

Amy S. Ramsey (SBN 315981)
ADVANTAGE ADVOCATES, P.C.
21 Miller Alley, Suite 56
Pasadena, California 91103
(626) 310-0101 (Tel)
(626) 310-0103 (Fax)
aramsey@advantage-law.com

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Superior Court of California
County of Stanislaus
Clerk of the Court
By: Donna Benz, Deputy
\$435 PAID

Attorney for Plaintiff, Candy Madrigal

Sandhu, Sonny S.

This case has been assigned to Judge _____
Dept. 24
Department _____, for all purposes including Trial.

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF STANISLAUS**

CANDY MADRIGAL, Plaintiff, vs. ALTAMONT GROUP INC. (a California corporation), ALTAMONT GROUP LLC (a California limited liability company), JEFFREY PAUL BROWN (an individual), BLAKE HUMBLE (an individual), and DOES 1 through 25, inclusive, Defendants.	CV-24-001201 Case No. INDIVIDUAL AND REPRESENTATIVE ACTION COMPLAINT 1. Failure to Pay Overtime 2. Failure to Provide Meal Periods 3. Failure to Authorize and Permit Rest Periods 4. Untimely Payment of Final Wages 5. Failure to Provide Accurate Itemized Wage Statements 6. Private Attorneys General Act, Cal. Lab. Code § 2698, et. seq. DEMAND FOR TRIAL BY JURY
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Plaintiff Candy Madrigal (hereinafter "Plaintiff") brings this action against Altamont Group Inc. and Altamont Group LLC (collectively "Altamont Group"), Jeffrey Paul Brown, Blake Humble, and/or DOES 1 through 25, inclusive (all collectively referred to herein as "Defendants").

Plaintiff brings this case both: (1) individually for damages and statutory penalties; and (2) for civil penalties as a representative action on behalf of herself and aggrieved employees under the California Private Attorneys General Act, California Labor Code

1 sections, 2698, *et seq.* The aggrieved employees Plaintiff seeks to represent are: “All
2 individuals who work (or worked) as non-exempt employees for Defendants in the state of
3 California from October 2, 2022, through the date this matter is resolved. (hereinafter
4 collectively referred to as the “Aggrieved Employees”) Plaintiff is an aggrieved employee
5 against whom one or more of the alleged violations was committed. The damages and
6 penalties sought by Plaintiff exceed the minimal jurisdictional limits of the Superior Court
7 and will be established according to proof at trial.

8
9 Plaintiff complains and alleges as follows on the basis of personal knowledge and/or
10 information and belief.

11 **THE PARTIES**

12 1. Plaintiff is, and at all times mentioned in this complaint was, a resident of
13 Modesto, County of Stanislaus, California.

14 2. Altamont Group owns and operates Commonwealth restaurant in Turlock,
15 California (“Commonwealth”).

16 3. Plaintiff worked for Altamont Group at Commonwealth from approximately
17 December 2022 through August, 2023. Plaintiff worked as a Line Cook.

18 4. Plaintiff is informed and believes and on that basis alleges that Altamont
19 Group Inc. is a corporation organized and existing under the laws of California with its
20 principal place of business in Modesto, California, which is in Stanislaus County. Upon
21 information and belief, Altamont Group owns and operates Commonwealth.

22 5. Plaintiff is informed and believes and on that basis alleges that Altamont
23 Group LLC is a limited liability compnay organized and existing under the laws of
24 California with its principal place of business in Modesto, California, which is in Stanislaus
25 County. Upon information and belief, Altamont Group LLC is involved with the operations
26 of Commonwealth.

27 6. Altamont Group is, and was at all times mentioned in this complaint,
28 conducting business in Stanislaus County, California. Altamont Group’s place of business,

1 where the below-described incidents took place, was Commonwealth restaurant in Turlock,
2 California, which is also in the County of Stanislaus.

3 7. Jeffrey Paul Brown is the Chief Executive Officer and Chief Financial Officer
4 of Altamont Group Inc., and upon information and belief, he participated in and is
5 responsible for decisions regarding Plaintiff's employment at Commonwealth restaurant.

6 8. Blake Humble is the Chief Financial Officer of Altamont Group Inc., and
7 upon information and belief, he participated in and is responsible for decisions regarding
8 Plaintiff's employment at Commonwealth restaurant.

9 9. The names and capacities of DOES 1 through 25, inclusive ("DOES") are
10 unknown to Plaintiff at this time and Plaintiff therefore sues such DOE defendants under
11 fictitious names. Plaintiff is informed and believes, and thereupon alleges, that each
12 Defendant designated as a DOE is in some manner highly responsible for the occurrences
13 alleged herein, and that Plaintiff's injuries and damages, as alleged herein, were
14 proximately caused by the conduct of such DOE defendants. Plaintiff will seek leave of the
15 court to amend this complain to allege the true names and capacities of such DOE
16 defendants when ascertained.

17 10. Plaintiff is informed and believes, and thereon alleges, that each and every
18 one of the acts and omissions alleged herein were performed by, and/or attributable to, all
19 Defendants, each acting as agents and/or employers, and/or under the direction and
20 control of, each of the other Defendants, and that said acts and failure to act were within
21 the course and scope of said agency, employment, and/or direction and control.

22 11. Plaintiff is informed and believes, and based thereon alleges, that each
23 Defendant acted in all respects pertinent to this action as the agent of the other
24 Defendants, carried out a joint scheme, business plan or policy in all respects pertinent
25 thereto, and the acts of each Defendant are legally attributable to the other Defendants.

26 12. As a direct and proximate cause of the unlawful of Defendants, Plaintiff and
27 the Aggrieved Employes have suffered, and continue to suffer, from loss of earnings in
28 amounts as yet unascertained, but subject to proof at trial, and within the jurisdiction of

1 this Court.

2 13. All Defendants were responsible for the events and damages alleged herein,
3 including on the following bases: (a) Defendants committed the acts alleged; (b) at all
4 relevant times, one or more of the Defendants was the agent or employee, and/or acted
5 under the control or supervision of one or more of the remaining Defendants, and in
6 committing the acts alleged, acted within the course and scope of such agency and
7 employment and/or is or are otherwise liable for Labor Code violations against Plaintiff
8 and the Aggrieved Employees; (c) at all relevant times, there existed a unity of ownership
9 and interest between or among two or more of the Defendants such that any individuality
10 and separateness between or among those Defendants has ceased, and Defendants are the
11 alter egos of one another. Defendants exercised domination and control over one another to
12 such an extent that any individuality or separateness of Defendants does not, and at all
13 times herein mentioned did not, exist. Adherence to the fiction of the separate existence of
14 Defendants would permit abuse of the corporate privilege and would sanction fraud and
15 promote injustice. All actions of all Defendants were taken by employees, supervisors,
16 executives, officers, and directors during employment with all Defendants, were taken on
17 behalf of all Defendants, and were engaged in, authorized, ratified, and approved of by all
18 other Defendants.

19 **JURISDICTION AND VENUE**

20 14. The Superior Court of the State of California has jurisdiction over this action
21 pursuant to California Constitution Article VI, section 10, which grants the Superior Court
22 “original jurisdiction in all cases except those given by statute to other trial courts.”

23 15. The Superior Court of the State of California has jurisdiction in this matter
24 because Plaintiff is a resident of the State of California. Moreover, the acts alleged herein
25 took place in California, and significant relief is being sought against Defendants, whose
26 violations of California law form the basis for Plaintiff’s claims. Further, no federal
27 question is at issue because the claims are based solely on California law, and Defendants
28 are residents of and regularly conduct business in, the State of California. Altamont Group

1 Inc. and Altamont Group LLC maintain their principal places of business in California.

2 16. Venue is proper in this judicial district and the County of Stanislaus because
3 Plaintiff worked for Altamont Group in the County of Stanislaus, Altamont Group
4 maintains offices and facilities and transacts business in Stanislaus, and Defendants'
5 illegal acts, which are the subject of this action, occurred in the County of Stanislaus.
6 Thus, a substantial portion of the transactions and occurrences related to this action
7 occurred in this county. Cal. Civ. Proc. Code § 395.

8 17. At all relevant times herein, Altamont Group employed Plaintiff in Stanislaus
9 County. Accordingly, this lawsuit is properly venued in the Stanislaus County Superior
10 Court pursuant to California Code of Civil Procedure section 395.

11 **GENERAL ALLEGATIONS**

12 18. Altamont Group hired Plaintiff to work at a Line Cook at Commonwealth, a
13 restaurant that is owned by Altamont Group and is located at 200 West Main Street,
14 Turlock, California 95380.

15 19. Plaintiff was a non-exempt employee.

16 20. Defendants had a mandatory tip pooling program, whereby tipped employees
17 in the front of the house, such as servers, had to pool tips and share them other employees,
18 including the "back of house" employees like line cooks and dishwashers.

19 21. Rather than just distributing all the tips to back of house employees based on
20 some equitable basis such as the number of hours worked, Defendants used money from the
21 tip pool to incentivize back of house employees to perform cleaning tasks.

22 22. Defendants maintain a deep cleaning chart in the back of the house, and
23 Defendants pay employees who perform the tasks on the chart additional wages from the
24 tip money.

25 23. This process converts the tips from amount left by a customer for good
26 service, to an enhanced wage paid by Defendants for performance of specific cleaning tasks
27 that have no relation to customer service. Against the Aggrieved Employees who receive
28 gratuities for their customer service this violates Labor Code section 351, which prohibits

1 employers and their agents from taking gratuities left for employees.

2 24. Plaintiff and other Aggrieved Employees performed tasks listed on the deep
3 cleaning chart, and Defendants paid them extra from the tip pool for doing so.

4 25. The wages that Defendants paid to Plaintiff and the Aggrieved Employees
5 from the tip pool for performing tasks on the cleaning chart were not on the employees'
6 wage statements; therefore, their wage statements were inaccurate.

7 26. The wages that Defendants paid to Plaintiff and the Aggrieved Employees
8 from the tip pool for performing tasks on the cleaning chart were not included in their
9 regular rate of pay for calculating overtime premiums due to them.

10 27. Plaintiff's and the Aggrieved Employees' wage statements were also
11 inaccurate because they did not reflect the correct pay rate and overtime rate when they
12 performed tasks from the cleaning chart for increased wages.

13 28. Plaintiff and the Aggrieved Employees regularly worked shifts that were
14 longer than five hours.

15 29. However, Defendants never provided them a 30-minute, uninterrupted meal
16 period at any time during their shifts.

17 30. Plaintiff and the Aggrieved Employees regularly worked shifts that were
18 longer than 3.5 hours in length.

19 31. However, Defendants did not authorize and permit an uninterrupted 10-
20 minute rest period for each four hours of work or major fraction thereof.

21 32. Even when Plaintiff and the Aggrieved Employees were provided food and
22 given a few moments to eat it, they were not provided a proper meal or rest breaks and were
23 not permitted to leave the premises.

24 33. Defendants did not pay Plaintiff and the Aggrieved Employees any premium
25 pay for failing to provide meal or rest periods.

26 34. Because Defendants owed Plaintiff and the Aggrieved Employees for meal
27 and rest premiums, but did not pay them, their wage statements are inaccurate.

28 35. Because Defendants did not pay Plaintiff and other Aggrieved Employees

1 who have terminated employment with Altamont Group full wages (including correct
2 overtime premiums and meal/rest premiums), they failed to pay all wages upon
3 termination.

4 **FIRST CAUSE OF ACTION**

5 **(Failure to Pay Overtime in Violation of California Labor Code §§ 510(a) and 1198 and**
6 **Wage Order No. 5, subd. 3(A))**

7 **(By Plaintiff Individually against All Defendants)**

8 36. Plaintiff incorporates by reference, and realleges as if fully stated herein,
9 each and every allegation set forth above.

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

14 38. Specifically, the applicable IWC Wage Order provides that Defendants are
15 and were required to pay Plaintiff at the rate of one-and-one-half Plaintiff’s regular rate of
16 pay for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours
17 in a workweek.

18 39. The applicable IWC Wage Order further provides that Defendants are and
19 were required to pay Plaintiff overtime compensation at a rate of two times Plaintiff’s
20 regular rate of pay for all hours worked in excess of twelve (12) hours in a day and for all
21 hours worked in excess of (8) hours on the seventh day of work in a workweek.

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

28 41. During the relevant time period, Plaintiff regularly worked hours that

1 triggered her right to overtime compensation, but Defendants intentionally and willfully
2 failed to pay overtime wages to Plaintiff at the correct regular rate of pay because they
3 failed to include the wages paid for performing tasks listed on the cleaning chart in the
4 regular rate of pay.

5 42. Labor Code section 558.1(a) provides that “[a]ny employer or other person
6 acting on behalf of an employer, who violates, or causes to be violated, any provision
7 regulating minimum wages or hours and days of work in any order of the Industrial Welfare
8 Commission, or violates, or causes to be violated, Sections 203, 226, 226.7, 1193.6, 1194,
9 or 2802, may be held liable as the employer for such violation.”

10 43. Labor Code section 558.1(b) explains that “For purposes of this section, the
11 term ‘other person acting on behalf of an employer’ is limited to a natural person who is an
12 owner, director, officer, or managing agent of the employer....”

13 44. As officers and managing agents of Altamont, Mr. Brown and Mr. Humble are
14 liable for failure to pay overtime.

15 45. Defendants’ failure to pay Plaintiff overtime compensation as required by
16 law violates the provisions of the applicable Wage Order and California Labor Code
17 sections 510(a) and 1198.

18 46. Pursuant to California Labor Code section 1194(a), Plaintiff is entitled to
19 recover unpaid overtime compensation, as well as interest, costs and attorneys’ fees.

20 **SECOND CAUSE OF ACTION**

21 **(Failure to Provide Meal Periods in Violation of Wage Order No. 5, Subd. 11 and California**

22 **Labor Code §§ 512(a) and 226.7(b) and (c))**

23 **(By Plaintiff Individually against All Defendants)**

24 47. Plaintiff incorporates by reference, and realleges as if fully stated herein,
25 each and every allegation set forth above.

26 48. Wage Order 5 and California Labor Code sections 226.7(b) and (c) and 512(a)
27 applied to Plaintiff’s employment by Defendants.

28 49. IWC Wage Order 5, subdivision 11(A) and California Labor Code section

1 512(a) provide that an employer may not require, cause, or permit an employee to work for
2 a work period of more than five (5) hours per day without providing the employee with a
3 meal period of not less than thirty (30) minutes, except that if the total work period per day
4 for the employee is no more than six (6) hours, the meal period may be waived by mutual
5 consent of both the employer and employee.

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

12 51. Plaintiff was scheduled to work for periods of longer than six (6) hours and
13 was required to work for longer than five (5) hours without an uninterrupted meal period of
14 not less than thirty (30) minutes, and did not waive the meal periods.

15 52. Defendants intentionally and willfully required Plaintiff to miss her meal
16 periods and take meal periods that were late, shortened, or interrupted and failed to pay
17 Plaintiff the meal premium for these missed, late, and shortened meal periods.

18 53. To the extent Defendants ever allowed Plaintiff to take a break to eat, she
19 had to remain available to work, and she was not permitted to leave the premises. Plaintiff
20 did not clock out for any of these breaks.

21 54. California Labor Code section 226.7(b) provides that no employer shall
22 require an employee to work during any meal or rest period mandated by an applicable
23 order of the California IWC.

24 55. Pursuant to the applicable IWC Wage Order 5, subdivision 11(B), and
25 California Labor Code section 226.7(c), Defendants should have paid Plaintiff one
26 additional hour of pay at Plaintiff's regular rate of compensation for each workday that a
27 meal period was not provided and a premium was not paid.

28 56. Labor Code section 558.1(a) provides that "[a]ny employer or other person

1 acting on behalf of an employer, who violates, or causes to be violated, any provision
2 regulating minimum wages or hours and days of work in any order of the Industrial Welfare
3 Commission, or violates, or causes to be violated, Sections 203, 226, 226.7, 1193.6, 1194,
4 or 2802, may be held liable as the employer for such violation.”

5 57. Labor Code section 558.1(b) explains that “For purposes of this section, the
6 term ‘other person acting on behalf of an employer’ is limited to a natural person who is an
7 owner, director, officer, or managing agent of the employer....”

8 58. As officers and managing agents of Altamont, Mr. Brown and Mr. Humble are
9 liable for failure to provide meal periods and pay premium pay.

10 59. Defendants intentionally and willfully required Plaintiff to miss her meal
11 periods and take meal periods that were late, shortened, or interrupted, and failed to pay
12 Plaintiff the meal premium for these missed, late, and shortened meal periods.

13 60. Defendants’ conduct violates Wage Order 5, subdivisions 11(A) and (B) and
14 California Labor Code section 226.7(b) and (c), and 512(a).

15 **THIRD CAUSE OF ACTION**

16 **(Failure to Authorize and Permit Rest Periods in Violation of Wage Order No. 5, subd.**

17 **12(A) and (B) and 226.7(b) and (c)**

18 **(By Plaintiff Individually Against all Defendants)**

19 61. Plaintiff incorporates by reference, and realleges as if fully stated herein,
20 each and every allegation set forth above.

21 62. IWC Order 5, subdivisions 12(A) and (B) and California Labor Code sections
22 226.7(b) and (c) apply to Plaintiff’s employment by Defendants.

23 63. IWC Wage Order 5, subdivision 12(A), provides that “[e]very employer shall
24 authorize and permit all employees to take rest periods, which insofar as practicable shall
25 be in the middle of each work period” and that the “rest period time shall be based on the
26 total hours worked daily at the rate of ten (10) minutes rest time per four (4) hours or
27 major fraction thereof unless the total daily work time is less than three and one-half (3.5)
28 hours.”

1 64. At all relevant times, California Labor Code section 226.7(b) provides that no
2 employer shall require an employee to work during any meal or rest period mandated by an
3 applicable order of the California IWC.

4 65. During the relevant time period, Defendants required Plaintiff to work more
5 than three and one-half (3.5) hours without authorizing or permitting a ten (10) minute rest
6 period for each four (4) hour work period.

7 66. During the relevant time period, Defendants willfully required Plaintiff to
8 work during rest periods, failed to allow Plaintiff to take any rest period and/or failed to
9 authorize and permit Plaintiff to take uninterrupted, duty-free rest breaks.

10 67. Plaintiff sometimes was allowed to take a smoke break, but they were not
11 full, uninterrupted breaks. She had to remain available to work, and she was not permitted
12 to leave the premises.

13 68. Pursuant to the applicable IWC Wage Order 5, subdivision 12(B) and
14 California Labor Code section 226.7(c), Defendant should have paid Plaintiff one
15 additional hour of pay at Plaintiff's regular rate of compensation for each workday that a
16 rest period was not authorized and permitted and a premium was not paid.

17 69. Labor Code section 558.1(a) provides that "[a]ny employer or other person
18 acting on behalf of an employer, who violates, or causes to be violated, any provision
19 regulating minimum wages or hours and days of work in any order of the Industrial Welfare
20 Commission, or violates, or causes to be violated, Sections 203, 226, 226.7, 1193.6, 1194,
21 or 2802, may be held liable as the employer for such violation."

22 70. Labor Code section 558.1(b) explains that "For purposes of this section, the
23 term 'other person acting on behalf of an employer' is limited to a natural person who is an
24 owner, director, officer, or managing agent of the employer...."

25 71. As officers and managing agents of Altamont, Mr. Brown and Mr. Humble are
26 liable for failure to provide meal periods and pay premium pay.

27 72. Defendants intentionally and willfully required Plaintiff to miss her rest
28 periods and take rest periods that were late, shortened, or interrupted, and failed to

1 Plaintiff premium pay for these missed, late, and shortened rest periods.

2 73. Defendants' conduct violates the applicable IWC Wage Order, subdivisions
3 12(A) and (B) and California Labor Code section 226.7(b) and (c)

4 **FOURTH CAUSE OF ACTION**

5 **(Untimely Payment of Final Wages in Violation of California Labor Code §§ 201, 202, and**
6 **203)**

7 **(By Plaintiff Individually Against all Defendants)**

8 74. Plaintiff incorporates by reference, and realleges as if fully stated herein,
9 each and every allegation set forth above.

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

16 76. Plaintiff's employment at Commonwealth was terminated by involuntary
17 discharge by Defendants. Defendants intentionally and willfully failed to pay Plaintiff upon
18 termination all of her wages, earned and unpaid, including but not limited to overtime
19 wages and premium pay as required by law.

20 77. This failure to pay earned and unpaid wages is a violation of California Labor
21 Code sections 201 and 202.

22 78. California Labor Code section 203 provides that if an employer willfully fails
23 to pay wages owed, in accordance with sections 201 and 202, then the wages of the
24 employee shall continue as a penalty ("waiting time penalty") from the due date thereof at
25 the same rate or until paid or until an action is commenced; but the wages shall not
26 continue for more than thirty (30) days.

27 79. Plaintiff's wages have been due and owing for more than 30 days since
28 Plaintiff's termination of employment, and Defendants' failure to pay was willful. Thus,

1 Defendants are liable to Plaintiff for 30 days' pay.

2 80. Labor Code section 558.1(a) provides that "[a]ny employer or other person
3 acting on behalf of an employer, who violates, or causes to be violated, any provision
4 regulating minimum wages or hours and days of work in any order of the Industrial Welfare
5 Commission, or violates, or causes to be violated, Sections 203, 226, 226.7, 1193.6, 1194,
6 or 2802, may be held liable as the employer for such violation."

7 81. Labor Code section 558.1(b) explains that "For purposes of this section, the
8 term 'other person acting on behalf of an employer' is limited to a natural person who is an
9 owner, director, officer, or managing agent of the employer...."

10 82. As officers and managing agents of Altamont, Mr. Brown and Mr. Humble are
11 liable for failure to timely pay wages and pay waiting time penalties.

12 **FIFTH CAUSE OF ACTION**

13 **(Failure to Provide Accurate Itemized Wage Statements in Violation of California Labor**
14 **Code § 226(a))**

15 **(by Plaintiff Individually against All Defendants)**

16 83. Plaintiff incorporates by reference, and realleges as if fully stated herein,
17 each and every allegation set forth above.

18 84. California Labor Code section 226(a) provides that every employer shall
19 furnish each of its employees an accurate itemized statement in writing showing: (1) gross
20 wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units
21 earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all
22 deductions, provided that all deductions made on written orders of the employee may be
23 aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the
24 period for which the employee is paid, (7) the name of the employee and only the last four
25 digits of her or her social security number or an employee identification number other than
26 a social security number, (8) the name and address of the legal entity that is the employer,
27 and (9) all applicable hourly rates in effect during the pay period and the corresponding
28 number of hours worked at each hourly rate by the employee.

85. Defendants failed to provide Plaintiff with complete and accurate wage statements. The deficiencies include, but are not limited to failure to show the increased rate of pay for performing tasks from the cleaning chart, inaccurate overtime rate, and inaccuracies from failure to pay earned meal and rest premiums.

86. Because of Defendants' violation of California Labor Code section 226(a), Plaintiff has suffered injury and damage to her statutorily protected rights.

87. Plaintiff was denied both her right to receive, and her protected interest in receiving, accurate and itemized wage statements pursuant to California Labor Code section 226(a).

88. Because Defendants' failure to provide accurate itemized wage statement was knowing and intentional, Plaintiff is entitled to recover from Defendants the greater of his actual damages caused by Defendants' violation of Labor Code Section 226(a), or an aggregate penalty not to exceed four thousand dollars, pursuant to Labor Code section 226(e).

89. Labor Code section 558.1(a) provides that “[a]ny employer or other person acting on behalf of an employer, who violates, or causes to be violated, any provision regulating minimum wages or hours and days of work in any order of the Industrial Welfare Commission, or violates, or causes to be violated, Sections 203, 226, 226.7, 1193.6, 1194, or 2802, may be held liable as the employer for such violation.”

90. Labor Code section 558.1(b) explains that “For purposes of this section, the term ‘other person acting on behalf of an employer’ is limited to a natural person who is an owner, director, officer, or managing agent of the employer....”

91. As officers and managing agents of Altamont, Mr. Brown and Mr. Humble are liable for failure to provide accurate itemized wage statements.

SIXTH CAUSE OF ACTION

Violation of California Labor Code § 2698, *et seq.*

(by Plaintiff on behalf of herself and the Aggrieved Employees and Against All Defendants)

92. Plaintiff incorporates by reference, and realleges as if fully stated herein,

1 each and every allegation set forth above.

2 93. Plaintiff brings this cause of action as a representative action on behalf of
3 herself and similarly situated Aggrieved Employees in the capacity as a private attorney
4 general pursuant to the Private Attorneys General Act of 2004, California Labor Code
5 section 2398, *et seq.* (“PAGA”).

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

14 95. Plaintiff was employed by Defendants, and the Labor Code violations alleged
15 above were committed against her during the time of her employment. Plaintiff and the
16 other individuals who work (or have worked) for Defendants as non-exempt employees at
17 any time since October 2, 2022, are therefore “Aggrieved Employees” as defined by
18 California Labor Code section 2699(c) in that they are all current or former employees of
19 Defendants, and one or more of the alleged violations were committed against them.

20 96. Plaintiff alleges that Defendants committed against the Aggrieved
21 Employees many of the same Labor Code violations that Defendants committed against
22 Plaintiff.

23 97. During all times relevant to this Action, Defendant has routinely subjected
24 Plaintiff and/or the Aggrieved Employees to violations of the California Labor Code by:

- 25 a. Failure to pay overtime at the proper regular rate of pay in violation of Labor
26 Code § 510(a);
- 27 b. Taking tips that Aggrieved Employees received from customers for providing
28 service in violation of Labor Code § 351;

- c. Failing to provide meal periods in violation of Labor Code § 512(a);
- d. Failing to authorize and permit rest periods in violation of Labor Code § 226.7(b);
- e. Failing to pay premium pay for meal and rest break violations in violation of Labor Code § 226.7(c);
- f. Failing to timely pay Plaintiff and the Aggrieved Employees all wages owed during employment in violation of Labor Code § 204;
- g. Failing to timely pay Plaintiff and the Aggrieved Employees final wages in violation of Labor Code §§ 201 and 202.
- h. Failing to furnish Plaintiff and the Aggrieved Employees with complete, accurate itemized wage statements in violation of Labor Code § 226(a);
- i. Failing to maintain accurate records relating to Plaintiff and the Aggrieved Employees' work periods, meal periods, total daily hours, hours per pay period, total wages and compensation, and applicable pay rates in violation of Labor Code § 1174(d) and the applicable IWC Wage Order;

98. Pursuant to California Labor Code sections 2699 and 2699.5, Plaintiff, individually and on behalf of the Aggrieved Employees and the State of California, requests and is entitled to recover penalties against Defendants for the Labor Code violations described above, including but not limited to penalties under California Code of Regulations Title section 11040, and penalties under California Labor Code sections 210, 226.3, 558(a), 1174.5, 2699(f), and any and all additional penalties and sums as provided by the California Labor Code and/or other statutes. The exact amount of applicable penalties, in all, is in an amount to be shown according to proof at trial.

99. Plaintiff has exhausted her administrative remedies pursuant to Labor Code section 2699.3. On October 2, 2023, Plaintiff's counsel submitted, via online filing with the LWDA and certified mail to Defendants, notice of the specific provisions of the Labor Code and IWC Wage Orders that Defendants have violated, including the facts and theories that support those violations, and of Plaintiff's intent to bring a claim for civil penalties

1 under PAGA. Plaintiff also paid the filing fee required by Labor Code section 2699.3. As of
2 the filing of this Complaint, more than 65 days have elapsed since the filing of the notice,
3 and the LWDA has not indicated that it intends to investigate the violations discussed in
4 the notice. Accordingly, Plaintiff may commence a civil action to recover penalties for
5 herself and other Aggrieved Employees pursuant to Labor Code section 2699.3.

6 100. Plaintiff was compelled to retain the services of counsel to file this Action to
7 protect her interests and those of the Aggrieved Employees, and to assess and collect the
8 civil penalties owed by Defendants. Plaintiff therefore seeks an award of reasonable
9 attorneys' fees and costs pursuant to Labor Code section 2699(g)(1), and any other
10 applicable statute.

11 **PRAYER FOR RELIEF**

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

13 101. That the Court declare, adjudge and decree that Defendants violated Labor
14 Code Section 1194, 1197, and 1197.1 and failed to pay Plaintiff minimum wages for all
15 hours worked;

16 102. For actual damages according to proof;

17 103. For liquidated damages under Labor Code section 1194.2;

18 104. For prejudgment interest on any unpaid compensation from the date such
19 amounts were due, pursuant to Labor Code Section 218.6;

20 105. For attorneys' fees and costs pursuant to Labor Code sections 1194(a) and
21 218.5; and

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

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

24 107. That the Court declare, adjudge and decree that Defendants violated Labor
25 Code Sections 201 and 202 by willfully failing to pay Plaintiff all compensation owed when
26 Plaintiff's employment terminated;

27 108. For statutory penalties under Labor Code Section 203; and

28 109. For attorneys' fees and costs pursuant to Labor Code section 218.5; and

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

As to the Third Cause of Action

111. That the Court declare, adjudge and decree that Defendants violated Labor Code Section 221 by making deductions from Plaintiff's earned wages;

112. For actual damages according to proof;

113. For attorneys' fees and costs pursuant to 218.5; and

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

As to the Fourth Cause of Action

115. That the Court declare, adjudge and decree that Defendants violated Labor Code Section 226(a) and 226.2 by failing to provide Plaintiff with accurate itemized wage statements, and for failing to provide wage statements that reflect the unproductive work time;

116. For actual damages according to proof;

117. For statutory penalties under Labor Code Section 226(e);

118. For attorneys' fees and costs pursuant to Labor Code Sections 226(e) and 226(h); and

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

As to the Fifth Cause of Action

120. That the Court declare, adjudge and decree that Defendants violated Labor Code Section 2802 by failing to reimburse Plaintiff for all necessary business expenses;

121. For actual damages according to proof;

122. For interest accrued from the date(s) on which Plaintiff incurred expenses;

123. For attorneys' fees and costs pursuant to Labor Code section 2802(c); and

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

As to the Sixth Cause of Action

125. Plaintiff, individually, and on behalf of all other Aggrieved Employees, and as a private attorney general, prays for relief and judgment against Defendants, jointly and severally, as follows.

1 126. That the Court declare, adjudge, and decree that Defendants violated the
2 following Labor Code sections against the Aggrieved employees: 510(a), 351, 1174, 201,
3 202, 204, 226(a), 226.7(b), and 226.7(c); and

4 127. That the Court impose civil penalties pursuant to California Labor Code §§
5 210, 226.3, 558(a), 1174.5, 2699(f), and all other penalties allowed by the California
6 Labor Code and/or other applicable statutes;

7 128. For statutory attorneys' fees and costs pursuant to 2699(g)(1) of the
8 California Labor Code; and

9 129. For such other relief as the court deems just and proper.

10 Dated: February 13, 2024

Respectfully submitted,
ADVANTAGE ADVOCATES, P.C.

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13 By: 
14 Amy S. Ramsey
15 Attorney for Plaintiff
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