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 Superior Court of California
 County of Los Angeles
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David W. Slayton, Executive Officer / Clerk of Court
 By: M. Arellanes Deputy

Attorneys for Plaintiff MICHAEL F. BARCA,
 on behalf of himself and others similarly situated

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

MICHAEL F. BARCA, on behalf of himself
 and others similarly situated,

Plaintiff,

vs.

JOTSC, LLC, a California limited liability
 company; FOOD AND COMPANY, INC., a
 California Corporation; JOTSC, a business
 entity of unknown form; JOAN'S ON THIRD,
 a business entity of unknown form; and DOES
 1 through 50, inclusive,

Defendants.

Case No. 26STCV17595

CLASS ACTION

Assigned for All Purposes To:

Hon. Laura A. Seigle

Dept.: 17

Complaint Filed: June 4, 2026

**FIRST AMENDED CLASS ACTION
 COMPLAINT FOR:**

1. Failure to Pay Minimum Wages;
2. Failure to Pay Wages and Overtime Under Labor Code § 510;
3. Failure to Pay Vacation Wages Under Labor Code § 227.3;
4. Meal-Period Liability Under Labor Code § 226.7;
5. Rest-Break Liability Under Labor Code § 226.7;
6. Failure to Pay Sick Pay, Labor Code § 246;
7. Reporting Time Pay under 8 CCR § 11040(5);
8. Reimbursement of Necessary Expenditures Under Labor Code § 2802;
9. Violation of Labor Code § 226(a);
10. Failure to Keep Required Payroll Records Under Labor Code §§ 1174 and 1174.5;
11. Violation of Labor Code § 204;
12. Violation of Labor Code § 221;
13. Penalties Pursuant to Labor Code § 203;
14. Violation of Business & Professions Code § 17200 *et seq.*; and
15. Penalties Pursuant to Labor Code § 2699, *et seq.*

DEMAND FOR JURY TRIAL

1 Plaintiff MICHAEL F. BARCA, (hereinafter “Plaintiff”) on behalf of himself and all
2 others similarly situated (collectively, “Employees”; individually, “Employee”) complains of
3 Defendants, and each of them, as follows:

4 INTRODUCTION

5 1. Plaintiff brings this action on behalf of himself and all current and former
6 Employees within the State of California who, at any time four (4) years prior to the filing of this
7 lawsuit, are or were employed as non-exempt, hourly employees by Defendants JOTSC, LLC, a
8 California limited liability company; FOOD AND COMPANY, INC., a California Corporation;
9 JOTSC, a business entity of unknown form; JOAN’S ON THIRD, a business entity of unknown
10 form; and DOES 1 through 50 (all defendants being collectively referred to herein as
11 “Defendants”). Plaintiff alleges that Defendants, and each of them, violated various provisions of
12 the California Labor Code, relevant orders of the Industrial Welfare Commission (IWC) and
13 California Business & Professions Code, and seek redress therefore.

14 2. Plaintiff is a resident of California and during the time period relevant to this
15 Complaint was employed by Defendants as a non-exempt hourly employee within the State of
16 California at Defendants’ facilities and offices in California. Plaintiff and the other Class members
17 worked for Defendants in Los Angeles County, and in other nonexempt positions, throughout
18 California and, and consistently worked at Defendants’ behest without being paid all wages due.
19 More specifically, Plaintiff and the other similarly situated Class members were employed by
20 Defendants and worked at Defendants’ offices and other facilities where the conduct giving rise to
21 the allegations in this Class Action Complaint occurred. Upon information and belief, Plaintiff
22 was employed by Defendants and (1) shared similar job duties and responsibilities, (2) was
23 subjected to the same policies and practices, and (3) endured similar violations at the hands of
24 Defendants as the other Employee Class members who served in similar and related positions.

25 3. Defendants required Plaintiff and the Employees in the Class to perform work
26 while remaining under Defendants’ control before and after being on the clock for their daily work
27 shift. Defendants thus failed to pay Plaintiff and the Class members for all hours worked and
28 provided them with inaccurate wage statements that prevented Plaintiff and the Class from

1 learning of these unlawful pay practices. Defendants also failed to provide Plaintiff and the Class
2 with lawful meal and rest periods, as employees were not provided with the opportunity to take
3 timely, uninterrupted, and duty-free meal and rest periods as required by the Labor Code.

4 **THE PARTIES**

5 **A. The Plaintiff**

6 4. Plaintiff MICHAEL F. BARCA has resided in California and during the time
7 period relevant to this Complaint was employed by Defendants as a non-exempt hourly employee
8 within the State of California.

9 **B. The Defendants**

10 5. Defendant JOTSC, LLC, is a California limited liability company with its principle
11 executive offices in Studio City, California with the Secretary of State and has been listed as the
12 employer on Plaintiff's paystubs during the relevant time period, and employs Class members in
13 Los Angeles County, including at Defendants' offices and facilities in Studio City, California, and
14 throughout California and conducts business throughout California.

15 6. Defendant FOOD AND COMPANY, INC, is a California corporation with its
16 principle executive offices in Studio City, California with the Secretary of State and has been
17 listed as the employer on onboarding materials for employees, and employs Class members in Los
18 Angeles County, including at Defendants' offices and facilities in Studio City, California, and
19 throughout California and conducts business throughout California.

20 7. Defendant JOTSC, is a business entity of unknown form and has been listed as the
21 employer on Plaintiff and Class Members wage statements, and employs Class members in Los
22 Angeles County, including at Defendants' offices and facilities in Studio City, California, and
23 throughout California and conducts business throughout California.

24 8. Defendant JOAN'S ON THIRD, is a business entity of unknown form and has been
25 listed as the employer on Plaintiff and Class Members pre-employment inquiry authorization
26 release, and employs Class members in Los Angeles County, including at Defendants' offices and
27 facilities in Studio City, California, and throughout California and conducts business throughout
28 California.

9. The true names and capacities, whether individual, corporate, associate, or whatever else, of the Defendants sued herein as Does 1 through 50, inclusive, are currently unknown to Plaintiff, who therefore sues these Defendants by such fictitious names under Code of Civil Procedure § 474. Plaintiff is informed and believes and thereon alleges that Defendants designated herein as Does 1 through 50, inclusive, and each of them, are legally responsible in some manner for the unlawful acts referred to herein. Plaintiff will seek leave of court to amend this Complaint to reflect the true names and capacities of the Defendants designated herein as Does 1 through 50 when their identities become known.

10. Plaintiff is informed and believes and thereon alleges that each Defendant acted in all respects pertinent to this action as the agent of the other Defendants, that Defendants carried out a joint scheme, business plan, or policy in all respects pertinent hereto, and that the acts of each Defendant are legally attributable to the other Defendants. Furthermore, Defendants acted in all respects as the employers or joint employers of Employees. Defendants, and each of them, exercised control over the wages, hours or working conditions of Employees, or suffered or permitted Employees to work, or engaged, thereby creating a common law employment relationship, with Employees. Therefore, Defendants, and each of them, employed or jointly employed Employees.

JURISDICTION AND VENUE

11. This Court has jurisdiction over this Action pursuant to California Code of Civil Procedure § 410.10 and California Business & Professions Code § 17203. This Action is brought as a Class Action on behalf of similarly situated Employees of Defendants pursuant to California Code of Civil Procedure § 382. Venue as to Defendants is also proper in this judicial district pursuant to California Code of Civil Procedure § 395 *et seq.* Upon information and belief, the obligations and liabilities giving rise to this lawsuit occurred at least in part in Los Angeles County and Defendants maintain and operate company offices and facilities in Los Angeles County and employ Plaintiff and other Class members in Los Angeles County and throughout California.

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FACTUAL BACKGROUND

12. The Employees who comprise the Class and Collective, including Plaintiff, are nonexempt employees pursuant to the applicable Wage Order of the IWC. Defendants hire Employees who work in nonexempt positions at the direction of Defendants in the State of California. Plaintiff and the Class members were either not paid by Defendants for all hours worked or were not paid at the appropriate minimum, regular and overtime rates. Specifically, Plaintiff and Employees were not paid for the time that they worked “pre-shift” by waiting in line for 1-5 minutes for the timekeeping clock called “Toast POS” to become available to clock in or out. Additionally, Plaintiff and Class Members were required to don their aprons, organize the merchandise or provide assistance to a customer for 5-10 minutes before clocking in for work.

13. Plaintiff and Class members endured unpaid post-shift work activities where the Defendants required employees, after they clocked out to take out the trash, and move the Cow Statue into the restaurant which took 5-15 minutes of unpaid time. Plaintiff also contends that Defendants failed to pay Plaintiff and the Class members all wages due and owing, failed to provide meal and rest breaks, and failed to furnish accurate wage statements, all in violation of various provisions of the California Labor Code and applicable Wage Orders.

14. Defendants also failed to properly account for nondiscretionary commissions, incentive pay, and/or nondiscretionary bonuses in the Plaintiff’s and Class Members’ overtime, meal penalty, sick period, vacation pay, and rest penalty regular rates. Plaintiff was therefore not paid for all his hours worked at the required minimum, overtime and double time wage rates due to Defendants’ policy and practice of requiring him to work off the clock and without pay. With work shifts generally scheduled for eight hours or more, this unpaid off the clock work resulted in Plaintiff and the Class members working past eight hours on a shift, which required that they be paid at the correct overtime rate of 1.5 times their regular rate. Defendants thus systematically underpaid Plaintiff and the Class members by failing to pay them at the required overtime rates for all hours over eight in a work shift or over forty in a work week, and all hours over twelve in a day at the required double time rate. Upon information and belief, the Class members were bound by similar scheduling and work policies which Defendants required them to follow and endured

1 similar violations at Defendants' hands as Plaintiff.

2 15. Defendants also failed to incorporate employee bonuses into overtime rates. Upon
3 information and belief, Defendants' wage statements indicate that hours designated as
4 nondiscretionary commissions, incentive pay, and/or nondiscretionary bonuses are paid at the
5 same time as overtime and paid at the rate of exactly 1.5 times the base rate, so these
6 nondiscretionary commissions, incentive pay, and/or nondiscretionary bonuses are not
7 incorporated in the overtime rate. Moreover, upon information and belief, Defendants' wage
8 statements show that nondiscretionary commissions, incentive pay, and/or nondiscretionary
9 bonuses paid at the same time as sick and vacation pay were paid at the base regular rate, so the
10 bonuses were not incorporated into the sick pay and vacation pay rate.

11 16. During the course of Plaintiff and the Class members' employment with
12 Defendants, they were not paid all wages they were owed, including for all work performed and
13 for all overtime hours worked and were forced to work during their meal and rest breaks.

14 17. Defendants also failed to pay Employees reporting time pay to Plaintiff and Class
15 members. Plaintiff and Class members have reported to work and was sent home by management
16 within the first two hours of work without pay.

17 18. Throughout the course of Plaintiff and the Class members' employment with
18 Defendants, they were required to work during their meal and rest breaks which were not
19 compensated by Defendants in violation of the California Labor Code. Plaintiff and the Class
20 members were also not paid regular wages and overtime for the time they were required to
21 comply with other requirements imposed upon them, which they had to complete while working
22 through their meal and rest breaks and without compensation. As a result, Plaintiff and the Class
23 members worked shifts over eight (8) hours in a day and over forty (40) hours in a work week,
24 but they were not paid at the appropriate overtime rate for all such hours, including by being
25 required to perform work duties and tasks without pay and while off-the-clock. As a result,
26 Plaintiff and the Class members worked substantial overtime hours during their employment with
27 Defendants for which they were not compensated, in violation of the California Labor Code,
28 applicable IWC Wage Orders.

1 19. As a result of the above described demands and pressures to work through breaks,
2 and the other wage violations they endured at Defendants' hands, Plaintiff and the Class members
3 were not properly paid for all wages earned and for all wages owed to them by Defendants,
4 including when working more than eight (8) hours in any given day and/or more than forty (40)
5 hours in any given week. As a result of Defendants' unlawful policies and practices, Plaintiff and
6 Class members incurred overtime hours worked for which they were not adequately and
7 completely compensated. To the extent applicable, Defendants also failed to pay Plaintiff and the
8 Class members at an overtime rate of 1.5 times the regular rate for the first eight hours of the
9 seventh consecutive work day in a week and overtime payments at the rate of 2 times the regular
10 rate for hours worked over eight (8) on the seventh consecutive work day, as required under the
11 Labor Code, applicable IWC Wage Orders.

12 20. Defendants also violated California Labor Code § 246 by not providing all
13 required paid sick days to Plaintiff and the similarly aggrieved Employees. Labor Code § 246
14 provides that an Employee who "works in California for the same employer for 30 or more days
15 within a year from the commencement of employment is entitled to paid sick days as specified in
16 this section." Paid sick time for nonexempt employees shall be calculated in the same manner as
17 the regular pay rate for the workweek in which the employee uses the paid sick time. Defendants
18 failed to provide Plaintiff and the other similarly Aggrieved Employees with all their required and
19 earned sick days paid at the correct rate of pay, in violation of Labor Code § 246. Additionally
20 and upon information and belief, Defendants have failed to provide COVID-19 supplemental sick
21 leave to the Class members during the relevant time period, including by failing to provide two
22 work weeks of COVID-19 supplemental paid sick leave paid at the correct rates as required under
23 Labor Code §§ 248.1 and 248.2 and including damages and penalties as these sections are
24 enforced through Labor Code § 248.5, which requires that: "If paid sick days were unlawfully
25 withheld, the dollar amount of paid sick days withheld from the employee multiplied by three, or
26 two hundred fifty dollars (\$250), whichever amount is greater, but not to exceed an aggregate
27 penalty of four thousand dollars (\$4,000), shall be included in the administrative penalty."
28 Further, upon information and belief, Defendants' wage statements show that nondiscretionary

1 commissions, incentive pay, and/or nondiscretionary bonuses paid at the same time as sick pay
2 were paid at the base regular rate, so the bonuses were not incorporated into the sick pay rate.

3 21. Plaintiff accordingly seeks this relief available for Defendants' failure to provide
4 Employees with all their required and earned sick days and all their COVID-19 supplemental sick
5 leave in violation of Labor Code §§ 246, 248.1, 248.2, and the civil and statutory penalties
6 available and applicable under Labor Code §§ 246, 248.1, 248.2, 248.5, 558, 1194.2, 1197.1,
7 1198, 1199, 2698, 2699, *et seq.*, and 2699(f)(2), and also for attorneys' fees and costs pursuant to
8 Labor Code § 2699(g)(1).

9 22. Therefore, from at least four (4) years prior to the filing of this lawsuit and
10 continuing to the present, Defendants had a consistent policy or practice of failing to pay
11 Employees for all hours worked and failing to pay minimum wage for all time worked as required
12 by California Law.

13 23. Additionally from at least four (4) years prior to the filing of this lawsuit and
14 continuing to the present, Defendants had a consistent policy or practice of failing to pay
15 Employees overtime compensation at premium overtime rates for all hours worked in excess of
16 eight (8) hours a day and/or forty (40) hours a week, and double-time rates for all hours worked in
17 excess of twelve (12) hours a day, in violation of Labor Code § 510 and the corresponding
18 sections of IWC Wage Orders.

19 24. Additionally, from at least four (4) years prior to the filing of this lawsuit, and
20 continuing to the present, Defendants had mandatory tip pooling whereby non-exempt employees
21 only received a portion of the tips and management (exempt employees) would keep a portion of
22 the tips. Defendants never provided any information on how the tips were split, only to state that
23 "tips were divided equally." As a result, Plaintiff and the Class members were not paid for all their
24 tips and gratuities in violation of Labor Code § 351.

25 25. Additionally from at least four (4) years prior to the filing of this lawsuit and
26 continuing to the present, Defendants have required Employees to work shifts in excess of five (5)
27 hours without providing them with timely, uninterrupted meal periods of not less than thirty (30)
28 minutes and shifts in excess of ten (10) hours without providing them with second meal periods of

1 not less than thirty minutes; nor did Defendants pay Employees “premium pay,” i.e. one hour of
2 wages at each Employee’s effective regular rate of pay, for each meal period that Defendants
3 failed to provide or deficiently provided. Defendants also had a policy and/or practice whereby,
4 Employees would have to clock out for meal breaks and continue working while off the clock.

5 26. From at least four (4) years prior to the filing of this lawsuit and continuing to the
6 present, Defendants have failed to provide Employees with paid, uninterrupted rest breaks of not
7 less than ten (10) minutes for every work period of four (4) or more consecutive hours; nor did
8 Defendant pay Employees premium pay for each day on which requisite rest breaks were not
9 provided or were deficiently provided at one hour of wages at each Employee’s effective regular
10 rate of pay, for each rest period that Defendants failed to provide or deficiently provided.

11 27. From at least four (4) years prior to the filing of this lawsuit, and continuing to the
12 present, Defendants have consistently failed to provide Employees with timely, accurate, and
13 itemized wage statements as required by California wage-and-hour laws. Specifically, the wage
14 statements given to Employees by Defendants failed to accurately account for wages, overtime,
15 and premium pay for deficient meal periods and rest breaks all of which Defendants knew or
16 reasonably should have known were owed to Employees, as alleged hereinabove. Therefore,
17 Employees’ wage statements did not include: the total hours worked in violation of Labor Code §
18 226(a)(2) and failed to accurately set forth all applicable hourly rates in effect during the pay
19 period and the corresponding number of hours worked at each such rate in violation of Labor Code
20 § 226 (a)(9). The wage statements provided to Employees were confusing and required Employees
21 to engage in discovery and refer to outside sources to verify whether their pay was correct,
22 potentially resulting in a miscalculation by the Employees.

23 28. Additionally, from at least four (4) years prior to the filing of this lawsuit, and
24 continuing to the present, Defendants have consistently failed to provide Employees with timely,
25 accurate, and itemized wage statements, in writing, as required by California wage-and-hour laws.

26 29. Defendants also required Plaintiff and the Class members to work hours off the
27 clock for which they were not compensated. They were also required to endure off the clock work
28 addressed above during interrupted or otherwise on-duty meal and rest periods and were not

1 provided with vacation pay, sick pay, and supplemental sick leave and were subjected to systematic
2 off the clock work. Defendants also failed to pay all overtime premium wages owed for work
3 conducted on a work shift and a workday or failed to pay it at the correct rate, as addressed above.
4 Therefore, Defendants have also followed a uniform and consistent policy of failing to pay all
5 wages owed to Plaintiff and other similarly situated Employees at the time of their termination or
6 within seventy-two hours of their resignation, as required by California wage-and-hour laws,
7 including under Labor Code § 203.

8 30. From at least four (4) years prior to the filing of this lawsuit and continuing to the
9 present, Defendants have failed to reimburse Employees for expenses necessarily incurred in the
10 performance of their job duties for Defendants including, but not limited to the cost of personal
11 cell phone usage and uniform maintenance, which were necessary to perform their duties under
12 Defendants' employ in violation of Labor Code § 2802.

13 31. Additionally, from at least three (3) years prior to the filing of this lawsuit, and
14 continuing to the present, Defendants have consistently failed to keep accurate time and wage
15 records as required by California wage-and-hour laws.

16 32. Additionally, from at least one (1) year prior to the filing of this lawsuit and
17 continuing to the present, Defendants failed to pay Plaintiff and Employees within seven calendar
18 days from the end of the pay period, as required by California wage-and-hour laws.

19 33. Additionally, from at least four (4) years prior to filing of this lawsuit and
20 continuing to the present, Defendants have unlawfully collected/received wages from Employees
21 in violation of Labor Code § 221.

22 34. Additionally, from at least four (4) years prior to filing of this lawsuit and
23 continuing to the present, Defendants have had a consistent policy of failing to pay all wages fur
24 and owed to Employees at the time of their termination or within seventy-two (72) hours of their
25 resignation, as required by California wage-and-hour laws.

26 35. In light of the foregoing, Employees bring this action pursuant to, inter alia, Labor
27 Code §§ 201, 202, 203, 204, 221, 226, 226.3, 226.7, 351, 510, 512, 558, 558.1, 1174, 1174.5,
28 1182.12, 1185, 1194, 1194.2 1197, 1199, 2698, 2699, *et seq.*, and 2802.

36. Defendants also failed to pay Plaintiff and the other Class members all vested vacation time at the time of their separation from Defendants' employment, in violation of Labor Code § 227.3. Defendants failed to pay Plaintiff for all earned and unused vacation time at his final rate of pay at the time of Plaintiff's separation from his employment. On information and belief similarly situated Class members are also owed vested vacation time.

37. Furthermore, pursuant to Business and Professions Code §§ 17200-17208, Employees seek injunctive relief, restitution, and disgorgement of all benefits Defendants have enjoyed from their violations of Labor Code.

CLASS ALLEGATIONS

38. Plaintiff brings this class action on behalf of himself, and all others similarly situated pursuant to Code of Civil Procedure § 382. Plaintiff seeks to represent a class defined as follows: all individuals employed by Defendants within the State of California at any time within four (4) years of the filing of this lawsuit.

39. Further, Plaintiff seeks to represent the following Subclasses composed of and defined as follows:

a. Subclass 1. Minimum Wages Subclass. All Class members who were not compensated for all hours worked for Defendants at the applicable minimum wage.

b. Subclass 2. Wages and Overtime Subclass. All Class members who were not compensated for all hours worked for Defendants at the required rates of pay, including for all hours worked in excess of eight in a day and/or forty in a week.

c. Subclass 3. Meal Period Subclass. All Class members who were subject to Defendants' policy and/or practice of failing to provide unpaid 30-minute uninterrupted and duty-free meal periods or one hour of pay at the Employee's regular rate of pay in lieu thereof.

d. Subclass 4. Rest Break Subclass. All Class members who were subject to Defendants' policy and/or practice of failing to authorize and permit Employees to take uninterrupted, duty-free, 10-minute rest periods for every four hours worked, or major fraction thereof, and failing to pay one hour of pay at the Employee's regular rate of pay in lieu thereof.

e. Subclass 5. Reporting Time Pay Subclass: All Class members who were not

1 compensated reporting time pay.

2 f. Subclass 6. Payroll Records Subclass. All Class members who were subject to
3 Defendants' policy and/or practice of failing to keep accurate time and wage records as required
4 by California wage-and-hour laws.

5 g. Subclass 7. Wage Statement Subclass. All Class members who, within the
6 applicable limitations period, were not provided with accurate itemized wage statements.

7 h. Subclass 8. Failure to Reimburse for Necessary Business Expenditures. All Class
8 members who were subject to Defendants' failure to reimburse for expenses necessarily incurred
9 in the performance of Employees job duties for Defendants.

10 i. Subclass 9. Unpaid Vacation Time Subclass. All Class members who are owed
11 vested vacation time.

12 j. Subclass 10. Failure to Timely Pay Wages Subclass. All Class Members who were
13 subject to Defendants' policy and/or practice of not timely paying all wages earned when they
14 were due and payable within seven calendar days from the end of the pay period.

15 k. Subclass 11. Unauthorized Deductions from Wages Subclass. All Class members
16 who were subject to Defendants' policy and/or practice of automatically deducting wages from
17 Employee's pay checks.

18 l. Subclass 12. Termination Pay Subclass. All Class members who, within the
19 applicable limitations period, either voluntarily or involuntarily separated from their employment
20 and were subject to Defendants' policy and/or practice of failing to timely pay wages upon
21 termination.

22 m. Subclass13. Sick-Pay Class: All Class members who, within the applicable
23 limitations period, worked for more than 30 days for Defendants and were not paid for at least one
24 hour of sick time for every 30 hours of work thereafter, or at least 3 days of sick time for every 12-
25 month period.

26 n. Subclass 14. UCL Subclass. All Class members who are owed restitution as a
27 result of Defendants' business acts and practices, to the extent such acts and practices are found to
28 be unlawful, deceptive, and/or unfair.

1 40. Plaintiff reserves the right under California Rule of Court 3.765 to amend or
2 modify the class description with greater particularity or further division into subclasses or
3 limitation to particular issues.

4 41. This action has been brought and may properly be maintained as a class action
5 under the provisions of Code of Civil Procedure § 382 because there is a well-defined community
6 of interest in litigation and proposed class is easily ascertainable.

7 **A. Numerosity**

8 42. The potential members of the class as defined are so numerous that joinder of all
9 the member of the class is impracticable. While the precise number of class members has not been
10 determined at this time, Plaintiff is informed and believes that Defendants employ or, during the
11 time period relevant to this lawsuit, employed more than 100 individuals within the State of
12 California.

13 43. Accounting for employee turnover during the relevant time period increases this
14 number substantially. Plaintiff alleges that Defendants' employment records will provide
15 information as to the number and location of all class members.

16 **B. Commonality**

17 44. There are questions of law and fact common to the class that predominate over any
18 questions affecting only individual class members. These common questions of law and fact
19 include:

- 20 a. Whether Defendants failed to pay Employees minimum wages;
21 b. Whether Defendants failed to pay Employees wages for all hours worked;
22 c. Whether Defendants failed to pay Employees overtime as required under Labor
23 Code § 510;
24 d. Whether Defendants paid reporting time pay under the applicable wage order and 8
25 CCR § 11040(5);
26 e. Whether Defendants violated Labor Code §§ 226.7 and 512, and the applicable
27 IWC Wage Orders, by failing to provide Employees with requisite meal periods or
28 premium pay in lieu thereof;

- 1 f. Whether Defendants violated Labor Code § 226.7, and the applicable IWC Wage
2 Orders, by failing to provide Employees with requisite rest breaks or premium pay
3 in lieu thereof;
- 4 g. Whether Defendants violated Labor Code § 226(a);
- 5 h. Whether Defendants violated California Labor Code §§ 246 and 248.1 by not
6 providing employees with all required sick days and COVID-19 supplemental sick
7 leave;
- 8 i. Whether Defendants violated Labor Code §§ 1174 and 1174.5;
- 9 j. Whether Defendants violated California Labor Code §§ 246 and 248.1 by not
10 providing employees with all required sick days and COVID-19 supplemental sick
11 leave;
- 12 k. Whether Defendants failed to reimburse Employees for necessary business
13 expenses;
- 14 l. Whether Defendants violated Labor Code § 204 by failing to timely pay wages;
- 15 m. Whether Defendants violated Labor Code § 221 by automatically
16 deducting/collecting wages from Employees;
- 17 n. Whether Defendants violated Labor Code § 227.3 by failing to pay Employees
18 vested vacation time at the time of their separation from Defendants' employment;
- 19 o. Whether Defendants violated Labor Code §§ 201, 202, and 203 by failing to pay
20 wages and compensation due and owing at the time of termination of employment;
- 21 p. Whether Defendants violated Business and Professions Code § 17200 *et seq.*;
- 22 q. Whether Defendants are liable for penalties under Labor Code § 2699, *et seq.*; and
- 23 r. Whether Employees are entitled to equitable relief pursuant to Business and
24 Professions Code § 17200 *et seq.*

25 **C. Typicality**

26 45. The claims of the named plaintiff are typical of those of the other Employees.

27 Employees all sustained injuries and damages arising out of and caused by Defendants' common
28 course of conduct in violation of statutes, as well as regulations that have the force and effect of

1 law, as alleged herein.

2 **D. Adequacy of Representation**

3 46. Plaintiff will fairly and adequately represent and protect the interest of Employees.
4 Counsel who represents Employees are experienced and competent in litigating employment class
5 actions.

6 **E. Superiority of Class Action**

7 47. A class action is superior to other available means for the fair and efficient
8 adjudication of this controversy. Individual joinder of all Employees is not practicable, and
9 questions of law and fact common to all Employees predominate over any questions affecting only
10 individual Employees. Each Employee has been damaged and is entitled to recovery by reason of
11 Defendants' illegal policies or practices of failing to compensate Employees properly.

12 48. Class action treatment will allow those persons similarly situated to litigate their
13 claims in the manner that is most efficient and economical for the parties and the judicial system.
14 Plaintiff is unaware of any difficulties in managing this case that should preclude class action.

15 **FIRST CAUSE OF ACTION**

16 **FAILURE TO PAY MINIMUM WAGES**

17 **(Against All Defendants)**

18 49. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
19 full herein.

20 50. Defendants failed to pay Employees minimum wages for all hours worked.
21 Defendants had a consistent policy of misstating Employees time records and failing to pay
22 Employees for all hours worked. Employees would work hours and not receive wages, including
23 as alleged above in connection with working during meal breaks, and working Specifically,
24 Plaintiff and Employees were not paid for the time that they worked "pre-shift" by waiting in line
25 for 1-5 minutes for the timekeeping clock called "Toast POS" to become available to clock in or
26 out. Additionally, Plaintiff and Class Members were required to don their aprons, organize the
27 merchandise or provide assistance to a customer for 5-10 minutes before clocking in for work.

28 51. Plaintiff and Class members endured unpaid post-shift work activities where the

1 Defendants required employees, after they clocked out to take out the trash, and move the Cow
2 Statue into the restaurant which took 5-15 minutes of unpaid time. Additionally, Defendants had
3 a policy of failing to pay Employees for hours worked during alleged meal periods for which
4 Employees were denied, as also addressed herein. Defendants thus regularly failed to pay
5 minimum wages to Plaintiff and Class members. Moreover, Defendants did not pay Plaintiff and
6 Employees at the applicable minimum wage for all hours worked. Defendants' uniform pattern of
7 unlawful wage and hour practices manifested, without limitation, applicable to the Class as a
8 whole, as a result of implementing a uniform policy and practice that denied accurate
9 compensation to Plaintiff and the other members of the Class as to minimum wage pay.

10 52. California Labor Code § 1197, entitled "Pay of Less Than Minimum Wage"
11 states:

12 The minimum wage for employees fixed by the commission is the
13 minimum wage to be paid to employees, and the payment of a less
14 wage than the minimum so fixed is unlawful.

15 53. The applicable minimum wages fixed by the commission for work during the
16 relevant period is found in the Wage Orders. Pursuant to the Wage Orders, Employees are
17 therefore entitled to double the minimum wage during the relevant period.

18 54. The minimum wage provisions of California Labor Code are enforceable by private
19 civil action pursuant to California Labor Code § 1194(a) which states:

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

26 55. As described in California Labor Code §§ 1185 and 1194.2, any action for wages
27 incorporates the applicable Wage Order of the California Industrial Welfare Commission.

28 56. California Labor Code § 1194.2 also provides for the following remedies:

In any action under Section 1194 . . . to recover wages because of
the payment of a wage less than the minimum wages fixed by an
order of the commission, an employee shall be entitled to recover
liquidated damages in an amount equal to the wages unlawfully
unpaid and interest thereon.

57. Defendants have the ability to pay minimum wages for all time worked and have willfully refused to pay such wages with the intent to secure for Defendants a discount upon this indebtedness with the intent to annoy, harass, oppress, hinder, delay, or defraud Employees.

58. Wherefore, Employees are entitled to recover the unpaid minimum wages (including double minimum wages), liquidated damages in an amount equal to the minimum wages unlawfully unpaid, interest thereon and reasonable attorney's fees and costs of suit pursuant to California Labor Code § 1194(a).

SECOND CAUSE OF ACTION

FAILURE TO PAY WAGES AND OVERTIME UNDER LABOR CODE § 510

(Against All Defendants)

59. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

60. By their conduct, as set forth herein, Defendants violated California Labor Code § 510 (and the relevant orders of the Industrial Welfare Commission) by failing to pay Employees: (a) time and one-half their regular hourly rates for hours worked in excess of eight (8) hours in a workday or in excess of forty (40) hours in any workweek or for the first eight (8) hours worked on the seventh day of work in any one workweek; or (b) twice their regular rate of pay for hours worked in excess of twelve (12) hours in any one (1) day or for hours worked in excess of eight (8) hours on any seventh day of work in a workweek. Defendants had a consistent policy of not paying Employees wages for all hours worked.

61. Specifically, Plaintiff and Employees were not paid for the time that they worked “pre-shift” by waiting in line for 1-5 minutes for the timekeeping clock called “Toast POS” to become available to clock in or out. Additionally, Plaintiff and Class Members were required to don their aprons, organize the merchandise or provide assistance to a customer for 5-10 minutes before clocking in for work.

62. Plaintiff and Class members endured unpaid post-shift work activities where the Defendants required employees, after they clocked out to take out the trash, and move the Cow Statue into the restaurant which took 5-15 minutes of unpaid time. Employees regularly worked

1 over 8 hours on a given day without receiving overtime compensation.

2 63. Defendants' failure to pay compensation in a timely fashion also constituted a
3 violation of California Labor Code § 204, which requires that all wages shall be paid
4 semimonthly. From four (4) years prior to the filing of this lawsuit to the present, in direct
5 violation of that provision of the California Labor Code, Defendants have failed to pay all wages
6 and overtime compensation earned by Employees. Each such failure to make a timely payment of
7 compensation to Employees constitutes a separate violation of California Labor Code § 204.

8 64. Employees have been damaged by these violations of California Labor Code §§
9 204 and 510 (and the relevant orders of the Industrial Welfare Commission).

10 65. Consequently, pursuant to California Labor Code §§ 204, 510, and 1194 (and the
11 relevant orders of the Industrial Welfare Commission), Defendants are liable to Employees for
12 the full amount of all their unpaid wages and overtime compensation, with interest, plus their
13 reasonable attorneys' fees and costs.

14 **THIRD CAUSE OF ACTION**

15 **FAILURE TO PAY VACATION WAGES UNDER LABOR CODE § 227.3**

16 **(Against All Defendants)**

17 66. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
18 full herein.

19 67. Cal. Labor Code § 227.3 requires that employers who provide employees with
20 vacation time must pay employees for all unused vacation at the time of termination of
21 employment.

22 68. Defendants violated Cal. Labor Code § 227.3 by failing to pay Plaintiff and Class
23 members the vacation time due and owing to them at the time of termination of their employment.

24 69. Consequently, pursuant to the California Labor Code, including Labor Code §§
25 227.3, 558, 1194, 1198, 1199, and the relevant paragraphs of the IWC Wage Orders, including
26 paragraphs 2(K), 2(S), 3(A), 4, and 20, Defendants are liable to Employees for the full amount of
27 all their vacation pay, with interest, plus their reasonable attorneys' fees and costs, as well as the
28 assessment of any statutory penalties against Defendants, and each of them, and any additional

1 sums as provided by the Labor Code and/or other statutes.

2 **FOURTH CAUSE OF ACTION**

3 **MEAL-PERIOD LIABILITY UNDER LABOR CODE § 226.7**

4 **(Against All Defendants)**

5 70. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
6 full herein.

7 71. Employees regularly worked shifts greater than five (5) hours and greater than ten
8 (10) hours. Pursuant to Labor Code § 512 an employer may not employ someone for a shift of
9 more than five (5) hours without providing him or her with a meal period of not less than thirty
10 (30) minutes or for a shift of more than ten (10) hours without providing him or her with a second
11 meal period of not less than thirty (30) minutes.

12 72. Defendants failed to provide Employees with compliant meal periods as required
13 under the Labor Code. Employees were required to work through their meal periods which they
14 were denied. Employees were also required to take meal periods after working well beyond the
15 five (5) hour shifts or were interrupted. Defendants also had a policy and/or practice whereby,
16 Employees would have to clock out for meal breaks and continue working while off the clock.
17 Furthermore, Employees were regularly required to work for more than 10 hours in a given shift
18 without receiving a second uninterrupted thirty (30) minute meal period as required by law.

19 73. Moreover, Defendants failed to compensate Employees for each meal period not
20 provided or inadequately provided, as required under Labor Code § 226.7 and paragraphs 11 and
21 20 of the applicable IWC Wage Orders, which provide that, if an employer fails to provide an
22 employee a meal period in accordance with this section, the employer shall pay the employee one
23 hour of pay at the employee's regular rate of compensation for each workday that the meal period
24 is not provided. Defendants failed to compensate the Employees in the Class for each meal period
25 not provided or inadequately provided, as required under Labor Code § 226.7 and paragraphs 11
26 and 20 of the applicable IWC Wage Order.

27 74. Therefore, pursuant to Labor Code § 226.7, Employees are entitled to damages in
28 an amount equal to one (1) hour of wages at their effective hourly rates of pay for each meal

1 period not provided or deficiently provided, a sum to be proven at trial.

2 **FIFTH CAUSE OF ACTION**

3 **REST-BREAK LIABILITY UNDER LABOR CODE § 226.7**

4 **(Against All Defendants)**

5 75. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
6 full herein.

7 76. Employees consistently worked consecutive four (4) hour shifts. Pursuant to the
8 Labor Code and the applicable IWC Wage Order, Employees were entitled to paid rest breaks of
9 not less than ten (10) minutes for each consecutive four (4) hour shift.

10 77. Defendants failed to provide Employees with timely, uninterrupted rest breaks of
11 not less than ten (10) minutes for each consecutive four (4) hour shift.

12 78. Moreover, Defendants failed to compensate Employees for each rest period not
13 provided or inadequately provided, as required under Labor Code § 226.7 and the applicable IWC
14 Wage Orders, which provide that, if an employer fails to provide an employee a rest period in
15 accordance with this section, the employer shall pay the employee one hour of pay at the
16 employee's regular rate of compensation for each workday that the rest period is not provided.
17 Defendants failed to compensate the Employees in the Class for each rest period not provided or
18 inadequately provided, as required under Labor Code § 226.7 and the applicable IWC Wage
19 Order.

20 79. Therefore, pursuant to Labor Code § 226.7, Employees are entitled to damages in
21 an amount equal to one (1) hour of wages at their effective hourly rates of pay for each day
22 worked without the required rest breaks, a sum to be proven at trial.

23 **SIXTH CAUSE OF ACTION**

24 **FAILURE TO PAY PROPER SICK PAY IN VIOLATION OF LABOR CODE § 246**

25 **(Against All Defendants)**

26 80. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
27 full herein.

28 81. Labor Code Section 246 affords an employee "who works in California for 30 or

1 more days within a year from the commencement of employment [] paid sick days . . . of not less
2 than one hour per every 30 hours worked” and “no less than 24 hours of accrued sick leave or paid
3 time off by the 120th calendar day of employment or each calendar year, or in each 12-month
4 period.”

5 82. Additionally, Subsection (l) of Labor Code § 246 provides: “For the purposes of
6 this section, an employer shall calculate paid sick leave using any of the following calculations:

7 (1) Paid sick time for nonexempt employees shall be calculated in the same manner as the regular
8 rate of pay for the workweek in which the employee uses paid sick time, whether or not the
9 employee actually works overtime in that workweek.”

10 83. Defendants had a common policy and practice of systemically failing to pay
11 Plaintiff and Sick Pay Class Members the requisite sick time pay in accordance with California
12 Law. Specifically, Plaintiff and Sick Pay Class Members worked for Defendants for more than 30
13 days but were not paid at least one hour of sick pay for every 30 hours of work, or at least 3 days
14 of sick time for every 12-month period of work. Additionally, the sick pay paid to Plaintiff and
15 Sick Pay Class Members did not account for differential pay as well as performance-based non-
16 discretionary bonuses, which were never factored into the rate upon which sick pay was accrued
17 and paid.

18 84. Therefore, Sick Pay Class Members are owed the unpaid balance of said wages
19 pursuant to the Wage order according to proof at trial, interest pursuant to Labor Code §§ 218.6
20 and 1194(a), Civil Code §§ 3287 and § 3289, and reasonable attorneys' fees and costs and/or
21 penalties pursuant to Labor Code § 558(a).

22 **SEVENTH CAUSE OF ACTION**

23 **FAILURE TO PAY REPORTING TIME PAY**

24 **UNDER WAGE ORDER 16-2001, 8 CCR § 11040(5)**

25 **(Against All Defendants)**

26 85. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
27 full herein.

28 86. Wage Order 4-2001 provides that “[e]ach workday an employee is required to

1 report for work and does report, but is not put to work or is furnished less than half said
2 employee's usual or scheduled day's work, the employee shall be paid for half the usual or
3 scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours, at
4 the employee's regular rate of pay, which shall not be less than the minimum wage." Cal. Code
5 Regs., tit, 8, § 11040(5)(A).

6 87. As set forth herein, Plaintiff and Employees were required to report for on-call
7 work and were not paid at all if they were not assigned to a shift and were not paid for their on-call
8 time. Defendants failed to pay Plaintiff and Employees for half of their scheduled days' work in
9 violation of the applicable Wage Order.

10 88. As a direct and proximate results of Defendants' actions as set forth herein, Plaintiff
11 and the Class have been damaged in that Plaintiff, and the Class have not been paid all required
12 reporting time pay.

13 89. Consequently, pursuant to the California Labor Code, including Labor Code §§
14 204, 510, 558, 1194, 1198, 1199, and the relevant paragraphs of the IWC Wage Orders, including
15 paragraphs 5(A-D), Defendants are liable to Employees for the full amount of all their unpaid
16 wages, including reporting time pay, with interest, plus their reasonable attorneys' fees and costs,
17 as well as the assessment of any statutory penalties against Defendants, and each of them, and
18 any additional sums as provided by the Labor Code and/or other statutes.

19 **EIGHTH CAUSE OF ACTION**

20 **FAILURE TO REIMBURSE FOR NECESSARY BUSINESS EXPENDITURES**

21 **IN VIOLATION OF LABOR CODE § 2802**

22 **(Against All Defendants)**

23 90. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
24 full herein.

25 91. Under Labor Code § 2802(a), an employer must indemnify its employees for all
26 necessary expenditures or losses incurred by the employee in direct consequence of the discharge
27 of his or her duties, or of his or her obedience to the directions of the employer.

28 92. Employees incurred necessary expenditures in the performance of their job duties

1 for Defendants, namely the cost of cellphone usage and uniform maintenance, which were
2 necessary to perform their duties under Defendants' employ. From four (4) years prior to the
3 original filing of this lawsuit and continuing to the present, Defendants consistently failed to
4 reimburse Employees for these necessarily incurred business expenses.

5 93. As a result of the unlawful acts of Defendants, Employees have been deprived of
6 reimbursement in amounts to be determined at trial; they are entitled to recovery of such amounts,
7 plus interest and penalties thereon, attorneys' fees, and costs.

8 **NINTH CAUSE OF ACTION**
9 **VIOLATION OF LABOR CODE § 226(a)**
10 **(Against All Defendants)**

11 94. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
12 full herein.

13 95. California Labor Code § 226(a) requires an employer to furnish each of his or her
14 employees with an accurate, itemized statement in writing showing the gross and net earnings,
15 total hours worked, and the corresponding number of hours worked at each hourly rate; these
16 statements must be appended to the detachable part of the check, draft, voucher, or whatever else
17 serves to pay the employee's wages; or, if wages are paid by cash or personal check, these
18 statements may be given to the employee separately from the payment of wages; in either case the
19 employer must give the employee these statements twice a month or each time wages are paid.

20 96. Defendants failed to provide Employees with accurate itemized wage statements in
21 writing, as required by the Labor Code. Specifically, the wage statements given to Employees, by
22 Defendants, failed to accurately account for wages, overtime, and premium pay for deficient meal
23 periods and rest breaks, all of which Defendants knew or reasonably should have known were
24 owed to Employees, as alleged hereinabove. The Defendants' name listed on the wage statements
25 does not match the Defendants' name listed on the California Secretary of State website. The
26 name on the wage statements is JOTSC dba Joans on 3rd, while the Defendants' name on the
27 California Secretary of State website is JOTSC, LLC. Moreover, Employees' wage statements did
28 not include: the total hours worked in violation of Labor Code § 226(a)(2) and failed to accurately

1 set forth all applicable hourly rates in effect during the pay period and the corresponding number
2 of hours worked at each such rate in violation of Labor Code § 226 (a)(9). Additionally,
3 Defendants failed in their affirmative obligation to keep accurate records of the correct overtime
4 wages based on proper regular rate calculations that included nondiscretionary commissions,
5 incentive pay, and/or nondiscretionary bonuses earned, and the total amount of compensation of
6 their Employees. The wage statements provided to Employees were confusing and required
7 employees to engage in discovery and refer to outside sources to verify whether their pay was
8 correct, potentially resulting in a miscalculation by the Employees.

9 97. As a direct and proximate cause of Defendants' violation of Labor Code § 226(a),
10 Employees suffered injuries, including among other things confusion over whether they received
11 all wages owed them, the difficulty and expense involved in reconstructing pay records, and
12 forcing them to make mathematical computations to analyze whether the wages paid in fact
13 compensated them correctly for all hours worked.

14 98. Pursuant to Labor Code §§ 226(a) and 226(e), Employees are entitled to recover
15 the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation
16 occurs and one hundred dollars (\$100) for each violation in a subsequent pay period, not
17 exceeding an aggregate penalty of four thousand dollars (\$4,000). They are also entitled to an
18 award of costs and reasonable attorneys' fees.

19 99. With respect to violations of Labor Code § 226, Labor Code § 226.3 imposes a
20 civil penalty of two hundred and fifty dollars (\$250) for initial violations for each employee for
21 each pay period, and one thousand dollars (\$1000) for each subsequent violation for each
22 employee for each pay period.

23 100. Plaintiff is seeking penalties against Defendants under Labor Code § 226.3, and
24 any other applicable statute allowing recovery of penalties as alleged herein in an amount to be
25 shown according to proof.

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27 ///

28 ///

TENTH CAUSE OF ACTION
FAILURE TO KEEP REQUIRED PAYROLL RECORDS UNDER LABOR CODE §§ 1174
AND 1174.5
(Against All Defendants)

101. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

102. California Labor Code § 1174 requires that all employers shall keep accurate time and wage records for all employees. California Labor Code § 1174.5 further requires that any employee suffering injury due to a willful violation of the aforementioned obligations may seek damages, including civil penalties, from the employer.

103. During the course of Plaintiff's and Employees' employment, Defendants consistently failed to maintain accurate time and wage records for Plaintiff and Employees as required by California Labor Code § 1174 by failing to pay Plaintiff and Employees proper wages, overtime, and premium pay as discussed above.

104. Accordingly, Defendants are liable for civil penalties pursuant to the California Labor Code § 1174.5. for the three (3) years prior to the filing of this Complaint.

ELEVENTH CAUSE OF ACTION
VIOLATION OF LABOR CODE § 204
(Against All Defendants)

105. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

106. Labor Code § 204 instructs that: "All wages, ...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." Additionally, "[t]he requirements of this section shall be deemed satisfied by the payment

1 of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven
2 calendar days following the close of the payroll period.” Defendants maintained a consistently
3 applied policy and practice of not paying all wages earned between the 1st and 15th days of a
4 month between the 16th and 26th day and failed to pay all wages earned between the 16th and the
5 last day of the month between the 1st and 10th day of the following month. This included failing to
6 pay all wages due and owing to Plaintiffs and the Class members for all hours they worked, and by
7 failing to pay all tips and gratuities owed to Plaintiffs and the Class members timely during the
8 pay period in which they were earned. Defendants similarly failed to pay all wages earned by not
9 more than seven calendar days following the close of the payroll period.

10 107. All wages due and owing to Plaintiff and the Class Members, including as required
11 under Labor Code § 510, were therefore not timely paid by Defendants, as addressed in detail
12 above. Additionally, wages required by Labor Code § 1194 and other sections became due and
13 payable to each Class Member in each pay period that he or she was not provided with a meal
14 period or rest period or paid straight or overtime wages or commissions to which he or she was
15 entitled.

16 108. Defendants thus violated Labor Code § 204 by systematically refusing to pay
17 wages due under the Labor Code, as addressed above. Additionally, under paragraph 4(B) of the
18 applicable IWC Wage Orders, employers are required “to pay each employee, on the established
19 payday for the period involved, not less than the applicable minimum wage for all hours worked in
20 the payroll period, ...” Under Labor Code § 1198, “[t]he employment of any employee for longer
21 hours than those fixed by the order or under conditions of labor prohibited by the order is
22 unlawful.” Plaintiff and the Class Members may therefore pursue damages and penalties for
23 violations of Labor Code § 204 and paragraph 4(B) of the applicable IWC Wage Orders, including
24 penalties under paragraph 20 of the applicable IWC Wage Orders.

25 109. As a result of the unlawful acts of Defendants, Plaintiff and Class Members seek to
26 represent they have been deprived of wages in amounts to be determined at trial, and they are
27 entitled to recovery of such amounts, plus interest and penalties thereon, attorneys’ fees, and costs,
28 pursuant to Labor Code § 210, 218.5, 1194 and 1198, and paragraphs 4(B) and 20 of the

1 applicable IWC Wage Orders.

2 **TWELFTH CAUSE OF ACTION**
3 **VIOLATION OF LABOR CODE § 221**
4 **(Against All Defendants)**

5 110. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
6 full herein.

7 111. Labor Code § 221 provides, “It shall be unlawful for any employer to collect or
8 receive from an employee any part of wages theretofore paid by said employer to said
9 employee.”

10 112. Defendants unlawfully received and/or collected wages from employees by
11 implementing a policy of automatically deducting 30-minutes worth of vested wages, from
12 Employees, for alleged meal periods which they were consistently denied, as well as by
13 understating the hours worked by Employees as alleged above. Additionally, Defendants had
14 mandatory tip pooling whereby servers received fifty percent of tips, cooks received forty percent,
15 and the back of house received ten percent. The tips were further split into how many hours
16 Plaintiff and the Class members worked. However, Defendants unlawfully deducted tips and
17 gratuities from Plaintiff and Class members to make up for short registers.

18 113. As a direct and proximate cause of the unauthorized deductions, Employees have
19 been damages, in an amount to be determined at trial.

20 **THIRTEENTH CAUSE OF ACTION**
21 **VIOLATION OF LABOR CODE § 203**
22 **(Against All Defendants)**

23 114. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
24 full herein.

25 115. Numerous Employees are no longer employed by Defendants; they either quit
26 Defendants’ employ or were fired therefrom.

27 116. Defendants failed to pay these Employees all wages due and certain at the time of
28 termination or within seventy-two (72) hours of resignation.

117. The wages withheld from these Employees by Defendants remained due and owing for more than thirty (30) days from the date of separation of employment.

118. Defendants' failure to pay wages, as alleged above, was willful in that Defendants knew wages to be due but failed to pay them; this violation entitles these Employees to penalties under Labor Code § 203, which provides that an employee's wages shall continue until paid for up to thirty (30) days from the date they were due.

FOURTEENTH CAUSE OF ACTION

VIOLATION OF BUSINESS & PROFESSIONS CODE § 17200 *ET SEQ.*

(Against All Defendants)

119. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

120. Plaintiff, on behalf of himself, Employees, and the general public, brings this claim pursuant to Business & Professions Code § 17200 *et seq.* The conduct of Defendants as alleged in this Complaint has been and continues to be unfair, unlawful, and harmful to Employees and the general public. Plaintiff seeks to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure § 1021.5.

121. Plaintiff is a "person" within the meaning of Business & Professions Code § 17204, has suffered injury, and therefore has standing to bring this cause of action for injunctive relief, restitution, and other appropriate equitable relief.

122. Business & Professions Code § 17200 *et seq.* prohibits unlawful and unfair business practices.

123. Wage-and-hour laws express fundamental public policies. Paying employees their wages and overtime, providing them with meal and rest periods, etc., are fundamental public policies of California. Labor Code § 90.5(a) articulates the public policies of this State vigorously to enforce minimum labor standards, to ensure that employees are not required or permitted to work under substandard and unlawful conditions, and to protect law-abiding employers and their employees from competitors who lower costs to themselves by failing to comply with minimum labor standards.

124. Defendants have violated statutes and public policies. Through the conduct alleged in this Complaint, Defendants have acted contrary to these public policies, have violated specific provisions of the Labor Code, and have engaged in other unlawful and unfair business practices in violation of Business & Professions Code § 17200 *et seq.* Defendants' conduct has deprived Plaintiff, and all persons similarly situated, and all interested persons, of the rights, benefits, and privileges guaranteed to all employees under the law.

125. Defendants' conduct, as alleged hereinabove, constitutes unfair competition in violation of the Business & Professions Code § 17200 *et seq.*

126. Defendants, by engaging in the conduct herein alleged, by failing to pay wages and overtime, failing to provide meal and rest periods, etc., either knew or in the exercise of reasonable care should have known that their conduct was unlawful; therefore their conduct violates the Business & Professions Code § 17200 *et seq.*

127. As a proximate result of the above-mentioned acts of Defendants, Employees have been damaged, in a sum to be proven at trial.

128. Unless restrained by this Court, Defendants will continue to engage in such unlawful conduct as alleged above. Pursuant to the Business & Professions Code, this Court should make such orders or judgments, including the appointment of a receiver, as may be necessary to prevent the use by Defendants or their agents or employees of any unlawful or deceptive practice prohibited by the Business & Professions Code, including but not limited to the disgorgement of such profits as may be necessary to restore Employees to the money Defendants have unlawfully failed to pay.

FIFTEENTH CAUSE OF ACTION

PENALTIES PURSUANT TO LABOR CODE § 2699, ET SEQ.

(Against All Defendants)

129. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

130. Plaintiff and Employees are aggrieved employees as defined under Labor Code § 2699(c) in that they suffered the violations alleged in this Complaint and were employed by the

1 alleged violators, Defendants.

2 131. Plaintiff seeks penalties under Labor Code §§ 2698 and 2699 for Defendants'
3 violation of all Labor Code provisions included under Labor Code § 2699.5 and includes the
4 penalty provisions, without limitation, based on the following California Labor Code sections:
5 201, 202, 203, 204, 210, 218.5, 218.6, 226, 226.3, 226.7, 227.3, 245 *et seq.*, 246, 510, 512, 558,
6 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2 1197, 1198.5, 1199, 2698, 2699, *et seq.*, and
7 2802.

8 132. The penalties shall be allocated as follows: 65% to the Labor and Workforce
9 Development Agency (LWDA) and 35% to the affected employee.

10 133. More specifically, after complying with the notice procedures of Labor Code §
11 2699.3, Plaintiff asserts, as a representative action on behalf of the California Attorney General
12 and the other similarly Aggrieved Employees, a PAGA claim for violations of the above-
13 addressed underlying claims and seeking penalties as specified by the applicable corresponding
14 provisions, including as follows:

15 (a) Wage Claims: For failure to provide Plaintiff and the Aggrieved Employees all
16 earned regular pay and minimum wages for regular hours worked and for failure to pay
17 overtime premium wages for overtime hours worked under Labor Code §§ 226.2, 510,
18 1194(a), 1197, and 1198, and paragraphs 2(K), 3(A), 4(A), 4(B) and 20 of the applicable
19 IWC Wage Order(s) seeking all civil and statutory penalties available and applicable, and
20 wages, under Labor Code §§ 510, 558, 1194.2, 1197.1, 1199, 2699(f)(2), and 2699.5, and
21 also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1);

22 (b) Meal and Rest Period Claims: For failure to provide Plaintiff and the Aggrieved
23 Employees off-duty, timely, and unpaid meal periods and failure to authorize and permit
24 them to take off-duty, timely, and paid rest periods, or pay one hour of regular pay in lieu
25 thereof, under Labor Code §§ 512, 1198, and 226.7, and Sections 11, 12(A), and 12(B) of
26 the applicable IWC Wage Order(s) seeking all civil and statutory penalties available and
27 applicable, including under paragraph 20 of the applicable IWC Wage Orders, and wages
28 under Labor Code §§ 226.7, 512, 558, including sections 558(a)(1)-(3), 1199 and

2699(f)(2), and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1);

(c) Failure to Pay Reporting Time Pay Wage Order 16-2002, 8 CCR § 11040(5): For failure to pay reporting time pay to Plaintiff and Aggrieved employees.

(d) Inaccurate Wage Statements and Failure to Maintain Records: For failure to provide Plaintiff and the Aggrieved Employees with accurate, itemized wage statements and failure to maintain employment records for Plaintiff and Aggrieved Employees under Labor Code §§ 226, 1174, and 1198.5, and Sections 7(A), 7(B), and 7(C) of the applicable IWC Wage Order(s) seeking all civil and statutory penalties and wages available and applicable under Labor Code §§ 226(e), 226.3, 558, 1174.5, 1199, and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Order, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1). More specifically, by providing inaccurate wage statements and failing to maintain records as required under Labor Code § 226(a), Defendants committed ongoing violations giving rise to civil penalties under Labor Code §226.3, which in addition to other penalties provided by law, subjects Defendants to "a penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, ...";

(e) Failure to Timely Pay Wages: For failure to timely pay all wages owed, including at least semi-monthly and upon separation or termination, under Labor Code §§ 201, 201, 203, 204, 226.2, 1197.5, 2926, and 2927 seeking all civil penalties available and applicable, and wages, under Labor Code §§ 201, 202, 203, 210, 558, 1197, 1198, 1199 and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Orders, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1);

(f) Failure to Reimburse Necessary Business Expenses: For Defendants' unlawful deductions from wages and for Defendants' failure to reimburse the necessary work related expenses incurred under Labor Code §§ 221, 1197, 1197.1, 1198, and 2802, and Sections 2(K), 4, 9, and 20 of the applicable IWC Wage Order(s), seeking civil penalties available and applicable under Labor Code §§ 221, 1197, 1197.1, 1198, 2802, 2699.5, and

2699(f)(2) and paragraph 9 and 20 of the IWC Wage Orders, and also attorneys' fees and costs pursuant to Labor Code § 2699(g)(1);

(g) Unlawfully Collecting or Receiving Wages: For unlawfully collecting or receiving wages, under Labor Code § 221 seeking all civil penalties available and applicable under the Labor Code §§ 221 and 2699(f) and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1);

(h) Unlawfully Collecting or Receiving Gratuities: For unlawfully collecting or receiving gratuities, under Labor Code § 351 seeking all civil penalties available and applicable under the Labor Code §§ 351 and 2699(f) and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1);

(i) Failure to Provide Paid Sick Days and COVID-19 Supplemental Sick Leave: For Defendants' failure to provide Employees with all their required and earned sick days and all their COVID-19 supplemental sick leave in violation of Labor Code §§ 246, 248.1, 248.2, and the civil and statutory penalties available and applicable under Labor Code §§ 246, 248.1, 248.2, 248.5, 558, 1194.2, 1197.1, 1198, 1199, and 2699(f)(2), and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1);

(j) Failure to Pay Vacation Wages: For Defendants' failure to provide employees with vacation time pay and failure to pay employees for all unused vacation at the time of termination of employment in violation of Labor Code § 227.3.

(k) All Alleged Violations of the IWC Wage Orders and Other Labor Code Sections: For any above addressed violation of the applicable provisions of the IWC Wage Orders, each of which constitute separate violations of Labor Code § 1198 and Labor Code § 2699.5, and seeking penalties available and applicable under Labor Code § 2699(f)(2) and paragraph 20 of the applicable IWC Wage Orders, and for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

134. Employees also seek any and all penalties and remedies set forth in Labor Code § 558, which states:

(a) Any employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision

1 regulating hours and days of work in any order of the Industrial Welfare
2 Commission shall be subject to a civil penalty as follows: (1) For any initial
3 violation, fifty dollars (\$50) for each underpaid employee for each pay period for
4 which the employee was underpaid in addition to an amount sufficient to recover
5 underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for
6 each underpaid employee for each pay period for which the employee was
7 underpaid in addition to an amount sufficient to recover underpaid wages. (3)
8 Wages recovered pursuant to this section shall be paid to the affected employee.

6 (b) If upon inspection or investigation the Labor Commissioner determines that
7 a person had paid or caused to be paid a wage for overtime work in violation of any
8 provision of this chapter, or any provision regulating hours and days of work in any
9 order of the Industrial Welfare Commission, the Labor Commissioner may issue a
10 citation. The procedures for issuing, contesting, and enforcing judgments for
11 citations or civil penalties issued by the Labor Commissioner for a violation of this
12 chapter shall be the same as those set out in Section 1197.1.

11 (c) The civil penalties provided for in this section are in addition to any other
12 civil or criminal penalty provided by law.

13 135. Labor Code § 226.3 provides that “[a]ny employer who violates subdivision (a) of
14 Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250)
15 per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee
16 for each violation in a subsequent citation, for which the employer fails to provide the employee a
17 wage deduction statement or fails to keep the required in subdivision (a) of Section 226.” To the
18 extent that Labor Code § 226.3 applies, Plaintiff and Employees also seeks such penalties on.

19 136. Plaintiff has exhausted his administrative remedy by sending a certified letter to the
20 LWDA and Defendants postmarked on June 4, 2026, LWDA Case No. LWDA-CM-1182154-26.
21 The LWDA has not provided notice of its intent to investigate the alleged violations within 65
22 calendar days of the postmark date of the letters.

23 **RELIEF REQUESTED**

24 WHEREFORE, Plaintiff prays for the following relief:

- 25 1. For an order certifying this action as a class action;
- 26 2. For compensatory damages in the amount of the unpaid minimum wages for work
27 performed by Employees and unpaid overtime compensation from at least four (4) years prior to
28 the filing of this action, as may be proven;

3. For liquidated damages in the amount equal to the unpaid minimum wage and interest thereon, from at least four (4) years prior to the filing of this action, according to proof;
4. For compensatory damages in the amount of the hourly wage made by Employees for each missed or deficient meal period where no premium pay was paid therefor from four (4) years prior to the filing of this action, as may be proven;
5. For compensatory damages in the amount of the hourly wage made by Employees for each day requisite rest breaks were not provided or were deficiently provided and where no premium pay was paid therefor from at least four (4) years prior to the filing of this action, as may be proven;
6. For penalties pursuant to Labor Code § 226(e) for Employees, as may be proven;
7. For compensatory damages in the amount of the hourly wage made by Employees or shifts where no reporting time pay was paid from at least four (4) years prior to the filing of this action, as may be proven;
8. For penalties pursuant to Labor Code § 226.3, as may be proven;
9. For penalties pursuant to Labor Code § 203 for all Employees who quit or were fired in an amount equal to their daily wage times thirty (30) days, as may be proven;
10. For penalties pursuant to Labor Code § 1174.5, as may be proven;
11. For restitution for unfair competition pursuant to Business & Professions Code § 17200 *et seq.*, including disgorgement or profits, as may be proven;
12. For restitution and/or damages for all amounts unlawfully withheld from the wages for all class members in violation of Labor Code § 204, as may be proven;
13. For restitution and/or damages for all amounts unlawfully withheld from the wages for all class members in violation of Labor Code § 221, as may be proven;
14. For compensatory damages in the amount of unpaid vacation owed to Employees pursuant to Labor Code § 227.3;
15. For penalties pursuant to Labor Code § 2699, *et seq.*, as may be proven;
16. For compensatory damages in the amount of all previously unreimbursed business expenditures necessarily incurred by Employees in the discharge of their job duties for Defendants

1 from four (4) years prior to the original filing of this action, as may be proven;

2 17. For an order enjoining Defendants and their agents, servants, and employees, and
3 all persons acting under, in concert with, or for them, from acting in derogation of any rights or
4 duties adumbrated in this Complaint;

5 18. For all general, special, and incidental damages as may be proven;

6 19. For an award of pre-judgment and post-judgment interest;

7 20. For an award providing for the payment of the costs of this suit;

8 21. For an award of attorneys' fees; and

9 22. For such other and further relief as this Court may deem proper and just.

10
11 DATED: August 7, 2026

D.LAW, INC.

12
13 By



Roman Shkodnik
Jean Hopkins Power
Attorneys for Plaintiff
MICHAEL F. BARCA
and the putative class

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DATED: August 7, 2026

By 
Roman Shkodnik
Jean Hopkins Power
Attorneys for Plaintiff
MICHAEL F. BARCA
and the putative class

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I am employed in the aforesaid county, State of California; I am over the age of 18 years and not a party to the within action; my business address is 250 N Madison Avenue, 2nd Floor Pasadena, CA 91101.

FIRST AMENDED CLASS ACTION COMPLAINT

Attorneys for Defendants JOTSC LLC and FOOD AND COMPANY, INC.:

BENT CARÝL LLP

Telephone: (323) 315-0510

Email: jesse@bentcaryl.com

12059 Ventura Pl

12059 Ventura Pl

using the following service method(s):

X VIA MAIL: I caused the document(s) to be served to be deposited at: 250 N Madison Avenue, 2nd Floor, Pasadena, CA 91101-1639, which is a mailbox or other like facility regularly maintained by the United States Postal Service, in a sealed envelope, with postage paid, addressed to the person(s) on whom the document(s) is/are to be served, at the office address as last given by that/those person(s), otherwise at that/those person(s)' place(s) of residence. I am aware that on motion of any party served, service is presumed invalid if the postal cancellation date or postage meter date is more than one (1) day after the date of deposit for mailing stated herein.

X VIA RAPID LEGAL E-SERVICE: A true and correct copy of the foregoing document(s) was electronically served on counsel of record by transmission through Rapid Legal electronic service.

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1 I declare under penalty of perjury under the laws of the United States of America and the State of
2 California that the foregoing is true and correct.

3 Executed on August 7, 2026, at Pasadena, California.

4 *Akiko Iwata*
5 Akiko Iwata
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