aggrieved employees with second 30-minute meal periods to which they were entitled,
21 Defendants kept no records of meal start and end times for second meal periods.

22 191. Defendants’ conduct violates California Labor Code 226(a), 1174(d), and 1198.
23 Plaintiff Rodriguez de Paz and other aggrieved employees are therefore entitled to recover civil
24 penalties pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f), and (g).

25 192. At all relevant times herein set forth, California Labor Code section 204 requires
26 that all wages earned by any person in any employment between the 1st and the 15th days,
27 inclusive, of any calendar month, other than those wages due upon termination of an employee,
28 are due and payable between the 16th and the 26th day of the month during which the labor was

1 performed. Labor Code section 204 further provides that all wages earned by any person in any
2 employment between the 16th and the last day, inclusive, of any calendar month, other than
3 those wages due upon termination of an employee, are due and payable between the 1st and the
4 10th day of the following month.

5 193. At all relevant times herein, California Labor Code section 204 also requires that
6 all wages earned for labor in excess of the normal work period shall be paid no later than the
7 payday for the next regular payroll period. Alternatively, at all relevant times herein, Labor
8 Code section 204 provides that the requirements of this section are deemed satisfied by the
9 payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more
10 than seven (7) calendar days following the close of the payroll period.

11 194. At all relevant times herein, California Labor Code section 201.3 requires that if
12 an employee of a temporary services employer is assigned to work for a client, that employee's
13 wages are due and payable no less frequently than weekly, regardless of when the assignment
14 ends, and wages for work performed during any calendar week shall be due and payable not
15 later than the regular payday of the following calendar week.

16 195. During the relevant time period, Defendants willfully failed to pay Plaintiff
17 Rodriguez de Paz and other aggrieved employees all wages due to them within any time period
18 specified by California Labor Code sections 201.3 and/or 204 including, but not limited to,
19 overtime wages, minimum wages, and/or meal and rest period premiums.

20 196. Plaintiff Rodriguez de Paz and other aggrieved employees are therefore entitled
21 to recover civil penalties pursuant to Labor Code sections 210 and/or 2699(a), (f), and (g).

22 197. At all times relevant herein set forth, Labor Code sections 201, 201.3, and 202
23 provide that if an employer discharges an employee, the wages earned and unpaid at the time of
24 discharge are due and payable immediately, and that if an employee voluntarily leaves his or
25 her employment, his or her wages shall become due and payable not later than seventy-two (72)
26 hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his
27 or her intention to quit, in which case the employee is entitled to his or her wages at the time of
28 quitting.

1 198. On information and belief, Defendant has a company-wide practice or policy of
2 paying departing employees their final wages on the next regular pay cycle, instead of adhering
3 to the time requirements set forth in Labor Code sections 201 and 202. For example, Plaintiff
4 Rodriguez de Paz did not receive her final pay until one (1) week after being terminated by
5 Defendants. Thus, Defendants failed to pay Plaintiff Rodriguez de Paz her final wages
6 immediately, in violation of California Labor Code section 201 and/or 201.3.

7 199. Additionally, Defendants willfully failed to pay Plaintiff Rodriguez de Paz and
8 other aggrieved employees who are no longer employed by Defendants the earned and unpaid
9 wages set forth above, including but not limited to, overtime wages, minimum wages, and/or
10 meal and rest period premiums, either at the time of discharge, or within seventy-two (72) hours
11 of their leaving Defendants' employ.

12 200. Defendants' failure to pay Plaintiff Rodriguez de Paz and those other aggrieved
13 employees who are no longer employed by Defendants their wages earned and unpaid at the
14 time of discharge, or within seventy-two (72) hours of their leaving Defendants' employ,
15 violates Labor Code sections 201 and 201.3. Plaintiff Rodriguez de Paz and other aggrieved
16 employees are therefore entitled to recover civil penalties pursuant to Labor Code sections 256
17 and/or 2699(a), (f), and (g).

18 201. At all times herein set forth, California Labor Code section 2802 provides that
19 an employer must reimburse employees for all necessary expenditures and losses incurred by
20 the employee in the performance of his or her job. The purpose of Labor Code section 2802 is
21 to prevent employers from passing off their cost of doing business and operating expenses on
22 to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144
23 (2014). The applicable wage order, IWC Wage Order No. 9-2001, provides that: "[w]hen tools
24 or equipment are required by the employer or are necessary to the performance of a job, such
25 tools and equipment shall be provided and maintained by the employer, except that an employee
26 whose wages are at least two (2) times the minimum wage provided herein may be required to
27 provide and maintain hand tools and equipment customarily required by the trade or craft."
28 IWC Wage Order No. 9-2001 further provides that: "[w]hen uniforms are required by the

1 employer to be worn by the employee as a condition of employment, such uniforms shall be
2 provided and maintained by the employer.”

3 202. First, during the relevant time period, Defendants, on a company-wide basis,
4 required that Plaintiff Rodriguez de Paz and other aggrieved employees use their own personal
5 mobile devices, including, but not limited to, cellular phones, and/or mobile data to carry out
6 their job duties, but failed to reimburse them for the costs of their work-related mobile device
7 expenses. For example, Plaintiff Rodriguez de Paz used her personal cellular phone to
8 photograph completed pallets and send those pictures to her manager. Although Defendants
9 required Plaintiff Rodriguez de Paz and other aggrieved employees to utilize their personal
10 mobile devices and/or mobile data to carry out their work-related responsibilities, Defendants
11 failed to reimburse them for this cost.

12 203. Second, during the relevant time period, Defendants expected Plaintiff
13 Rodriguez de Paz and other aggrieved employees to “be in full uniform daily, [with the] uniform
14 regularly cleaned and free of stains upon arrival at work each day while assigned with
15 Defendants.” Furthermore, Defendants’ written uniform policy states, “Once issued, company
16 uniforms become the employee’s responsibility for maintenance and care” Plaintiff
17 Rodriguez de Paz and other aggrieved employees were thus required to report to work wearing
18 clean and presentable uniforms bearing the company logo, including uniform shirts and safety
19 vests, on a daily basis. However, Defendants did not provide its employees with sufficient
20 uniforms to wear for their shifts throughout the week. For example, Defendants only provided
21 Plaintiff Rodriguez de Paz with one (1) shirt and one (1) safety vest at the beginning of her
22 employment. Because Defendants failed to provide Plaintiff Rodriguez de Paz with an adequate
23 number of uniform items in relation to her scheduled shifts and for the tasks she was required
24 to perform, Plaintiff was forced to wash her uniform items more frequently than she would
25 otherwise do laundry and incur expenses in doing so. For example, due to the nature of work
26 involved in operating machinery, Plaintiff Rodriguez de Paz’s uniform items would become
27 stained with dirt and grime, such that she was unable to mix these clothes in with her other
28 laundry. As a result, she had to wash her uniform items separately from any other clothing

1 items and thus incurred additional utility and laundry expenses for the upkeep of her uniforms.
2 Thus, Defendants failed to maintain the uniforms they required Plaintiff Rodriguez de Paz and
3 other aggrieved employees to wear during their shifts and forced them to incur the cost of
4 maintaining employee uniforms.

5 204. Defendants could have provided Plaintiff Rodriguez de Paz and other aggrieved
6 employees with the actual tools for use on the job, such as company mobile devices, and access
7 to laundering services. Or, Defendants could have reimbursed employees for their mobile
8 device usage, and laundering expenses or provided a uniform maintenance allowance. Instead,
9 Defendants passed these operating costs off onto Plaintiff Rodriguez de Paz and other aggrieved
10 employees. At all relevant times, Plaintiff did not earn at least two (2) times the minimum
11 wage.

12 205. Defendants' company-wide policy and/or practice of not reimbursing employees
13 for expenses necessarily incurred and passing on their operating costs to Plaintiff Rodriguez de
14 Paz and other aggrieved employees violates California Labor Code section 2802. Plaintiff
15 Rodriguez de Paz and other aggrieved employees are therefore entitled to recover civil penalties
16 pursuant to Labor Code sections 2699(a), (f), and (g).

17 206. At all times relevant herein, California Labor Code section 221 provides that it
18 shall be unlawful for any employer to collect or receive from an employee any part of wages
19 theretofore paid by said employer to said employee. California Labor Code section 224 also
20 provides in pertinent part that it is lawful to withhold a portion of the employee's wages if "a
21 deduction is expressly authorized in writing by the employee."

22 207. During the relevant time period, Defendants unlawfully deducted a portion of
23 wages previously paid to Plaintiff Matias and other aggrieved employees in violation of
24 California Labor Code section 221. On information and belief, Defendants systematically, and
25 on a company-wide basis, provided Plaintiff Matias and other aggrieved employees with payroll
26 debit cards as payment of their wages. Under Defendants' payroll debit card program, Plaintiff
27 Matias and other aggrieved employees were assessed various fees in connection with their use
28 of the payroll debit cards. For example, Plaintiff Matias was required to pay out-of-network

1 ATM withdrawal fees, cash back fees from purchase transactions, ATM balance inquiry or
2 decline fees, inactivity fees, and/or other fees to obtain and/or spend her earned and due wages.
3 The fees charged to Plaintiff Matias and other aggrieved employees resulted in a discount of
4 their wages.

5 208. Defendants' conduct as alleged herein violates California Labor Code sections
6 221 and 224. Plaintiff Matias and other aggrieved employees are therefore entitled to recover
7 civil penalties pursuant to Labor Code sections 225.5 and/or 2699(a), (f), and (g).

8 209. At all times, California Labor Code section 223 makes it unlawful for an
9 employer to secretly pay wages lower than required by statute while purporting to pay legal
10 wages.

11 210. During the relevant time period, Defendants willfully and systematically issued
12 payroll debit cards to Plaintiff Matias and other aggrieved employees that discounted their
13 wages by charging various fees in connection with the use of the payroll debit cards.
14 Defendants' payroll debit card program resulted in the payment of less than statutorily required
15 wages to Plaintiff Matias and other aggrieved employees. In doing so, Defendants acted with
16 the intent to deprive Plaintiff Matias and other aggrieved employees of statutory wages,
17 including, but not limited to, overtime wages and/or minimum wages, to which they were
18 entitled to under California law. Thus, Defendants paid Plaintiff Matias and other aggrieved
19 employees lower wages than those they were entitled to while purporting that Plaintiff Matias
20 and other aggrieved employees were properly paid.

21 211. Defendants' failure to pay Plaintiff Matias and other aggrieved employees the
22 correct designated wage, while purporting to pay legal wages, is a violation of California Labor
23 Code section 223. Plaintiff Matias and other aggrieved employees are therefore entitled to
24 recover civil penalties pursuant to Labor Code sections 225.5 and/or 2699(a), (f), and (g).

25 212. At all relevant times herein, California's Wage Theft Prevention Act was enacted
26 to ensure that employers provide employees with basic information material to their
27 employment relationship at the time of hiring, and to ensure that employees are given written
28 and timely notice of any changes to basic information material to their employment. Codified

1 at California Labor Code section 2810.5, the Wage Theft Prevention Act provides that at the
2 time of hiring, an employer must provide written notice to employees containing basic and
3 material payroll information, including, among other things, the rate(s) of pay and basis thereof,
4 whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including
5 any rates for overtime, the regular payday designated by the employer, and any allowances
6 claims as part of the minimum wage, including meal or lodging allowances. Labor Code
7 § 2810.5(a)(1)(A)-(C).

8 213. At all relevant times, on information and belief, Defendants failed, on a
9 company-wide basis, to provide written notice to Plaintiffs Matias, Chavez Fernandez,
10 Membreno de Ayala, and Rodriguez de Paz and other aggrieved employees that lists the
11 requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C). Defendants' failure
12 to provide Plaintiffs Matias, Chavez Fernandez, Membreno de Ayala, and Rodriguez de Paz and
13 other aggrieved employees with written notice of basic information regarding their employment
14 with Defendants is in violation of Labor Code section 2810.5. Plaintiffs Matias, Chavez
15 Fernandez, Membreno de Ayala, and Rodriguez de Paz and other aggrieved employees are
16 therefore entitled to recover civil penalties pursuant to Labor Code sections 2699(a), (f), and
17 (g).

18 **ELEVENTH CAUSE OF ACTION**

19 **Violation of California Business & Professions Code §§ 17200, *et seq.* –**

20 **Unlawful Business Practices**

21 **(By Plaintiffs Matias, Chavez Fernandez, and Membreno de Ayala Against All**
22 **Defendants)**

23 214. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and
24 every allegation set forth above.

25 215. Defendants are “persons” as defined by California Business & Professions Code
26 section 17201, as they are corporations, firms, partnerships, joint stock companies, and/or
27 associations.

28 216. Defendants' conduct, as alleged herein, has been, and continues to be, unfair,

1 unlawful and harmful to Plaintiffs, class members, and to the general public. Plaintiffs have
2 suffered injuries in fact and have lost money as a result of Defendants' unlawful business
3 practices. Plaintiffs seek to enforce important rights affecting the public interest within the
4 meaning of Code of Civil Procedure section 1021.5.

5 217. Defendants' activities, as alleged herein, are violations of California law, and
6 constitute unlawful business acts and practices in violation of California Business & Professions
7 Code sections 17200, *et seq.*

8 218. A violation of California Business & Professions Code sections 17200, *et seq.*
9 may be predicated on the violation of any state or federal law. In the instant case, Defendants'
10 policies and practices have violated state law in at least the following respects:

- 11 (a) Requiring non-exempt, hourly paid employees, including Plaintiffs and
12 class members, to work overtime without paying them proper
13 compensation in violation of California Labor Code sections 510 and
14 1198, and the applicable IWC Wage Order, as alleged herein;
- 15 (b) Failing to pay at least minimum wage to Plaintiffs and class members in
16 violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1,
17 and 1198, and the applicable IWC Wage Order, as alleged herein;
- 18 (c) Failing to provide uninterrupted meal periods to Plaintiffs and class
19 members in violation of California Labor Code sections 226.7, 512(a),
20 516, and 1198, and the applicable IWC Wage Order, as alleged herein;
- 21 (d) Failing to authorize and permit Plaintiffs and class members to take
22 uninterrupted rest periods in violation of California Labor Code sections
23 226.7, 516, and 1198, and the applicable IWC Wage Order, as alleged
24 herein;
- 25 (e) Failing to provide Plaintiffs and class members with accurate wage
26 statements and failing to maintain accurate payroll records in violation of
27 California Labor Code sections 226(a), 1174(d), and 1198, and the
28 applicable IWC Wage Order, as alleged herein;

- 1 (f) Failing timely to pay all earned wages to Plaintiffs and class members in
2 violation of California Labor Code sections 201.3 and 204, as alleged
3 herein;
- 4 (g) Collecting or receiving wages already paid from Plaintiff Matias and class
5 members in violation of California Labor Code sections 221 and 224, as
6 set forth below;
- 7 (h) Failing to pay the statutorily designated wage scale in violation of
8 California Labor Code section 223, as set forth below;
- 9 (i) Failing to pay reporting time pay in violation of California Labor Code
10 section 1198 and the applicable IWC Wage Order, as alleged herein;
- 11 (j) Failing to reimburse Plaintiffs and class members for all business
12 expenses necessarily incurred in violation of California Labor Code
13 section 2802, as alleged herein; and
- 14 (k) Failing to provide written notice of information material to Plaintiffs' and
15 class members' employment with Defendants in violation of California
16 Labor Code section 2810.5(a)(1)(A)-(C), as set forth below.

17 219. At all times relevant herein, California Labor Code section 221 provides that it
18 shall be unlawful for any employer to collect or receive from an employee any part of wages
19 theretofore paid by said employer to said employee. California Labor Code section 224 also
20 provides in pertinent part that it is lawful to withhold a portion of the employee's wages if "a
21 deduction is expressly authorized in writing by the employee."

22 220. During the relevant time period, Defendants unlawfully deducted a portion of
23 wages previously paid to Plaintiff Matias and class members in violation of California Labor
24 Code section 221. On information and belief, Defendants systematically, and on a company-
25 wide basis, provided Plaintiff Matias and class members with payroll debit cards as payment of
26 their wages. Under Defendants' payroll debit card program, Plaintiff Matias and class members
27 were assessed various fees in connection with their use of the payroll debit cards. For example,
28 Plaintiff Matias was required to pay out-of-network ATM withdrawal fees, cash back fees from

1 purchase transactions, ATM balance inquiry or decline fees, inactivity fees, and/or other fees to
2 obtain and/or spend her earned and due wages. The fees charged to Plaintiff Matias and class
3 members resulted in a discount of their wages.

4 221. Defendants' payroll debit card program, which resulted in a discount of wages
5 to employees, is tantamount to taking deductions from Plaintiff Matias's and class members'
6 paychecks without their written authorization and therefore constitutes an unlawful deduction
7 of wages, in violation of California Labor Code sections 221 and 224.

8 222. At all times, California Labor Code section 223 makes it unlawful for an
9 employer to secretly pay wages lower than required by statute while purporting to pay legal
10 wages.

11 223. During the relevant time period, Defendants willfully and systematically issued
12 payroll debit cards to Plaintiff Matias and class members that discounted their wages by
13 charging various fees in connection with the use of the payroll debit cards. Defendants' payroll
14 debit card program resulted in the payment of less than statutorily required wages to Plaintiff
15 Matias and class members. In doing so, Defendants acted with the intent to deprive Plaintiffs
16 and/or class members of statutory wages, including, but not limited to, overtime wages and/or
17 minimum wages, to which they were entitled to under California law. Thus, Defendants paid
18 Plaintiff Matias and class members lower wages than those they were entitled to while
19 purporting that Plaintiff Matias and class members were properly paid.

20 224. Defendants' failure to pay Plaintiff Matias and class members the correct
21 designated wage, while purporting to pay legal wages, is a violation of California Labor Code
22 section 223.

23 225. At all relevant times herein, California's Wage Theft Prevention Act was enacted
24 to ensure that employers provide employees with basic information material to their
25 employment relationship at the time of hiring, and to ensure that employees are given written
26 and timely notice of any changes to basic information material to their employment. Codified
27 at California Labor Code section 2810.5, the Wage Theft Prevention Act provides that at the
28 time of hiring, an employer must provide written notice to employees containing basic and

1 material payroll information, including, among other things, the rate(s) of pay and basis thereof,
2 whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including
3 any rates for overtime, the regular payday designated by the employer, and any allowances
4 claims as part of the minimum wage, including meal or lodging allowances. Labor Code
5 § 2810.5(a)(1)(A)-(C).

6 226. At all relevant times, Defendants failed, on a company-wide basis, to provide
7 written notice to Plaintiffs and class members that lists the requisite information set forth in
8 Labor Code section 2810.5(a)(1)(A)-(C). Defendants' failure to provide Plaintiffs and class
9 members with written notice of basic information regarding their employment with Defendants
10 is in violation of California Labor Code section 2810.5.

11 227. As a result of the violations of California law herein described, Defendants
12 unlawfully gained an unfair advantage over other businesses. Plaintiffs and class members have
13 suffered pecuniary loss by Defendants' unlawful business acts and practices alleged herein.

14 228. Pursuant to California Business & Professions Code sections 17200, *et seq.*,
15 Plaintiffs and class members are entitled to restitution of the wages withheld and retained by
16 Defendants during a period that commences four years prior to the filing of this complaint; a
17 permanent injunction requiring Defendants to pay all outstanding wages due to Plaintiffs and
18 class members; and an award of attorneys' fees pursuant to California Code of Civil Procedure
19 section 1021.5 and other applicable laws; and an award of costs.

20 **TWELFTH CAUSE OF ACTION**

21 **Violation of California Business & Professions Code §§ 17200, *et seq.* –**

22 **Unfair Business Practices**

23 (By Plaintiffs Matias, Chavez Fernandez, and Membreno de Ayala Against All
24 **Defendants**)

25 229. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and
26 every allegation set forth above.

27 230. Defendants are "persons" as defined by California Business & Professions Code
28 section 17201, as they are corporations, firms, partnerships, joint stock companies, and/or

1 associations.

2 231. Defendants' conduct, as alleged herein, has been, and continues to be, unfair, and
3 harmful to Plaintiffs, class members, and to the general public. Plaintiffs have suffered injuries
4 in fact and have lost money as a result of Defendants' unfair business practices. Plaintiffs seek
5 to enforce important rights affecting the public interest within the meaning of Code of Civil
6 Procedure section 1021.5.

7 232. Defendants' activities, namely Defendants' company-wide practice and/or policy
8 of not paying Plaintiffs and class members all meal and rest period premiums due to them under
9 Labor Code section 226.7, deprived Plaintiffs and class members of the compensation guarantee
10 and enhanced enforcement implemented by section 226.7. The statutory remedy provided by
11 section 226.7 is a "dual-purpose" remedy intended primarily to compensate employees, and
12 secondarily to shape employer conduct." *Safeway, Inc. v. Superior Court*, 238 Cal. App 4th
13 1138, 1149 (2015). The statutory benefits of section 226.7 were guaranteed to Plaintiffs and
14 class members as part of their employment with Defendants, and thus Defendants' practice
15 and/or policy of denying these statutory benefits constitutes an unfair business practice in
16 violation of California Business & Professions Code sections 17200, *et seq.* (*Id.*)

17 233. A violation of California Business & Professions Code sections 17200, *et seq.*
18 may be predicated on any unfair business practice. In the instant case, Defendants' policies and
19 practices have violated the spirit of California's meal and rest period laws and constitute acts
20 against the public policy behind these laws.

21 234. Pursuant to California Business & Professions Code sections 17200, *et seq.*,
22 Plaintiffs and class members are entitled to restitution for the class-wide loss of the statutory
23 benefits implemented by section 226.7 withheld and retained by Defendants during a period that
24 commences four years prior to the filing of this complaint; a permanent injunction requiring
25 Defendants to pay all statutory benefits implemented by section 226.7 due to Plaintiffs and class
26 members; an award of attorneys' fees pursuant to California Code of Civil Procedure section
27 1021.5 and other applicable laws; and an award of costs.

28 ///

1 **REQUEST FOR JURY TRIAL**

2 Plaintiffs request a trial by jury.

3 **PRAYER FOR RELIEF**

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

6 1. For damages, unpaid wages, penalties, injunctive relief, and attorneys' fees in
7 excess of twenty-five thousand dollars (\$25,000), exclusive of interest and costs. Plaintiffs
8 reserve the right to amend their prayer for relief to seek a different amount.

9 **Class Certification**

10 2. That this case be certified as a class action;

11 3. That Plaintiffs be appointed as the representatives of the Class and Subclass;

12 4. That counsel for Plaintiffs be appointed as class counsel.

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

14 5. That the Court declare, adjudge, and decree that Defendants violated California
15 Labor Code sections 510 and 1198, and the applicable IWC Wage Order by willfully failing to
16 pay all overtime wages due to Plaintiffs and class members;

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

19 7. For pre-judgment interest on any unpaid overtime compensation commencing
20 from the date such amounts were due, or as otherwise provided by law;

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

23 9. For such other and further relief as the Court may deem equitable and
24 appropriate.

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

26 10. That the Court declare, adjudge and decree that Defendants violated California
27 Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198, and the applicable IWC Wage
28 Order by willfully failing to pay minimum wages to Plaintiffs and class members;

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

12. For pre-judgment interest on any unpaid compensation from the date such amounts were due, or as otherwise provided by law;

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

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

15. For such other and further relief as the Court may deem equitable and appropriate.

As to the Third Cause of Action

16. That the Court declare, adjudge, and decree that Defendants violated California Labor Code sections 226.7, 512(a), 516, and 1198, and the applicable IWC Wage Order by willfully failing to provide all meal periods to Plaintiffs and class members;

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

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

19. For premiums pursuant to California Labor Code section 226.7(c);

20. For pre-judgment interest on any unpaid meal period premiums from the date such amounts were due, or as otherwise provided by law;

21. For attorneys' fees pursuant to California Code of Civil Procedure section 1021.5, or as otherwise provided by law; and

22. For such other and further relief as the Court may deem equitable and appropriate.

As to the Fourth Cause of Action

23. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 226.7, 516, and 1198, and the applicable IWC Wage Order by willfully

1 failing to authorize and permit Plaintiffs and class members to take all rest periods;

2 24. That the Court make an award to the Plaintiffs and class members of one (1) hour
3 of pay at each employee's regular rate of pay for each workday that a rest period was not
4 authorized and permitted;

5 25. For all actual, consequential, and incidental losses and damages, according to
6 proof;

7 26. For premiums pursuant to California Labor Code section 226.7(c);

8 27. For pre-judgment interest on any unpaid rest period premiums from the date such
9 amounts were due, or as otherwise provided by law;

10 28. For attorneys' fees pursuant to California Code of Civil Procedure section
11 1021.5, or as otherwise provided by law; and

12 29. For such other and further relief as the Court may deem equitable and
13 appropriate.

14 **As to the Fifth Cause of Action**

15 30. That the Court declare, adjudge and decree that Defendants violated the
16 recordkeeping provisions of California Labor Code section 226(a) and the applicable IWC
17 Wage Order as to Plaintiffs and Subclass members, and willfully failed to provide accurate
18 itemized wage statements thereto;

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

21 32. For injunctive relief pursuant to California Labor Code section 226(h);

22 33. For statutory penalties pursuant to California Labor Code section 226(e);

23 34. For attorneys' fees and costs pursuant to California Labor Code section
24 226(e)(1); and

25 35. For such other and further relief as the Court may deem equitable and
26 appropriate.

27 **As to the Sixth Cause of Action**

28 36. That the Court declare, adjudge and decree that Defendants violated California

1 Labor Code sections 201, 201.3, and 202 by willfully failing to pay overtime wages, minimum
2 wages, meal and rest period premiums, and/or reporting time pay owed at the time of
3 termination of the employment of Plaintiffs and other terminated class members;

4 37. For all actual, consequential and incidental losses and damages, according to
5 proof;

6 38. For waiting time penalties according to proof pursuant to California Labor Code
7 section 203 for all employees who have left Defendants' employ;

8 39. For pre-judgment interest on any unpaid wages from the date such amounts were
9 due, or as otherwise provided by law;

10 40. For attorneys' fees pursuant to California Code of Civil Procedure section
11 1021.5, or as otherwise provided by law; and

12 41. For such other and further relief as the Court may deem equitable and
13 appropriate.

14 **As to the Seventh Cause of Action**

15 42. That the Court declare, adjudge and decree that Defendants violated California
16 Labor Code sections 201.3 and 204 by willfully failing to timely pay Plaintiffs and class
17 members overtime wages, minimum wages, meal and rest period premiums, and/or reporting
18 time pay during their employment;

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

21 44. For statutory penalties according to proof pursuant to California Labor Code
22 section 210;

23 45. For pre-judgment interest on any unpaid wages from the date such amounts were
24 due, or as otherwise provided by law;

25 46. For attorneys' fees pursuant to California Code of Civil Procedure section
26 1021.5, or as otherwise provided by law; and

27 47. For such other and further relief as the Court may deem equitable and
28 appropriate.

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As to the Eighth Cause of Action

48. That the Court declare, adjudge and decree that Defendants violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11050(5)(A) by failing to provide Plaintiffs Chavez Fernandez and Membreno de Ayala and class members with reporting time pay;

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

50. For pre-judgment interest on any unpaid wages from the date such amounts were due, or as otherwise provided by law; and

51. For such other and further relief as the Court may deem equitable and appropriate.

As to the Ninth Cause of Action

52. That the Court declare, adjudge and decree that Defendants violated California Labor Code section 2802 by willfully failing to reimburse and/or indemnify all business-related expenses and costs incurred by Plaintiffs and class members;

53. For unpaid business-related expenses and such general and special damages as may be appropriate;

54. For pre-judgment interest on any unpaid business-related expenses from the date such amounts were due, or as otherwise provided by law;

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

56. For attorneys’ fees and costs pursuant to California Labor Code section 2802(c), or as otherwise provided by law; and

57. For such other and further relief as the Court may deem equitable and appropriate.

As to the Tenth Cause of Action

58. That the Court declare, adjudge and decree that Defendants violated the following California Labor Code provisions as to Plaintiffs and/or other aggrieved employees:

510 and 1198 (by failing to pay all overtime compensation); 1182.12, 1194, 1197, 1197.1, and 1198 (by failing to pay at least minimum wages for all hours worked); 226.7, 512(a), 516, and 1198 (by failing to provide all meal periods); 226.7, 516, and 1198 (by failing to authorize and permit all rest periods); 226(a), 1174(d), and 1198 (by failing to provide accurate wage statements and maintain accurate payroll records); 201, 201.3, and 202 (by failing to timely pay all earned wages upon termination); 201.3 and 204 (by failing to timely pay all earned wages during employment); 221 and 224 (by collecting and/or receiving wages already paid); 223 (by secretly paying wages lower than required by statute); 1198 and the applicable IWC Wage Order (by failing to provide reporting time pay); 2802 (by failing to reimburse business expenses); and 2810.5 (by failing to provide written notice of material terms of employment);

59. For civil penalties pursuant to the California Labor Code, including sections 210, 225.5, 226.3, 256, 558, 1174.5, 2699(a), (f), and (g), for violations of California Labor Code sections 201, 201.3, 202, 204, 221, 223, 224, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5;

60. For attorneys' fees and costs pursuant to California Labor Code section 2699(g)(1), and any and all other relevant statutes, for Defendants' violations of California Labor Code sections 201, 201.3, 202, 204, 221, 223, 224, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5; and

61. For pre-judgment and post-judgment interest as provided by law; and for such other and further relief as the Court may deem equitable and appropriate.

As to the Eleventh Cause of Action

62. That the Court declare, adjudge and decree that Defendants' conduct of failing to provide Plaintiffs and class members all overtime wages due to them, failing to provide Plaintiffs and class members all minimum wages due to them, failing to provide Plaintiffs and class members all meal periods, failing to authorize and permit Plaintiffs and class members to take all rest periods, failing to provide Plaintiffs and class members accurate and complete wage statements, failing to maintain accurate payroll records for Plaintiffs and class members, failing to timely pay Plaintiffs and class members all earned wages during employment, failing to pay

1 Plaintiffs Chavez Hernandez and Membreno de Ayala and class members reporting time pay,
2 unlawfully deducting a portion of wages previously paid, secretly paying a lower wage, failing
3 to reimburse Plaintiffs and class members for business-related expenses, and failing to provide
4 written notice of material terms of employment, constitutes an unlawful business practice in
5 violation of California Business and Professions Code sections 17200, *et seq.*;

6 63. For restitution of unpaid wages to Plaintiffs and all class members and
7 prejudgment interest from the day such amounts were due and payable;

8 64. For the appointment of a receiver to receive, manage and distribute any and all
9 funds disgorged from Defendants and determined to have been wrongfully acquired by
10 Defendants as a result of violations of California Business & Professions Code sections 17200,
11 *et seq.*;

12 65. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
13 California Code of Civil Procedure section 1021.5; and

14 66. For such other and further relief as the Court may deem equitable and
15 appropriate.

16 **As to the Twelfth Cause of Action**

17 67. That the Court declare, adjudge and decree that Defendants' conduct of denying
18 Plaintiffs and class members the statutory benefits guaranteed under section 226.7 constitutes
19 an unfair business practice in violation of California Business and Professions Code sections
20 17200, *et seq.*;

21 68. For restitution of the statutory benefits under section 226.7 unfairly withheld
22 from Plaintiffs and class members and prejudgment interest from the day such amounts were
23 due and payable;

24 69. For the appointment of a receiver to receive, manage and distribute any and all
25 funds disgorged from Defendants and determined to have been wrongfully acquired by
26 Defendants as a result of violations of California Business & Professions Code sections 17200,
27 *et seq.*;

28 ///

1 70. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
2 California Code of Civil Procedure section 1021.5;

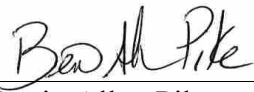
3 71. For pre-judgment and post-judgment interest as provided by law; and

4 72. For such other and further relief as the Court may deem equitable and
5 appropriate.

6
7 Dated: March 5, 2026

Respectfully submitted,

8 Capstone Law APC

9
10 By: 
11 Bevin Allen Pike
12 Daniel S. Jonathan
13 Trisha K. Monesi
14 Jeffrey Jimenez

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Attorneys for Plaintiffs, on behalf of themselves
and all others similarly situated and aggrieved

EXHIBIT “1”



1875 Century Park East, Suite 1000
Los Angeles, California 90067
310.556.4811 Main | 310.943.0396 Fax

JEZZETTE RON
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July 26, 2022

VIA ONLINE SUBMISSION

California Labor & Workforce Development Agency
ATTN: PAGA Administrator
(<https://dir.tfaforms.net/308>)

Subject: *Maria Rodriguez De Paz v. Hospitality Staffing Solutions LLC, et al.*

Dear PAGA Administrator:

This office represents Maria Rodriguez De Paz in connection with her claims under the California Labor Code. Ms. Rodriguez De Paz was an employee of HOSPITALITY STAFFING SOLUTIONS LLC and/or KELLERMEYER BERGENSONS SERVICES, LLC. For the purpose of this letter, Ms. Rodriguez De Paz collectively refers to these entities as "HSS."

The employers may be contacted directly at the addresses below:

HOSPITALITY STAFFING SOLUTIONS, LLC	KELLERMEYER BERGENSONS SERVICES, LLC
100 GLENRIDGE POINT PKWY STE 400	3605 OCEAN RANCH BOULEVARD, SUITE 200
ATLANTA, GA 30342	OCEANSIDE, CA 92056

Ms. Rodriguez De Paz intends to seek civil penalties, attorney's fees, costs, and other available relief for violations of the California Labor Code, which are recoverable under sections 2698, *et seq.*, the Labor Code Private Attorneys General Act of 2004 ("PAGA"). Ms. Rodriguez De Paz seeks relief on behalf of herself, the State of California, and other persons who are or were employed by HSS as a non-exempt, hourly paid employee in California and who received at least one wage statement ("aggrieved employees"). This letter is sent in compliance with the notice and reporting requirements of California Labor Code section 2699.3.

HSS employed Ms. Rodriguez De Paz as an hourly paid, non-exempt employee from approximately October 2021 to February 2022. Ms. Rodriguez De Paz worked as an Operator for HSS at its location in Moreno Valley, California. During her employment, Ms. Rodriguez De Paz typically worked eight (8) hours per day, and five (5) days per week. At the time her employment ended, Ms. Rodriguez De Paz was compensated approximately \$17.00 per hour. Her job duties included, without limitation, preparing crate machinery for daily use, inspecting machinery for safety, stacking crates, and cleaning work areas.

HSS committed one or more of the following Labor Code violations against Ms. Rodriguez De Paz, the facts and theories of which follow, making her an “aggrieved employee” pursuant to California Labor Code section 2699(c):¹

HSS’s Company-Wide and Uniform Payroll and HR Practices

HOSPITALITY STAFFING SOLUTIONS LLC and KELLERMEYER BERGENSONS SERVICES, LLC are Delaware limited liability companies. HSS is a staffing agency for hospitality, facility, and janitorial services, offering temporary and direct hiring to companies. Upon information and belief, HSS maintains a single, centralized Human Resources (HR) department at its company headquarters in Atlanta, Georgia, for all non-exempt, hourly paid employees working for HSS in California, including Ms. Rodriguez De Paz and other aggrieved employees. At all relevant times, HSS issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Ms. Rodriguez De Paz and other aggrieved employees, regardless of their location or position.

Upon information and belief, HSS maintains a centralized Payroll department at its corporate headquarters in Atlanta, Georgia, which processes payroll for all non-exempt, hourly paid employees working for HSS in California, including Ms. Rodriguez De Paz and other aggrieved employees. Further, HSS issues the same formatted wage statements in the same manner for all non-exempt, hourly paid employees working in California, including Ms. Rodriguez De Paz and other aggrieved employees, irrespective of their location, position, or manner in which each employee’s employment ended. In other words, HSS utilized the same methods and formulas when calculating wages due to Ms. Rodriguez De Paz and other aggrieved employees in California.

Violation of California Labor Code §§ 510 and 1198 – Unpaid Overtime

California Labor Code sections 510 and 1198 and the applicable Industrial Welfare Commission (“IWC”) Wage Order require employers to pay employees working more than eight (8) hours in a day or more than forty (40) hours in a workweek at the rate of time-and-one-half (1 ½) 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. The applicable IWC Wage Order further provides that employers are required to pay employees working more than twelve (12) hours in a day overtime compensation at a rate of two (2) times their regular rate of pay. An employee’s regular rate of pay includes all remuneration for employment paid to, or on behalf of, the employee, including nondiscretionary bonuses and incentive pay.

HSS willfully failed to pay all overtime wages owed to Ms. Rodriguez De Paz and other aggrieved employees. During the relevant time period, Ms. Rodriguez De Paz and other aggrieved employees were not paid overtime premiums for all of the hours they worked in excess of eight (8) hours in a

¹ These facts, theories, and claims are based on Ms. Rodriguez De Paz’s experience and counsel’s review of those records currently available relating to Ms. Rodriguez De Paz’s employment. Discovery conducted in litigation of wage and hour claims such as these often reveals additional claims that the aggrieved employee was not initially aware of (because the aggrieved employee was not aware of the law’s requirements, the employer misinformed its employee of the law’s requirements, or because the employer effectively hid the violations). Thus, Ms. Rodriguez De Paz’s reserves the right to supplement this letter with additional facts, theories, and claims if she becomes aware of them subsequent to the submission of this letter.

day, in excess of twelve (12) hours in a day, and/or in excess of forty (40) hours in a week, because all hours that they worked were not recorded.

First, during the relevant period, HSS had a policy and/or practice of discouraging and impeding Ms. Rodriguez De Paz and other aggrieved employees from recording hours worked that were outside of their scheduled shifts, in order to limit the amount of overtime employees could accrue. On information and belief, this policy of limiting overtime, coupled with HSS's practice of understaffing and assignment of heavy workloads, deadlines, and productivity requirements, led Ms. Rodriguez De Paz and other aggrieved employees to work off-the-clock before and after their scheduled shift times in order to complete their assigned tasks. For example, HSS required Ms. Rodriguez De Paz and other aggrieved employees to prepare a minimum of two pallets, with 160 boxes stacked on each pallet before the end of a shift. Approximately twice per week, Ms. Rodriguez De Paz was required to clock out and continue working for up to 15 minutes to complete the preparation of pallets at the request of management. When this occurred, Ms. Rodriguez De Paz was unable to record this off-the-clock work because HSS's management prohibited her from recording these overtime hours. This off-the-clock work could have been recorded by HSS, but it refused to do so to avoid payment of overtime wages to Ms. Rodriguez De Paz and other aggrieved employees.

Further, during the relevant period, HSS implemented, on a company-wide basis, an employer-imposed requirement that Ms. Rodriguez De Paz and/or other aggrieved employees undergo mandatory COVID-19 temperature checks and/or health screenings before clocking in for their scheduled shifts. Prior to their shifts, employees were required to spend time filling out a health screening form and undergoing a temperature check, before being permitted to clock in for their shifts. Even though HSS required these health screenings, HSS did not provide Ms. Rodriguez De Paz and/or other aggrieved employees a mechanism to record this time worked so they could be compensated for the time spent undergoing mandatory temperature checks and/or health screenings.

Second, HSS's company-wide policies and/or practices of understaffing its job sites while assigning heavy workloads and deadlines resulted in a failure to provide Ms. Rodriguez De Paz and/or other aggrieved employees with adequate meal period coverage to permit them to take compliant meal periods. HSS also failed to schedule meal periods, which further caused Ms. Rodriguez De Paz and/or other aggrieved employees to not be relieved of their duties for compliant meal periods. As a result, other aggrieved employees missed meal periods and/or had meal periods cut short or interrupted in order to handle their workloads. Further, on information and belief, because HSS frowned upon employees accruing meal period penalties, HSS pressured employees to clock out for meal periods and/or adjusted their time records to reflect compliant meal periods, even when they did not receive a compliant meal period. Consequently, other aggrieved employees performed work during meal periods for which they were not paid.

HSS knew or should have known that as a result of these company-wide practices and/or policies, Ms. Rodriguez De Paz and other aggrieved employees were performing their assigned duties off-the-clock before and after their shifts and/or during meal periods, and were suffered or permitted to perform work for which they were not paid. Because Ms. Rodriguez De Paz and other aggrieved employees worked shifts of eight (8) hours a day or more or forty (40) hours a week or more, some of this off-the-clock work qualified for overtime premium pay.

Furthermore, HSS did not pay other aggrieved employees the correct overtime rate for the recorded overtime hours that they generated. In addition to an hourly wage, HSS paid other aggrieved employees incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. However,

in violation of the California Labor Code, HSS failed to incorporate all compensation, including incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, into the calculation of the regular rate of pay for purposes of calculating the overtime wage rate. Therefore, during times when other aggrieved employees worked overtime and received these other forms of pay, HSS failed to pay all overtime wages by paying a lower overtime rate than required.

Accordingly, Ms. Rodriguez De Paz and other aggrieved employees were not paid overtime wages for all of the overtime hours they actually worked, in violation of California Labor Code sections 510 and 1198. Ms. Rodriguez De Paz and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 – Unpaid Minimum Wages

California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 require employers to pay employees the minimum wage fixed by the IWC. The payment of a lesser wage than the minimum so fixed is unlawful. Compensable work time is defined in Wage Order No. 9-2001 as "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so." Cal. Code. Regs. tit. 8, § 11090(2)(H) (defining "Hours Worked").

As stated, due to HSS's company-wide practice of restricting overtime accrual by not recording hours worked that were outside of employees' scheduled shifts, HSS systematically failed to pay Ms. Rodriguez De Paz and other aggrieved employees for actual hours worked before and after their scheduled shifts, because these hours were not accurately recorded. Thus, Ms. Rodriguez De Paz and/or other employees were required to perform work off-the-clock before and after their scheduled shifts, including completing work-related tasks and submitting to mandated pre-shift COVID-19 temperature checks and health screenings, but were not compensated for this time. Additionally, as set forth above, due to HSS's uniform practices of understaffing; assigning heavy workloads, deadlines, and productivity requirements; failing to schedule meal periods; and the resulting lack of coverage, Ms. Rodriguez De Paz and/or other aggrieved employees were impeded from taking all uninterrupted meal periods to which they were entitled and were required to work off-the-clock. Moreover, as stated, in order to limit meal penalties that HSS would otherwise owe, HSS pressured employees to clock out for meal periods and/or adjusted their time records to reflect compliant meal periods, but required them to continue working, time for which they were not paid.

Thus, HSS did not pay at least minimum wages for all hours worked by Ms. Rodriguez De Paz and other aggrieved employees. Also, to the extent that these off-the-clock hours did not qualify for overtime premium payment, HSS did not pay at least minimum wages for those hours worked off-the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198.

Accordingly, HSS regularly failed to pay at least minimum wages to Ms. Rodriguez De Paz and other aggrieved employees for all of the hours they worked in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1 and 1198. Ms. Rodriguez De Paz and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 1197.1 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 – Failure to Provide Meal Periods

California Labor Code sections 226.7, 512(a), 516, and 1198, and the applicable IWC Wage Order require employers to provide meal periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. Pursuant to Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order, an employer may not require, cause or permit an employee to work for a period of more than five (5) hours per day without providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee. Under California law, first meal periods must start after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (2012). Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order also require employers to provide a second meal period of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1) additional hour of pay at the employee's regular rate, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

During the relevant time period, as stated, HSS had, and continues to have, a company-wide policy and/or practice of understaffing its locations while simultaneously assigning heavy workloads, deadlines, and productivity requirements, which resulted in a lack of meal period coverage and prevented Ms. Rodriguez De Paz and other aggrieved employees from taking all timely, uninterrupted meal periods to which they were entitled. Further, HSS had a company-wide practice of failing to schedule meal periods, which further prevented Ms. Rodriguez De Paz and other aggrieved employees from taking all compliant meal periods. As a result of HSS's practices and/or policies, Ms. Rodriguez De Paz and other aggrieved employees were forced to work in excess of five (5) hours before taking a meal period and, at times, had their meal periods interrupted, and/or had to forgo their meal periods altogether. For example, approximately three (3) times per week, Ms. Rodriguez De Paz was unable to take her meal period until her sixth hour of work, in order to meet productivity requirements and finish her assigned duties.

Moreover, as stated, on information and belief, because HSS frowned upon employees accruing meal period penalties, HSS's management pressured Ms. Rodriguez De Paz and other aggrieved employees to clock out for meal periods and/or adjusted their time records to reflect compliant meal periods, even when they did not receive a compliant meal period, in order to strictly limit meal penalties that HSS would otherwise owe. For example, at HSS's management's direction, Ms. Rodriguez De Paz would log that her meal period was taken within the first five (5) hours of her shift, even though she was only able to take her meal periods until after her sixth hour of work.

Additionally, HSS did not provide other aggrieved employees with second 30-minute meal periods on days that they worked in excess of ten (10) hours in one day. Ms. Rodriguez De Paz and other aggrieved employees did not sign valid meal period waivers on days that they were entitled to meal periods and were not relieved of all duties.

Moreover, HSS had a company-wide policy of requiring all newly hired employees to sign blanket meal period waivers at or near their time of hire. HSS took the position that non-exempt, hourly paid employees had waived their rights to first and/or second meal periods for the entirety of their employment and, on that basis, did not provide them with all meal periods to which they were

entitled. Furthermore, HSS's meal period waiver form requires employees to provide written notice should they wish to revoke the waiver. HSS's presumption that meal periods would not be provided for shifts in excess of five (5) hours but less than six (6) hours and for shifts in excess of ten (10) hours but less than twelve (12) hours, due to blanket meal period waivers signed at or near the time of hire, and imposition on employees to revoke the waivers in writing, discouraged and impeded Ms. Rodriguez De Paz and other aggrieved employees from taking all meal periods to which they were entitled.

Furthermore, an employer's obligation to provide a meal period is only "triggered" when the employer "employs an employee for a work period of more than five hours per day." *Brinker*, 53 Cal. 4th at 1039 ("If an employer engages, suffers, or permits anyone to work for a full five hours, its meal break obligation is triggered.").

[A]fter the meal break obligation is triggered . . . an employer is put to a choice: it must (1) afford an off-duty meal period; (2) consent to a mutually agreed-upon waiver if one hour or less will end the shift; or (3) obtain written agreement to an on-duty meal period if circumstances permit. Failure to do one of these will render the employer liable for premium pay.

Id. (citing Cal. Labor Code § 226.7; Wage Order No. 5, subd. 11(A), (B)). That HSS required Ms. Rodriguez De Paz and other aggrieved employees to sign meal period waivers simultaneously at or near their time of hire (as opposed to on a specific work day) renders them invalid and unenforceable, because HSS's obligation to provide Ms. Rodriguez and aggrieved employees with meal periods did not arise until they had employed them for a full five (5) hours.

At all times herein mentioned, HSS knew or should have known that, as a result of these policies, Ms. Rodriguez De Paz and other aggrieved employees were not actually relieved of all duties to take timely, uninterrupted meal periods. HSS further knew or should have known that it did not pay Ms. Rodriguez De Paz and other aggrieved employees meal period premiums when meal periods were late, interrupted, shortened, and/or missed.

Furthermore, HSS engaged in a company-wide practice and/or policy of not paying all meal period premiums owed when compliant meal periods are not provided. Because of HSS's practices and/or policies, Ms. Rodriguez De Paz and/or other aggrieved employees have not received premium pay for all missed, late, and interrupted meal periods. Alternatively, to the extent that HSS did pay other aggrieved employees premium pay for missed, late, and interrupted meal periods, HSS did not pay other aggrieved employees at the correct rate of pay for premiums because HSS systematically failed to include all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

Accordingly, HSS failed to provide all meal periods in violation of California Labor Code sections 226.7, 512(a), 516, and 1198. Ms. Rodriguez De Paz and other aggrieved employees are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 516, and 1198 – Failure to Authorize and Permit Rest Periods

California Labor Code sections 226.7, 516, and 1198, and the applicable IWC Wage Order require employers to provide rest periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. 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 IWC. The applicable IWC 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.

To comply with its obligation to authorize and permit rest periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer must "relinquish any control over how employees spend their break time, and relieve their employees of all duties—including the obligation that an employee remain on call. A rest period, in short, must be a period of rest." *Augustus, et al. v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 269-270 (2016).

During the relevant time period, HSS regularly failed to authorize and permit Ms. Rodriguez De Paz and other aggrieved employees to take a ten (10) minute rest period per each four (4) hour period worked or major fraction thereof. As with meal periods, HSS's company-wide practices, including understaffing and assigning heavy workloads, deadlines, and productivity requirements, prevented Ms. Rodriguez De Paz and other aggrieved employees from being relieved of all duty to take rest periods. Additionally, HSS failed to schedule rest periods, which, coupled with HSS's failure to provide adequate rest period coverage, further led to Ms. Rodriguez De Paz and other aggrieved employees not being authorized and permitted to take compliant rest periods.

Additionally, during the relevant time period, HSS maintained and implemented a company-wide on-premises rest period policy, which mandated that Ms. Rodriguez De Paz and other aggrieved employees remain on the work premises during their rest periods. Because Ms. Rodriguez De Paz and other aggrieved employees were restricted from leaving the premises during rest periods, they were denied the ability to use their rest periods freely for their own purposes, such as running personal errands. Thus, HSS effectively maintained control over Ms. Rodriguez De Paz and other aggrieved employees during rest periods.

As a result of HSS's practices and policies, Ms. Rodriguez De Paz and other aggrieved employees worked shifts in excess of 3.5 hours, in excess of 6 hours, and in excess of 10 hours without receiving all uninterrupted 10-minute rest periods to which they were entitled. For example, throughout her employment, Ms. Rodriguez De Paz would have to forego many of her rest periods altogether due to the heavy workload and deadlines assigned to her.

HSS also has engaged in a company-wide practice and/or policy of not paying all rest period premiums owed when compliant rest periods are not authorized and permitted. Because of this practice and/or policy, Ms. Rodriguez De Paz and other aggrieved employees have not received premium pay for all missed rest periods. Alternatively, to the extent that HSS did pay other aggrieved employees one (1) additional hour of premium pay for missed rest periods, HSS did not pay other aggrieved employees at the correct rate of pay for premiums because HSS failed to include

all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

Accordingly, HSS failed to authorize and permit all rest periods in violation of California Labor Code sections 226.7, 516, and 1198. Ms. Rodriguez De Paz and other aggrieved employees are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226(a), 1174(d), and 1198 – Non-Compliant Wage Statements and Failure to Maintain Accurate Payroll Records

California Labor Code section 226(a) requires employers to make, keep and provide true, accurate, and complete employment records. HSS has not provided Ms. Rodriguez De Paz and other aggrieved employees with properly itemized wage statements. Labor Code section 226(e) provides that if an employer fails to comply with providing an employee with properly itemized wage statements as set forth in 226(a), then the employee is entitled to recover the greater of all actual damages or \$50 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not to exceed \$4,000. Further, Labor Code section 226.3 provides that any employer who violates section 226(a) shall be subject to a civil penalty in the amount of \$250 per employee per violation in an initial citation and \$1,000 per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage statement or fails to keep the required records pursuant to Section 226(a).

During the relevant time period, HSS has knowingly and intentionally provided Ms. Rodriguez De Paz and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. For example, HSS issued uniform wage statements to Ms. Rodriguez De Paz and other aggrieved employees that fail to correctly list: gross wages earned; total hours worked; net wages earned; and all applicable hourly rates in effect during the pay period, including rates of pay for overtime wages and/or meal and rest period premiums, and the corresponding number of hours worked at each hourly rate. Specifically, HSS violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

Because HSS did not record the time Ms. Rodriguez De Paz and other aggrieved employees spent working off-the-clock, and deducted time from their records for meal periods that were interrupted and/or missed (and therefore time for which they should have been paid), HSS did not list the correct amount of gross wages and net wages earned by Ms. Rodriguez De Paz and other aggrieved employees in compliance with section 226(a)(1) and section 226(a)(5), respectively. For the same reason, HSS failed to accurately list the total number of hours worked by Ms. Rodriguez De Paz and other aggrieved employees, in violation of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay period and the corresponding accurate number of hours worked at each hourly rate, in violation of section 226(a)(9).

Also, because HSS did not calculate other aggrieved employees' regular rate of pay correctly for purposes of paying overtime wages and/or meal and rest period premiums, HSS did not list the correct amount of gross wages in compliance with section 226(a)(1). For the same reason, HSS also failed to list the correct amount of net wages in violation of section 226(a)(5). HSS also failed to correctly list all applicable hourly rates in effect during the pay period, namely, correct overtime rates of pay, in violation of section 226(a)(9).

The wage statement deficiencies also include, among other things, failing to list the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; failing to list all deductions; failing to list the inclusive dates of the period for which aggrieved employees were paid; failing to list 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; failing to list the name and address of the legal entity that is the employer; and/or failing to state all hours worked as a result of not recording or stating the hours they worked off-the-clock.

California Labor Code section 1174(d) provides that “[e]very person employing labor in this state shall . . . [k]eep a record showing the names and addresses of all employees employed and the ages of all minors” and “[k]eep, 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. . . .” Labor Code section 1174.5 provides that employers are subject to a \$500 civil penalty if they fail to maintain accurate and complete records as required by section 1174(d). During the relevant time period, and in violation of Labor Code section 1174(d), HSS willfully failed to maintain accurate payroll records for Ms. Rodriguez De Paz and other aggrieved employees showing the daily hours they worked and the wages paid thereto as a result of failing to record the off-the-clock hours that they worked.

California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Order. Section 1198 further provides that “[t]he employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period. During the relevant time period, HSS engaged in company-wide practices and/or policies of failing to record actual hours worked (including falsifying time records by recording that compliant meal periods were taken regardless of if or when meal periods were actually taken), and thereby failed to keep accurate records of work period and meal period start and end times for Ms. Rodriguez De Paz and other aggrieved employees in violation of section 1198. Furthermore, in light of HSS’s failure to provide other aggrieved employees with second 30-minute meal periods to which they were entitled, HSS kept no records of meal start and end times for second meal periods.

Because HSS failed to provide the correct net and gross wages earned, applicable rates of pay, and number of total hours worked on wage statements, Ms. Rodriguez De Paz and other aggrieved employees have been prevented from verifying, solely from information on the wage statements themselves, that they were paid correctly and in full. Instead, Ms. Rodriguez De Paz and other aggrieved employees have had to look to sources outside of the wage statements themselves and reconstruct time records to determine whether in fact they were paid correctly and the extent of underpayment, thereby causing them injury.

Ms. Rodriguez De Paz and other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f)-(g).

Violation of California Labor Code § 201.3 and 204 – 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. Alternatively, California Labor Code section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

California Labor Code section 201.3 provides that if an employee of a temporary services employer is assigned to work for a client, that employee's wages are due and payable no less frequently than weekly, regardless of when the assignment ends, and wages for work performed during any calendar week shall be due and payable not later than the regular payday of the following calendar week.

During the relevant time period, HSS failed to pay Ms. Rodriguez De Paz and other aggrieved employees all wages due to them, including, but not limited to, overtime wages, minimum wages, and/or meal and rest period premiums within any time period specified by California Labor Code sections 201.3 and/or 204.

Ms. Rodriguez De Paz and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 210 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 201, 201.3, and 202 – Failure to Timely Pay Final Wages Upon Termination

California Labor Code sections 201, 201.3, 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 that if an employee voluntarily leaves 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 previous 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.

On information and belief, HSS has a company-wide practice or policy of paying departing employees their final wages on the next regular pay cycle, instead of adhering to the time requirements set forth in Labor Code sections 201 and 202. For example, Ms. Rodriguez De Paz did not receive her final pay until one (1) week after being terminated by HSS. Thus, HSS failed to pay Ms. Rodriguez De Paz and other aggrieved employees their final wages immediately, in violation of California Labor Code sections 201 and/or 201.3.

Additionally, HSS willfully failed to pay Ms. Rodriguez De Paz and other aggrieved employees who are no longer employed by HSS all their earned wages, including, but not limited to, overtime wages,

minimum wages, and/or meal and rest period premiums either at the time of discharge, or within seventy-two (72) hours of their leaving HSS's employ.

Ms. Rodriguez De Paz and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 256 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 2802 – Unreimbursed Business Expenses

California Labor Code section 2802 requires employers to pay for all necessary expenditures and losses incurred by the employee in the performance of his or her job. The purpose of Labor Code section 2802 is to prevent employers from passing off their cost of doing business and operating expenses on to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144 (2014). The applicable wage order, IWC Wage Order 9-2001, provides that: "[w]hen tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft." IWC Wage Order No. 9-2001 further provides that: "[w]hen uniforms are required by the employer to be worn by the employee as a condition of employment, such uniforms shall be provided and maintained by the employer."

During the relevant time period, HSS, on a company-wide basis, required Ms. Rodriguez De Paz and other aggrieved employees to use their own personal mobile devices, including, but not limited to cellular phones, and/or mobile data to carry out their job duties, but failed to reimburse them for the cost of their work-related mobile device expenses. Specifically, Ms. Rodriguez De Paz used her personal cellular phone to photograph completed pallets and send those pictures to her manager. Although HSS required Ms. Rodriguez De Paz and other aggrieved employees to utilize their personal mobile devices and/or mobile data to carry out their work-related responsibilities, HSS failed to reimburse them for these costs.

Additionally, during the relevant time period, HSS expected Ms. Garcia and other aggrieved employees to "be in full uniform daily, [with the] uniform regularly cleaned and free of stains upon arrival at work each day while assigned with HSS." Furthermore, HSS's written uniform policy states, "Once issued, company uniforms become the employee's responsibility for maintenance and care" Ms. Rodriguez De Paz and other aggrieved employees were thus required to report to work wearing clean and presentable uniforms bearing the company logo, including uniform shirts and safety vests, on a daily basis. However, HSS did not provide its employees with sufficient uniforms to wear for their shifts throughout the week. For example, HSS only provided Ms. Rodriguez De Paz with one (1) shirt and one (1) safety vest at the beginning of her employment. Because HSS failed to provide Ms. Rodriguez De Paz with an adequate number of uniform items in relation to her scheduled shifts and for the tasks she was required to perform, Ms. Rodriguez De Paz was forced to wash her uniform items more frequently than she would otherwise do laundry and incur expenses in doing so. For example, due to the nature of work involved in operating machinery, Ms. Rodriguez De Paz's uniform items would become stained with dirt and grime, such that she was unable to mix these clothes in with her other laundry. As a result, she had to wash their uniform items separately from any other clothing items and thus incurred additional utility and laundry expenses for the upkeep of her uniforms. Thus, HSS failed to maintain the uniforms it required Ms. Rodriguez De Paz and other aggrieved employees to wear during their shifts and forced them to incur the cost of maintaining employee uniforms.

HSS could have provided Ms. Rodriguez De Paz and other aggrieved employees with the actual equipment for use on the job, such company mobile devices and adequate number of uniforms or access to laundering services. Or, HSS could have reimbursed employees for the costs of their mobile device usage and laundering expenses or provided a uniform maintenance allowance. Instead, HSS passed these operating costs off onto Ms. Rodriguez De Paz and other aggrieved employees. At all relevant times, Ms. Rodriguez De Paz did not earn at least two (2) times the minimum wage.

Thus, HSS had, and continues to have, a company-wide policy and/or practice of not reimbursing employees for expenses necessarily incurred in violation of California Labor Code section 2802. Ms. Rodriguez De Paz and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

Violation of California Labor Code § 2810.5(a)(1)(A)-(C) – Failure to Provide Notice of Material Terms of Employment

California's Wage Theft Prevention Act was enacted to ensure that employers provide employees with basic information material to their employment relationship at the time of hiring, and to ensure that employees are given written and timely notice of any changes to basic information material to their employment. Codified at California Labor Code section 2810.5, the Wage Theft Prevention Act provides that at the time of hiring, an employer must provide written notice to employees of the rate(s) of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, the regular payday designated by the employer, and any allowances claims as part of the minimum wage, including meal or lodging allowances. Effective January 1, 2015, an employer's written notice pursuant to section 2810.5 must also include a statement that the employee may accrue and use sick leave; has a right to request and use accrued paid sick leave; may not be terminated or retaliated against for using or requesting the use of accrued paid sick leave; and has the right to file a complaint against an employer who retaliates.

HSS failed to provide Ms. Rodriguez De Paz and other aggrieved employees written notice that lists all the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C). HSS's failure to provide Ms. Rodriguez De Paz and other aggrieved employees with written notice of basic information regarding their employment with HSS is in violation of Labor Code section 2810.5.

Ms. Rodriguez De Paz and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

California Labor Code § 558(a)

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

provided for in this section are in addition to any other civil or criminal penalty provided by law.” HSS, at all relevant times, was an employer or person acting on behalf of an employer(s) who violated Ms. Rodriguez De Paz’s and other aggrieved employees’ rights by violating various sections of the California Labor Code.

Accordingly, Ms. Rodriguez De Paz seeks the remedies set forth in Labor Code section 558 for herself, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 2699(a), 2699.3(a) and 2699.3(c), 2699.5, and 558, Ms. Rodriguez De Paz, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for herself, all other aggrieved employees, and the State of California against HSS for violations of California Labor Code sections 201, 201.3, 202, 203, 204, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5.

Therefore, on behalf of all aggrieved employees, Ms. Rodriguez De Paz seeks all applicable civil penalties related to these violations of the California Labor Code pursuant to PAGA.

Pre-Litigation Demand

This notice shall further serve as Ms. Rodriguez De Paz’s reasonable attempt to settle her dispute with HSS prior to litigation. Pursuant to *Graham v. Daimler Chrysler Corp.*, 34 Cal. 4th 553 (2004), this notice serves to inform HSS while affording HSS a reasonable opportunity to satisfy Ms. Rodriguez De Paz’s demands.

Demand is hereby made that HSS shall, within 30 calendar days of this notice, agree, in writing to the following corrective actions:

1. HSS shall pay Ms. Rodriguez De Paz and all other aggrieved employees employed by HSS at any time during the past three years from the date of this notice unpaid wages and compensation for the above-referenced violations.
2. HSS shall comply with all California labor laws and ensure that its non-exempt employees are paid overtime wages and minimum wages for all hours worked and provided lawful meal and rest periods.
3. HSS shall conduct a survey or interview all current and former aggrieved employees in California who worked for HSS in the past three years to obtain information from them regarding the above-referenced violations, including, but not limited to: the number of meal periods which were not provided; the number of rest periods which were not authorized and permitted, and the number of employees who were required to pay for mobile device expenses, uniform maintenance, or other expenditures in the discharge of their duties, with the investigation to be completed within 60 days.
4. HSS shall pay each aggrieved employee one hour of pay at his or her regular rate of pay for each work day he or she was not provided one or more meal periods, as required by Labor Code sections 226.7, 512(a), 516, and 1198. HSS also shall pay each aggrieved employee one hour of pay at his or her regular rate of pay for each work day he or she was not authorized and permitted one or more rest periods, as required by Labor Code sections 226.7, 516, and 1198.

5. HSS shall reimburse those aggrieved employees who were required to pay for any business expenses incurred for HSS's benefit, including, but not limited to, mobile device expenses and uniform maintenance, as required by Labor Code section 2802.
6. HSS shall pay accrued legal interest to all aggrieved employees at the rate of 10% per annum for said unpaid wages.
7. HSS shall provide Ms. Rodriguez De Paz and all aggrieved employees employed by HSS at any time during the past three years from the date of this notice corrected wage statements that include the requisite information set forth in Labor Code section 226(a).
8. HSS shall pay waiting time penalties, equal to 30 days of pay, to each former aggrieved employee who was not paid all wages due as described herein.

HSS shall pay all penalties arising from the violations of the Labor Code and IWC Wage Order sections referenced above and pursuant to PAGA, Labor Code sections 2698, *et seq.*, including, but not limited to, penalties under Labor Code sections 210, 226.3, 256, 558, 1174.5, 1197.1, and 2699, and Wage Order No. 9-2001, section 20.

Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

Jezzette Ron
Capstone Law APC
1875 Century Park East, Suite 1000
Los Angeles, CA 90067
(310) 556-4811

Best Regards,



Jezzette Ron

Copy: HOSPITALITY STAFFING SOLUTIONS, LLC (via U.S. Certified Mail); KELLERMEYER BERGENSONS SERVICES, LLC (via U.S. Certified Mail)



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If YES, enter delivery address below: ☐ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☐ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Certified Mail Restricted Delivery Signature Confirmation™
- ☐ Certified Mail Restricted Delivery Signature Restricted Delivery
- ☐ Certified Mail Restricted Delivery Signature Restricted Delivery (over \$500)
- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Signature Confirmation™
- ☐ Signature Restricted Delivery

Domestic Return Receipt

Capstone
LAW LLC
1875 Century Park East, Suite 1000
Los Angeles, California 90067



7021 1970 0000 2660 0719

CERTIFIED MAIL®

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com®

OFFICIAL USE

Certified Mail Fee

Extra Services & Fees (check box, add fee as appropriate)

☐ Return Receipt (hardcopy) \$
☐ Return Receipt (electronic) \$
☐ Certified Mail Restricted Delivery \$
☐ Adult Signature Required \$
☐ Adult Signature Restricted Delivery \$

Postmark
Here

Postage

Total Postage and Fees

KELLERMAYER BERGENSONS SERVICES, LLC
3605 OCEAN RANCH BOULEVARD, SUITE 200
OCEANSIDE, CA 92056

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions

KELLERMAYER BERGENSONS SERVICES, LLC
3605 OCEAN RANCH BOULEVARD,
SUITE 200
OCEANSIDE, CA 92056

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
 - Print your name and address on the reverse so that we can return the card to you.
 - Attach this card to the back of the mailpiece, or on the front if space permits.
1. Article Addressed to:

KELLERMAYER BERGENSONS SERVICES, LLC
3605 OCEAN RANCH BOULEVARD,
SUITE 200
OCEANSIDE, CA 92056



9590 9402 7420 2055 3570 82

2. Article Number (Transfer from service label)

7021 1970 0000 2660 0719

COMPLETE THIS SECTION ON DELIVERY

- A. Signature ☒ Agent ☐ Addressee
- B. Received by (Printed Name) C. Date of Delivery
- D. Is delivery address different from item 1? ☐ Yes ☐ No
If YES, enter delivery address below:

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☐ Certified Mail
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Insured Mail Restricted Delivery
- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

PS Form 3811, July 2020 PSN 7530-02-000-9053

Domestic Return Receipt

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

HOSPITALITY STAFFING SOLUTIONS, LLC
100 GLENRIDGE POINT PKWY STE 400
ATLANTA, GA 30342



9590 9402 7420 2055 3570 75

2. Article Number (Transfer from service label)

0001 8870 3280

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

B. Received by (Printed Name)

☒ Agent
☐ Addressee

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☐ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Insured Mail Restricted Delivery (over \$500)

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

PS Form 3811, July 2020 PSN 7530-02-000-9053

Domestic Return Receipt

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

KELLERMEYER BERGENSONS SERVICES, LLC
3605 OCEAN RANCH BOULEVARD,
SUITE 200
OCEANSIDE, CA 92056



9590 9402 7420 2055 3570 82

2. Article Number (Transfer from service label)

7021 1970 0000 2660 0719

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☒ Agent

☐ Addressee

B. Received by (Printed Name)

D. DIAZ

C. Date of Delivery

7/28/22

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☒ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

— Insured Mail
— Insured Mail Restricted Delivery
(over \$500)

PROOF OF SERVICE

I am employed in the State of California, County of Los Angeles. I am over the age of 18 and not a party to the within suit; my business address is 1875 Century Park East, Suite 1000 Los Angeles, California 90067.

On **March 5, 2026**, I served the document described as: **THIRD AMENDED CLASS ACTION COMPLAINT & ENFORCEMENT ACTION UNDER THE PRIVATE ATTORNEYS GENERAL ACT, CALIFORNIA LABOR CODE §§ 2698, ET SEQ.** on the interested parties in this action by sending [] the original [or] [✓] a true copy thereof [✓] to interested parties as follows [or] [] as stated on the attached service list:

Shareef S. Farag (SBN: 251650)
sfarag@bakerlaw.com
Nicholas D. Poper (SBN: 293900)
npoper@bakerlaw.com
Matthew J. Goodman (SBN: 316286)
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BAKER & HOSTETLER LLP
1900 Avenue of the Stars, Suite 2700
Los Angeles, CA 90067-4301
Tel.: (310) 820-8800
Fax: (310) 820-8859

Attorneys for Defendants
HOSPITALITY STAFFING SOLUTIONS,
LLC, and KELLERMEYER BERGENSONS
SERVICES, LLC

[] **BY MAIL (ENCLOSED IN A SEALED ENVELOPE):** I deposited the envelope(s) for mailing in the ordinary course of business at Los Angeles, California. I am "readily familiar" with this firm's practice of collection and processing correspondence for mailing. Under that practice, sealed envelopes are deposited with the U.S. Postal Service that same day in the ordinary course of business with postage thereon fully prepaid at Los Angeles, California.

[] **BY E-MAIL:** I hereby certify that this document was served from Los Angeles, California, by e-mail delivery on the parties listed herein at their most recent known e-mail address or e-mail of record in this action.

[✓] **BY ELECTRONIC SERVICE:** I caused the document(s) to be transmitted electronically via One Legal eService to the individuals listed above, as they exist on that database. This will constitute service of the document(s).

[] **BY PERSONAL SERVICE:** I delivered the document, enclosed in a sealed envelope, by hand to the counsel for Defendant.

[] **BY OVERNIGHT DELIVERY:** I am "readily familiar" with this firm's practice of collection and processing correspondence for overnight delivery. Under that practice, overnight packages are enclosed in a sealed envelope with a packing slip attached thereto fully prepaid. The packages are picked up by the carrier at our offices or delivered by our office to a designated collection site.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on **March 5, 2026**, at Los Angeles, California.

Xochitl Tapia

Type/Print Name



Signature