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[*Additional Counsel on Follow Page*]

JUDICIAL COUNCIL OF CALIFORNIA

CHAIR OF THE JUDICIAL COUNCIL

JAIDYN HOLMES, individually and on behalf of all others similarly situated, Plaintiffs, v. SPIRIT HALLOWEEN SUPERSTORES LLC; SPENCER GIFTS LLC; and DOES 1 through 20, inclusive, Defendants.	Case No. JCCP5401 **DECLARATION OF WILLIAM C. SUNG IN SUPPORT OF MOTION FOR APPROVAL OF PAGA SETTLEMENT UNDER CALIFORNIA LABOR CODE §§ 2698 ET SEQ..** Date: December 8, 2026 Time: 11:00 a.m. Dept: 6 Los Angeles County Superior Court Case No.: 24STCV09324 (filed April 15, 2024)
VANESSA RUELAS SIERRA, as an individual and on behalf of all others similarly situated, Plaintiff, vs. SPENCER GIFTS LLC, a Delaware limited liability company; and DOES 1 through 50, inclusive, Defendants.	Kern County Superior Court Case No.: BCV-23-101673 (filed May 30, 2023)

RICHARD GONZALEZ, on behalf of himself and current and former aggrieved employees Plaintiff, v. SPIRIT HALLOWEEN SUPERSTORES LLC; and DOES 1 to 100, inclusive, Defendants.	Los Angeles County Superior Court Case No.: 24STCV04406 (filed February 22, 2024)
ELISA HILAIRE, individually and on behalf of all similarly situated individuals, Plaintiff, v. SPENCER GIFTS, LLC, a Delaware Limited Liability Company; SPIRIT HALLOWEEN SUPERSTORES, LLC, a Delaware Limited Liability Company; BARRY SUSSON, an individual; and Does 1-10, inclusive; Defendants.	San Diego County Superior Court Case No.: 37-2024-00019642 (filed April 26, 2024)
THOMAS WHALEN, individually and on behalf of all others similarly situated; Plaintiff, v. SPIRIT HALLOWEEN SUPERSTORES LLC, a Delaware limited liability company; and DOES 1 through 50, Defendants.	Los Angeles County Superior Court Case No.: 23STCV21612 (filed September 7, 2023)

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Attorneys for Plaintiff Elisa Hilaire, individually,
and on behalf of all others similarly situated.

I, William C. Sung, hereby declare as follows:

1. I am an attorney licensed to practice law in the state of California and have been admitted to practice before this Court. I am an attorney with the law firm of Justice for Workers, P.C., counsel of record for Plaintiff Thomas Whalen in the included action entitled *Thomas Whalen v. Spirit Halloween Superstores, LLC*, Los Angeles County Superior Court Case No. 24STCV04406 (filed February 22, 2024). I have personal knowledge of the matters stated herein and if called and sworn as a witness, I would and could competently testify under oath thereto.

STATEMENT OF FACTS & PROCEDURAL HISTORY

2. On September 5, 2023, Plaintiff Whalen submitted a PAGA letter to the LWDA and gave notice to Spirit. Enclosed as **Exhibit 1** is a true and correct copy of the *Whalen* PAGA Notice.

3. On September 7, 2023, Plaintiff Whalen commenced *Thomas Whalen v. Spirit Halloween Superstores LLC*, Los Angeles Superior Court Case No. 23STCV21612 ("*Whalen* Action").

4. In the operative First Amended Complaint, Plaintiff Whalen alleges causes of action for (1) Minimum Wage Violations; (2) Overtime Wage Violations; (3) Meal Period Violations; (4) Rest Period Violations; (5) Wage Statement Penalties; (6) Waiting Time Penalties; (7) Failure to Reimburse Necessary Business Expenses; (8) Unfair Competition; and (9) Civil Penalties under the PAGA. Enclosed as **Exhibit 2** is a true and correct copy of the First Amended Complaint in the *Whalen* Action.

5. Similar to the *Sierra* Action, the *Whalen* Action was compelled into arbitration and Plaintiff Whalen's arbitration proceeding is pending with NAM and currently stayed pending approval of this settlement.

THE SETTLEMENT TERMS AND STRUCTURE

6. Plaintiff Whalen, Justice for Workers, P.C., and I do not have any financial interests or involvement in the governance or work of Legal Aid at Work, the proposed cy pres recipient. Legal Aid at Work is not a subsidiary, partner, parent company, joint venture, or any other business affiliate of Justice for Workers, P.C.. Plaintiff Whalen and I are not staff members, employees,

administrators, board members or otherwise have, or have had, any personal or professional involvement with Legal Aid at Work.

7. To date, my firm's actual and anticipated litigation costs are of $10,341.20, including future anticipated costs of $159 for CaseAnywhere fees and $17.48 in filing a request for dismissal after the Court grants approval of this settlement. Enclosed as **Exhibit 3** is a true and correct itemized list of Class Counsel's costs.

DEFENDANTS' DEFENSES AND THE RISKS OF CONTINUED LITIGATION

8. Plaintiffs Whalen, Gonzalez, and Hilaire allege that, as non-exempt Store Managers, they regularly performed unpaid work to set up the store before it opened and manage the store and store staff once it opened, including being on duty and on-premises during meal and rest breaks, and Plaintiffs Whalen and Gonzalez were the only managerial staff at their respective stores for the first six hours and they were required to watch the store, troubleshoot customer issues, and supervise employees. Defendants deny these allegations and rely on written policies requiring Store Managers to record all hours worked. Defendants also contend that they neither knew nor should have known of any unrecorded work. Plaintiffs would have relied substantially on testimony and circumstantial evidence to establish when the unpaid work occurred and Defendants' actual or constructive knowledge. Defendants could counter that evidence with their written policies, employees' time records, and contrary testimony, creating credibility disputes concerning the extent of provable violations.

9. Plaintiffs Whalen, Gonzalez, and Hilaire further allege that Defendants required non-exempt employees to submit to "pocket checks" or bag checks before leaving their stores, including when leaving for meal periods. Defendants contend, however, that checks occurred while employees remained on the clock. Even if Plaintiffs established liability, Defendants would dispute the frequency and duration of unpaid work and whether Plaintiffs' experiences reflected practices at other stores. Because PAGA penalties are assessed per aggrieved employee per pay period, proving the frequency and scope of violations would be critical to establishing the recoverable penalties

Evidence that violations were confined to particular employees, stores, or pay periods could materially reduce the penalties attributable to these claims, supporting a negotiated resolution.

10. Plaintiffs Whalen and Hilaire allege that Defendants failed to provide compliant meal and rest periods, including by requiring Store Managers to remain on duty and on the premises during their breaks. Plaintiff Hilaire further alleges that non-exempt employees were required to skip or interrupt their breaks to serve customers, cut their meal and rest periods short to undergo security or bag checks, and remain on the premises during rest periods. To evaluate the frequency and extent of the alleged violations, Plaintiffs retained an expert to analyze Defendants' time and payroll records. After accounting for meal period premiums already paid, the expert estimated a meal period violation rate of 13.3% for Spirit and a 58% violation ate for Spencer Gifts. Because Defendants also required employees to record their rest breaks, the expert separately analyzed those records and, after accounting for rest period premiums already paid, estimated rest period violation rates of 69.6% for Spirit and 38.3% for Spencer Gifts.

11. Nevertheless, Defendants could challenge whether particular entries reflected actual violations. Although records showing missed, short, or late meal periods without proper compensation raise a rebuttable presumption of liability, Defendants could attempt to rebut that presumption with evidence that employees received compliant meal period opportunities but voluntarily chose to shorten, delay, or skip them. Defendants could also contend that some rest breaks were taken but inaccurately recorded, and dispute the extent to which the alleged on-duty requirements affected employees across different stores and pay periods. These disputes created a risk that the Court would find fewer violations than the expert's analysis suggested, reducing the number of affected employees and pay periods and the resulting PAGA recovery.

12. Plaintiff Whalen alleges that he was required to use his personal cellphone to communicate with his managers, who called him directly on that phone, and that he received no reimbursement for this work-related use. Nevertheless, Defendants could argue that personal cellphone use was optional rather than required, dispute whether Plaintiff Whalen's experience reflected a broader practice affecting other aggrieved employees, and challenge the number of pay

periods involving required, unreimbursed use. These disputes created uncertainty concerning the number of employees and pay periods for which PAGA penalties could be recovered and supported compromising the claim through settlement.

13. Plaintiffs allege that Defendants' failure to compensate employees for all hours worked, calculate wages at the proper regular rate, and pay required meal and rest period premiums resulted in inaccurate itemized wage statements in violation of Labor Code section 226(a). Plaintiffs also assert derivative Labor Code sections 201–203 claims on behalf of aggrieved employees who separated from employment. Because both theories derive from the underlying wage violations, they rise and fall with them. Every risk discussed above applies equally here, including proof of Defendants' knowledge, the frequency of unpaid work, and the discretionary nature of the incentives.

REQUEST FOR ATTORNEYS' FEES AND COSTS

14. All of the cases Justice for Workers accepts and works on are on a contingency basis. My firm does not charge any upfront fees or receive any unless and until the case is either settled or resolved through judgment. My firm invests money in the form of attorney and staff salaries and cost advances including those related to filing fees, depositions, mediations, experts, trial preparation, and trial. As such, there is a tremendous financial risk involved in all of the cases my firm take. This case was no exception. In taking this case on a purely contingency basis, Class Counsel had to turn away other fee generating work because the case required Class Counsel to not only devote considerable time and resources to effectively prosecute and settle this action, but also wait until the Settlement is fully funded before finally being made whole.

15. In assessing the reasonableness of the billing rates for the attorneys at Justice for Workers, P.C., the firm refers to the "Laffey Matrix" to set hourly billing rates. *See* http://www.laffeymatrix.com. The Laffey Matrix is a fee schedule used by many courts throughout the United States, including some California state courts and federal district Courts. The Laffey Matrix is a well-established objective source that California courts have relied on in assessing hourly rates since 2005. *See In Re HPL Technologies, Inc. Securities Litigation* (N.D. Cal. 2005)

366 F.Supp.2d 912, 921 (confirming use of the Laffey Matrix adjusted to account for locality pay differentials); *Rubalcaba v. Albertson's, LLC* (Cal. Super. Ct. May 25, 2017) No. BC528755, 2017 WL 4330597, at *4 (reversed on other grounds). When comparing the billing rates for attorneys at Justice for Workers, P.C. with the Laffey Matrix, the attorneys either bill at or below the rate for similarly skilled and tenured legal professionals.

16. As of the execution of this Declaration, attorneys at Justice for Workers, P.C. incurred lodestar totaling $143,825.00 and 186.6 attorney hours in this matter. I have reviewed my firm's lodestar and activity logs in this matter and believe the charges are reasonable and were reasonably necessary to the conduct of the case.

17. Class Counsel' lodestar is itemized in the following table:

Name	Laffey Matrix Fee	Actual Billing Rate	Hours Billed	Lodestar
William C. Sung (15th Year Attorney)	$1,019	$900	117.70	$105,930
Tiffany L. Luu (5th Year Attorney)	$625	$550	68.90	$37,895
		TOTAL	**186.6**	**$143,825**

18. The work performed by Class Counsel include, but are not limited to, numerous meetings with Plaintiff regarding Plaintiff's work experience and status of the litigation, mediation, settlement, and settlement approval; extensive research and investigation into Defendant's corporate background, litigation history, and liability theories; in-depth analysis of Plaintiff's time and payroll records; researching and opposing Defendant's Motin to Compel Arbitration; initial arbitration with JAMS and later NAMS; review and analysis of significant amount of documents produced by Defendant via informal pre-mediation production; extensive telephonic and written meet and confer conferences with Defendant's counsel regarding pleadings motions, case management, mediation, settlement documents, and settlement approval; extensive telephonic and written communications with co-counsel re litigation, mediation, and settlement; preparation and submission of Plaintiff's PAGA notices; drafting two complaints; preparation of joint reports and attending status

conferences; working with an expert data scientist to analyze the records and preparation of a damages model; drafting mediation brief and attending full day of mediation; extensive post-mediation negotiations through mediator; negotiating multiple drafts of the Agreement and attachments thereto; and drafting this declaration and the Stipulation to Approve PAGA Settlement Agreement.

19. Additionally, I estimate my associate and I will devote no less than 10 hours, although likely more time, to additional tasks, which are hours not included in the foregoing lodestar total. These additional hours will include time spent to obtain and monitor approval of the Settlement and requested awards, oversee the settlement administration process and distribution of funds, respond to inquiries from Aggrieved Employees, and communicate with Plaintiff regarding the case.

ATTORNEY QUALIFICATIONS

20. My qualifications are as follow: I received my J.D. from the University of Southern California Gould School of Law in 2011. During law school, I served as the Senior Content Editor on the Southern California Law Review where I published the article: *Taking the Fight Back to Title VII: A Case for Redefining "Because of Sex" to Include Gender Stereotypes, Sexual Orientation, and Gender Identity*, Southern California Law Review, Volume 84:2 (Jan. 2011). During law school, I also served as a judicial extern to U.S. Ninth Circuit Judge, Hon. Kim M. Wardlaw, and U.S. Bankruptcy Court Judge, Hon. Ernest M. Robles; served as a law clerk to the General Counsel of JM Eagle; and participated in the law school's Employer Legal Advice Clinic.

21. After passing the California Bar in December 2011, I began practicing management-side employment law at the Los Angeles office of Lewis Brisbois Bisgaard & Smith LLP. In 2013, I began focusing my practice at Lewis Brisbois on representing employers in wage and hour class and PAGA action lawsuits. In January 2017, I was elevated to the position of Partner and Vice Chair of Lewis Brisbois' Wage & Hour Class Action Practice Group. In November 2020, I was elevated as the Co-Chair of Lewis Brisbois Wage & Hour Class Action Practice Group, becoming one of the youngest attorneys to chair a practice group at the firm. In January 2022, I was voted in

as an equity partner, becoming one of the youngest equity partners and the third Asian-American equity partner in the history of this 1,500-attorney firm. During my tenure as a wage and hour class action defense attorney, I represented employers in over 80 wage and hour class and/or PAGA action lawsuits.

22. In July 2023, I joined Justice for Workers, P.C. ("JFW") and began heading its Complex Litigation Practice Group where I focus my practice on representing employees in wage and hour class and PAGA action lawsuits. In my current practice at JFW, I serve as the lead plaintiff's counsel on over 100 pending class and/or PAGA actions. In addition to this matter, my team and I have resolved over 80 other class and/or PAGA actions at mediation. The following are cases in which I have received final approval of class action settlement and I was appointed as class counsel*: Loan Kim Phu v. MicroVention, Inc.*, Orange County Superior Court Case No. 30-2024-01376392-CU-OE-CXC, final approval of class/PAGA settlement granted on August 3, 2026; *Annette Dearing v. Love's Country Stores of California*, Madera County Superior Court Case No. MCV090813, final approval of class/PAGA settlement granted on July 27, 2026; *Marcos Beltran v. Fondomonte California LLC*, Riverside Superior Court Case No. CVRI2402849, final approval of class/PAGA settlement granted on June 26, 2026; *Chelsey Richardson, et al. v. Telecare Corporation*, Stanislaus County Superior Court Case No. CV-24-006292, final approval of class/PAGA settlement granted on June 1, 2026; *Juan Carlos Castellanos v. MG Drywall Construction, Inc.*, Los Angeles Superior Court Case No. 24STCV03488, final approval of class/PAGA settlement granted on May 27, 2026*; Doris Nathan v. The Muller Company, LLC*, Los Angeles Superior Court Case No. 23STCV24395, final approval of class/PAGA settlement granted on April 30, 2026; *Cody Yandell v. Iron Delta Security*, Los Angeles Superior Court Case No. 24STCV07830, final approval of class/PAGA settlement granted on April 27, 2026; *Darcy Nuber v. Fever Labs, Inc.*, Los Angeles Superior Court, Case No. 23STCV21796, final approval of class/PAGA settlement granted on March 30, 2026; *Cesar Tate v. St. Distributing Co., LLC*, Los Angeles Superior Court Case No. 23STCV22743, final approval of class/PAGA settlement granted on February 11, 2026; *Andrew Carmona v. Western Holdings Group dba Los Angeles Property*

Management Group, Los Angeles Superior Court, Case No. 23STCV24028, final approval of class/PAGA settlement granted on January 29, 2026; *Poul Bedri v. City of Hope National Medical Center*, Los Angeles Superior Court, Case No. 23STCV23713, final approval of class/PAGA settlement granted on January 28, 2026; *Irene Eunhee Ikuta v. TAKEE International, Inc.*, Los Angeles Superior Court, Case No. 23STCV21120, final approval of class/PAGA settlement granted on January 22, 2026; *Amourafina Burton v. Trove Recommerce, Inc.*, San Mateo Superior Court, Case No. 23-CIV-06108, final approval of class/PAGA settlement granted on January 9, 2026; *Shayne Werber v. Teleferic Barcelona*, Los Angeles Superior Court Case No. 23STCV25517, final approval of class/PAGA settlement granted on December 17, 2025; *Linda Salazar Ayala v. Applied Membranes, Inc.*, San Diego Superior Court Case No. 37-2023-00054420-CU-OE-CTL, final approval of class/PAGA settlement granted on December 5, 2025; *Justin Le, et al. v. Dragonfly Tea Bar LLC, et al.*, Los Angeles Superior Court Case No. 23STCV26247, final approval of class/PAGA settlement granted on October 29 2025; *Ryan Lukman v. Safe Haven Security Services, LLC*, Riverside County Superior Court, Case No. CVRI2400777, final approval of class/PAGA settlement granted on October 1, 2025; *Amaya Nelson v. Clair Global Corp.*, Los Angeles Superior Court, Case No. 24STCV14597, final approval of class/PAGA settlement granted on May 22, 2025; *Jose Regalado v. United Markets*, Marin County Superior Court Case No. CV0001169, final approval of class/PAGA settlement granted on August 29, 2025; *Mushfiqur Chowdhury v. CWT US, LLC*, Los Angeles Superior Court Case No. 23STCV25373, final approval of class/PAGA settlement granted on August 22, 2025; *Pedro Hernandez v. Edmund A. Gray Co.*, Los Angeles Superior Court Case No. 24STCV04118, final approval of class/PAGA settlement granted on August 19, 2025; *Alexis Bartram v. Lakeshore Learning Materials, LLC*, Los Angeles Superior Court Case No. 23STCV21174, final approval of class/PAGA settlement granted on July 3, 2025; *Randall Bachman v. Geodis Logistics LLC*, Riverside Superior Court, Case No. CVRI2400956, final approval of class/PAGA settlement granted on June 25, 2025; *Eric Echeverria v. Fireclay Tile Inc.*, San Benito Superior Court Case No. CU-23-00249, final approval of class/PAGA settlement granted on May 7, 2025; *Norma Borquez v. Smart Metals Recycling LLC*, Yolo Superior Court

Case No. CV2024-0050, final approval of class/PAGA settlement granted on April 4, 2025; *Juan Hinojos Campos v. Applied Technology Group, Inc.*, Kern Superior Court Case No. BCV-23-103067, final approval of class/PAGA settlement granted on March 11, 2025; *Dennisha Lampkin v. Sunstates Security, Inc.*, Riverside Superior Court Case No. CVRI2305600, final approval of class/PAGA settlement granted on December 18, 2024.

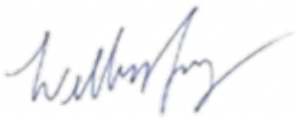
23. Tiffany L. Luu, Esq.'s primary practice has been employment law throughout her entire legal career. Ms. Luu handled a number of wage and hour matters, including individual actions and class and/or PAGA actions, on behalf of plaintiffs and defendants. Ms. Luu received her J.D., cum laude, along with her Master of Dispute Resolution, from the Pepperdine University Rick J. Caruso School of Law in 2020. Ms. Luu practiced as a labor and employment associate for the next 3 years representing employers in wage and hour class and/or PAGA actions, including at Lewis Brisbois Bisgaard & Smith LLP and Fisher & Phillips LLP. In January 2024, Ms. Luu joined JFW and as an associate in the Complex Litigation Practice Group, where she focuses her practice on representing employees in wage and hour class and PAGA action lawsuits. Ms. Luu has been appointed as class counsel in all of the cases referenced above.

LODESTAR ATTORNEY'S FEES AND COSTS

24.

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

Executed on October 27, 2026 at Los Angeles, California.



William C. Sung

EXHIBIT 1

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TEL: (323) 922-2000
FAX: (323) 922-2000
www.JusticeForWorkers.com

September 5, 2023

VIA PAGA ONLINE FILING ONLY

California Labor and Workforce Development Agency
Attn: PAGA Administrator
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102
https://dir.tfaforms.net/308

Re: ***Thomas Whalen v. Spirit Halloween Superstores LLC***
Notice of Private Attorneys General Act Claim

Dear PAGA Administrator:

This office has been retained by aggrieved employee Thomas Whalen concerning a representative action pursuant to the Private Attorneys General Act of 2004, Labor Code sections 2698, *et seq.* ("PAGA") against Spirit Halloween Superstores LLC (including any and all affiliates, subsidiaries, parents, directors, officers, managing agents, and executive employees) (collectively referred to as "Spirit Halloween") for violations of California wage and hour laws. Mr. Whalen seeks civil penalties for violations of the California Labor Code and all other remedies available under PAGA.

Mr. Whalen seeks these remedies on behalf of the State of California and "aggrieved employees," as defined herein. This letter is sent in compliance with the notice requirements of California Labor Code section 2699.3.

Spirit Halloween owns, operates, or otherwise manages Halloween supplies stores throughout the State of California. Spirit Halloween employed Mr. Whalen as an hourly-paid, non-exempt store manager from approximately August 1, 2023 to August 31, 2023 at one of its stores in Los Angeles, California. The "aggrieved employees" that Mr. Whalen seeks civil penalties on behalf of are all current and former hourly-paid or non-exempt employees who worked for any of the above-referenced entities within the State of California.

Based on the following facts and theories, Spirit Halloween has violated and/or continues to violate, among other provisions of the California Labor Code and applicable wage law, California Labor Code sections 201, 202, 203, 204, 210, 226, 226.7, 256, 510, 512, 516, 558, 1174, 1194, 1197, 1197.1, 1198, and 2802, and IWC Wage Orders.

California Labor Code sections 1194, 1197, and 1197.1 provide the minimum wage to be paid to employees, and the payment of a lesser wage than the minimum so fixed is unlawful. The applicable Wage Order defines "hours worked" as "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so." *See* §2 of all applicable Wage Orders. Therefore, employers are required to pay employees for all time spent subject to the control of the employer and all time the employee is suffered or permitted to work. During the relevant time period, Spirit Halloween required Mr. Whalen and other aggrieved employees to perform work before clocking in, after clocking out, and/or during off-the-clock meal breaks, including undergoing off-the-clock mandatory "pocket" and bag checks before they could leave the premises, and failed to compensate aggrieved employees for this time.

California Labor Code sections 510 and 1198 require employers to pay time-and-a-half or double time overtime wages, and make it unlawful to work employees for hours longer than eight hours in one day and/or over forty hours in one week without paying the premium overtime rates at one-and-one-half times or double the regular rate of pay, including additional remuneration. During the relevant time period, Mr. Whalen and other aggrieved employees worked in excess of 8 hours in a day and 40 hours in a week but were not paid for all hours worked before clocking in, after clocking out, and/or during off-the-clock meal breaks, including undergoing off-the-clock mandatory "pocket" and bag checks before they could leave the premises. On information and belief, aggrieved employees were not paid overtime compensation at the regular rate of pay because Spirit Halloween failed to incorporate multiple rates of pay and/or all non-discretionary remuneration into the regular rate of pay.

California Labor Code sections 226.7, 512, 516, and the Wage Orders require employers to pay an employee one additional hour of pay at the employee's regular rate of compensation for each meal or rest period that is not provided. During the relevant time period, Spirit Halloween required Mr. Whalen and other aggrieved employees to work during meal and rest periods and failed to compensate them properly and at the regular rate of compensation for non-compliant meal and rest periods including, *inter alia*, short, late, interrupted, and missed meal and rest periods, unlawful rounding of meal period punches, and on information and belief, by failing to incorporate multiple rates of pay and/or all non-discretionary remuneration into the regular rate of compensation.

California Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and if an employee quits his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours' notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting. During the relevant time period, Spirit Halloween failed to pay Mr. Whalen and other aggrieved employees all wages due to them within any time period specified by California Labor Code sections 201 and 202, including earned and unpaid minimum, overtime, and premium wages as discussed above.

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the

26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. During the relevant time period, Spirit Halloween failed to pay Mr. Whalen and other aggrieved employees all wages due to them within any time period specified by California Labor Code section 204, including earned and unpaid minimum, overtime, and premium wages as discussed above.

California Labor Code section 226 requires employers to make, keep and provide complete and accurate itemized wage statements to their employees. During the relevant time period, Spirit Halloween did not provide Mr. Whalen and other aggrieved employees with complete and accurate itemized wage statements. The wage statements they received from Spirit Halloween were in violation of California Labor Code section 226(a). The violations include, but are not limited to, the failure to include the total hours worked, including time spent working off the clock and during meal and rest periods, failure to state the correct gross and net wages earned for all time worked, and failure to state all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

California Labor Code section 1174 requires an employer to keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept with rules established for this purpose by the commission, but in any case shall be kept on file for not less than two years. During the relevant time period, Spirit Halloween failed to keep accurate and complete payroll records showing the actual hours worked daily and the wages earned by Mr. Whalen and other aggrieved employees, including earned and unpaid minimum, overtime, and premium wages as discussed above.

California Labor Code section 1198 provides: "The employment of any employee ... under conditions of labor prohibited by the [Industrial Wage Orders] is unlawful." The applicable Industrial Wage Orders require that for each workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee's usual or scheduled day's work, the employee shall be paid for half the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee's regular rate of pay. Further, if an employee is required to report for work a second time in any one workday and is furnished less than two (2) hours of work on the second reporting, said employee shall be paid for two (2) hours at the employee's regular rate of pay. On information and belief, during the relevant time period, Spirit Halloween failed to pay aggrieved employees half the usual or scheduled day's work in an amount no less than two (2) hours nor more than four (4) hours at the employee's regular rate of pay for workdays in which aggrieved employees reported to work and were furnished less than half the usual or scheduled day's work. On information and belief, during the relevant time period, Spirit Halloween failed to pay aggrieved employees for two (2) hours at the employee's regular rate of pay on days in which

aggrieved employees were required to report for work a second time in one workday and were furnished less than two (2) hours of work upon the second reporting.

California Labor Code section 2802 requires an employer to reimburse its employee for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her job duties or in direct consequence of his or her obedience to the directions of the employer. During the relevant time period, Mr. Whalen and other aggrieved employees incurred necessary business-related expenses and costs that were not fully reimbursed by Spirit Halloween, including, but not limited to, required use of their personal cellphones for work.

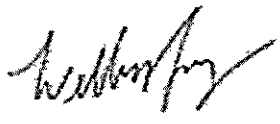
Therefore, on behalf of all aggrieved employees, Mr. Whalen seeks all applicable penalties arising out of the above-referenced wage, hour, and payroll practices, or which could be assessed and collected by the LWDA, for violation of the California Labor Code pursuant to PAGA. Labor Code section 2699.3 requires that a claimant send a certified letter (i.e. this letter) to the employer in question and file an online claim to the LWDA setting forth the claims and the basis for the claims, thereby giving the LWDA and employer an opportunity to investigate the claims and/or take any action they deem appropriate. If the LWDA and Spirit Halloween elect not to take any action with respect to any of the foregoing claims, Mr. Whalen will seek these penalties in a civil action on behalf of all aggrieved employees within one year of the date of this letter as allowed by law.

If you have any questions, please contact me at the phone number or address below:

William C. Sung
JUSTICE FOR WORKERS, P.C.
3600 Wilshire Boulevard
Suite 1815
Los Angeles, CA 90010
Office: 323-922-2000
Fax: 323-922-2000
Email: william@justiceforworkers.com

Thank you for your attention to this matter.

Very truly yours,



William C. Sung
JUSTICE FOR WORKERS, P.C.

Cc: **Via USPS Certified Mail – Return Receipt Requested**

Spirit Halloween Superstores LLC
CT Corporation Systems
Agent for Service of Process
330 N. Brand Blvd., Suite 700
Glendale, CA 91203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330 N. Brand Blvd., Suite 700
City, State, ZIP+4®
Glendale, CA 91203
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Spirit Halloween Superstores LLC
CT Corporation Systems
Agent for Service of Process
330 N. Brand Blvd., Suite 700
Glendale, CA 91203

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- 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:

Spirit Halloween Superstores LLC
CT Corporation Systems
Agent for service of process
330 N. Brand Blvd., Suite 700
Glendale, CA 91203

9590 9402 8037 2349 8782 25

2. Article Number *(Transfer from service label)*

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A. Signature

X ☐ Agent ☐ Addressee

B. Received by *(Printed Name)* | C. Date of Delivery

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EXHIBIT 2

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JUSTICE FOR WORKERS, P.C.
Young K. Park, SB# 287589
E-Mail: young@justiceforworkers.com
William C. Sung, SB# 280792
E-Mail: william@justiceforworkers.com
3600 Wilshire Boulevard, Suite 1815
Los Angeles, CA 90010
Tel: 323-922-2000
Fax: 323-922-2000

Attorneys for Plaintiff THOMAS WHALEN

FILED
Superior Court of California
County of Los Angeles
11/13/2023
David W. Slayton, Executive Officer / Clerk of Court
By: R. Lozano Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES, CENTRAL DISTRICT

THOMAS WHALEN, individually and on behalf of all others similarly situated;

Plaintiff,

vs.

SPIRIT HALLOWEEN SUPERSTORES LLC, a Delaware limited liability company; and DOES 1 through 50,

Defendants.

Case No.: 23STCV21612

FIRST AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT:

(1) MINIMUM WAGE VIOLATIONS (LABOR CODE §§ 1182.12, 1194, 1194.2, 1197);

(2) OVERTIME WAGE VIOLATIONS (LABOR CODE §§ 204, 510, 1194, 1198);

(3) MEAL PERIOD VIOLATIONS (LABOR CODE §§ 226.7, 512, 558);

(4) REST PERIOD VIOLATIONS (LABOR CODE §§ 226.7, 516, 558);

(5) WAGE STATEMENT PENALTIES (LABOR CODE § 226);

(6) WAITING TIME PENALTIES (LABOR CODE §§ 201-203);

(7) FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES (LABOR CODE § 2802);

(8) UNFAIR COMPETITION (BUS & PROF CODE §§ 17200, *et seq*.); and

(9) CIVIL PENALTIES UNDER THE CALIFORNIA PRIVATE

ATTORNEYS GENERAL ACT
(LABOR CODE §§ 2698, *et seq*.)

DEMAND FOR JURY TRIAL

Plaintiff THOMAS WHALEN ("Plaintiff"), on behalf of himself and all others similarly situated, hereby brings this First Amended Class and Representative Action Complaint ("Complaint") against Defendants SPIRIT HALLOWEEN SUPERSTORES LLC, a Delaware limited liability company, and DOES 1 to 50 inclusive (collectively "Defendants"), and on information and belief alleges as follows:

JURISDICTION AND VENUE

1. Plaintiff, on behalf of himself and all others similarly situated, hereby brings this Complaint for recovery of unpaid wages and penalties under California Business and Professions Code § 17200, *et seq.*, Labor Code §§ 201-204, 226, 226.7, 246, 510, 512, 516, 558, 1182.12, 1194, 1194.2, 1197, 1198, 2802, and 2698, *et seq*.; and Industrial Welfare Commission ("IWC") Wage Order 7-2001 ("Wage Order 7"), in addition to seeking injunctive relief, declaratory relief, and restitution. This Complaint is brought pursuant to California Code of Civil Procedure § 382. This Court has jurisdiction over Defendants' violations of the Labor Code because the amount in controversy exceeds $25,000.

2. Venue is proper in this judicial district because Defendants maintain stores, have agents, and/or transact business in the State of California, including Los Angeles County, and some of the acts and omissions complained of herein occurred in Los Angeles County. Furthermore, Plaintiff was employed by Defendants in Los Angeles.

PARTIES

3. Plaintiff is, and at all times relevant herein was, an individual over the age of eighteen (18) and is a California resident. Within the statute of limitations periods applicable to each cause of action pled herein, Plaintiff was employed by Defendants as a non-exempt employee. Plaintiff was, and is, a victim of Defendants' policies, practices, and/or customs complained of herein and has been deprived of the rights guaranteed by Business and Professions Code § 17200, *et seq.*, Labor Code §§ 201-204, 226, 226.7, 246, 510, 512, 516, 558, 1182.12, 1194, 1194.2, 1197,

1198, 2802, and 2698, *et seq.*, and Wage Order 7.

4. Plaintiff is informed and believes, and based thereon alleges, that during the applicable statute of limitations for each cause of action pled herein and continuing to the present, Defendants engage in and continue to operate and manage Halloween supplies stores throughout the State of California, and employed Plaintiff and other, similarly-situated non-exempt employees within Los Angeles County, and the State of California and, therefore, were (and are) doing business in Los Angeles County and the State of California.

5. Plaintiff does not know the true names or capacities, whether individual, partner, or corporate, of the defendants sued herein as DOES 1 to 50, inclusive, and for that reason, said defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to amend this Complaint when such true names and capacities are discovered. Plaintiff is informed, and believes, and based thereon alleges, that each of said fictitious defendants, whether individual, partners, or corporate, was responsible in some manner for the acts and omissions alleged herein, and proximately caused Plaintiff, the Classes (as defined below), and Aggrieved Employees (as defined below) to be subject to the unlawful employment practices, wrongs, injuries, and damages complained of herein.

6. At all times herein mentioned, each of said Defendants participated in the doing of the acts hereinafter alleged to have been done by the named Defendant; and furthermore, Defendants, and each of them, were the agents, servants, and employees of each of the other defendants, as well as the agents of all Defendants, and at all times herein mentioned, were acting within the course and scope of said agency and employment.

7. Plaintiff is informed and believes, and based thereon alleges, that at all times material hereto, each of the Defendants named herein was the agent, employee, alter ego and/or joint venturer of, or working in concert with each of the other co-Defendants and was acting within the course and scope of such agency, employment, joint venture, or concerted activity. To the extent said acts, conduct, and omissions were perpetrated by certain Defendants, each of the remaining Defendants confirmed and ratified said acts, conduct, and omissions of the acting Defendants.

/ / /

8. At all times herein mentioned, Defendants, and each of them, were members of, and engaged in, a joint venture, partnership, and common enterprise, and acting within the course and scope of, and in pursuance of, said joint venture, partnership, and common enterprise.

9. At all times herein mentioned, the acts and omissions of various Defendants, and each of them, concurred and contributed to the various acts and omissions of each and all of the other Defendants in proximately causing the injuries and damages as herein alleged.

FACTUAL ALLEGATIONS

10. Defendants own and operate Halloween supplies stores throughout the State of California. Plaintiff began working for Defendants as a non-exempt store manager from approximately August 1, 2023 to approximately August 31, 2023.

11. Throughout Plaintiff's employment with Defendants, Defendants' timekeeping policies and/or practices resulted in Plaintiff and other non-exempt employees not being compensated for all hours actually worked. Plaintiff and other non-exempt employees regularly worked more than eight hours in a workday or 40 hours in a workweek. Upon information and belief, Defendants required Plaintiff and other non-exempt employees to perform work before their scheduled shifts, after their scheduled shifts, and/or during off-the-clock meal breaks, and failed to compensate aggrieved employees for this time, including conducting mandatory bag and "pocket" checks of non-exempt employees off the clock before they could leave the premises. Upon information and belief, Defendants also failed to incorporate multiple rates of pay and/or all non-discretionary remuneration into the regular rate of pay. As a result, Plaintiff and other non-exempt employees were not compensated for all earned minimum and overtime wages.

12. Defendants failed to provide Plaintiff and other non-exempt employees with all legally compliant meal periods due to Defendants' meal period policies/practices, which have frequently resulted in late (commencing after the fifth hour of work), short (less than 30 minutes), and/or missed meal periods. Upon information and belief, Plaintiff and other non-exempt employees were not able to take their legally compliant meal breaks due to work demands imposed by Defendants. Upon information and belief, Defendants do not keep accurate records of Plaintiff's and other non-exempt employees' hours worked, including accurate time records showing when

employees take their meal periods. On those occasions when Plaintiff and other non-exempt employees were not provided with all legally compliant meal periods to which they were entitled, Defendants failed to compensate Plaintiff and other non-exempt employees with the required meal period premium(s) for each workday there was a meal period violation as mandated by Labor Code § 226.7. Upon information and belief, Defendants maintained no mechanism for the payment of meal period premium payments as required by Labor Code § 226.7 in the event that a legally compliant meal period was not provided to their non-exempt employees.

13. Plaintiff and other non-exempt employees were not authorized and permitted to take all required rest periods due to Defendants' unlawful rest period policies/practices, which failed to authorize and permit a net 10-minute rest period for every four hours worked, or major fraction thereof. Plaintiff and other non-exempt employees were not able to take their legally compliant rest breaks due to work demands imposed by Defendants. On those occasions when Plaintiff and other non-exempt employees were not authorized and permitted to take all legally compliant rest periods to which they were entitled, Defendants failed to compensate them with the required rest period premium(s) for each workday there was a rest period violation as mandated by Labor Code § 226.7. Upon information and belief, Defendants maintained no mechanism for the payment of rest period premium payments as required by Labor Code § 226.7, in the event that a legally compliant rest period was not authorized and permitted to their non-exempt employees.

14. Additionally, upon information and belief, Defendants failed to provide Plaintiff and other non-exempt employees with paid sick leave and failed to provide Plaintiff and other non-exempt employees with a written notice that set forth the amount of paid sick leave available for use in violation of Labor Code § 246. Additionally, upon information and belief, Defendants violated Labor Code § 246 by failing to incorporate multiple rates of pay and/or all non-discretionary remuneration into the paid sick leave pay rate.

15. As a result of Defendants' failure to pay all minimum and overtime wages, failure to pay all meal and rest period premium wages, and unlawful timekeeping and payroll practices as alleged above, Defendants maintained inaccurate payroll records and issued inaccurate wage statements to Plaintiff and other non-exempt employees. As a further result of Defendants' failure to

pay all minimum and overtime wages and meal and rest period premium wages, Defendants failed to timely pay all final wages to Plaintiff and other former non-exempt employees upon their separation of employment from Defendants. Additionally, Defendants failed to pay Plaintiff his accrued vacation time at the separation of Plaintiff's employment with Defendants.

16. Additionally, Defendants required Plaintiff and other non-exempt employees to use their personal cellphones for work. Despite requiring employees to incur these necessary business expenses, Defendants failed to reimburse Plaintiff and other non-exempt employees for the cost of their personal cellphone usage.

CLASS ACTION ALLEGATIONS

17. **Class Definitions**: Plaintiff brings this action on behalf of himself and the following Classes pursuant to § 382 of the California Code of Civil Procedure:

a. Minimum Wage Class: All current and former non-exempt employees of Defendants in the State of California who were subject to Defendants' timekeeping policies and/or practices, during the four years immediately preceding the filing of this action through the present.

b. Overtime Class: All current and former non-exempt employees of Defendants in the State of California who worked more than eight (8) hours per day and/or forty (40) hours per week and were subject to Defendants' timekeeping policies and/or practices, during the four years immediately preceding the filing of this action through the present.

c. Meal Period Class: All current and former non-exempt employees of Defendants in the State of California who: (i) worked at least one shift in excess of 5.0 hours; and/or (ii) worked at least one shift in excess of 10.0 hours, during the four years immediately preceding the filing of this action through the present.

d. Rest Period Class: All current and former non-exempt employees of Defendants in the State of California who worked at least one shift of 3.5 or more hours, during the four years immediately preceding the filing of this action through the present.

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e. Wage Statement Class: All current and former non-exempt employees of Defendants in the State of California who received a wage statement, during the one year immediately preceding the filing of this action through the present.

f. Waiting Time Penalty Class: All of Defendants' formerly employed members of the Minimum Wage Class, Overtime Class, Rest Period Class, and/or Meal Period Class during the three years immediately preceding the filing of this action through the present.

g. Expense Reimbursement Class: All current and former non-exempt employees of Defendants in the State of California who were not reimbursed for all necessary business expenses, during the four years immediately preceding the filing of this action through the present.

18. **Numerosity/Ascertainability**: The members of the Classes are so numerous that joinder of all members would be impractical, if not impossible. The membership of the Classes is unknown to Plaintiff at this time; however, it is estimated that the members of the Classes number greater than 50 individuals. The identity of such membership is readily ascertainable via inspection of Defendants' employment records, including payroll records.

19. **Common Questions of Law and Fact Predominate/Well-Defined Community of Interest**: There are predominant common questions of law and fact as to Plaintiff and members of the Classes, which predominate over questions affecting only individual members including, without limitation to:

a. Whether Defendants properly paid all overtime wages to members of the Overtime Class;

b. Whether Defendants paid at least the minimum wage for all hours worked to members of the Minimum Wage Class;

c. Whether Defendants provided all legally compliant meal periods or paid meal period premium wages due to members of the Meal Period Class pursuant to Labor Code §§ 226.7 and 512;

/ / /

d. Whether Defendants authorized and permitted all legally compliant rest periods or paid all rest period premium wages due to members of the Rest Period Class pursuant to Labor Code §§ 226.7 and 516;

e. Whether Defendants furnished legally compliant wage statements to members of the Wage Statement Class pursuant to Labor Code § 226;

f. Whether Defendants reimbursed members of the Expense Reimbursement Class for all necessary business expenses pursuant to Labor Code § 2802; and

g. Whether Defendants timely paid all final wages to members of the Waiting Time Class at the time of their separation of employment pursuant to Labor Code §§ 201 and 202.

These common questions of law and fact set forth above are numerous and substantial and stem from Defendants' policies and/or practices applicable to each individual class member. As such, the common questions predominate over individual questions concerning each individual class member's showing as to their eligibility for recovery or as to the amount of their damages.

20. **Typicality**: The claims of Plaintiff are typical of the claims of the Classes because Plaintiff was employed by Defendants as a non-exempt employee in California during the statute(s) of limitations period applicable to each cause of action pled in the Complaint. As alleged herein, Plaintiff, like the members of the Classes, was not paid all minimum and overtime wages owed due to Defendants' timekeeping policies/practices, was not provided all required meal periods, was not authorized and permitted all rest periods, did not receive premium pay for non-compliant meal and rest periods, was not paid all final wages upon separation of employment, was not provided with accurate, compliant, itemized wage statements, and was not reimbursed for all necessary business expenses.

21. **Adequacy of Representation**: Plaintiff is fully prepared to take all necessary steps to represent fairly and adequately the interests of the members of the Classes. Moreover, Plaintiff's attorneys are ready, willing and able to fully and adequately represent the members of the Classes and Plaintiff. Plaintiff's attorneys have litigated numerous wage-and-hour class actions in state and federal courts in the past and are committed to vigorously prosecuting this action on behalf of the

members of the Classes.

22. **Superiority**: The Labor Code is broadly remedial in nature and serves an important public interest in establishing minimum working conditions and standards in California. These laws and labor standards protect the average working employee from exploitation by employers who have the responsibility to follow the laws and who may seek to take advantage of superior economic and bargaining power in setting onerous terms and conditions of employment. The nature of this action and the format of laws available to Plaintiff and members of the Classes make the class action format a particularly efficient and appropriate procedure to redress the violations alleged herein. If each employee were required to file an individual lawsuit, Defendants would necessarily gain an unconscionable advantage since they would be able to exploit and overwhelm the limited resources of each individual plaintiff with their vastly superior financial and legal resources.

23. Moreover, requiring each member of the Class(es) to pursue an individual remedy would also discourage the assertion of lawful claims by employees who would be disinclined to file an action against their former and/or current employer for real and justifiable fear of retaliation and permanent damages to their careers at subsequent employment. The claims of the individual members of the Class are not sufficiently large to warrant vigorous individual prosecution considering all of the concomitant costs and expenses attending hereto.

24. Furthermore, the prosecution of separate actions by the individual class members, even if possible, would create a substantial risk of inconsistent or varying verdicts or adjudications with respect to the individual class members against Defendants herein; and which would establish potentially incompatible standards of conduct for Defendants; and/or legal determinations with respect to individual class members which would, as a practical matter, be dispositive of the interest of the other class members not parties to adjudications or which would substantially impair or impede the ability of the class members to protect their interests. As such, the Classes identified hereinabove are maintainable as classes under § 382 of the Code of Civil Procedure.

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FIRST CAUSE OF ACTION

MINIMUM WAGE VIOLATIONS

(Against All Defendants)

25. Plaintiff re-alleges and incorporates by reference all preceding paragraphs as though fully set forth herein.

26. Labor Code §§ 1182.12, 1197, and Wage Order 7, § 4 establish the right of employees to be paid minimum wages for all hours worked, in amounts set by state or local law. Labor Code §§ 1194(a) and 1194.2(a) provide that an employee who has not been paid the legal minimum wage as required by Labor Code § 1197 may recover the unpaid balance together with attorneys' fees and costs of suit, as well as liquidated damages in an amount equal to the unpaid wages and interest accrued thereon. At all relevant times herein, Defendants failed to conform its pay practices to the requirements of the law by failing to pay Plaintiff and members of the Minimum Wage Class for all hours worked, including, but not limited to, all hours they were subject to the control of Defendants and/or suffered or permitted to work under the Labor Code and Wage Order 7.

27. Labor Code § 1198 makes unlawful the employment of an employee under conditions that the IWC prohibits. California Labor Code § 1194(a) and 1194.2(a) provide that an employer who has failed to pay its employees the legal minimum wage is liable to pay those employees the unpaid balance of the unpaid wages as well as liquidated damages in an amount equal to the wages due and interest thereon.

28. As a consequence of Defendants' non-payment of minimum wages, Plaintiff and members of the Minimum Wage Class seek recovery of the balance of unpaid wages, including interest thereon, statutory penalties, attorneys' fees, and costs of suit according to Labor Code §§ 218.6, 558, 1194, 1194.2, and 1199, Code of Civil Procedure § 1021.5; and Civil Code §§ 3287 and 3289.

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SECOND CAUSE OF ACTION

OVERTIME WAGE VIOLATIONS

(Against All Defendants)

29. Plaintiff re-alleges and incorporates by reference all preceding paragraphs as though fully set forth herein.

30. This cause of action is brought pursuant to Labor Code §§ 204, 510, 1194, 1198, and Wage Order 7, § 3, which provide that non-exempt employees are entitled to all overtime wages and compensation for all overtime hours worked and provide a private right of action for the failure to pay all overtime compensation for overtime work performed.

31. At all times relevant herein, Defendants were required to properly compensate non-exempt employees, including Plaintiff and members of the Overtime Class, for all overtime hours worked pursuant to Labor Code § 1194 and Wage Order 7. Wage Order 7, § 3 requires an employer to pay an employee one and one-half (1½) times and two times the employee's regular rate of pay for overtime and double time hours work. Defendants caused Plaintiff and members of the Overtime Class to work overtime hours but failed to credit these employees with all overtime hours actually worked.

32. As a consequence of Defendants' non-payment of overtime wages, Plaintiff and members of the Overtime Class seek recovery of the balance of unpaid overtime wages, including interest thereon, statutory penalties, attorneys' fees, and costs of suit according to Labor Code §§ 204, 210, 216, 218.6, 510, 1194, and 1198; Code of Civil Procedure § 1021.5; and Civil Code §§ 3287 and 3289.

THIRD CAUSE OF ACTION

MEAL PERIOD VIOLATIONS

(Against All Defendants)

33. Plaintiff re-alleges and incorporates by reference all preceding paragraphs as though fully set forth herein.

34. Plaintiff is informed and believes, and based thereon alleges, that Defendants failed in their affirmative obligation to provide all of their non-exempt employees in California, including

Plaintiff and members of the Meal Period Class, with all legally compliant meal periods in accordance with the mandates of the Labor Code and Wage Order 7, § 11.

35. Despite Defendants' violations, Defendants did not pay an additional hour of pay to Plaintiff and members of the Meal Period Class at their respective regular rates of compensation, in accordance with California Labor Code §§ 204, 210, 226.7, and 512.

36. As a consequence of Defendants' unlawful meal period practices, Plaintiff and members of the Meal Period Class seek recovery of unpaid premium wages for meal period violations including interest thereon, statutory penalties, and costs of suit, pursuant to Labor Code §§ 226.7, 512, 558, Wage Order 7, and Civil Code §§ 3287 and 3289.

FOURTH CAUSE OF ACTION

REST PERIOD VIOLATIONS

(Against All Defendants)

37. Plaintiff re-alleges and incorporates by reference all preceding paragraphs as though fully set forth herein.

38. Labor Code §§ 226.7, 516, 558, and Wage Order 7, § 12 and establish the right of employees to be provided with a rest period of at least 10 minutes for each four-hour period worked, or major fraction thereof. Plaintiff is informed and believes, and based thereon alleges, that despite Defendants' failure to authorize and permit Plaintiff and members of the Rest Period Class to take all legally compliant rest periods as alleged herein, Defendants did not pay these individuals an additional hour of pay at their respective regular rate for the rest periods that they failed to authorize and permit them to take, as required by Labor Code § 226.7.

39. As a consequence of Defendants' unlawful rest period practices, Plaintiff and members of the Rest Period Class seek recovery of unpaid premium wages for rest period violations including interest thereon, statutory penalties, and costs of suit, statutory penalties, attorneys' fees, and costs of suit according to Labor Code §§ 226.7, 516, 558, Wage Order 7, and Civil Code §§ 3287 and 3289.

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FIFTH CAUSE OF ACTION

WAGE STATEMENT PENALTIES

(Against All Defendants)

40. Plaintiff re-alleges and incorporates by reference all preceding paragraphs as though fully set forth herein.

41. Plaintiff is informed and believes, and based thereon alleges, that Defendants knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Plaintiff and members of the Wage Statement Class with accurate and complete, itemized wage statements that included, among other requirements, all hours worked, total gross wages earned, all rates of pay and corresponding number of hours worked, total net wages earned, and/or the correct name and address of the legal entity that is the employer in violation of Labor Code § 226.

42. Defendants' failure to furnish Plaintiff and members of the Wage Statement Class with accurate and complete, itemized wage statements resulted in actual injury, as said failures led to, among other things, the non-payment of minimum and overtime wages and meal and rest period premium wages owed and deprived them of the information necessary to identify the discrepancies in Defendants' reported payroll data.

43. As a consequence of Defendants' unlawful wage statement practices, Plaintiff and members of the Wage Statement Class seek damages and/or statutory penalties, reasonable attorneys' fees, and costs of suit according to California Labor Code § 226.

SIXTH CAUSE OF ACTION

WAITING TIME PENALTIES

(Against All Defendants)

44. Plaintiff re-alleges and incorporates by reference all preceding paragraphs as though fully set forth herein.

45. This cause of action is brought pursuant to Labor Code §§ 201-203, which require an employer to pay all wages immediately at the time of separation of employment in the event the employer discharges the employee or the employee provides at least 72 hours of notice of their intent to quit. In the event the employee provides less than 72 hours of notice of their intent to quit,

said employee's wages become due and payable not later than 72 hours upon said employee's last date of employment.

46. Plaintiff is informed and believes, and based thereon alleges, that Defendants failed to timely pay Plaintiff and members of the Waiting Time Class all final wages due to them at their separation from employment, including unpaid minimum and overtime wages as well as unpaid meal and rest period premium wages.

47. Furthermore, Plaintiff is informed and believes, and based thereon alleges, that as a matter of uniform policy and practice, Defendants continue to fail to pay Plaintiff and members of the Waiting Time Class all earned wages at the end of employment in a timely manner pursuant to the requirements of Labor Code §§ 201-202.

48. Defendants' failure to pay all final wages was willful within the meaning of Labor Code § 203. Defendants' willful failure to timely pay Plaintiff and the members of the Waiting Time Class their earned wages upon separation from employment results in continued payment of daily wages up to thirty days from the time the wages were due.

49. As a consequence of Defendants' unlawful practices, Plaintiff and members of the Waiting Time Class seek statutory penalties, and costs of suit according to California Labor Code § 203.

SEVENTH CAUSE OF ACTION

FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES

(Against All Defendants)

50. Plaintiff re-alleges and incorporates by reference all preceding paragraphs as though fully set forth herein.

51. At all relevant times herein, Defendants were subject to Labor Code § 2802, which states that "an employer shall indemnify his or her employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or obedience to the directions of the employer."

52. Defendants violated Labor Code § 2802 by failing to reimburse Plaintiff and members of the Expense Reimbursement Class all necessary business expenses they incurred in the

performance of their job duties.

53. As a consequence of Defendants' unlawful practices, Plaintiff and members of the class seek recovery of unreimbursed business expenses, including interest thereon, reasonable attorneys' fees, and costs of suit pursuant to Labor Code § 2802.

EIGHTH CAUSE OF ACTION

UNFAIR COMPETITION

(Against All Defendants)

54. Plaintiff re-alleges and incorporates by reference all preceding paragraphs as though fully set forth herein.

55. Defendants have engaged and continue to engage in unfair and/or unlawful business practices in California in violation of Business and Professions Code § 17200, *et seq.*, by:

a. failing to pay Plaintiff and members of the Minimum Wage Class all minimum wages due;

b. failing to pay Plaintiff and members of the Overtime Class all overtime wages due;

c. failing to provide Plaintiff and members of the Meal Period Class with all meal periods to which they are entitled, and failing to pay them all meal period premium wages due;

d. failing to authorize and permit Plaintiff and members of the Rest Period Class all rest periods to which they are entitled, and failing to pay them all rest period premium wages due;

e. failing to issue accurate and itemized wage statements to Plaintiff and members of the Wage Statement Class;

f. failing to timely pay all final wages to Plaintiff and members of the Waiting Time Penalty Class; and

g. failing to reimburse all necessary business expenses to Plaintiff and members of the Expense Reimbursement Class.

56. Defendants' utilization of these unfair and/or unlawful business practices deprived Plaintiff and continues to deprive members of the Classes of compensation to which they are legally

entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage over Defendants' competitors who have been and/or are currently employing workers and attempting to do so in honest compliance with applicable wage and hour laws.

57. Because Plaintiff is a victim of Defendants' unfair and/or unlawful conduct alleged herein, Plaintiff for himself and on behalf of the members of the Classes, seeks full restitution of monies, as necessary and according to proof, to restore any and all monies withheld, acquired and/or converted by Defendants pursuant to Business and Professions Code §§ 17203 and 17208.

58. The acts complained of herein occurred within the last four years immediately preceding the filing of the Complaint in this action.

NINTH CAUSE OF ACTION

PRIVATE ATTORNEYS GENERAL ACT

(Against All Defendants)

59. Plaintiff re-alleges and incorporates by reference all preceding paragraphs as though fully set forth herein.

60. Plaintiff, an "aggrieved employee" within the meaning of Labor Code § 2698, *et seq.*, acting on behalf of himself and other aggrieved employees (collectively, "Aggrieved Employees"), brings this representative action against Defendants to recover the civil penalties due to Plaintiff and other Aggrieved Employees, and the State of California according to proof pursuant to Labor Code § 558 and § 2699(a) and (f) including, but not limited to: (1) $100.00 for each initial violation for each failure to pay each employee and $200 for each subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) $50.00 for each initial violation and $100 for each subsequent violation pursuant to Labor Code § 558 per employee per pay period; (3) $100 for each initial violation and $250 for each subsequent violation pursuant to Labor Code § 1197.1 per employee per pay period; (4) $250 for each initial violation and $1,000 for each subsequent violation pursuant to Labor Code § 226.3 per employee per pay period; (5) pursuant to Labor Code section 256, a civil penalty in an amount not exceeding 30 days per former employee as waiting time under the terms of Labor Code § 203; and/or (6) $100 for each initial violation and $200 for

each subsequent violation per employee per pay period for those violations of the Labor Code for which no civil penalty is specifically provided, based on the following Labor Code violations:

a. Failing to pay minimum wages for all hours worked to Aggrieved Employees in violation of Labor Code § 558, 1182.12, 1194, 1194.2, 1197, and 1198;

b. Failing to pay Aggrieved Employees all earned overtime compensation in violation of Labor Code §§ 204, 510, 558, 1194, and 1198;

c. Failing to provide all legally required meal periods, and failure to pay meal period premium wages, to Aggrieved Employees at the regular rate of compensation in violation of Labor Code §§ 226.7, 512, 558, and 1198;

d. Failing to authorize and permit all legally required rest periods, and failure to pay rest period premium wages, to Aggrieved Employees at the regular rate of compensation in violation of Labor Code §§ 226.7, 516, 558, and 1198;

e. Failing to furnish Aggrieved Employees with complete, accurate, itemized wage statements in violation of Labor Code § 226;

f. Failing to timely pay all final wages and compensation earned by Aggrieved Employees at the time of separation in violation of Labor Code §§ 201-202;

g. Failure to reimburse Aggrieved Employees for all necessary business expenses in violation of Labor Code § 2802;

h. Failing to pay Aggrieved Employees all earned wages at least twice during each calendar month in violation of Labor Code § 204; and

i. Failing to maintain accurate records on behalf of Aggrieved Employees in violation of Labor Code §§ 1174 and 1198.

61. On or about July 27, 2023, Plaintiff notified Defendants via certified mail, and notified the California Labor and Workforce Development Agency ("LWDA") via its website, of Defendants' violations of the Labor Code and Plaintiff's intent to bring a claim for civil penalties under Labor Code § 2698, *et seq.* with respect to the violations of the Labor Code identified in the preceding paragraph. Now that sixty-five (65) days have passed from Plaintiff notifying Defendants and the LWDA of these violations, and the LWDA has not provided notice that it intends to

investigate the violations, Plaintiff has exhausted administrative requirements for bringing a claim under the Private Attorneys General Act with respect to these violations.

62. Plaintiff has incurred attorneys' fees and costs, which he is entitled to receive under California Labor Code § 2699(g).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment for himself and for all others on whose behalf this suit is brought against Defendants, as follows:

1. For an order certifying the proposed Classes;

2. For an order appointing Plaintiff as representative of the Classes;

3. For an order appointing Counsel for Plaintiff as Counsel for the Classes;

4. Upon the First Cause of Action, for payment of minimum wages, liquidated damages, and penalties according to proof pursuant to Labor Code §§ 1182.12, 1194, 1194.2, and 1197;

5. Upon the Second Cause of Action, for payment of overtime wages and penalties according to proof pursuant to Labor Code §§ 204, 510, 558, 1194, and 1198;

6. Upon the Third Cause of Action, for meal period premium wages according to proof pursuant to Labor Code §§ 226.7, 512, and 558;

7. Upon the Fourth Cause of Action, for rest period premium wages according to proof pursuant to Labor Code §§ 226.7, 516, and 558;

8. Upon the Fifth Cause of Action, for statutory penalties pursuant to Labor Code § 226;

9. Upon the Sixth Cause of Action, for statutory penalties pursuant to Labor Code § 203;

10. Upon the Seventh Cause of Action, for unreimbursed business expenses according to proof pursuant to Labor Code § 2802;

11. Upon the Eighth Cause of Action, for restitution to Plaintiff and members of the Classes of all money and/or property unlawfully acquired by Defendants by means of any acts or practices declared by this Court to be in violation of Business and Professions Code §§ 17200, *et*

seq.;

12. Upon the Ninth Cause of Action, for civil penalties due to Plaintiff, other Aggrieved Employees, and the State of California according to proof pursuant to Labor Code §§ 558 and 2699(a) and (f) including, but not limited to: (1) $100.00 for each initial violation for each failure to pay each employee and $200 for each subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) $50.00 for each initial violation and $100 for each subsequent violation pursuant to Labor Code § 558 per employee per pay period; (3) $100.00 for each initial violation and $250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per employee per pay period; (4) $250.00 for each initial violation and $1,000.00 for each subsequent violation pursuant to Labor Code § 226.3 per employee per pay period; (5) pursuant to Labor Code section 256, a civil penalty in an amount not exceeding 30 days per former employee as waiting time under the terms of Labor Code § 203; and/or (6) $100.00 for each initial violation and $200 for each subsequent violation per employee per pay period for those violations of the Labor Code for which no civil penalty is specifically provided;

13. Prejudgment interest on all due and unpaid wages pursuant to Labor Code § 218.6 and Civil Code §§ 3287 and 3289;

14. On all causes of action, for attorneys' fees and costs as provided by Labor Code §§ 218.5, 226, 1194, and 2699(g); and Code of Civil Procedure § 1021.5; and

15. For such other and further relief, the Court may deem just and proper.

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DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all claims.

DATED: September 7, 2023

JUSTICE FOR WORKERS, P.C.



By: _____

Young K. Park
William C. Sung
Attorneys for Plaintiff THOMAS WHALEN

EXHIBIT 3

JUSTICE FOR WORKERS

Thomas Whalen v. Spirit Halloween Superstores, LLC
Los Angeles Superior Court, Case No: 23STCV21612

Date	Description of Cost Item	Invoice #	Amount
Date	Description of Cost Item	Invoice #	Amount
9/5/23	LWDA Filing Fee for Initial PAGA Notice	LWDA-CM-979778-23	$75.00
9/6/23	Certified Mail Cost for Mailing PAGA Letter and LC Request to Def.	9.58907E+21	$8.53
9/8/23	e-Filing, Initial Appearance, and Complex Filing Fees for Complaint	14861393	$1,494.99
11/14/23	e-Filing Fee for Amended Complaint	8579251	$14.57
11/15/23	e-Filing Fee for Notice and Acknowledgment of Receipt	8599108	$14.57
11/15/23	e-Filing Fee for Proof of Service (not Summons and Complaint)	8600711	$14.57
12/21/23	e-Filing Fee for Notice of Posting of Jury Fees	8791445	$169.07
1/5/24	e-Filing Fee for Status Conference Statement	8854554	$14.57
3/1/24	e-Filing Fee for Opposition (name extension)	9183951	$14.57
5/2/24	JAMS Arbitration Filing Fee	1394902503	$411.96
5/2/24	Refunded JAMS Arbitration Filing Fee	1394902503	($400.00)
9/5/24	Case Anywhere System Access Fee	342797	$147.00
12/6/24	Case Anywhere System Access Fee	353897	$147.00
12/26/24	e-Filing Fee for Joint Status Conference Report	11003514	$16.17
3/6/25	Case Anywhere System Access Fee	376475	$153.00
4/4/25	Case Anywhere System Access Fee	390230	$49.00
4/28/25	Plaintiff's Share of Mediation Fee - Signature Resolution, LLC	PR41926	$4,495.00
5/6/25	Case Anywhere System Access Fee	402176	$49.00
6/5/25	Case Anywhere System Access Fee	331538	$160.59
6/18/25	Case Anywhere System Access Fee	414302	$49.00
7/1/25	Case Anywhere System Access Fee	426746	$49.00
7/11/25	Refunded Plaintiff's Share of Mediation Fee - Signature Resolution	PR41926	($4,495.00)
7/18/25	Plaintiff's Share of Expert Fees - AttorneyTalk	3655	$3,229.20
7/21/25	Plaintiff's Share of Mediation Fee - Jason Marsili Mediation	110425	$3,600

8/7/25	Case Anywhere System Access Fee	439270	$49.00
9/3/25	Case Anywhere System Access Fee	451857	$49.00
10/1/25	Case Anywhere System Access Fee	464636	$49.00
11/3/25	Case Anywhere System Access Fee	477609	$49.00
12/1/25	Case Anywhere System Access Fee	490415	$49.00
1/2/26	Case Anywhere System Access Fee	503380	$49.00
1/9/26	e-Filing Fee for Joint Status Conference Report	13712893	$17.28
1/28/26	e-Filing Fee for Notice of Ruling	13885732	$17.28
2/2/26	Case Anywhere System Access Fee	516690	$61.00
3/2/26	Case Anywhere System Access Fee	529986	$49.00
4/1/26	Case Anywhere System Access Fee	543479	$49.00
5/1/26	Case Anywhere System Access Fee	556954	$49.00
6/1/26	Case Anywhere System Access Fee	570263	$49.00
7/1/26	Case Anywhere System Access Fee	583498	$49.00
8/1/26	Case Anywhere System Access Fee	596794	$49.00
Estimated Future Cost	Case Anywhere System Access Fee Through Settlement Approval (August to November 2026)	N/A	$159.00
Estimated Future Cost	e-Filing Fee for Request for Dismissal	N/A	$17.28
		TOTAL	**$10,341.20**