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12 NANCY LIMPIAS, and all others similarly situated

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

14 **FOR THE COUNTY OF SAN BERNARDINO**

15 **(UNLIMITED JURISDICTION)**

16 NANCY LIMPIAS, as an “aggrieved employee”
17 on behalf of herself and other similarly situated
18 “aggrieved employees” under the Labor Code
19 Private Attorneys General Act of 2004,

20 *Plaintiff(s),*

21 vs.

22 LOERA RESTAURANTS INC., a California
23 corporation; and DOES 1–50, inclusive,

24 *Defendants.*

ELECTRONICALLY FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

1/8/2024 10:46 AM

By: Paola Iniguez Solorio, DEPUTY

Case No. CIVSB2402432

**COMPLAINT FOR VIOLATIONS OF
THE LABOR CODE AND CIVIL
PENALTIES UNDER THE LABOR
CODE PRIVATE ATTORNEYS
GENERAL ACT OF 2004, LABOR
CODE §§ 2698, ET SEQ.**

JURY TRIAL DEMANDED

25 Plaintiff, Nancy Limpas (hereafter “Plaintiff” or “Limpas”), on behalf of herself, the
26 State of California, and the other Aggrieved Employees, complains and alleges as follows:

27 **I. INTRODUCTION**

28 1. Plaintiff brings this representative action based on alleged violations of the
California Labor Code and Industrial Welfare Commission Order No. 5-2001 (hereafter “the
Wage Order”), against Defendants Loera Restaurants Inc., a California corporation, and DOES
1-50, inclusive (collectively “Defendants”).



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2. As set forth in more detail below, Plaintiff alleges that Defendants are liable to her, the State of California, and the Aggrieved Employees (defined below), for civil penalties and other related relief. These claims are based on Defendants' failures to:

(A) Pay all wages, including minimum, regular, overtime, and doubletime wages, earned for all hours worked at the correct rates of pay;

(B) Provide paid sick leave;

(C) Provide all meal periods;

(D) Authorize and permit all rest breaks;

(E) Pay premium wages for unprovided meal periods;

(F) Pay premium wages for unprovided rest breaks;

(G) Indemnify for necessary work-related expenditures;

(H) Issue only accurate and complete itemized wage statements;

(I) Issue statements of sick leave available;

(J) Allow the Aggrieved Employees to retain all tips;

(K) Timely pay wages during employment;

(L) Timely pay wages upon termination of employment;

(M) Provide proper change rooms;

(N) Provide seats; and

(O) Maintain accurate employment records.

Accordingly, Plaintiff now seeks to recover civil penalties and related relief through this representative action.

II. THE PARTIES

3. Plaintiff Nancy Limpas is resident of California.

4. Defendant Loera Restaurants Inc. is a corporation organized and existing under the laws of California and also a citizen of California based on Plaintiff's information and belief.

5. Plaintiff is ignorant of the true names, capacities, relationships, and extents of participation in the conduct alleged herein of the Defendants sued as DOES 1-50, inclusive, but is informed and believes and thereon alleges that said Defendants are legally responsible for the



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wrongful conduct alleged herein and therefore sues these Defendants by such fictitious names. Plaintiff will amend the Complaint to allege the true names and capacities of the DOE Defendants when ascertained.

6. The “Aggrieved Employees” are all individuals the Defendants have employed or otherwise contracted with in California as hourly, non-exempt employees, including “back-of-house” and “front-of-house” employees, including, but not limited to, cashiers, servers, server assistants, bussers, food runners, and line cooks, individuals performing work comparable to the aforementioned, and individuals in similar positions during the period beginning one year before Plaintiff’s notice of November 03, 2023 to the California Labor and Workforce Development Agency and ending on the date judgment is entered.

7. Plaintiff is informed and believes and thereon alleges that, at all relevant times herein, all Defendants were the agents, employees and/or servants, masters, or employers of the remaining Defendants, and in doing the things hereinafter alleged, were acting within the course and scope of such agency or employment, and with the approval and ratification of each of the other Defendants.

8. At all relevant times, in perpetrating the acts and omissions alleged herein, Defendants, and each of them, acted pursuant to and in furtherance of a policy, practice, or a lack of a practice which resulted in Defendants not paying Plaintiff and the other Aggrieved Employees in accordance with applicable California labor laws as alleged herein.

9. Plaintiff is informed and believes and thereon alleges that each and every one of the acts and omissions alleged herein was performed by, and/or attributable to, all Defendants, each acting as agents and/or employees, and/or under the direction and control of each of the other Defendants, and that said acts and failures to act were within the course and scope of said agency, employment, and/or direction and control.

III. FACTUAL ALLEGATIONS

10. IWC Wage Order 5-2001 (“the Wage Order”) applies to “all persons employed in the public housekeeping industry whether paid on a time, piece rate, commission, or other basis.” Wage Order, § 1. The Wage Order defines “Public Housekeeping Industry” to mean



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any industry, business, or establishment which provides meals, housing, or maintenance services whether operated as a primary business or when incidental to other operations in an establishment not covered by an industry order of the Commission, and includes, but is not limited to the following:

- (1) Restaurants, night clubs, taverns, bars, cocktail lounges, lunch counters, cafeterias, boarding houses, clubs, and all similar establishments where food in either solid or liquid form is prepared and served to be consumed on the premises;
- (2) Catering, banquet, box lunch service, and similar establishments which prepare food for consumption on or off the premises;
- (3) Hotels, motels, apartment houses, rooming houses, camps, clubs, trailer parks, office or loft buildings, and similar establishments offering rental of living, business, or commercial quarters;
- (4) Hospitals, sanitariums, rest homes, child nurseries, child care institutions, homes for the aged, and similar establishments offering board or lodging in addition to medical, surgical, nursing, convalescent, aged, or child care;
- (5) Private schools, colleges, or universities, and similar establishments which provide board or lodging in addition to educational facilities;
- (6) Establishments contracting for development, maintenance or cleaning of grounds; maintenance or cleaning of facilities and/or quarters of commercial units and living units; and



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(7) Establishments providing veterinary or other animal care services.

Wage Order, § 2(P). At all relevant times during the applicable limitations period, the Defendants, Limpas, and all of the Aggrieved Employees were covered by the Wage Order because the Defendants operated, and Limpas, and all of the Aggrieved Employees, worked for one or more restaurants. Accordingly, Limpas and all of the other Aggrieved Employees are entitled to the protections the Wage Order provides.

11. On approximately November 5, 2020, the Defendants began to employ Limpas in Fontana in the position of hourly, non-exempt server/cashier. The Defendants continuously employed her in that capacity until on or about January 8, 2023, when her employment ended.

12. At all relevant times, the Defendants issued wages to Limpas and all of the other Aggrieved Employees on a biweekly (26 paychecks/year) basis and paid them by the hour. At all relevant times, the Defendants classified Limpas and all of the other Aggrieved Employees as non-exempt employees entitled to the protections of the Labor Code and the Wage Order.

13. At all relevant times, the Defendants failed to compensate Limpas and all of the other Aggrieved Employees for all hours worked at the applicable minimum or regular rates of pay. Due to chronic understaffing and Defendants' customer service requirements, Defendants denied Limpas and all other Aggrieved Employees their earned duty-free meal periods and rest breaks. Defendants compelled Limpas and all other Aggrieved Employees to remain in their assigned work areas and available to receive work-related directions. Defendants' managers directed Limpas and all other Aggrieved Employees to delay, forgo, or shorten 30-minute meal periods and 10-minute rest breaks when the restaurant was understaffed. In addition, Defendants compelled Limpas and all other Aggrieved Employees to perform work such as cleaning after clocking out at the end of their shifts. Limpas and all other Aggrieved Employees were not paid for such "off-the-clock" work.

14. At all relevant times, the Defendants failed to compensate Limpas and all of the other Aggrieved Employees at the correct rates of pay for all hours worked over eight in a day,



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1 over 40 in a week, and for the first eight hours of the seventh day of the workweek. Due to chronic
2 understaffing Defendants' customer service requirements, Defendants denied Limpias and all
3 other Aggrieved Employees their earned duty-free meal periods and rest breaks. Defendants
4 compelled Limpias and all other Aggrieved Employees to remain in their assigned work areas
5 and available to receive work-related directions. Defendants' managers directed Limpias and all
6 other Aggrieved Employees to delay, forgo, or shorten 30-minute meal periods and 10-minute
7 rest breaks when the restaurant was understaffed. In addition, Defendants compelled Limpias and
8 all other Aggrieved Employees to perform work such as cleaning after clocking out at the end of
9 their shifts. Limpias and all other Aggrieved Employees were not paid for such "off-the-clock"
10 work.

11 15. At all relevant times, the Defendants failed to compensate Limpias and all of the
12 other Aggrieved Employees at the correct rates of pay for all hours worked over 12 in a day, and
13 all over the first eight of the seventh day of the workweek. Due to chronic understaffing
14 Defendants' customer service requirements, Defendants denied Limpias and all other Aggrieved
15 Employees their earned duty-free meal periods and rest breaks. Defendants compelled Limpias
16 and all other Aggrieved Employees to remain in their assigned work areas and available to receive
17 work-related directions. Defendants' managers directed Limpias and all other Aggrieved
18 Employees to delay, forgo, or shorten 30-minute meal periods and 10-minute rest breaks when
19 the restaurant was understaffed. In addition, Defendants compelled Limpias and all other
20 Aggrieved Employees to perform work such as cleaning after clocking out at the end of their
21 shifts. Limpias and all other Aggrieved Employees were not paid for such "off-the-clock" work.

22 16. At all relevant times, the Defendants failed to provide Limpias and all of the other
23 Aggrieved Employees with all timely 30-minute, off-duty meal periods. Defendants denied
24 Limpias and all of the other Aggrieved Employees their 30-minute off-duty meal period within
25 the first five hours of work. Due to chronic understaffing and Defendants' customer service
26 requirements, Defendants denied Limpias and all other Aggrieved Employees their earned duty-
27 free meal periods. Defendants compelled Limpias and all other Aggrieved Employees to remain
28 in their assigned work areas and available to receive work-related directions. Defendants'



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1 managers directed Limpias and all other Aggrieved Employees to delay, forgo, or shorten 30-
2 minute meal periods when the restaurant was understaffed. Furthermore, Defendants failed to pay
3 premium wages for days on which they failed to provide Limpias and all of the other Aggrieved
4 Employees with timely meal periods. The Defendants also failed to pay premium wages for days
5 on which they failed to provide Limpias and all of the other Aggrieved Employees with meal
6 periods as required by law.

7 17. At all relevant times, the Defendants failed to authorize and permit Limpias and
8 all of the other Aggrieved Employees to take ten-minute, off-duty, paid rest breaks every four
9 hours worked or major portion thereof. Defendants did not seek an exemption from the rest period
10 protections of the Wage Order from the California Division of Labor Standards Enforcement.
11 Due to chronic understaffing and Defendants' customer service requirements, Defendants denied
12 Limpias and all other Aggrieved Employees their earned duty-free rest breaks. Defendants
13 compelled Limpias and all other Aggrieved Employees to remain in their assigned work areas
14 and available to receive work-related directions. Defendants' managers directed Limpias and all
15 other Aggrieved Employees to delay, forgo, or shorten 10-minute rest breaks when the restaurant
16 was understaffed. Moreover, Defendants failed to pay Limpias and all of the other Aggrieved
17 Employees premium wages on workdays Defendants failed to provide Limpias and all of the other
18 Aggrieved Employees with 10-minute rest periods every four hours worked or major fraction
19 thereof. The Defendants also failed to pay premium wages for days on which they failed to
20 authorize and permit Limpias and all of the other Aggrieved Employees to take rest breaks as
21 required by law.

22 18. At all relevant times, the Defendants failed to provide paid sick leave to Limpias
23 and all of the other Aggrieved Employees.

24 19. At all relevant times, the Defendants required Limpias and all of the other
25 Aggrieved Employees to incur certain business expenses in the course of performing their duties.
26 The Defendants required Limpias and all of the other Aggrieved Employees to supply mobile
27 phones and telecom to perform their job duties. However, the Defendants did not provide these
28 items and did not reimburse Limpias and the other Aggrieved Employees for these items.



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1 Defendants required Limpias and all of the other Aggrieved Employees to supply mobile phones
2 and pay for mobile phone plans to perform their job duties. However, Defendants did not provide
3 these items and did not reimburse Limpias and the other Aggrieved Employees for these items.
4 Defendants compelled Limpias and all other Aggrieved Employees to provide their own mobile
5 phones to perform their work. Despite requiring these means of communication, Defendants did
6 not provide them, nor did they reimburse Limpias and all other Aggrieved Employees for
7 purchasing or providing their own.

8 20. At all relevant times, the Defendants failed to issue to Limpias and all of the other
9 Aggrieved Employees complete and accurate wage statements that state all hours worked at the
10 correct rates of pay, and all wages earned. The Defendants knowingly and intentionally failed to
11 state on the wage statements they issued to Limpias and all of the other Aggrieved Employees the
12 unpaid wages discussed above. The wage statements fail to state all minimum wages earned, all
13 regular wages earned, all overtime wages earned, all doubletime wages earned, all meal period
14 premium wages earned, all rest break premium wages earned, all earned sick pay, and related
15 information.

16 21. At all relevant times, the Defendants failed to provide Limpias and all of the other
17 Aggrieved Employees with statements of sick leave available, or paid time off in lieu of sick
18 leave.

19 22. At all relevant times, the Defendants collected and retained tips the Defendants'
20 patrons paid to Limpias and all of the other Aggrieved Employees.

21 23. At all relevant times, the Defendants also failed to timely pay Limpias and all of
22 the other Aggrieved Employees all earned wages as described above during and at the conclusion
23 of employment.

24 24. At all relevant times, the Defendants failed to provide Limpias and all of the other
25 Aggrieved Employees with change rooms.

26 25. At all relevant times, the Defendants failed to provide Limpias and all of the other
27 Aggrieved Employees with an adequate number of suitable seats.

28 26. At all relevant times, the Defendants failed to maintain accurate employee records



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1 of Limpias and all of the other Aggrieved Employees.

2 27. For the reasons stated herein, Plaintiff alleges that as a result of Defendants'
3 unlawful practices and policies, Plaintiff and the Aggrieved Employees were:

4 A. Not paid all wages earned, including, but not limited to, minimum, regular,
5 overtime, and doubletime wages for work performed while clocked out;

6 B. Not provided with all off-duty meal periods;

7 C. Not authorized and permitted to take all rest break periods;

8 D. Not paid one hour's pay for each workday in which Defendants failed to
9 authorize and permit them to take one or more timely rest periods;

10 E. Not paid one hour's pay for each workday in which Defendants failed to
11 provide them with one or more timely meal periods;

12 F. Not indemnified for all necessary business expenditures incurred during
13 the discharge of their duties;

14 G. Not provided with accurate and complete wage statements; and

15 H. Not timely paid all earned and unpaid wages during their employment with
16 Defendants and at the time such employment ended.

17 **IV. FIRST (AND ONLY) CAUSE OF ACTION**

18 **CIVIL PENALTIES**

19 **(Lab. Code §§ 2698, *et seq.*)**

20 **(By Plaintiff, on behalf of herself and the other Aggrieved Employees, against all**
21 **Defendants)**

22 28. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

23 29. At all relevant times, Plaintiff and the Aggrieved Employees have been non-
24 exempt employees entitled to the protections of both the Labor Code and the Wage Order.

25 **A. FAILURE TO PAY ALL WAGES EARNED FOR ALL HOURS WORKED AT**
26 **THE CORRECT RATES OF PAY**

27 30. Section 2 of the Wage Order defines "hours worked" as "the time during which an
28 employee is subject to the control of an employer, and includes all the time the employee is



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suffered or permitted to work, whether or not required to do so.”

31. Section 3 of the Wage Order states:

(A) Daily Overtime - General Provisions

(1) The following overtime provisions are applicable to employees 18 years of age or over and to employees 16 or 17 years of age who are not required by law to attend school and are not otherwise prohibited by law from engaging in the subject work. Such employees shall not be employed more than eight (8) hours in any workday or more than 40 hours in any workweek unless the employee receives one and one-half (1 ½) times such employee’s regular rate of pay for all hours worked over 40 hours in the workweek. Eight (8) hours of labor constitutes a day’s work. Employment beyond eight (8) hours in any workday or more than six (6) days in any workweek is permissible provided the employee is compensated for such overtime at not less than:

(a) One and one-half (1 ½) times the employee’s regular rate of pay for all hours worked in excess of eight (8) hours up to and including 12 hours in any workday, and for the first eight (8) hours worked on the seventh (7th) consecutive day of work in a workweek.

(b) Double the employee’s regular rate of pay for all



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1 hours worked in excess of 12 hours in any workday
2 and for all hours worked in excess of eight (8) hours
3 on the seventh (7th) consecutive day of work in a
4 workweek.

- 5
6 (c) The overtime rate of compensation required to be
7 paid to a nonexempt full-time salaried employee
8 shall be computed by using the employee's regular
9 hourly salary as one-fortieth (1/40) of the
10 employee's weekly salary.
11

12 32. Section 4 of the Wage Order requires an employer to pay non-exempt employees
13 at least the minimum wage set forth therein for all hours worked, which consists of all hours that
14 an employer has actual or constructive knowledge that employees are working.

15 33. Labor Code section 510 states:
16

17 Eight hours of labor constitutes a day's work. Any work in excess of eight hours
18 in one workday and any work in excess of 40 hours in any one workweek and the
19 first eight hours worked on the seventh day of work in any one workweek shall be
20 compensated at the rate of no less than one and one-half times the regular rate of
21 pay for an employee. Any work in excess of 12 hours in one day shall be
22 compensated at the rate of no less than twice the regular rate of pay for an
23 employee. In addition, any work in excess of eight hours on any seventh day of a
24 workweek shall be compensated at the rate of no less than twice the regular rate of
25 pay of an employee. Nothing in this section requires an employer to combine more
26 than one rate of overtime compensation in order to calculate the amount to be paid
27 to an employee for any hour of overtime work.
28



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1 34. Labor Code section 1194 invalidates any agreement between an employer and an
2 employee to work for less than the minimum wage required under the applicable Wage Order.

3 35. Labor Code section 1197 makes it unlawful for an employer to pay an employee
4 less than the minimum wage required under the applicable Wage Order for all hours worked
5 during a payroll period.

6 36. Labor Code section 1198 makes it unlawful for an employer to employ an
7 employee under conditions that violate the Wage Order.

8 37. In conjunction, these provisions of the Labor Code require employers to pay non-
9 exempt employees no less than their agreed-upon or statutorily mandated wage rates for all hours
10 worked, including unrecorded hours when the employer knew or reasonably should have known
11 that employees were working during those hours. (See *Morillion v. Royal Packing Co.* (2000) 22
12 Cal.4th 575, 585.)

13 38. At all relevant times during the applicable limitations period, Defendants failed to
14 compensate Plaintiff and the Aggrieved Employees for all hours worked, including, but not
15 limited to overtime wages for all overtime hours they worked at the correct rates of pay.

16 39. Plaintiff is informed and believes and thereon alleges that, at all relevant times,
17 Defendants maintained a policy and/or practice, or lack thereof, which resulted in Defendants'
18 failure to compensate Plaintiff and the other Aggrieved Employees for all hours worked as
19 required by California law.

20 **B. FAILURE TO PROVIDE SICK LEAVE**

21 40. Labor Code section 233 states

22
23 Any employer who provides sick leave for employees shall permit an
24 employee to use in any calendar year the employee's accrued and available
25 sick leave entitlement, in an amount not less than the sick leave that would
26 be accrued during six months at the employee's then current rate of
27 entitlement, for the reasons specified in subdivision (a) of Section 246.5.
28



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1 41. Labor Code section 246(a)(1) states

2
3 An employee who, on or after July 1, 2015, works in California for the
4 same employer for 30 or more days within a year from the commencement
5 of employment is entitled to paid sick days as specified in this section.
6

7 42. Labor Code section 246.5 states

8
9 (a) Upon the oral or written request of an employee, an employer shall
10 provide paid sick days for the following purposes:

11
12 (1) Diagnosis, care, or treatment of an existing health
13 condition of, or preventive care for, an employee or an
14 employee's family member.
15

16 ...

17 (c) (1) An employer shall not deny an employee the right to use accrued
18 sick days ...
19

20 43. The Defendants failed to provide Limpas and all of the other Aggrieved
21 Employees with paid sick leave. Accordingly, Limpas now seeks an award of civil penalties
22 against the Defendants for these Labor Code violations that the Defendants have committed
23 against her and all of the other Aggrieved Employees as follows: (1) For violations of Labor Code
24 section 233, \$100 per Aggrieved Employee for each of the pay periods in which initial violations
25 of section 233 occurred, and \$200 per Aggrieved Employee per pay period in which subsequent
26 violations of section 233 occurred (penalties set by Labor Code section 2699(f)(2)); (2) For
27 violations of Labor Code section 246, \$100 per Aggrieved Employee for each of the pay periods
28 in which initial violations of section 246 occurred, and \$200 per Aggrieved Employee per pay



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1 period in which subsequent violations of section 246 occurred (penalties set by Labor Code
2 section 2699(f)(2)); and (3) For violations of Labor Code section 246.5, \$100 per Aggrieved
3 Employee for each of the pay periods in which initial violations of section 246.5 occurred, and
4 \$200 per Aggrieved Employee per pay period in which subsequent violations of section 246.5
5 occurred (penalties set by Labor Code section 2699(f)(2)).

6 **C. FAILURE TO PROVIDE MEAL PERIODS**

7 44. In relevant part, California Labor Code § 1198 states:

8
9 The maximum hours of work and the standard conditions of labor
10 fixed by the commission shall be the maximum hours of work and
11 the standard conditions of labor for employees. The employment
12 of any employee for longer hours than those fixed by the order or
13 under conditions of labor prohibited by the order is unlawful.
14

15 45. In relevant part, California Labor Code § 512 states:

16
17 An employer shall not employ an employee for a work period of
18 more than five hours per day without providing the employee with
19 a meal period of not less than 30 minutes, except that if the total
20 work period per day of the employee is no more than six hours, the
21 meal period may be waived by mutual consent of both the
22 employer and employee.
23

24 An employer shall not employ an employee for a work period of
25 more than 10 hours per day without providing the employee with
26 a second meal period of not less than 30 minutes, except that if the
27 total hours worked is no more than 12 hours, the second meal
28 period may be waived by mutual consent of the employer and the



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1 employee only if the first meal period was not waived.

2
3 46. In relevant part, Section 11 of the Wage Order states:

4
5 **Meal Periods**

6
7 (A) No employer shall employ any person for a work period of
8 more than five (5) hours without a meal period of not less
9 than 30 minutes, except that when a work period of not
10 more than six (6) hours will complete the day's work the
11 meal period may be waived by mutual consent of the
12 employee and the employer. Unless the employee is
13 relieved of all duty during a 30 minute meal period, the
14 meal period shall be considered an 'on duty' meal period
15 and counted as time worked. An 'on duty' meal period shall
16 be permitted only when the nature of the work prevents an
17 employee from being relieved of all duty and when by
18 written agreement between the parties an on-the-job paid
19 meal period is agreed to. The written agreement shall state
20 that the employee may, in writing, revoke the agreement at
21 any time.

22
23 (B) If an employer fails to provide an employee a meal period
24 in accordance with the applicable provisions of this Order,
25 the employer shall pay the employee one (1) hour of pay at
26 the employee's regular rate of compensation for each work
27 day that the meal period is not provided.
28



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1 47. In relevant part, California Labor Code § 226.7 states:
2

3 (b) An employer shall not require an employee to work during
4 a meal or rest period mandated pursuant to an applicable
5 statute, or applicable regulation, standard, or order of the
6 Industrial Welfare Commission, the Occupational Safety
7 and Health Standards Board, or the Division of
8 Occupational Safety and Health.
9

10 (c) If an employer fails to provide an employee a meal period
11 or rest period in accordance with a state law, including, but
12 not limited to, an applicable statute or applicable
13 regulation, standard, or order of the Industrial Welfare
14 Commission, the Occupational Safety and Health
15 Standards Board, or the Division of Occupational Safety
16 and Health, the employer shall pay the employee one
17 additional hour of pay at the employee's regular rate of
18 compensation for each work day that the meal or rest
19 period is not provided.
20

21 48. Pursuant to California Labor Code § 512 and the Wage Order, Plaintiff and the
22 Aggrieved Employees were entitled to uninterrupted meal periods of at least 30 minutes for each
23 day they worked five or more hours. Pursuant to California Labor Code § 512, they were also
24 entitled to a second 30-minute meal period when they worked more than 10 hours in a workday.

25 49. Pursuant to the Wage Order, Plaintiff and the Aggrieved Employees were entitled
26 to be provided with net rest breaks of at least ten minutes for each four-hour period of work, or
27 major fraction thereof.

28 50. Defendants intentionally failed to provide Plaintiff and the Aggrieved Employees



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1 with all required 30-minute duty free meal periods and 10-minute rest periods free from any work
2 duties in accordance with the Wage Order.

3 51. At all relevant times, Defendants failed to provide Plaintiff and the Aggrieved
4 Employees with all timely rest and meal periods. At all relevant times, Defendants failed to
5 provide Limpas and all of the other Aggrieved Employees with all timely meal periods.
6 Defendants denied Limpas and all of the other Aggrieved Employees their 30-minute off-duty
7 meal period within the first five hours of work. Due to chronic understaffing and Defendants'
8 customer service requirements, Defendants denied Limpas and all other Aggrieved Employees
9 their earned duty-free meal periods. Defendants compelled Limpas and all other Aggrieved
10 Employees to remain in their assigned work areas and available to receive work-related directions.
11 Defendants' managers directed Limpas and all other Aggrieved Employees to delay, forgo, or
12 shorten 30-minute meal periods when the restaurant was understaffed. Furthermore, Defendants
13 failed to pay premium wages for days on which they failed to provide Limpas and all of the other
14 Aggrieved Employees with timely meal periods.

15 52. At all relevant times, Defendants failed to authorize and permit Plaintiff and the
16 Aggrieved Employees to take ten-minute, paid, duty-free rest breaks every four hours worked or
17 major fraction thereof. Defendants failed to authorize and permit Limpas and all of the other
18 Aggrieved Employees to take ten-minute, paid, duty-free rest breaks every four hours worked or
19 major fraction thereof. Defendants did not seek an exemption from the rest period protections of
20 the Wage Order from the California Division of Labor Standards Enforcement. Due to chronic
21 understaffing and Defendants' customer service requirements, Defendants denied Limpas and all
22 other Aggrieved Employees their earned duty-free rest breaks. Defendants compelled Limpas
23 and all other Aggrieved Employees to remain in their assigned work areas and available to receive
24 work-related directions. Defendants' managers directed Limpas and all other Aggrieved
25 Employees to delay, forgo, or shorten 10-minute rest breaks when the restaurant was understaffed.
26 Defendants did not seek an exemption from the rest period protections of the Wage Order from
27 the California Divisions of Labor Standards Enforcement. Moreover, Defendants failed to pay
28 Limpas and the Aggrieved Employees premium wages on workdays they failed to provide them



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1 with 10-minute rest periods every four hours worked or major fraction thereof.

2 53. Plaintiff is informed and believes and thereon alleges that, at all relevant times
3 within the applicable limitations period, Defendants had a policy, practice, or a lack of a policy
4 which resulted in Defendants not providing Plaintiff and the Aggrieved Employees with all off-
5 duty meal periods and rest breaks required by California law.

6 **D. FAILURE TO AUTHORIZE AND PERMIT REST BREAKS**

7 54. In relevant part, California Labor Code § 1198 states:

8
9 The maximum hours of work and the standard conditions of labor
10 fixed by the commission shall be the maximum hours of work and
11 the standard conditions of labor for employees. The employment
12 of any employee for longer hours than those fixed by the order or
13 under conditions of labor prohibited by the order is unlawful.

14
15 55. In relevant part, Section 12 of the Wage Order states:

16
17 **Rest Periods**

18
19 (A) Every employer shall authorize and permit all employees
20 to take rest periods, which insofar as practicable shall be in the
21 middle of each work period. The authorized rest period time shall
22 be based on the total hours worked daily at the rate of ten (10)
23 minutes net rest time per four (4) hours or major fraction thereof.
24 However, a rest period need not be authorized for employees
25 whose total daily work time is less than three and one-half (3 1/2)
26 hours. Authorized rest period time shall be counted as hours
27 worked for which there shall be no deduction from wages.
28



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(B) If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this Order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each work day that the rest period is not provided.

56. In relevant part, California Labor Code § 226.7 states:

(b) An employer shall not require an employee to work during a meal or rest period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health.

(c) If an employer fails to provide an employee a meal period or rest period in accordance with a state law, including, but not limited to, an applicable statute or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each work day that the meal or rest period is not provided.

57. Pursuant to the Wage Order, Plaintiff and the Aggrieved Employees were entitled to be authorized and permitted to take net rest breaks of at least ten minutes for each four-hour



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1 period of work, or major fraction thereof.

2 58. Defendants intentionally failed to authorize and permit Plaintiff and the Aggrieved
3 Employees to take all 10-minute rest periods free from any work duties in accordance with the
4 Wage Order.

5 59. At all relevant times, Defendants failed to authorize and permit Plaintiff and the
6 Aggrieved Employees to take all timely rest periods. Furthermore, Defendants failed to pay
7 premium wages to Plaintiff and the Aggrieved Employees for days on which they failed to
8 authorize and permit Plaintiff and the other Aggrieved Employees to take timely rest periods.

9 60. At all relevant times, due to high workload and low staffing levels, Defendants
10 failed to authorize and permit Plaintiff and the Aggrieved Employees to take ten-minute, paid,
11 duty-free rest breaks every four hours worked or major fraction thereof. Defendants did not seek
12 an exemption from the rest period protections of the Wage Order from the California Division of
13 Labor Standards Enforcement. Moreover, Defendants failed to pay Plaintiff and the Aggrieved
14 Employees premium wages on workdays they failed to authorize and permit them to take 10-
15 minute rest periods every four hours worked or major fraction thereof.

16 61. Plaintiff is informed and believes and thereon alleges that, at all relevant times
17 within the applicable limitations period, Defendants had a policy, practice, or a lack of a policy
18 which resulted in Defendants not authorizing and permitting Plaintiff and the Aggrieved
19 Employees to take all rest breaks required by California law.

20 **E. FAILURE TO INDEMNIFY**

21 62. In pertinent part, California Labor Code § 2802(a) states: “An employer shall
22 indemnify his or her employee[s] for all necessary expenditures incurred by the employee in direct
23 consequence of the discharge of his or her duties.”

24 63. California Labor Code § 1198 prohibits employers from employing their
25 employees under conditions prohibited by the Wage Order.

26 64. At all relevant times, Defendants required Plaintiff and the Aggrieved Employees
27 to incur certain business expenses in the course of performing their duties. During the applicable
28 limitations period, Defendants required Plaintiff and the other Aggrieved Employees to supply



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1 mobile phones and telecom to perform their job duties. Defendants did not offer mobile phones
2 to Plaintiff and the other Aggrieved Employees for this purpose, nor did they reimburse them for
3 use of their personal mobile phones.

4 65. Plaintiff is informed and believes and thereon alleges that, at all relevant times,
5 Defendants maintained a policy and/or practice, or lack thereof, which resulted in Defendants'
6 failure to indemnify Plaintiff and the Aggrieved Employees for the reasonable expenses they
7 incurred during the course of performing their duties.

8 **F. FAILURE TO PROVIDE ACCURATE AND COMPLETE WRITTEN WAGE**
9 **STATEMENTS**

10 66. Pursuant to California Labor Code § 226(a), Plaintiff and the Aggrieved
11 Employees were entitled to receive, bi-weekly or at the time of each payment of wages, an
12 accurate itemized statement showing: a) gross wages earned; b) net wages earned; c) all applicable
13 hourly rates in effect during the pay period; and d) the corresponding number of hours worked at
14 each hourly rate by the employee.

15 67. Pursuant to California Labor Code § 226, an employee is deemed to suffer injury
16 if the employer fails to provide a wage statement. Also, an employee is deemed to suffer injury if
17 the employer fails to provide accurate and complete information as required by California Labor
18 Code § 226(a) and the employee cannot "promptly and easily determine" from the wage statement
19 alone one or more of the following:

20 A. The amount of the gross wages or net wages paid to the employee during
21 the pay period or any of the other information required to be provided on the itemized wage
22 statement pursuant to California Labor Code § 226(a);

23 B. Which deductions the employer made from gross wages to determine the
24 net wages paid to the employee during the pay period;

25 C. The name and address of the employer and, if the employer is a farm labor
26 contractor, as defined in subdivision (b) of Section 1682 of the California Labor Code, the name
27 and address of the legal entity that secured the services of the employer during the pay period;

28 D. The name of the employee and only the last four digits of his or his social



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1 security number or an employee identification number other than a social security number; and

2 E. The number of piece-rate units earned and the piece rate.

3 68. "Promptly and easily determine," as stated in California Labor Code § 226(e),
4 means a reasonable person would be able to readily ascertain the information without reference
5 to other documents or information.

6 69. As alleged herein, at all relevant times during the applicable limitations period,
7 Defendants violated California Labor Code section 226 because they did not properly and
8 accurately itemize each employee's gross wages earned, net wages earned, the total hours worked,
9 the corresponding number of hours worked at each rate by the employee and other requirements
10 of California Labor Code section 226. Defendants failed to state in the wage statements they
11 issued to Plaintiff and the other Aggrieved Employees all their hours worked and wages earned,
12 including, but not limited to, regular and overtime wages for work they performed off-the-clock
13 after clocking-out (as described above).

14 70. Defendants' failure to provide Plaintiff and the other Aggrieved Employees with
15 accurate wage statements was knowing and intentional. Defendants had the ability to provide
16 Plaintiff and the other Aggrieved Employees with accurate wage statements but intentionally
17 provided wage statements that Defendants knew were not accurate.

18 71. As a result of being provided with inaccurate wage statements by Defendants,
19 Plaintiff and the other Aggrieved Employees have suffered injury. Their legal rights to receive
20 accurate wage statements were violated and they were misled about the amount of wages they
21 had actually earned and were owed. In addition, the absence of accurate information on their wage
22 statements prevented immediate challenges to Defendants' unlawful pay practices, has required
23 discovery and mathematical computations to determine the amounts of wages owed, has caused
24 difficulty and expense in attempting to reconstruct time and pay records and/or has led to the
25 submission of inaccurate information about wages to state and federal government agencies.
26 Further, Plaintiff and the other Aggrieved Employees were not able to ascertain from the wage
27 statements whether Defendants complied with their obligations under California Labor Code
28 section 226(a).



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1 **G. FAILURE TO PROVIDE NOTICE OF AVAILABLE SICK LEAVE**

2 72. Labor Code § 246 states

3
4 An employer shall provide an employee with written notice that sets forth the
5 amount of paid sick leave available, or paid time off leave an employer provides
6 in lieu of sick leave, for use on either the employee's itemized wage statement
7 described in Section 226 or in a separate writing provided on the designated pay
8 date with the employee's payment of wages.
9

10 Lab.Code § 246(h) (effective July 1, 2015). The Defendants failed to provide Limpas and all of
11 the other Aggrieved Employees with an itemized wage statement or separate writing that set forth
12 the amount of paid sick leave available. Accordingly, Limpas seeks civil penalties on behalf of
13 herself and all of the other Aggrieved Employees as follows: For violations of Labor Code § 246,
14 \$100 per Aggrieved Employee for each of the pay periods in which initial violations of § 246
15 occurred, and \$200 per Aggrieved Employee per pay period in which subsequent violations of
16 § 246 occurred (penalties set by Labor Code § 2699(f)(2)).

17 **H. UNTIMELY WAGES DURING EMPLOYMENT**

18 73. Labor Code § 204 states:

19
20 (a) All wages, other than those mentioned in Section 201,
21 201.3, 202, 204.1, or 204.2, earned by any person in any
22 employment are due and payable twice during each
23 calendar month, on days designated in advance by the
24 employer as the regular paydays. Labor performed
25 between the 1st and 15th days, inclusive, of any calendar
26 month shall be paid for between the 16th and the 26th day
27 of the month during which the labor was performed, and
28 labor performed between the 16th and the last day,



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1 inclusive, of any calendar month, shall be paid for
2 between the 1st and 10th day of the following month. ...
3

4 (b) (1) Notwithstanding any other provision of this
5 section, all wages earned for labor in excess of the normal
6 work period shall be paid no later than the payday for the
7 next regular payroll period.
8

9 (2) An employer is in compliance with the
10 requirements of subdivision (a) of Section 226
11 relating to total hours worked by the employee, if
12 hours worked in excess of the normal work period
13 during the current pay period are itemized as
14 corrections on the paystub for the next regular pay
15 period. Any corrections set out in a subsequently
16 issued paystub shall state the inclusive dates of
17 the pay period for which the employer is
18 correcting its initial report of hours worked.
19

20 (c) However, when employees are covered by a collective
21 bargaining agreement that provides different pay
22 arrangements, those arrangements shall apply to the
23 covered employees.
24

25 (d) The requirements of this section shall be deemed satisfied
26 by the payment of wages for weekly, biweekly, or
27 semimonthly payroll if the wages are paid not more than
28 seven calendar days following the close of the payroll



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period.

74. Defendants failed to compensate Plaintiff and the Aggrieved Employees for all hours worked at the correct rates of pay, including overtime. Defendants failed to provide Plaintiff and the Aggrieved Employees with all meal and rest periods in compliance with California laws. Defendants also failed to provide Plaintiff and the Aggrieved Employees with all premium wages on workdays they failed to provide them with one or more meal or rest periods in compliance with California laws. As a result, Defendants failed to timely pay all earned minimum, overtime, and premium wages due during employment within the time periods set by California Labor Code section 204.

I. UNTIMELY FINAL WAGES

75. Labor Code § 201 provides that all earned and unpaid wages of an employee who is discharged are due and payable immediately at the time of discharge.

76. Labor Code § 202 provides that all earned and unpaid wages of an employee who quits after providing at least 72-hours' notice before quitting are due and payable at the time of quitting and that all earned and unpaid wages of an employee who quits without providing at least 72-hours' notice before quitting are due and payable within 72 hours.

77. By failing to pay earned minimum and premium wages to Plaintiff and the Aggrieved Employees, Defendants failed to timely pay them all earned and unpaid wages in violation of Labor Code § 201 or § 202.

78. Plaintiff is informed and believes that Defendants' failures to timely pay Plaintiff and the Aggrieved Employees all of their earned and unpaid wages (described above) have been willful in that, at all relevant times, Defendants have deliberately maintained policies and practices that violate the requirements of the Labor Code and the Wage Order, even though at all relevant times, they have had the ability to comply with those legal requirements.

J. TIP VIOLATIONS

79. Under Labor Code § 350, the Defendants were at all times "employers" and Limpas and all of the other Aggrieved Employees were at all times "employees." Under Labor



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Code § 350, the Defendants were at all times “employing” Limpias and all of the other Aggrieved Employees. Labor Code § 351 prohibits an employer or agent of the employer from collecting, taking, or receiving any gratuity or a part thereof that is paid, given to, or left for an employee by a patron, or deducting any amount from wages due an employee on account of a gratuity, or requiring an employee to credit the amount, or any part thereof, of a gratuity against and as a part of the wages due the employee from the employer. Labor Code § 351 further declares that every gratuity is the sole property of the employee or employees to whom it was paid, given, or left for.

80. At all relevant times, the Defendants forced the Aggrieved Employees to share their monetary tips with the owner(s) of Defendants’ restaurant(s). As a result, the Defendants collected Limpias’s and all of the other Aggrieved Employees’ monetary tips in violation of Labor Code § 351. Thus, Limpias, on behalf of herself and all of the other Aggrieved Employees, seeks civil penalties under Labor Code Section 2699(f)(2) in the amounts of \$100 per Aggrieved Employee for the Defendants’ initial violation of Labor Code Section 351, and \$200 per Aggrieved Employee for each subsequent violation per pay period.

81. Labor Code § 353 requires every employer to keep accurate records of all gratuities it receives, whether received directly from the employee or indirectly by means of deductions from the wages of the employee or otherwise. The Defendants violated this Section with respect to gratuities intended for the Aggrieved Employees by creating records showing that Limpias and all of the other Aggrieved Employees received less in tips than they were paid by the patrons they served. As such, Limpias, on behalf of herself and all of the other Aggrieved Employees, seeks an award of civil penalties against the Defendants under Labor Code Section 2699(f)(2) in the amounts of \$100 per Aggrieved Employee for the Defendants’ initial violation of Labor Code Section 353, and \$200 per Aggrieved Employee for each subsequent violation per pay period.

K. FAILURE TO PROVIDE CHANGE ROOMS

82. Section 13 of Wage Order states

(A) Employers shall provide suitable lockers, closets, or equivalent for the



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safekeeping of employees' outer clothing during working hours, and when required, for their work clothing during non-working hours. When the occupation requires a change of clothing, change rooms or equivalent space shall be provided in order that employees may change their clothing in reasonable privacy and comfort. These rooms or spaces may be adjacent to but shall be separate from toilet rooms and shall be kept clean.

NOTE: This section shall not apply to change rooms and storage facilities regulated by the Occupational Safety and Health Standards Board.

(B) Suitable resting facilities shall be provided in an area separate from the toilet rooms and shall be available to employees during work hours.

83. Labor Code § 1198 makes it unlawful for an employer to employ an employee under conditions that violate the Wage Order.

84. Throughout the relevant time period, the Defendants failed to provide changing rooms for use by Limpas and all of the other Aggrieved Employees. Accordingly, on behalf of herself and all of the other Aggrieved Employees, Limpas seeks an award of civil penalties against the Defendants as follows: (1) \$100 for each Aggrieved Employee for each initial violation of California Labor Code § 1198, and \$200 for each Aggrieved Employee for each subsequent violation, per pay period (penalties set by California Labor Code § 2699(f)(2)); and (2) \$100 for each Aggrieved Employee for each initial violation of California Labor Code § 2350, and \$200 for each Aggrieved Employee for each subsequent violation, per pay period (penalties set by California Labor Code § 2699(f)(2)).

L. FAILURE TO PROVIDE AN ADEQUATE NUMBER OF SUITABLE SEATS

85. Section 14 of the Wage Order states as follows:

///

///



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Seats.

(A) All working employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats.

(B) When employees are not engaged in the active duties of their employment and the nature of the work requires standing, an adequate number of suitable seats shall be placed in reasonable proximity to the work area and employees shall be permitted to use such seats when it does not interfere with the performance of their duties.

86. Labor Code § 1198 prohibits employers from employing their employees under conditions prohibited by the Wage Order.

87. The nature of the work the Defendants expected Limpias and all of the other Aggrieved Employees to perform reasonably permits the use of seats. However, the Defendants, in violation of the Wage Order and Labor Code § 1198, did not provide Limpias and all of the other Aggrieved Employees with an adequate number of suitable seats. Additionally, the Defendants did not place an adequate number of suitable seats in reasonable proximity to their work area, nor did they permit Limpias and all of the other Aggrieved Employees to use such seats when it did not interfere with the performance of their duties.

88. Pursuant to Labor Code Sections 2699(a) and (f), Limpias, on behalf of herself and all of the other Aggrieved Employees, seeks an award of civil penalties against the Defendants as follows: \$100.00 for each employee per pay period for each initial violation of § 1198 and \$200.00 for each employee per pay period for each subsequent violation of § 1198 (penalty amounts established by Labor Code Section 2699(f)(2)).

M. FAILURE TO MAINTAIN ACCURATE EMPLOYMENT RECORDS

89. Labor Code § 1174 states:



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1 Every person employing labor in this state shall:

2 ...

3
4
5 (c) Keep a record showing the names and addresses of all employees
6 employed and the ages of all minors.

7
8 (d) Keep, at a central location in the state or at the plants or establishments
9 at which employees are employed, payroll records showing the hours
10 worked daily by and the wages paid to, and the number of piece-rate
11 units earned by and any applicable piece rate paid to, employees
12 employed at the respective plants or establishments. These records shall
13 be kept in accordance with rules established for this purpose by the
14 commission, but in any case shall be kept on file for not less than three
15 years. An employer shall not prohibit an employee from maintaining a
16 personal record of hours worked, or, if paid on a piece-rate basis, piece-
17 rate units earned.

18
19 90. Labor Code § 1174.5 states:

20
21 Any person employing labor who willfully fails to maintain the records required
22 by subdivision (c) of Section 1174, or to allow any member of the commission
23 or employees of the division to inspect records pursuant to subdivision (b) of
24 Section 1174, shall be subject to a civil penalty of five hundred dollars (\$500).

25
26 91. Section 7 of the Wage Order states:

27
28 (a) Every employer shall keep accurate information with respect to each



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employee including the following:

- (1) Full name, home address, occupation, and social security number.
- (2) Birth date, if under 18 years, and designation as a minor.
- (3) Time records showing when the employee begins and ends each work period. Meal periods, split shift intervals and total daily hours worked shall also be recorded. Meal periods during which operations cease and authorized rest periods need not be recorded.
- (4) Total wages paid each payroll period, including value of board, lodging, or other compensation actually furnished to the employee.
- (5) Total hours worked in the payroll period and applicable rates of pay. This information shall be made readily available to the employee upon reasonable request.
- (6) When a piece rate or incentive plan is in operation, piece rates or an explanation of the incentive plan formula shall be provided to employees. An accurate production record shall be maintained by the employer.



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92. Labor Code § 1198 prohibits employers from employing their employees under conditions prohibited by the Wage Order.

1 93. On information and belief, Defendants have willfully failed to maintain the records
2 required by § 1174 and Wage Order, including, but not limited to, the total premium wages earned
3 for missed meal and rest periods, and records pertaining to all unpaid hours worked by Plaintiff
4 and the Aggrieved Employees.

5 94. Accordingly, Limpas seeks an award of civil penalties against the Defendants on
6 behalf of herself and all of the other Aggrieved Employees as follows: (1) \$500 for each
7 Aggrieved Employee for each violation of Labor Code section 1174 (penalties set by Labor Code
8 section 1174.5); and (2) \$100 for each Aggrieved Employee for each initial violation of Labor
9 Code section 1198, and \$200 for each Aggrieved Employee for each subsequent violation, per
10 pay period (penalties set by Labor Code section 2699(f)(2)).

11 **N. CIVIL PENALTIES SOUGHT**

12 95. Defendants paid wages to employees on regular intervals. Defendants failed to pay
13 Plaintiff on such intervals for all wages earned and all hours worked. On information and belief,
14 Plaintiff alleges that Defendants also failed to pay the Aggrieved Employees on such intervals for
15 all wages earned and all hours worked.

16 96. During the applicable time period, Defendants violated California Labor Code
17 §§ 201, 202, 203, 204, 221, 226, 226.7, 233, 246, 246.5, 351, 353, 510, 512, 1174, 1194, 1197,
18 1198, 2350, 2802, and related Labor Code statutes.

19 97. California Labor Code §§ 2699(a) and (g) authorize an aggrieved employee, on
20 behalf of themselves and other current or former employees, to bring a civil action to recover civil
21 penalties pursuant to the procedures specified in California Labor Code § 2699.3.

22 98. Pursuant to California Labor Code §§ 2699(a) and (f), Plaintiff and the Aggrieved
23 Employees are entitled to recover civil penalties for each of the Defendants' violations of
24 California Labor Code §§ 201, 202, 203, 204, 221, 226, 226.7, 233, 246, 246.5, 351, 353, 510,
25 512, 1174, 1194, 1197, 1198, 2350, 2802, and related Labor Code statutes during the applicable
26 limitations period in the following amounts:

27 A. For violations of California Labor Code § 204, one hundred dollars (\$100.00) for
28 each Aggrieved Employee for each initial violation and two hundred dollars (\$200.00) for each



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1 Aggrieved Employee for each subsequent, willful or intentional violation (penalty amounts
2 established by California Labor Code § 210).

3 B. For violations of California Labor Code § 226, two hundred fifty dollars (\$250.00)
4 per Aggrieved Employee for initial violation and one thousand dollars (\$1,000.00) per Aggrieved
5 Employee for each subsequent violation (penalty amounts established by California Labor Code
6 § 226.3).

7 C. For violations of California Labor Code §§ 510 and 512, fifty dollars (\$50.00) for
8 each Aggrieved Employee for each initial violation for pay period for which the Aggrieved
9 Employee was underpaid and one hundred dollars (\$100.00) for each underpaid Aggrieved
10 Employee for each pay period for which the Aggrieved Employee was underpaid (penalty
11 amounts established by California Labor Code § 558).

12 D. For violations of California Labor Code § 1174, five hundred dollars (\$500.00)
13 for each Aggrieved Employee for each initial violation (penalty amounts established by Labor
14 Code § 1174.5).

15 E. For violations of California Labor Code § 1197, one hundred dollars (\$100.00) for
16 each Aggrieved Employee for each initial and intentional violation and two hundred fifty dollars
17 (\$250.00) for each Aggrieved Employee for each subsequent violation, per pay period (regardless
18 of whether the initial violations were intentionally committed) (penalty amounts established by
19 California Labor Code § 1197.1).

20 F. For violations of California Labor Code §§ 201, 202, 203, 226.7, 1194, 1198, and
21 2802, one hundred dollars (\$100.00) for each Aggrieved Employee per pay period for each initial
22 violation and two hundred dollars (\$200.00) for each Aggrieved Employee per pay period for
23 each subsequent violation (penalty amounts established by California Labor Code § 2699(f)(2)).

24 **O. NOTICE TO THE STATE OF CALIFORNIA AND DEFENDANTS**

25 99. Plaintiff has complied with the procedures for bringing suit specified in California
26 Labor Code § 2699.3. By letter dated November 03, 2023, Plaintiff gave written notice by
27 certified mail to the Labor and Workforce Development Agency (“LWDA”) and Defendants of
28 the specific provisions of the California Labor Code alleged to have been violated, including the



SPIVAK LAW
EMPLOYEE RIGHTS

Mail:
8605 Santa Monica Bl
PMB 42554
West Hollywood, CA 90069
(213) 725-9094 Tel
(213) 634-2485 Fax
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Office:
1801 Century Park East
25th Fl
Los Angeles, CA 90067

1 facts and theories to support the alleged violations. A true and correct copy of Plaintiff's letter to
2 the LWDA dated November 03, 2023, is attached hereto as **Exhibit A**. The LWDA has not
3 responded to Plaintiff's letter.

4 100. Pursuant to California Labor Code § 2699(g), Plaintiff and the Aggrieved
5 Employees are entitled to an award of civil penalties, reasonable attorneys' fees, and costs in
6 connection with their claims for civil penalties.

7 **V. PRAYER FOR RELIEF**

8 101. WHEREFORE, Plaintiff, on behalf of herself and the Aggrieved Employees, prays
9 for relief and judgment against Defendants as follows:

- 10 A. Civil penalties;
11 B. Costs of suit;
12 C. Reasonable attorneys' fees; and
13 D. Such other relief as the Court deems just and proper.

14 **VI. DEMAND FOR JURY TRIAL**

15 Plaintiff, on behalf of herself and all other Aggrieved Employees, hereby demands a jury
16 trial on all issues so triable.

17 Respectfully submitted,

18 THE SPIVAK LAW FIRM

19 Dated: 01 / 08 / 2024

20 By:

21 
22 DAVID G. SPIVAK and LAUREN R.
23 DAVIS, Attorneys for Plaintiff,
24 NANCY LIMPIAS, and all others
25 similarly situated
26



25 SPIVAK LAW
26 EMPLOYEE RIGHTS

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EXHIBIT A



SENT BY ELECTRONIC SUBMISSION, CERTIFIED MAIL, AND EMAIL

November 3, 2023

Attn: PAGA Administrator
Labor and Workforce Development Agency
<http://dir.tflaforms.net>
Via Electronic Submission

Re: Nancy Limpias / Tio's Mexican Restaurant

To Whom It May Concern:

Pursuant to the Labor Code Private Attorneys General Act of 2004, Labor Code sections 2698, *et seq.*, Nancy Limpias (hereafter "Limpias" or "Complainant") provides notice that Loera Restaurants Inc., a California corporation, and related entities (collectively "the Tio's Mexican Restaurant Employers" or "the Employers") violated her rights and those of all other individuals the Tio's Mexican Restaurant Employers have employed or otherwise contracted with in California as hourly, non-exempt employees, including "back-of-house" and "front-of-house" employees including, but not limited to cashiers, servers, server assistants, bussers, food runners, and line cooks, individuals performing work comparable to the aforementioned, and individuals in similar positions (hereafter the "Aggrieved Employees") under Labor Code sections 201, 202, 203, 221, 226, 226.7, 227.3, 510, 512, 1194, 1197, 1198, 2802, and other Labor Code statutes. On behalf of herself and all other Aggrieved Employees, Limpias hereby provides this notice to the Labor & Workforce Development Agency and the Tio's Mexican Restaurant Employers and their agents and representatives.

At all relevant times, the Tio's Mexican Restaurant Employers have employed persons, conducted business, and engaged in illegal payroll practices and policies, throughout California. Limpias and all of the other Aggrieved Employees are "employees" within the meaning of Industrial Welfare Commission Order No. 5-2001 (hereafter "the Wage Order") section 2, subdivision (F) and "Aggrieved Employees" within the meaning of Labor Code section 2699(c).

Statement of Facts

On approximately November 5, 2020, the Tio's Mexican Restaurant Employers began to employ Limpias in Fontana in the position of hourly, non-exempt server/cashier. The Tio's Mexican Restaurant Employers continuously employed her in that capacity until on or about January 8, 2023, when her employment ended.

At all relevant times, the Tio's Mexican Restaurant Employers issued wages to Limpias and all of the other Aggrieved Employees on a biweekly (26 paychecks/year) basis and paid them by the hour. At all relevant times, the Tio's Mexican Restaurant Employers classified Limpias and all of the other Aggrieved Employees as non-exempt employees entitled to the protections of the Labor Code and the Wage Order.

The Tio's Mexican Restaurant Employers failed to compensate Limpias and all of the other Aggrieved Employees for all hours worked at the applicable minimum or regular rates of pay. Due to chronic understaffing and Tio's Mexican Restaurant Employers' customer service requirements, the Tio's Mexican Restaurant Employers denied Limpias and all other Aggrieved Employees their earned duty-free meal periods and rest breaks. The Tio's Mexican Restaurant Employers compelled Limpias and all other Aggrieved Employees to remain in their assigned work areas and available to receive work-related directions. The Tio's Mexican Restaurant Employers' managers directed Limpias and all other Aggrieved Employees to delay, forgo, or shorten 30-minute meal periods and 10-minute rest breaks when the restaurant was understaffed.

The Tio's Mexican Restaurant Employers failed to compensate Limpias and all of the other Aggrieved Employees at the correct rates of pay for all hours worked over eight in a day, over 40 in a week, and for the first eight hours of the seventh day of the workweek. Due to chronic understaffing and Tio's Mexican Restaurant Employers' customer service requirements, the Tio's Mexican Restaurant Employers denied Limpias and all other Aggrieved Employees their earned duty-free meal periods and rest breaks. The Tio's Mexican Restaurant Employers compelled Limpias and all other Aggrieved Employees to remain in their assigned work areas and available to receive work-related directions. The Tio's Mexican Restaurant Employers' managers directed Limpias and all other Aggrieved Employees to delay, forgo, or shorten 30-minute meal periods and 10-minute rest breaks when the restaurant was understaffed.

The Tio's Mexican Restaurant Employers failed to compensate Limpas and all of the other Aggrieved Employees at the correct rates of pay for all hours worked over 12 in a day, and all over the first eight of the seventh day of the workweek. Due to chronic understaffing and Tio's Mexican Restaurant Employers' customer service requirements, the Tio's Mexican Restaurant Employers denied Limpas and all other Aggrieved Employees their earned duty-free meal periods and rest breaks. The Tio's Mexican Restaurant Employers compelled Limpas and all other Aggrieved Employees to remain in their assigned work areas and available to receive work-related directions. The Tio's Mexican Restaurant Employers' managers directed Limpas and all other Aggrieved Employees to delay, forgo, or shorten 30-minute meal periods and 10-minute rest breaks when the restaurant was understaffed.

At all relevant times, the Tio's Mexican Restaurant Employers failed to provide Limpas and all of the other Aggrieved Employees with all timely 30-minute, off-duty meal periods. Due to chronic understaffing and Tio's Mexican Restaurant Employers' customer service requirements, the Tio's Mexican Restaurant Employers denied Limpas and all other Aggrieved Employees their earned duty-free meal periods. The Tio's Mexican Restaurant Employers compelled Limpas and all other Aggrieved Employees to remain in their assigned work areas and available to receive work-related directions. The Tio's Mexican Restaurant Employers' managers directed Limpas and all other Aggrieved Employees to delay, forgo, or shorten 30-minute meal periods when the restaurant was understaffed. The Tio's Mexican Restaurant Employers also failed to pay premium wages for days on which they failed to provide Limpas and all of the other Aggrieved Employees with meal periods as required by law.

At all relevant times, the Tio's Mexican Restaurant Employers failed to authorize and permit Limpas and all of the other Aggrieved Employees to take ten-minute, off-duty, paid rest breaks every four hours worked or major portion thereof. Due to chronic understaffing and Tio's Mexican Restaurant Employers' customer service requirements, the Tio's Mexican Restaurant Employers denied Limpas and all other Aggrieved Employees their earned duty-free rest breaks. The Tio's Mexican Restaurant Employers compelled Limpas and all other Aggrieved Employees to remain in their assigned work areas and available to receive work-related directions. The Tio's Mexican Restaurant Employers' managers directed Limpas and all other Aggrieved Employees to delay, forgo, or shorten 10-minute rest breaks when the restaurant was understaffed. The Tio's Mexican Restaurant Employers also failed to pay premium wages for days on which

they failed to authorize and permit Limpias and all of the other Aggrieved Employees to take rest breaks as required by law.

The Tio's Mexican Restaurant Employers failed to provide paid sick leave to Limpias and all of the other Aggrieved Employees.

At all relevant times, the Tio's Mexican Restaurant Employers required Limpias and all of the other Aggrieved Employees to incur certain business expenses in the course of performing their duties. The Tio's Mexican Restaurant Employers required Limpias and all of the other Aggrieved Employees to supply mobile phones and pay for mobile phone plans to perform their job duties. However, the Tio's Mexican Restaurant Employers did not provide these items and did not reimburse Limpias and the other Aggrieved Employees for these items. The Tio's Mexican Restaurant Employers compelled Limpias and all other Aggrieved Employees to provide their own mobile phones to perform their work. Despite requiring these means of communication, the Tio's Mexican Restaurant Employers did not provide them, nor did they reimburse Limpias and all other Aggrieved Employees for purchasing or providing their own.

The Tio's Mexican Restaurant Employers unlawfully deducted wages belonging to Limpias and all of the other Aggrieved Employees.

At all relevant times, the Tio's Mexican Restaurant Employers failed to issue to Limpias and all of the other Aggrieved Employees complete and accurate wage statements that state all hours worked at the correct rates of pay, and all wages earned. The Tio's Mexican Restaurant Employers knowingly and intentionally failed to state on the wage statements they issued to Limpias and all of the other Aggrieved Employees the unpaid wages discussed above. The wage statements fail to state all minimum wages earned, all regular wages earned, all overtime wages earned, all doubletime wages earned, all meal period premium wages earned, all rest break premium wages earned, all earned sick pay, and other required information.

The Tio's Mexican Restaurant Employers failed to provide Limpias and all of the other Aggrieved Employees with statements of sick leave available, or paid time off in lieu of sick leave.

The Tio's Mexican Restaurant Employers collected and retained tips the Tio's Mexican Restaurant Employers' patrons paid to Limpias and all of the other Aggrieved Employees.

The Tio's Mexican Restaurant Employers also failed to timely pay Limpias and all of the other Aggrieved Employees all earned wages as described above during and at the conclusion of employment.

The Tio's Mexican Restaurant Employers failed to provide Limpias and all of the other Aggrieved Employees with change rooms.

The Tio's Mexican Restaurant Employers failed to provide Limpias and all of the other Aggrieved Employees with an adequate number of suitable seats.

The Tio's Mexican Restaurant Employers failed to maintain accurate employee records of Limpias and all of the other Aggrieved Employees.

For the reasons stated herein, Limpias alleges the following violations of the Labor Code and the Wage Order on behalf of herself and all of the other Aggrieved Employees:

- (a) The Tio's Mexican Restaurant Employers failed to pay Limpias and all of the other Aggrieved Employees all wages earned for all hours worked at the correct rates of pay, including minimum, regular, overtime, and doubletime wages;
- (b) The Tio's Mexican Restaurant Employers failed to provide paid sick leave to Limpias and all of the other Aggrieved Employees;
- (c) The Tio's Mexican Restaurant Employers failed to provide Limpias and all of the other Aggrieved Employees all meal periods in compliance with California law;
- (d) The Tio's Mexican Restaurant Employers failed to authorize and permit Limpias and all of the other Aggrieved Employees to take rest breaks in compliance with California law;

- (e) The Tio's Mexican Restaurant Employers failed to compensate Limpias and all of the other Aggrieved Employees at one hour's pay for each day in which the Tio's Mexican Restaurant Employers failed to provide them with one or more meal periods as required by law;
- (f) The Tio's Mexican Restaurant Employers failed to compensate Limpias and all of the other Aggrieved Employees at one hour's pay for each day in which the Tio's Mexican Restaurant Employers failed to authorize and permit them to take one or more rest breaks as required by law;
- (g) The Tio's Mexican Restaurant Employers failed to indemnify Limpias and all of the other Aggrieved Employees for all necessary business expenditures incurred during the discharge of their duties;
- (h) The Tio's Mexican Restaurant Employers unlawfully deducted wages belonging to Limpias and all of the other Aggrieved Employees;
- (i) The Tio's Mexican Restaurant Employers knowingly and intentionally failed to provide Limpias and all of the other Aggrieved Employees with accurate wage statements;
- (j) The Tio's Mexican Restaurant Employers failed to provide Limpias and all of the other Aggrieved Employees with statements of sick leave available, or paid time off in lieu of sick leave;
- (k) The Tio's Mexican Restaurant Employers collected and retained tips the Tio's Mexican Restaurant Employers' patrons paid to Limpias and all of the other Aggrieved Employees;
- (l) The Tio's Mexican Restaurant Employers willfully failed to timely pay Limpias and all of the other Aggrieved Employees all earned and unpaid wages during their employment with the Tio's Mexican Restaurant Employers and when their employment ended;

- (m) The Tio's Mexican Restaurant Employers failed to provide Limpias and all of the other Aggrieved Employees with change rooms;
- (n) The Tio's Mexican Restaurant Employers failed to provide Limpias and all of the other Aggrieved Employees with an adequate number of suitable seats; and
- (o) The Tio's Mexican Restaurant Employers failed to maintain accurate employment records pertaining to Limpias and all of the other Aggrieved Employees.

Accordingly, Limpias now seeks civil penalties on behalf of herself and all of the other Aggrieved Employees based on the Tio's Mexican Restaurant Employers' alleged violations of the Labor Code and the Wage Order.

The Wage Order

The Wage Order applies to "all persons employed in the public housekeeping industry whether paid on a time, piece rate, commission, or other basis." Wage Order, § 1. The Wage Order defines "Public Housekeeping Industry" to mean

any industry, business, or establishment which provides meals, housing, or maintenance services whether operated as a primary business or when incidental to other operations in an establishment not covered by an industry order of the Commission, and includes, but is not limited to the following:

- (1) Restaurants, night clubs, taverns, bars, cocktail lounges, lunch counters, cafeterias, boarding houses, clubs, and all similar establishments where food in either sold or liquid form is prepared and served to be consumed on the premises;
- (2) Catering, banquet, box lunch service, and similar establishments which prepare food for consumption on or off the premises;
- (3) Hotels, motels, apartment houses, rooming houses, camps, clubs, trailer parks, office or loft buildings, and similar establishments offering rental of living, business, or commercial quarters;

- (4) Hospitals, sanitariums, rest homes, child nurseries, child care institutions, homes for the aged, and similar establishments offering board or lodging in addition to medical, surgical, nursing, convalescent, aged, or child care;
- (5) Private schools, colleges, or universities, and similar establishments which provide board or lodging in addition to educational facilities;
- (6) Establishments contracting for development, maintenance or cleaning of grounds; maintenance or cleaning of facilities and/or quarters of commercial units and living units; and
- (7) Establishments providing veterinary or other animal care services.

Wage Order, § 2(P). At all relevant times during the applicable limitations period, the Tio's Mexican Restaurant Employers, Limpias, and all of the Aggrieved Employees were covered by the Wage Order because the Tio's Mexican Restaurant Employers operated, and Limpias, and all of the Aggrieved Employees, worked for one or more restaurants. Accordingly, Limpias and all of the other Aggrieved Employees are entitled to the protections the Wage Order provides.

Failure To Pay Wages For All Hours Worked At The Correct
Rates of Pay
(Lab. Code §§ 510, 1194, 1197, and 1198)

Under Labor Code section 1197, "The minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than the minimum so fixed is unlawful."

In relevant part, section 2(K) of the Wage Order states,

"Hours worked" means 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[.]

In relevant part, Labor Code section 1194 states:

- (a) Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees, and costs of suit.

In relevant part, Labor Code section 510 states:

Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.

In relevant part, Section 3 of the Wage Order states:

The following overtime provisions are applicable to employees 18 years of age or over and to employees 16 or 17 years of age who are not required by law to attend school and are not otherwise prohibited by law from engaging in the subject work. Such employees shall not be employed more than eight (8) hours in any workday or more than 40 in a workweek unless the employee receives one and one half (1½) times such employee's regular rate of pay for all hours worked over 40 hours in the workweek. Eight (8) hours of labor constitutes a day's work. Employment beyond eight (8) hours in any workday or more than six (6) days in any workweek is permissible provided the employee is compensated for such overtime at not less than:

- (a) One and one-half (1½) times the employee's regular rate of pay for all hours worked in excess of eight (8) hours up to and including twelve (12) hours in any workday, and for the first eight (8) hours worked on the seventh (7th) consecutive day of work in a workweek;

- (b) Double the employee's regular rate of pay for all hours worked in excess of 12 hours in any workday and for all hours worked in excess of eight (8) hours on the seventh (7th) consecutive day of work in a workweek; and
- (c) The overtime rate of compensation required to be paid to a nonexempt full-time salaried employee shall be computed by using the employee's regular hourly salary as one fortieth (1/40) of the employee's weekly salary.

Labor Code § 1198 prohibits employers from employing their employees under conditions prohibited by the Wage Order.

In conjunction, these provisions of the Labor Code require employers to pay employees no less than their agreed-upon or statutorily mandated wage rates for all hours worked, including hours spent working “off-the-clock” (before punching in or after punching out on a time clock) when the employer knew or reasonably should have known that employees were working during those hours. *Morillion v. Royal Packing Co.* (2000) 22 Cal.4th 575, 585.

Due to chronic understaffing and Tio's Mexican Restaurant Employers' customer service requirements, the Tio's Mexican Restaurant Employers denied Limpias and all other Aggrieved Employees their earned duty-free meal periods and rest breaks. The Tio's Mexican Restaurant Employers compelled Limpias and all other Aggrieved Employees to remain in their assigned work areas and available to receive work-related directions. The Tio's Mexican Restaurant Employers' managers directed Limpias and all other Aggrieved Employees to delay, forgo, or shorten 30-minute meal periods and 10-minute rest breaks when the restaurant was understaffed. In addition, the Tio's Mexican Restaurant Employers compelled Limpias and all other Aggrieved Employees to perform work such as cleaning after clocking out at the end of their shifts. Limpias and all other Aggrieved Employees were not paid for such “off-the-clock” work.

With respect to overtime wages, the regular rate of pay under California law must include “all remuneration for employment paid to, on behalf of, the employee.” O.L. 2002.06.14 (quoting 29 U.S.C. § 207(e)). This requirement includes, but is not limited to bonuses. *See, e.g., Huntington Memorial Hosp. v. Superior Court* (2005) 131 Cal. App. 4th 893, 904–05. Bonuses must be included in the regular rate whether they are the sole source of the employee's compensation or are in addition to a guaranteed salary or hourly rate. 29 C.F.R. §§ 778.117, 778.208. *See Oliver v. Mercy Med. Ctr., Inc.* (9th Cir.

1982) 695 F.2d 379. At all relevant times during their work for the Tio's Mexican Restaurant Employers, Limpias and all of the other Aggrieved Employees earned "off-the-clock" wages, rest period premium wages, and meal period premium wages during pay periods in which they worked hours qualifying for overtime and/or double time premium pay rates. However, the Tio's Mexican Restaurant Employers failed to pay to Limpias and all of the other Aggrieved Employees "off-the-clock" wages, rest period premium wages, and meal period premium wages overtime and double time premium pay on such "off-the-clock" wages, rest period premium wages, meal period premium wages, and other non-discretionary compensation.

At all relevant times during the applicable limitations period, the Tio's Mexican Restaurant Employers failed to compensate Limpias and all of the other Aggrieved Employees for all hours worked, including, but not limited to minimum, regular, overtime, and doubletime wages for all hours they worked at the correct rates of pay. Accordingly, Limpias now seeks civil penalties on behalf of herself and all of the other Aggrieved Employees as follows:

1. \$50 for each aggrieved employee for each initial violation of Labor Code § 510, and \$100 for each aggrieved employee for each subsequent violation, per pay period in addition to an amount sufficient to recover underpaid wages (penalties set by Labor Code § 558);
2. \$100 for each aggrieved employee for each initial violation of Labor Code § 1194, and \$200 for each aggrieved employee for each subsequent violation, per pay period (penalties set by Labor Code § 2699(f)(2));
3. \$100 for each underpaid aggrieved employee for each initial violation of Labor Code § 1197, and \$250 for each underpaid aggrieved employee for each subsequent violation per pay period (regardless of whether the initial violations were intentionally committed), in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section 203 (penalties set by Labor Code § 1197.1) and
4. \$100 for each aggrieved employee for each initial violation of Labor Code § 1198, and \$200 for each aggrieved employee for each subsequent violation, per pay period (penalties set by Labor Code § 2699(f)(2)).

Failure To Provide Sick Leave
(Labor Code §§ 233, 246, and 246.5)

Labor Code section 233 states,

Any employer who provides sick leave for employees shall permit an employee to use in any calendar year the employee's accrued and available sick leave entitlement, in an amount not less than the sick leave that would be accrued during six months at the employee's then current rate of entitlement, for the reasons specified in subdivision (a) of Section 246.5.

Labor Code section 246(a)(1) states,

An employee who, on or after July 1, 2015, works in California for the same employer for 30 or more days within a year from the commencement of employment is entitled to paid sick days as specified in this section.

Labor Code section 246.5 states,

- (a) Upon the oral or written request of an employee, an employer shall provide paid sick days for the following purposes:
 - (1) Diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee's family member.
 - ...
- (c) (1) An employer shall not deny an employee the right to use accrued sick days ...

The Tio's Mexican Restaurant Employers failed to provide Limpias and all of the other Aggrieved Employees with paid sick leave.

Accordingly, Limpias now seeks civil penalties for these Labor Code violations that the Tio's Mexican Restaurant Employers have committed against her and all of the other Aggrieved Employees as follows:

1. For violations of Labor Code section 233, \$100 per aggrieved employee for each of the pay periods in which initial violations of section 233 occurred, and \$200 per aggrieved employee per pay period in which subsequent violations of section 233 occurred (penalties set by Labor Code section 2699(f)(2));
2. For violations of Labor Code section 246, \$100 per aggrieved employee for each of the pay periods in which initial violations of section 246 occurred, and \$200 per aggrieved employee per pay period in which subsequent violations of section 246 occurred (penalties set by Labor Code section 2699(f)(2)); and
3. For violations of Labor Code section 246.5, \$100 per aggrieved employee for each of the pay periods in which initial violations of section 246.5 occurred, and \$200 per aggrieved employee per pay period in which subsequent violations of section 246.5 occurred (penalties set by Labor Code section 2699(f)(2)).

Failure to Provide Meal Periods
(Lab. Code §§ 226.7, 512, and 1198)

In relevant part, section 2(K) of the Wage Order states,

“Hours worked” means 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.

In relevant part, Labor Code section 1198 states, “The employment of any employee ... under conditions of labor prohibited by the [Wage Order] is unlawful.”

In relevant part, Labor Code section 512 states:

An employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes, except that if the total work period per day of the employee is no more than six hours, the meal period may be waived

by mutual consent of both the employer and employee. An employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

In relevant part, section 11 of the Wage Order states:

Meal Periods:

- (A) No employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, except that when a work period of not more than six (6) hours will complete the day's work the meal period may be waived by mutual consent of the employer and the employee. Unless the employee is relieved of all duty during a 30 minute meal period, the meal period shall be considered an "on duty" meal period and counted as time worked. . . .
- (B) If an employer fails to provide an employee a meal period in accordance with the applicable provisions of this Order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided.

In addition, Labor Code section 226.7 states:

- (b) An employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health.
- (c) If an employer fails to provide an employee a meal or rest or recovery period in accordance with a state law, including, but not

limited to, an applicable statute or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided.

At all relevant times, the Tio's Mexican Restaurant Employers failed to provide Limpias and all of the other Aggrieved Employees with all timely meal periods. The Tio's Mexican Restaurant Employers denied Limpias and all of the other Aggrieved Employees their 30-minute off-duty meal period within the first five hours of work. Due to chronic understaffing and Tio's Mexican Restaurant Employers' customer service requirements, the Tio's Mexican Restaurant Employers denied Limpias and all other Aggrieved Employees their earned duty-free meal periods. The Tio's Mexican Restaurant Employers compelled Limpias and all other Aggrieved Employees to remain in their assigned work areas and available to receive work-related directions. The Tio's Mexican Restaurant Employers' managers directed Limpias and all other Aggrieved Employees to delay, forgo, or shorten 30-minute meal periods when the restaurant was understaffed. Furthermore, the Tio's Mexican Restaurant Employers failed to pay premium wages for days on which they failed to provide Limpias and all of the other Aggrieved Employees with timely meal periods. Accordingly, Limpias now seeks civil penalties for these Labor Code violations that the Tio's Mexican Restaurant Employers have committed against her and all of the other Aggrieved Employees as follows:

1. \$100 for each aggrieved employee for each initial violation of Labor Code section 226.7, and \$200 for each aggrieved employee for each subsequent violation, per pay period (penalties set by Labor Code section 2699(f)(2));
2. \$50 for each aggrieved employee for each initial violation of Labor Code section 512, and \$100 for each aggrieved employee for each subsequent violation, per pay period in addition to an amount sufficient to recover underpaid wages (penalties set by Labor Code section 558); and
3. \$100 for each aggrieved employee for each initial violation of Labor Code section 1198, and \$200 for each aggrieved employee for each subsequent violation, per pay period (penalties set by Labor Code section 2699(f)(2)).

Failure to Authorize and Permit Rest Periods
(Lab. Code §§ 226.7 & 1198)

Section 2(K) of the Wage Order states,

“Hours worked” means 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.

In relevant part, Labor Code section 1198 states,

The employment of any employee . . . under conditions of labor prohibited by the [Wage Order] is unlawful.

Section 12 of the Wage Order provides, in relevant part:

Rest Periods:

- (A) Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof. However, a rest period need not be authorized for employees whose total daily work time is less than three and one-half (3 ½) hours. Authorized rest period time shall be counted as hours worked for which there shall be no deduction from wages.
- (B) If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the rest period is not provided.

In addition, Labor Code section 226.7 states:

- (b) An employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health.
- (c) If an employer fails to provide an employee a meal or rest or recovery period in accordance with a state law, including, but not limited to, an applicable statute or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided.

The Tio's Mexican Restaurant Employers failed to authorize and permit Limpias and all of the other Aggrieved Employees to take ten-minute, paid, duty-free rest breaks every four hours worked or major fraction thereof. The Tio's Mexican Restaurant Employers did not seek an exemption from the rest period protections of the Wage Order from the California Division of Labor Standards Enforcement. Due to chronic understaffing and Tio's Mexican Restaurant Employers' customer service requirements, the Tio's Mexican Restaurant Employers denied Limpias and all other Aggrieved Employees their earned duty-free rest breaks. The Tio's Mexican Restaurant Employers compelled Limpias and all other Aggrieved Employees to remain in their assigned work areas and available to receive work-related directions. The Tio's Mexican Restaurant Employers' managers directed Limpias and all other Aggrieved Employees to delay, forgo, or shorten 10-minute rest breaks when the restaurant was understaffed. Moreover, the Tio's Mexican Restaurant Employers failed to pay Limpias and all of the other Aggrieved Employees premium wages on workdays the Tio's Mexican Restaurant Employers failed to provide Limpias and all of the other Aggrieved Employees with 10-minute rest periods every four hours worked or major fraction thereof. Accordingly, Limpias now seeks civil penalties for these Labor Code violations that the Tio's Mexican Restaurant Employers have committed against her and all of the other Aggrieved Employees as follows:

1. \$100 for each aggrieved employee for each initial violation of Labor Code section 226.7, and \$200 for each aggrieved employee for each subsequent violation, per pay period (penalties set by Labor Code section 2699(f)(2)); and
2. \$100 for each aggrieved employee for each initial violation of Labor Code section 1198, and \$200 for each aggrieved employee for each subsequent violation, per pay period (penalties set by Labor Code section 2699(f)(2)).

Failure to Reimburse for Expenses
(Lab. Code §§ 1198 and 2802)

In pertinent part, Labor Code § 2802(a) states, “An employer shall indemnify his or her employee[s] for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her duties.”

Additionally, the Wage Order states,

- (A) When uniforms are required by the employer to be worn by the employee as a condition of employment, such uniforms shall be provided and maintained by the employer.

...

- (B) When tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft.

Wage Order, § 9(B).

Labor Code Section 1198 prohibits an employer from employing any person under conditions that violate the Wage Order.

As described above, the Tio's Mexican Restaurant Employers required Limpias and all of the other Aggrieved Employees to incur certain business expenses in the course of performing their duties. The Tio's Mexican Restaurant Employers required Limpias and all of the other Aggrieved Employees to supply mobile phones and pay for mobile phone plans to perform their job duties. However, the Tio's Mexican Restaurant Employers did not provide these items and did not reimburse Limpias and the other Aggrieved Employees for these items. The Tio's Mexican Restaurant Employers compelled Limpias and all other Aggrieved Employees to provide their own mobile phones to perform their work. Despite requiring these means of communication, the Tio's Mexican Restaurant Employers did not provide them, nor did they reimburse Limpias and all other Aggrieved Employees for purchasing or providing their own. Accordingly, Limpias seeks civil penalties for these Labor Code violations that the Tio's Mexican Restaurant Employers have committed against her and all of the other Aggrieved Employees as follows:

1. \$100 for each aggrieved employee for each initial violation of Labor Code section 2802, and \$200 for each aggrieved employee for each subsequent violation, per pay period (penalties set by Labor Code section 2699(f)(2)); and
2. \$100 for each aggrieved employee for each initial violation of Labor Code section 1198, and \$200 for each aggrieved employee for each subsequent violation, per pay period (penalties set by Labor Code section 2699(f)(2)).

Unlawful Deductions
(Lab. Code § 221)

Under Labor Code § 221, "It shall be unlawful for any employer to collect or receive from an employee any part of wages theretofore paid by said employer to said employee." The Tio's Mexican Restaurant Employers deducted wages from the wages earned by Limpias and all of the other Aggrieved Employees for in violation of Labor Code § 221. Accordingly, Limpias seeks civil penalties on behalf of herself and all of the other Aggrieved Employees as follows: \$100 for each aggrieved employee for each initial violation of Labor Code § 221, and \$200 for each aggrieved employee for each subsequent violation, or any willful or intentional violation of Labor Code § 221, plus 25% of the amount unlawfully withheld from each aggrieved employee (penalties set by Labor Code § 225.5).

Failure to Provide Accurate Wage Statements
(Lab. Code § 226)

Labor Code section 226(a) requires an employer to provide an employee, either semi-monthly or at the time of each wage payment, with an accurate and itemized written wage statement that shows:

1. Gross wages earned;
2. Total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission;
3. The number of piece rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis;
4. All deductions, provided that all deductions made on written orders of the Employee may be aggregated and shown as one item;
5. Net wages earned;
6. The inclusive dates of the period for which the employee is paid;
7. The name of the employee and his or her social security number, except that by January 1, 2008, only the last four digits of his or her social security number or an employee identification number other than a social security number may be shown on the itemized statement;
8. The name and address of the legal entity that is the employer; and
9. All applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

At all relevant times during the applicable limitations period, the Tio's Mexican Restaurant Employers violated Labor Code section 226 because they did not properly and accurately itemize each Aggrieved Employee's gross wages earned, net wages earned, the total hours worked, the corresponding number of hours worked at each rate by the Aggrieved Employee and other requirements of Labor Code section 226. The Tio's Mexican Restaurant Employers failed to state in the wage statements they issued to Limpas and all of the other Aggrieved Employees all their hours worked and wages earned, including, but not limited to, regular and overtime wages for work they performed off-the-clock after clocking-out (as described above). The Tio's Mexican Restaurant Employers knowingly and intentionally failed to state on the wage statements they issued to Limpas and all of the other Aggrieved Employees the earned but unpaid wages described above. The wage statements do not state all minimum wages earned, all regular wages earned, all overtime wages earned, all doubletime wages earned, all meal period premium wages earned, all rest break premium wages earned, all earned sick pay, and other required information.

Accordingly, Limpas seeks civil penalties for the Labor Code violations that the Tio's Mexican Restaurant Employers have committed against her and all of the other Aggrieved Employees as follows: \$250 for each aggrieved employee for each initial violation of Labor Code section 226(a), and \$1,000 for each aggrieved employee for each subsequent violation (penalties set by Labor Code section 226.3).

Failure To Provide Notice of Available Sick Leave
(Labor Code § 246)

Labor Code § 246 states,

An employer shall provide an employee with written notice that sets forth the amount of paid sick leave available, or paid time off leave an employer provides in lieu of sick leave, for use on either the employee's itemized wage statement described in Section 226 or in a separate writing provided on the designated pay date with the employee's payment of wages.

Lab.Code § 246(h) (effective July 1, 2015). The Tio's Mexican Restaurant Employers failed to provide Limpas and all of the other Aggrieved Employees with an itemized wage statement or separate writing that set forth the amount of paid sick leave available. Accordingly, Limpas seeks civil penalties on behalf of herself and all of the other

Aggrieved Employees as follows: For violations of Labor Code § 246, \$100 per aggrieved employee for each of the pay periods in which initial violations of § 246 occurred, and \$200 per aggrieved employee per pay period in which subsequent violations of § 246 occurred (penalties set by Labor Code § 2699(f)(2)).

Failure to Timely Pay Wages During Employment
(Lab. Code § 204)

Labor Code section 204 states all wages (other than those mentioned in Labor Code sections 201 and 202) earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month. In addition, all wages for work performed in excess of the normal work period must be paid by no later than the following regular payday.

The Tio's Mexican Restaurant Employers failed to compensate Limpias and all of the other Aggrieved Employees for wages earned, including minimum wages, regular wages, overtime wages, doubletime wages, unprovided meal period premium wages, unprovided rest break premium wages, "off-the-clock" wages, and other compensation, at the intervals stated above. As a result, the Tio's Mexican Restaurant Employers failed to timely pay all earned wages due during employment within the time periods set by Labor Code section 204. Accordingly, Limpias now seeks civil penalties for the Labor Code violations that the Tio's Mexican Restaurant Employers have committed against her and all of the other Aggrieved Employees as follows: \$100 for each aggrieved employee for each initial violation of Labor Code section 204, and \$200 for each aggrieved employee for each subsequent violation, plus 25% of the amount unlawfully withheld from each aggrieved employee (penalties set by Labor Code section 210).

Failure to Timely Pay Wages Upon Termination of Employment
(Lab. Code §§ 201, 202, and 203)

Under Labor Code § 201, if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately. Under § 202, if an employee not having a written contract for a definite period quits his or her

employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting. Notwithstanding any other provision of law, an employee who quits without providing a 72-hour notice shall be entitled to receive payment by mail if he or she so requests and designates a mailing address. *Id.* The date of the mailing shall constitute the date of payment for purposes of the requirement to provide payment within 72 hours of the notice of quitting. *Id.*

Under Labor Code § 203, if an employer willfully fails to pay without abatement or reduction, in accordance with §§ 201 and 202, the wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days.

The Tio's Mexican Restaurant Employers failed to pay Limpias and all of the other Aggrieved Employees whose employment ended all of the earned but unpaid wages described above by the conclusion of their employment, including minimum wages, regular wages, overtime wages, doubletime wages, unprovided meal period premium wages, unprovided rest break premium wages, "off-the-clock" wages, and other compensation. Additionally, the Tio's Mexican Restaurant Employers failed to issue to Limpias and all of the other Aggrieved Employees whose employment ended their final paychecks until the next regular pay day following the termination. By failing to pay Limpias and all of the other Aggrieved Employees as set forth above at the end of employment, the Tio's Mexican Restaurant Employers are liable for violations of Labor Code §§ 201, 202, and 203. Accordingly, on behalf of herself and all of the other Aggrieved Employees, Limpias seeks civil penalties from the Tio's Mexican Restaurant Employers as follows:

1. For violations of Labor Code § 201, \$100 per aggrieved employee for each of the pay periods in which initial violations of § 201 occurred, and \$200 per aggrieved employee per pay period in which subsequent violations of § 201 occurred (penalties set by Labor Code § 2699(f)(2));
2. For violations of Labor Code § 202, \$100 per aggrieved employee for each of the pay periods in which initial violations of § 202 occurred, and \$200

per aggrieved employee per pay period in which subsequent violations of § 202 occurred (penalties set by Labor Code § 2699(f)(2)); and

3. For violations of Labor Code § 203, \$100 per aggrieved employee for each of the pay periods in which initial violations of § 203 occurred, and \$200 for per aggrieved employee per pay period in which subsequent violations of § 203 occurred (penalties set by Labor Code § 2699(f)(2)).

Tip Violations
(Lab. Code §§ 351 and 353)

Under Labor Code § 350, the Tio's Mexican Restaurant Employers were at all times "employers" and Limpas and all of the other Aggrieved Employees were at all times "employees." Under Labor Code § 350, the Tio's Mexican Restaurant Employers were at all times "employing" Limpas and all of the other Aggrieved Employees. Labor Code § 351 prohibits an employer or agent of the employer from collecting, taking, or receiving any gratuity or a part thereof that is paid, given to, or left for an employee by a patron, or deducting any amount from wages due an employee on account of a gratuity, or requiring an employee to credit the amount, or any part thereof, of a gratuity against and as a part of the wages due the employee from the employer. Labor Code § 351 further declares that every gratuity is the sole property of the employee or employees to whom it was paid, given, or left for.

At all relevant times, the Tio's Mexican Restaurant Employers forced the Aggrieved Employees to share their monetary tips with the Tio's Mexican Restaurant Employers' supervisors and managers. As a result, the Tio's Mexican Restaurant Employers collected Limpas's and all of the other Aggrieved Employees' monetary tips in violation of Labor Code § 351. Thus, Limpas, on behalf of herself and all of the other Aggrieved Employees, seeks civil penalties under Labor Code Section 2699(f)(2) in the amounts of \$100 per aggrieved employee for the Tio's Mexican Restaurant Employers' initial violation of Labor Code Section 351, and \$200 per aggrieved employee for each subsequent violation per pay period.

Labor Code § 353 requires every employer to keep accurate records of all gratuities it receives, whether received directly from the employee or indirectly by means of deductions from the wages of the employee or otherwise. The Tio's Mexican Restaurant Employers violated this Section with respect to gratuities intended for the Aggrieved

Employees by creating records showing that Limpias and all of the other Aggrieved Employees received less in tips than they were paid by the patrons they served. As such, Limpias, on behalf of herself and all of the other Aggrieved Employees, seeks civil penalties under Labor Code Section 2699(f)(2) in the amounts of \$100 per aggrieved employee for the Tio's Mexican Restaurant Employers' initial violation of Labor Code Section 353, and \$200 per aggrieved employee for each subsequent violation per pay period.

Failure to Provide Change Rooms
(Lab. Code §§ 1198 and 2350)

Section 13 of Wage Order states,

- (A) Employers shall provide suitable lockers, closets, or equivalent for the safekeeping of employees' outer clothing during working hours, and when required, for their work clothing during non-working hours. When the occupation requires a change of clothing, change rooms or equivalent space shall be provided in order that employees may change their clothing in reasonable privacy and comfort. These rooms or spaces may be adjacent to but shall be separate from toilet rooms and shall be kept clean.

NOTE: This section shall not apply to change rooms and storage facilities regulated by the Occupational Safety and Health Standards Board.

- (B) Suitable resting facilities shall be provided in an area separate from the toilet rooms and shall be available to employees during work hours.

Labor Code § 1198 makes it unlawful for an employer to employ an employee under conditions that violate the Wage Order.

Throughout the relevant time period, the Tio's Mexican Restaurant Employers failed to provide changing rooms for use by Limpias and all of the other Aggrieved Employees. If within 33 days of this notice, the Tio's Mexican Restaurant Employers fail to notify my office in writing by certified mail that they have cured the violations of the Wage Order mentioned above, Limpias, on behalf of herself and all of the other

Aggrieved Employees, will commence a civil action and seek civil penalties from the Tio's Mexican Restaurant Employers as follows:

1. \$100 for each aggrieved employee for each initial violation of California Labor Code § 1198, and \$200 for each aggrieved employee for each subsequent violation, per pay period (penalties set by California Labor Code § 2699(f)(2)).

Failure to Provide an Adequate Number of Suitable Seats
(Lab. Code § 1198)

Section 14 of the Wage Order states as follows:

Seats.

- (A) All working employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats.
- (B) When employees are not engaged in the active duties of their employment and the nature of the work requires standing, an adequate number of suitable seats shall be placed in reasonable proximity to the work area and employees shall be permitted to use such seats when it does not interfere with the performance of their duties.

Labor Code § 1198 prohibits employers from employing their employees under conditions prohibited by the Wage Order.

The nature of the work the Tio's Mexican Restaurant Employers expected Limpas and all of the other Aggrieved Employees to perform reasonably permits the use of seats. However, the Tio's Mexican Restaurant Employers, in violation of the Wage Order and Labor Code § 1198, did not provide Limpas and all of the other Aggrieved Employees with an adequate number of suitable seats. Additionally, the Tio's Mexican Restaurant Employers did not place an adequate number of suitable seats in reasonable proximity to their work area, nor did they permit Limpas and all of the other Aggrieved Employees to use such seats when it did not interfere with the performance of their duties.

Pursuant to Labor Code Sections 2699(a) and (f), Limpas, on behalf of herself and all of the other Aggrieved Employees, seeks \$100.00 for each employee per pay period for each initial violation of § 1198 and \$200.00 for each employee per pay period for each subsequent violation of § 1198 (penalty amounts established by Labor Code Section 2699(f)(2)).

Failure to Maintain Accurate Employment Records
(Lab. Code §§ 1174 & 1198)

Labor Code section 1174, which also pertains to recordkeeping, states:

Every person employing labor in this state shall:

...

- (c) Keep a record showing the names and addresses of all employees employed and the ages of all minors.
- (d) 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 in accordance with rules established for this purpose by the commission, but in any case shall be kept on file for not less than three years. An employer shall not prohibit an employee from maintaining a personal record of hours worked, or, if paid on a piece-rate basis, piece-rate units earned.

Labor Code section 1174.5 states:

Any person employing labor who willfully fails to maintain the records required by subdivision (c) of Section 1174 or accurate and complete records required by subdivision (d) of Section 1174, or to allow any member of the commission or employees of the division to inspect

records pursuant to subdivision (b) of Section 1174, shall be subject to a civil penalty of five hundred dollars (\$500).

Section 7 of Wage Order states,

(A) Every employer shall keep accurate information with respect to each employee including the following:

- (1) Full name, home address, occupation and social security number.
- (2) Birth date, if under 18 years, and designation as a minor.
- (3) Time records showing when the employee begins and ends each work period. Meal periods, split shift intervals and total daily hours worked shall also be recorded. Meal periods during which operations cease and authorized rest periods need not be recorded.
- (4) Total wages paid each payroll period, including value of board, lodging, or other compensation actually furnished to the Employee.
- (5) Total hours worked in the payroll period and applicable rates of pay. This information shall be made readily available to the employee upon reasonable request.
- (6) When a piece rate or incentive plan is in operation, piece rates or an explanation of the incentive plan formula shall be provided to employees. An accurate production record shall be maintained by the employer.

Labor Code section 1198 prohibits employers from employing their employees under conditions prohibited by the Wage Order.

The Tio's Mexican Restaurant Employers failed to compensate Limpias and all of the other Aggrieved Employees for all hours worked at the correct rates of pay, including

all minimum wages earned, all regular wages earned, all overtime wages earned, all doubletime wages earned, all meal period premium wages earned, all rest break premium wages earned, all earned sick pay, and related compensation. As a result, the Tio's Mexican Restaurant Employers have failed to accurately maintain all records required by section 1174 and the Wage Order, including but not limited to Limpias and all of the other Aggrieved Employees' total hours worked, total wages paid, and applicable hourly rates during each payroll period. Accordingly, Limpias seeks civil penalties on behalf of herself and all of the other Aggrieved Employees as follows:

1. \$500 for each aggrieved employee for each violation of Labor Code section 1174 (penalties set by Labor Code section 1174.5); and
2. \$100 for each aggrieved employee for each initial violation of Labor Code section 1198, and \$200 for each Aggrieved Employee for each subsequent violation, per pay period (penalties set by Labor Code section 2699(f)(2)).

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Re: Nancy Limpias
November 3, 2023
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Conclusion

As noted above, this letter constitutes the required notice under the Labor Code Private Attorneys General Act of 2004. Please be advised that Nancy Limpias will seek both reasonable attorneys' fees and costs under Labor Code section 2699(g)(1) in a civil action should the LWDA decline to pursue this matter. This letter also serves as a formal notice under the catalyst theory and Code of Civil Procedure section 1021.5 to resolve this matter before litigation.

Sincerely,

/s/

David Spivak, Esq.
David@spivaklaw.com
cc: Nancy Limpias

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