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Superior Court of California
County of Santa Cruz
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Attorneys for Plaintiff ENRIQUE BENJAMIN RAMOS,
individually and on behalf of others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SANTA CRUZ – SANTA CRUZ COURTHOUSE

ENRIQUE BENJAMIN RAMOS,
individually and on behalf of all others
similarly situated,

PLAINTIFF,

v.

WEST END TAP & KITCHEN, a California
corporation; WEST END TAP & KITCHEN,
LP, a California limited partnership; EAST
END GASTROPUB, LP, a California limited
partnership; and DOES 1 through 50,
inclusive,

DEFENDANTS.

CASE NO.: 24CV00845

**CLASS ACTION AND REPRESENTATIVE
ACTION COMPLAINT**

- 1) FAILURE TO PROVIDE MEAL PERIODS
AND/OR PAY MEAL PERIOD PREMIUMS
(LABOR CODE § 226.7, 512)
- 2) FAILURE TO AUTHORIZE AND PERMIT
REST BREAKS AND/OR PAY REST
BREAK PREMIUMS (LABOR CODE §
226.7)
- 3) FAILURE TO TIMELY PAY FINAL
WAGES (LABOR CODE §§ 201-203)
- 4) FAILURE TO PROVIDE COMPLETE AND
ACCURATE ITEMIZED WAGE
STATEMENTS (LABOR CODE § 226)
- 5) UCL VIOLATIONS (BUS. & PROF. CODE
§§ 17200-17204)
- 6) PENALTIES PURSUANT TO THE
PRIVATE ATTORNEYS GENERAL ACT
(LABOR CODE §§ 2698 – 2699.5)

DEMAND FOR JURY TRIAL

1 Plaintiff ENRIQUE BENJAMIN RAMOS (“Plaintiff”), individually, and on behalf of others
2 similarly situated (hereinafter “Class Members”), and as a private attorney general, based upon facts
3 that either have evidentiary support or are likely to have evidentiary support after a reasonable
4 opportunity for further investigation and discovery, complains and hereby alleges as follows:

5 **JURISDICTION AND VENUE**

6 1. Plaintiff brings this action against Defendants WEST END TAP & KITCHEN, a
7 California corporation; WEST END TAP & KITCHEN, LP, a California limited partnership; EAST
8 END GASTROPUB, LP, a California limited partnership; and DOES 1 through 50, inclusive
9 (hereinafter collectively referred to as “Defendants”) for California Labor Code violations, unfair
10 business practices, and monetary penalties stemming from Defendants’ failure to provide compliant
11 meal periods, failure to authorize and permit compliant rest periods, failure to timely pay final wages,
12 and failure to provide accurate and complete itemized wage statements.

13 2. Plaintiff’s First through Fifth Causes of Action are brought as a class action on behalf of
14 himself and similarly situated current and former employees of Defendants (hereinafter collectively
15 referred to as the “Class” or “Class Members,” as defined more fully in paragraph 24, below) pursuant
16 to Code of Civil Procedure section 382. The monetary damages and restitution sought by Plaintiff exceed
17 the minimal jurisdiction limits of the Superior Court and will be established according to proof at trial.

18 3. Plaintiff’s Sixth Cause of Action is brought as a representative action on behalf of himself
19 and other current and former non-exempt employees of Defendants in the State of California at any time
20 within the period beginning one (1) year prior to the date of Plaintiff’s PAGA letter to the LWDA and
21 ending at the time this action settles or proceeds to final judgment (hereinafter collectively referred to
22 as “Aggrieved Employees”) pursuant to California Labor Code sections 2698, *et seq.* Plaintiff is an
23 aggrieved employee against whom one or more of the alleged violations occurred. The civil penalties
24 sought by Plaintiff exceed the minimal jurisdiction limits of the Superior Court and will be established
25 according to proof at trial.

26 4. The Court has jurisdiction over this action pursuant to the California Constitution, Article
27 VI, section 10, which grants the superior court “original jurisdiction in all other causes” except those
28 given by statute to other courts. The statutes under which this action is brought do not specify any other

basis for jurisdiction.

5. This Court has jurisdiction over Defendants because, upon information and belief, Defendants are citizens of California, have sufficient minimum contacts in California, or otherwise intentionally avail themselves of the California market so as to render the exercise of jurisdiction over them by the California courts consistent with traditional notions of fair play and substantial justice.

6. Venue is proper in this Court because, upon information and belief, Defendants maintain offices, have agents, and/or transact business in the State of California, County of Santa Cruz.

PARTIES

7. Plaintiff is a resident of the State of California. At all times relevant to this action, Plaintiff was employed by Defendants in the County of Santa Cruz, State of California as an hourly, non-exempt employee. During his employment, Plaintiff worked for Defendants as a dishwasher at Defendants' restaurants in Santa Cruz, California.

8. Defendant WEST END TAP & KITCHEN is, and at all times herein mentioned was, a corporation organized and existing under the laws of the State of California, and registered to do business in the State of California.

9. Defendant WEST END TAP & KITCHEN, LP is, and at all times herein mentioned was, a limited partnership organized and existing under the laws of the State of California, and registered to do business in the State of California. Plaintiff is informed and believes that Defendant WEST END TAP & KITCHEN is the sole general partner of Defendant WEST END TAP & KITCHEN, LP.

10. Plaintiff is informed and believes that according to publicly released data, Defendant WEST END TAP & KITCHEN, LP received at least two (2) federal Paycheck Protection Program (“PPP”) loans totaling over \$954,000.00.¹ According to publicly released data, the full amount of these loans to Defendant, including accrued interest, has been forgiven.

11. Defendant EAST END GASTROPUB, LP is, and at all times herein mentioned was, a limited partnership organized and existing under the laws of the State of California, and registered to do business in the State of California. Plaintiff is informed and believes that Defendant WEST END TAP

¹ See, <https://projects.propublica.org/coronavirus/bailouts/loans/west-end-tap-kitchen-lp-1620357109> and <https://projects.propublica.org/coronavirus/bailouts/loans/west-end-tap-kitchen-lp-6101448305>

1 & KITCHEN is the sole general partner of Defendant EAST END GASTROPUB, LP.

2 12. Plaintiff is informed and believes that Defendant WEST END TAP & KITCHEN is the
3 sole general partner of Defendants EAST END GASTROPUB, LP and WEST END TAP & KITCHEN,
4 LP.

5 13. Plaintiff is informed and believes that according to publicly released data, Defendant
6 EAST END GASTROPUB, LP received at least two (2) federal Paycheck Protection Program (“PPP”)
7 loans totaling over \$517,000.² According to publicly released data, the full amount of these loans to
8 Defendant, including accrued interest, has been forgiven.

9 14. Plaintiff is informed and believes that Defendants WEST END TAP & KITCHEN,
10 WEST END TAP & KITCHEN, LP, and EAST END GASTROPUB, LP own and operate taprooms
11 and restaurants located in Santa Cruz, California.

12 15. Plaintiff is ignorant of the identities of defendants Does 1 through 50, inclusive, and
13 therefore, sues these defendants by such fictitious names. The Doe defendants may be individuals,
14 partnerships, or corporations. Plaintiff is informed and believes, and thereon alleges, that, at all times
15 mentioned herein, each of the Doe defendants was the parent, subsidiary, agent, servant, employee, co-
16 venturer, and/or co-conspirator of each of the other defendants, and was at all times mentioned acting
17 within the scope, purpose, consent, knowledge, ratification and authorization of such agency,
18 employment, joint venture and conspiracy. Plaintiff will amend this Complaint to allege their true names
19 and capacities when ascertained. Plaintiff is informed and believes and thereon alleges that each of the
20 fictitiously named Doe defendants is responsible in some manner for the occurrences herein alleged,
21 and that Plaintiff’s damages as herein alleged were proximately caused by its conduct.

22 16. Defendants WEST END TAP & KITCHEN; WEST END TAP & KITCHEN, LP; EAST
23 END GASTROPUB, LP; and DOES 1 thorough 50, inclusive, are collectively referred to herein as
24 “Defendants.”

25 17. Defendants are and at all times herein mentioned were, (a) conducting business in the
26 County of Santa Cruz, State of California, and (b) the employer of Plaintiff consistent with the California

27
28 ² See, <https://projects.propublica.org/coronavirus/bailouts/loans/east-end-gastropub-6356108310> and
<https://projects.propublica.org/coronavirus/bailouts/loans/east-end-gastropub-lp-7187267003>

1 Labor Code and Industrial Welfare Commission (“IWC”) Wage Order(s).

2 18. Plaintiff further alleges that Defendants, directly or indirectly controlled or affected the
3 working conditions, wages, working hours, and conditions of employment of Plaintiff, the Class, and
4 the Aggrieved Employees so as to make each of said Defendants employers and employers jointly liable
5 under the statutory provisions set forth herein.

6 19. Plaintiff is informed and believes, and thereon alleges, that at all times relevant to this
7 action, Defendants were the alter egos, predecessors, divisions, affiliates, integrated enterprises, joint
8 employers, subsidiaries, successors, sister companies, parents, principals, related entities, co-
9 conspirators, authorized agents, partners, limited partners, joint venturers, and/or guarantors, actual or
10 ostensible, of each other. Each defendant was dominated by his, his, or its codefendants, and each was
11 the alter ego of the other.

12 20. Plaintiff is informed and believes, and thereon alleges, that each Defendant acted in all
13 respects pertinent to this action as the agent of the other Defendants, carried out a joint scheme, business
14 plan, or policy in all respects pertinent hereto, and the acts of each Defendant are legally attributable to
15 the other Defendants.

16 21. Plaintiff is informed and believes, and based thereon alleges, that in perpetrating the acts
17 and omissions alleged herein, Defendants, and each of them, acted pursuant to, and in furtherance of,
18 their policies and practices of not paying Plaintiff, the Class, and the Aggrieved Employees all wages
19 earned and due, through methods and schemes which include, but are not limited to: failing to provide
20 compliant meal periods; failing to authorize compliant rest breaks; failing to provide accurate itemized
21 statements for each pay period; failing to timely pay final wages; and failing to pay timely wages during
22 employment in violation of the California Labor Code (“Labor Code”) and applicable IWC Wage
23 Order(s).

24 22. Plaintiff is informed and believes, and based thereon alleges, that in accordance with
25 Labor Code section 558.1, Defendants, and any person acting on behalf of Defendants, are liable for
26 violating, or causing to violate, any provision regulating minimum wages or hours and days of work in
27 any order of the Industrial Welfare Commission, or any applicable provision of the Labor Code.

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CLASS ACTION ALLEGATIONS

23. Plaintiff brings the First through Fifth Causes of Action as a class action on his own behalf and on behalf of all other members of the general public similarly situated, and, thus, seeks class certification under Code of Civil Procedure section 382.

24. The proposed class is defined as follows: All current and former non-exempt employees of any of the Defendants within the State of California at any time commencing four (4) years preceding the filing of Plaintiff's original complaint up until the time that notice of the certified class action is provided to the class (hereinafter referred to as the "Class" or "Class Members").

25. Plaintiff reserves the right to establish other subclasses as appropriate.

26. The Class is ascertainable and there is a well-defined community of interest in the litigation:

a. Numerosity: The Class Members are so numerous that joinder of all Class Members is impracticable. The membership of the entire Class is unknown to Plaintiff at this time; however, the Class is estimated to be over fifty (50) individuals and the identity of such membership is readily ascertainable by inspection of Defendants' employment records.

b. Typicality: Plaintiff's claims are typical of all other Class Members demonstrated herein. Plaintiff and the Class Members worked as hourly, non-exempt employees for Defendants in California, including at Defendants' restaurants in California. Plaintiff and the other similarly situated Class Members were employed by Defendants and shared similar job duties and responsibilities, were subjected to the same policies and practices, and endured similar violations at the hands of Defendants.

c. Adequacy: Plaintiff will fairly and adequately protect the interests of each Class Member, with whom he has a well-defined community of interest and typicality of claims, as demonstrated herein. Plaintiff has no interest that is antagonistic to the other Class Members. Plaintiff's counsel, the proposed class counsel, is versed in the rules governing class action discovery, certification, and settlement. Plaintiff has incurred, and during the pendency of this action will continue to incur, costs, and attorneys' fees, that have been,

are, and will be necessarily expended for the prosecution of this action for the substantial benefit of each Class Member.

- d. Superiority: A class action is superior to other available methods for the fair and efficient adjudication of this litigation because individual joinder of all Class Members is impractical.
- e. Public Policy Considerations: Certification of this lawsuit as a class action will advance public policy objectives. Current employees are often afraid to assert their rights out of fear of direct or indirect retaliation. However, class actions provide the Class Members who are not named in the complaint anonymity that allows for the vindication of their rights.

27. There are common questions of law and fact as to the Class that predominate over questions affecting only individual members. The following common questions of law or fact, among others, exist as to the members of the Class:

- a. Whether Defendants deprived Plaintiff and the other Class Members of meal and/or rest periods or required Plaintiff and the other Class Members to work during meal and/or rest periods without compensation;
- b. Whether Defendants failed to pay meal period premium wages to Plaintiff and the other Class Members when they were not provided legally compliant meal periods;
- c. Whether Defendants failed to pay rest period premium wages to Plaintiff and the other Class Members when they were not authorized and permitted to take legally compliant rest periods;
- d. Whether Defendants had a corporate policy and practice of failing to pay Plaintiff and the other Class Members for missed, short, late or interrupted meal periods and rest breaks in violation of California law;
- e. Whether Defendants failed to pay all wages due to Plaintiff and the other Class Members within the time required upon their discharge or resignation from employment;
- f. Whether Defendants' failure to pay wages, without abatement, or reduction, in accordance with the California Labor Code was willful;

- 1 g. Whether Defendants complied with wage statement reporting as required by the
2 California Labor Code, including section 226;
- 3 h. Whether Defendants engaged in unfair business practices in violation of California
4 Business & Professions Code section 17200, *et seq.* based on their improper withholding
5 of compensation and deduction of wages;
- 6 i. The appropriate amount of damages, restitution, and/or monetary penalties resulting from
7 Defendants' violation of California law; and
- 8 j. Whether Plaintiff and the other Class Members are entitled to compensatory damages
9 pursuant to the California Labor Code.

10 **GENERAL ALLEGATIONS**

11 28. Plaintiff is informed and believes that Defendants own and operate taprooms and
12 restaurants in California. From approximately May 2022 to approximately November 2023, Defendants
13 employed Plaintiff as a dishwasher at two of Defendants' restaurant locations in Santa Cruz, California.

14 29. At all relevant times set forth herein, Defendants employed Plaintiff, the Class, and the
15 Aggrieved Employees as hourly-paid or non-exempt employees.

16 30. Throughout the time period involved in this case, Defendants had the authority to hire
17 and terminate Plaintiff, the Class, and the Aggrieved Employees; to directly, or indirectly, control work
18 rules, working conditions, wages, and working hours; and to directly, or indirectly, control the terms of
19 employment of Plaintiff, the Class, and the Aggrieved Employees.

20 31. At all times herein mentioned, Defendants were subject to the Labor Code of the State of
21 California and the applicable IWC Wage Order(s).

22 32. Plaintiff is informed and believes, and thereon alleges, that Defendants engaged in an
23 ongoing and systematic scheme of wage and hour violations against their hourly-paid or non-exempt
24 employees. As set forth in more detail below, Defendants routinely failed to permit Plaintiff, the Class,
25 and the Aggrieved Employees to take timely and duty-free meal periods and rest periods in violation of
26 California law, and failed to pay associated meal and rest period premium wages. Defendants also failed
27 to provide accurate itemized wage statements for each pay period, and failed to timely pay all wages
28 owed during and upon termination of employment.

1 33. On information and belief, throughout the time period involved in this case, Defendants
2 have implemented policies and practices which failed to provide Plaintiff, the Class, and the Aggrieved
3 Employees with timely and duty-free meal periods. Defendants routinely failed to relieve Plaintiff, the
4 Class, and the Aggrieved Employees of all duties during their meal periods, regularly failed to relinquish
5 control over Plaintiff, the Class, and the Aggrieved Employees during their meal periods, regularly failed
6 to permit Plaintiff, the Class, and the Aggrieved Employees a reasonable opportunity to take their meal
7 periods, and regularly impeded or discouraged Plaintiff, the Class, and the Aggrieved Employees from
8 taking thirty (30) minute uninterrupted meal breaks no later than the end of their fifth hour of work
9 and/or from taking a second thirty (30) minute uninterrupted meal break no later than their tenth hour of
10 work for shifts lasting more than ten (10) hours.

11 34. On information and belief, throughout the time period involved in this case, Defendants
12 did not adequately inform Plaintiff, the Class, and the Aggrieved Employees of their right to take meal
13 periods under California law. Moreover, on information and belief, Defendants systematically
14 disregarded their own written policies regarding the provision and timing of meal periods for Plaintiff,
15 the Class, and the Aggrieved Employees.

16 35. On information and belief, throughout the time period involved in this case, Defendants
17 failed to pay Plaintiff, the Class, and the Aggrieved Employees premium wages for meal periods that
18 were missed, late, interrupted, or shortened in violation of California law. Defendants knew or should
19 have known that Plaintiff, the Class, and the Aggrieved Employees were entitled to receive all meal
20 periods or payment of one additional hour of pay at their regular rate of pay when a meal period was
21 missed, short, late, and/or interrupted. Notwithstanding this knowledge, Defendants routinely failed to
22 provide legally compliant meal periods to Plaintiff, the Class, and the Aggrieved Employees, and
23 routinely failed to pay one additional hour of pay to Plaintiff, the Class, and the Aggrieved Employees
24 at their regular rate of pay when a meal period was missed, short, late, and/or interrupted.

25 36. On information and belief, throughout the time period involved in this case, Defendants
26 have implemented policies and practices which prohibited Plaintiff, the Class, and the Aggrieved
27 Employees from taking timely and duty-free rest periods. Defendants regularly failed to provide,
28 authorize, and permit Plaintiff, the Class, and the Aggrieved Employees to take full, uninterrupted, off-

1 duty rest periods for every shift lasting three and one-half (3.5) to six (6) hours and/or two full,
2 uninterrupted, off-duty rest periods for every shift lasting six (6) to ten (10) hours, and failed to make a
3 good faith effort to authorize, permit, and provide such rest breaks in the middle of each work period.

4 37. On information and belief, throughout the time period involved in this case, Defendants
5 did not adequately inform Plaintiff, the Class, and the Aggrieved Employees of their right to take rest
6 periods under California law. Moreover, on information and belief, Defendants systematically
7 disregarded their own written policies regarding the provision and timing of rest periods for Plaintiff,
8 the Class, and the Aggrieved Employees. Instead, Defendants' actual policy and practice was to schedule
9 Plaintiff, the Class, and the Aggrieved Employees in a way that regularly prohibited them from taking
10 timely and duty-free rest periods, and to regularly require Plaintiff, the Class, and the Aggrieved
11 Employees to work through their rest periods.

12 38. On information and belief, throughout the time period involved in this case, Defendants
13 failed to pay Plaintiff, the Class, and the Aggrieved Employees premium wages for rest periods that
14 were missed, late, interrupted, or shortened in violation of California law. Defendants knew or should
15 have known that Plaintiff, the Class, and the Aggrieved Employees were entitled to receive all rest
16 periods or payment of one additional hour of pay at their regular rate of pay when a rest period was
17 missed, short, late, and/or interrupted. Notwithstanding this knowledge, Defendants routinely failed to
18 authorize and permit Plaintiff, the Class, and the Aggrieved Employees to take duty-free rest periods,
19 and failed to pay one additional hour of pay to Plaintiff, the Class, and the Aggrieved Employees at their
20 regular rate of pay when a rest period was missed, short, late and/or interrupted.

21 39. On information and belief, throughout the time period involved in this case, Defendants
22 regularly failed to pay Plaintiff, the Class, and the Aggrieved Employees all wages owed to them upon
23 discharge or resignation. Defendants knew or should have known that Plaintiff, the Class, and the
24 Aggrieved Employees were entitled to receive all wages owed to them upon termination within the time
25 permissible under California Labor Code section 202. Plaintiff, the Class, and the Aggrieved Employees
26 did not receive payment of all final wages owed to them upon discharge or resignation, including
27 premium wages within any time permissible under California Labor Code section 202.

28 40. On information and belief, throughout the time period involved in this case, Defendants

1 regularly failed to pay Plaintiff, the Class, and the Aggrieved Employees all wages within any time
2 permissible under California law, including, *inter alia*, California Labor Code section 204. Defendants
3 knew or should have known that Plaintiff, the Class, and the Aggrieved Employees were entitled to
4 receive all wages owed to them during their employment. Plaintiff, the Class, and the Aggrieved
5 Employees did not receive payment of all wages, including meal and rest period premiums.

6 41. On information and belief, throughout the time period involved in this case, Defendants
7 regularly failed to provide complete or accurate wage statements to Plaintiff, the Class, and the
8 Aggrieved Employees. Defendants knew or should have known that Plaintiff, the Class, and the
9 Aggrieved Employees were entitled to receive complete and accurate wage statements in accordance
10 with California law, but, in fact, they did not receive complete and accurate wage statements from
11 Defendants. The deficiencies included, *inter alia*, the failure to include the total number of hours worked,
12 the actual gross wages earned, including premium wages, the name and address of the employer, and
13 the correct rates of pay.

14 42. On information and belief, throughout the time period involved in this case, Defendants
15 regularly failed to keep complete or accurate payroll records for Plaintiff, the Class, and the Aggrieved
16 Employees. Defendants knew or should have known that Defendants were required to keep complete
17 and accurate time payroll records for Plaintiff, the Class, and the Aggrieved Employees in accordance
18 with California law, but, in fact, did not keep complete and accurate time and payroll records.

19 43. On information and belief, throughout the time period involved in this case, Defendants
20 regularly failed to maintain accurate records relating to Plaintiff's, the Class's, and the Aggrieved
21 Employees' work periods, meal periods, total daily hours, hours per pay period, and applicable pay rates.

22 44. On information and belief, throughout the time period involved in this case, Defendants
23 knew or should have known that they had a duty to compensate Plaintiff, the Class, and the Aggrieved
24 Employees pursuant to California law. Defendants had the financial ability to pay such compensation,
25 but willfully, knowingly, and intentionally failed to do so, and falsely represented to Plaintiff, the Class,
26 and the Aggrieved Employees that they paid all wages owed to them, all in order to increase Defendants'
27 profits.

28 45. California Labor Code section 218 states that nothing in Article 1 of the Labor Code shall

1 limit the right of any wage claimant to “sue directly ... for any wages or penalty due to him [or her]
2 under this article.”

3 **FIRST CAUSE OF ACTION**

4 **(Violation of California Labor Code §§ 226.7 and 512(a))**

5 **(Against All Defendants)**

6 46. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every
7 allegation set forth above.

8 47. At all relevant times, the relevant IWC Wage Order(s) and California Labor Code
9 sections 226.7 and 512(a) were applicable to Plaintiff and the other Class Members’ employment by
10 Defendants.

11 48. At all relevant times, California Labor Code section 226.7 provides that no employer
12 shall require an employee to work during any meal or rest period mandated by an applicable order of
13 the California IWC.

14 49. At all relevant times, the applicable IWC Wage Order(s) and California Labor Code
15 section 512(a) provide that an employer may not require, cause or permit an employee to work for a
16 work period of more than five (5) hours per day without providing the employee with a meal period of
17 not less than thirty (30) minutes, except that if the total work period per day of the employee is no more
18 than six (6) hours, the meal period may be waived by mutual consent of both the employer and employee.

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

25 51. During the relevant time period, Plaintiff and the other Class Members who were
26 scheduled to work for a period of time longer than six (6) hours, and who did not waive their legally-
27 mandated meal periods by mutual consent, were required to work for periods longer than five (5) hours
28 without an uninterrupted meal period of not less than thirty (30) minutes.

52. During the relevant time period, Plaintiff and the other Class Members were required to work for periods longer than ten (10) hours without a second uninterrupted meal period of not less than thirty (30) minutes.

53. During the relevant time period, Defendants intentionally and willfully required Plaintiff and the other Class Members to miss their meal periods and to take meal periods that were late, shortened, or interrupted, and failed to compensate Plaintiff and the other Class Members the full meal period premium for missed, shortened, late, or interrupted meal periods.

54. During the relevant time period, Defendants failed to pay Plaintiff and the other Class Members the full meal period premiums due pursuant to California Labor Code section 226.7.

55. Defendants' conduct violates the applicable IWC Wage Order(s) and California Labor Code Sections 226.7 and 512(a).

56. Pursuant to the applicable IWC Wage Order(s) and California Labor Code section 226.7(b), Plaintiff and the other Class Members are entitled to recover from Defendants one (1) additional hour of pay at the employee's regular rate of compensation for each work day that the meal period was not provided.

SECOND CAUSE OF ACTION

(Violation of California Labor Code § 226.7)

(Against All Defendants)

57. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every allegation set forth above.

58. At all times herein set forth, the applicable IWC Wage Order(s) and California Labor Code section 226.7 were applicable to Plaintiff and the other Class Members' employment by Defendants.

59. At all relevant times, California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC.

60. At all relevant times, the applicable IWC Wage Order(s) provides that “[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the

1 middle of each work period” and that the “rest period time shall be based on the total hours worked daily
2 at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof unless the total
3 daily work time is less than three and one-half (3.5) hours.”

4 61. During the relevant time period, Defendants required Plaintiff and other Class Members
5 to work four (4) or more hours without authorizing or permitting a ten (10) minute rest period per each
6 four (4) hour period worked.

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

11 63. During the relevant time period, Defendants failed to pay Plaintiff and the other Class
12 Members the full rest period premium due pursuant to California Labor Code section 226.7 for work
13 performed during rest periods, and/or for failure to authorize and permit Plaintiff and other Class
14 Members from taking uninterrupted rest periods.

15 64. Defendants’ conduct violates applicable IWC Wage Order(s) and California Labor Code
16 section 226.7.

17 65. Pursuant to the applicable IWC Wage Order(s) and California Labor Code section
18 226.7(b), Plaintiff and the other Class Members are entitled to recover from Defendants one additional
19 hour of pay at the employees’ regular hourly rate of compensation for each work day that the rest period
20 was not provided.

21 **THIRD CAUSE OF ACTION**

22 **(Violation of California Labor Code §§ 201, 202, 203)**

23 **(Against All Defendants)**

24 66. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every
25 allegation set forth above.

26 67. At all relevant times herein set forth, California Labor Code sections 201 and 202 provide
27 that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are
28 due and payable immediately, and if an employee quits his or her employment, his or her wages shall

1 become due and payable not later seventy-two (72) hours thereafter, unless the employee has given
2 seventy-two (72) hours' notice of his or her intention to quit, in which case the employee is entitled to
3 his or her wages at the time of quitting.

4 68. During the relevant time period, the employment of Plaintiff and many other Class
5 Members with Defendants ended, *i.e.* was terminated by quitting or discharge. Defendants intentionally
6 and willfully failed to pay Plaintiff and other Class Members who are no longer employed by Defendants
7 all of their wages, earned and unpaid, including but not limited to premium wages, within seventy-two
8 (72) hours of their leaving Defendants' employ.

9 69. Defendants' failure to pay Plaintiff and other Class Members who are no longer
10 employed by Defendants their wages, earned and unpaid, within seventy-two (72) hours of their leaving
11 Defendants' employ, is in violation of California Labor Code sections 201 and 202.

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

16 71. Plaintiff and other Class Members who are no longer employed by Defendants are
17 entitled to recover from Defendants the statutory penalty wages for each day they were not paid, up to
18 a thirty (30) day maximum pursuant to California Labor Code Section 203.

19 **FOURTH CAUSE OF ACTION**

20 **(Violation of California Labor Code § 226(a))**

21 **(Against All Defendants)**

22 72. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every
23 allegation set forth above.

24 73. At all material times set forth herein, California Labor Code section 226(a) provides that
25 every employer shall furnish each of its employees an accurate itemized statement in writing showing
26 (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units
27 earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions,
28 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, (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. The deductions made from payments of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement or a record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California.

74. Defendants have intentionally and willfully failed to provide Plaintiff and the Class with complete and accurate wage statements. The deficiencies include, but are not limited to the failure list the total number of hours worked, the actual gross wages earned, and the correct rates of pay.

75. Because of Defendants' violation of California Labor Code section 226(a), Plaintiff and the Class have suffered injury and damage to their statutorily-protected rights.

76. More specifically, Plaintiff and the Class have been injured by Defendants' intentional and willful violation of California Labor Code section 226(a) because they were denied both their legal right to receive, and their protected interest in receiving, accurate and itemized wage statements pursuant to California Labor Code section 226(a).

77. Plaintiff and the Class are entitled to recover from Defendants the greater of their actual damages caused by Defendants' failure to comply with California Labor Code section 226(a), or an aggregate penalty not exceeding four thousand dollars per employee.

78. Plaintiff and the Class are also entitled to injunctive relief to ensure compliance with this section, pursuant to California Labor Code section 226(g).

FIFTH CAUSE OF ACTION

(Violation of Cal. Business & Professions Code §§ 17200, et seq.)

(Against All Defendants)

79. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every allegation set forth above.

80. Defendants' conduct, as alleged herein, has been, and continues to be, unfair, unlawful,

1 and harmful to Plaintiff and the Class, to the general public, and Defendants' competitors. Accordingly,
2 Plaintiff seeks to enforce important rights affecting the public interest within the meaning of Code of
3 Civil Procedure section 1021.5.

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

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

10 83. A violation of California Business & Professions Code section 17200, *et seq.* may be
11 predicated on the violation of any state or federal law. In this instant case, Defendants' systematic
12 policies and practices of requiring employees, including Plaintiff and the Class, to work without legally
13 compliant meal periods and rest breaks violate California Labor Code sections 226.7 and 512(a).
14 Moreover, Defendants' policies and practices of failing to timely pay wages to Plaintiff and the Class
15 violate California Labor Code sections 201, 202, and 203. Defendants also violated California Labor
16 Code sections 204, 226(a), and 1174(d).

17 84. Wage-and-hour laws express fundamental public policies. Providing employees with
18 meal periods and rest breaks, etc., are fundamental public policies of California. Labor Code section
19 90.5(a) sets forth the public policies of this State vigorously to enforce minimum labor standards, to
20 ensure that employees are not required or permitted to work under unlawful conditions, and to protect
21 law-abiding employers and their employees from competitors who lower costs to themselves by failing
22 to comply with fair labor standards. Through the conduct alleged in this Complaint, Defendants have
23 acted contrary to these public policies, have violated specific provisions of the Labor Code, and have
24 engaged in other unlawful and unfair business practices in violation of Business & Professions Code §
25 17200 *et seq.*

26 85. As a result of the herein described violations of California law, Defendants unlawfully
27 gained an unfair advantage over other businesses.

28 86. Plaintiff and the Class have been personally injured by Defendants' unlawful business

1 acts and practices as alleged herein, including but not necessarily limited to the loss of money and/or
2 property.

3 87. Pursuant to California Business & Professions Code sections 17200, *et seq.*, Plaintiff and
4 the Class are entitled to restitution of the wages withheld and retained by Defendants during a period
5 that commences four years prior to the filing of this Complaint; an award of attorneys' fees pursuant to
6 California Code of Civil Procedure Section 1021.5 and other applicable laws; and an award of costs.

7 **SIXTH CAUSE OF ACTION**

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

9 **(Against All Defendants)**

10 88. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every
11 allegation set forth above.

12 89. Plaintiff brings his Sixth Cause of Action as a representative action on behalf of himself
13 and all other Aggrieved Employees in the capacity as a private attorney general pursuant to the Private
14 Attorneys General Act of 2004, California Labor Code section 2698, *et seq.* ("PAGA").

15 90. PAGA specifically provides for a private right of action to recover civil penalties for
16 violations of the Labor Code as follows: "Notwithstanding any other provision of law, any provision of
17 this code that provides for a civil penalty to be assessed and collected by the Labor and Workforce
18 Development Agency or any of its departments, divisions, commissions, boards, agencies, or employees,
19 for a violation of this code, may, as an alternative, be recovered through a civil action brought by an
20 aggrieved employee on behalf of himself or herself and other current or former employees pursuant to
21 the procedures specified in Section 2699.3." Labor Code § 2699(a).

22 91. Plaintiff was employed by Defendants and the Labor Code violations alleged above were
23 committed against him during his time of employment. Plaintiff is therefore, an "aggrieved employee"
24 under PAGA.

25 92. As set forth in detail above, during all times relevant to this Action, Defendants have
26 routinely subjected Plaintiff and the Aggrieved Employees to violations of California Labor Codes by:

- 27 a. Failing to provide legally compliant meal periods to Plaintiff and the Aggrieved
28 Employees, and failing to pay Plaintiff and the Aggrieved Employees an additional hour

- 1 of premium pay for meal period violations in violation of Labor Code §§ 226.7 and 512.
- 2 b. Failing to provide authorize and permit Plaintiff and the Aggrieved Employees to take
- 3 duty-free rest periods, and failing to pay Plaintiff and the Aggrieved Employees an
- 4 additional hour of premium pay for rest period violations in violation of Labor Code §§
- 5 226.7 and 512.
- 6 c. Failing to timely pay Plaintiff and the Aggrieved Employees all wages at the end of their
- 7 employment in violation of Labor Code § 203.
- 8 d. Failing to timely pay Plaintiff and the Aggrieved Employees all wages owed during
- 9 employment in violation of Labor Code § 204.
- 10 e. Failing to furnish Plaintiff and the Aggrieved Employees with complete, accurate,
- 11 itemized wage statements in violation of Labor Code § 226.
- 12 f. Failing to maintain accurate records relating to Plaintiff and the Aggrieved Employees’
- 13 work periods, meal periods, total daily hours, hours per pay period, total wages and
- 14 compensation, and applicable pay rates in violation of Labor Code § 1174(d) and the
- 15 applicable IWC Wage Order(s).

16 93. Pursuant to California Labor Code sections 2699 and 2699.5, Plaintiff, individually and

17 on behalf of himself and the Aggrieved Employees and the State of California, requests and is entitled

18 to recover penalties against Defendants for the Labor Code violations described above, including but

19 not limited to penalties under the applicable IWC Wage Order(s), including IWC Wage Order 5-2001,

20 penalties under California Labor Code sections 2699, 558, 226, 226.3 and 1174.5, and any and all

21 additional penalties and sums as provided by the California Labor Code and/or other statutes. The exact

22 amount of the applicable penalties, in all, is in an amount to be shown according to proof at trial.

23 94. Pursuant to Labor Code § 2699.3, on or about January 19, 2024, Plaintiff, through his

24 counsel of record, gave written notice by online filing with the Labor and Workforce Development

25 Agency (“LWDA”) and by certified mail to the Defendants, of the specific provisions of the Labor Code

26 and IWC Wage Order(s) that Defendants have violated, including the facts and theories to support the

27 violations, and of Plaintiff’s intent to bring a claim for civil penalties under PAGA. Plaintiff also paid

28 the filing fee required under Labor Code § 2699.3. To date, the LWDA has not indicated that it intends

1 to investigate the violations discussed in the PAGA notice. Accordingly, Plaintiff has or soon will have
2 fulfilled all administrative prerequisites to the pursuit of his PAGA claim on behalf himself and other
3 Aggrieved Employees pursuant to Labor Code § 2699.3.

4 95. Plaintiff was compelled to retain the services of counsel to file this court action to protect
5 his interests and the Aggrieved Employees, and to assess and collect the civil penalties owed by
6 Defendants. Plaintiff therefore seeks an award of reasonable attorneys' fees and costs pursuant to Labor
7 Code § 2699(g)(1), and any other applicable statute.

8 **PRAYER FOR RELIEF**

9 WHEREFORE, Plaintiff, individually and on behalf of all other members of the general public
10 similarly situated, and as a private attorney general, prays for relief and judgment against Defendants,
11 jointly and severally, as follows:

12 **Class Certification**

- 13 1. That this action be certified as a class action;
14 2. That Plaintiff be appointed as the representative of the Class;
15 3. That counsel for Plaintiff be appointed as Class Counsel; and
16 4. That Defendants provide to Class Counsel immediately the names and most current/last
17 known contact information (address, e-mail, and telephone numbers) of all class members.

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

- 19 5. That the Court declare, adjudge, and decree that Defendants violated California Labor
20 Code sections 226.7 and 512 and applicable IWC Wage Order(s) by willfully failing to provide all meal
21 periods (including second meal periods) to Plaintiff and the Class;
22 6. That the Court make an award to Plaintiff and the Class of one (1) hour of pay at each
23 employee's regular rate of compensation for each workday that a meal period was not provided;
24 7. For all actual, consequential, and incidental losses and damages, according to proof;
25 8. For premium wages pursuant to California Labor Code section 226.7;
26 9. For pre-judgment interest on any unpaid wages from the date such amounts were due;
27 10. For reasonable attorneys' fees and costs of suit incurred herein; and
28 11. For such other and further relief as the Court may deem just and proper.

As to the Second Cause of Action

12. That the Court declare, adjudge, and decree that Defendants violated California Labor Code section 226.7 and applicable IWC Wage Order(s) by willfully failing to provide all rest periods to Plaintiff and the Class;

13. That the Court make an award to Plaintiff and the Class of one (1) hour of pay at each employee's regular rate of compensation for each workday that a rest period was not provided;

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

15. For premium wages pursuant to California Labor Code section 226.7;

16. For pre-judgment interest on any unpaid wages from the date such amounts were due; and

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

As to the Third Cause of Action

18. That the Court declare, adjudge, and decree that Defendants violated California Labor Code sections 201, 202, and 203 by willfully failing to pay all compensation owed at the time of termination of the employment of Plaintiff and other Class Members no longer employed by Defendants;

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

20. For statutory wage penalties pursuant to California Labor Code section 203 for Plaintiff and other Class Members who have left Defendants' employ;

21. For pre-judgment interest on any unpaid compensation from the date such amounts were due; and

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

As to the Fourth Cause of Action

23. That the Court declare, adjudge, and decree that Defendants violated the record keeping provisions of California Labor Code section 226(a) and applicable IWC Wage Order(s) as to Plaintiff and the Class, and willfully failed to provide accurate itemized wage statements thereto;

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

25. For statutory penalties pursuant to California Labor Code section 226(e); and

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

As to the Fifth Cause of Action

27. That the Court declare, adjudge and decree that Defendants violated California Business and Professions Code section 17200, *et seq.* by failing to provide all meal and rest periods to Plaintiff and the Class, failing to pay Plaintiff's and other Class Members' wages timely as required by California Labor Code section 201, 202 and 204 and by violating California Labor Code sections 226(a), and 1174(d);

28. For restitution of unpaid wages to Plaintiff and the Class and all pre-judgment interest from the day such amounts were due and payable;

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

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

31. For injunctive relief to ensure compliance with this section, pursuant to California Business and Professions Code section 17200, *et seq.*; and

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

As to the Sixth Cause of Action

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

34. For the imposition of civil penalties pursuant to California Labor Code §§ 2699, 558, 226, 226.3, 1174.5, 1197.1, and all other penalties allowed by the California Labor Code and/or other applicable statutes; and

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1 35. For such other relief as the Court deems just and proper.

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3 DATED: March 25, 2024

4 Respectfully submitted,

5 **NORTH LAW, P.C.**

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9 _____
10 Hengameh S. Safaei
11 Attorneys for Plaintiff ENRIQUE
12 BENJAMIN RAMOS, individually and on
13 behalf of others similarly situated
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DATED: March 25, 2024

NORTH LAW P.C.

Rafael

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