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Electronically
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by Superior Court of California, County of San Mateo
ON 12/6/2024
By /s/ Ashlee Nelson
Deputy Clerk

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN MATEO**

GERSON PEREZ,

Plaintiff,

vs.

RANGOON RUBY INVESTMENT LLC;
JOHN LEE; MAX LEE and DOES 1 to 25,
inclusive,

Defendants.

) CASE NO.: 24-CIV-01708

)

) **FIRST AMENDED COMPLAINT FOR
DAMAGES FOR:**

)

) **1) FAILURE TO COMPENSATE FOR
ALL HOURS WORKED;**

)

) **2) FAILURE TO PAY MINIMUM
WAGES;**

)

) **3) FAILURE TO PAY OVERTIME;**

)

) **4) FAILURE TO PROVIDE ACCURATE
ITEMIZED WAGE STATEMENTS;**

)

) **5) FAILURE TO PAY WAGES OWED
EVERY PAY PERIOD;**

)

) **6) FAILURE TO GIVE REST BREAKS;**

)

) **7) FAILURE TO GIVE MEAL BREAKS;**

)

) **8) PRIVATE ATTORNEYS GENERAL
ACT ("PAGA");**

)

) **9) FAILURE TO PAY WAGES WHEN
EMPLOYMENT ENDS**

)

) **10) FAILURE TO REIMBURSE
BUSINESS EXPENSES**

)

) **11) VIOLATION OF CALIFORNIA
BUSINESS AND PROFESSIONS**

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) **CODE SECTION 17200.**

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DEMAND FOR JURY TRIAL

COMES NOW Plaintiff, GERSON PEREZ (hereinafter "Plaintiff"), and alleges:

PARTIES, JURISDICTION, VENUE

1. Jurisdiction and Venue are proper in this Court and this action is properly filed in the County of San Mateo in this judicial district because Defendants RANGOON RUBY INVESTMENT LLC; JOHN LEE; MAX LEE; and DOES 1 to 25, inclusive, (collectively "Defendant(s)" or "RANGOON RUBY") do business in the County of San Mateo, and because Defendants' obligations and liabilities arise therein. Moreover, Plaintiff's damages sought herein exceed \$35,000.

2. Plaintiff is a male resident of the County of San Mateo, State of California.

3. Plaintiff is informed and believes that at all times herein mentioned, Defendant RANGOON RUBY INVESTMENT LLC was and is a domestic California limited liability company, operating in the County of San Mateo, State of California, and which employed Plaintiff.

4. Plaintiff is informed and believes that all times herein mentioned, Defendant JOHN LEE and MAX LEE are and were residents of the State of California and were the owner, director, and/or managing agent of RANGOON RUBY INVESTMENT LLC, who was personally involved in the day-to-day activities of the business and hence controlled the wages, hours, and working conditions of Plaintiff and other aggrieved employees.

5. Plaintiff is ignorant of the true names and capacities, whether individual, corporate, or associate of those defendants fictitiously sued as DOES 1 to 25, inclusive, and so Plaintiff sues them by these fictitious names. Plaintiff is informed and believes that each of the DOE defendants, numbers 1 to 25, reside in the State of California and are in some manner responsible for the conduct alleged herein. Upon discovering the true names and capacities of these fictitiously named defendants, Plaintiff will amend this complaint to show the true names

1 and capacities of these fictitiously named defendants. Unless otherwise alleged in this
2 complaint, Plaintiff is informed, and on the basis of that information and belief, alleges that at
3 all times herein mentioned, each of the remaining codefendants, in doing the things hereinafter
4 alleged, were acting within the course, scope, and under the authority of their agency,
5 employment, or representative capacity, with the consent of his/her codefendants.

6 **GENERAL ALLEGATIONS**

7
8 6. Plaintiff started working at RANGOON RUBY in or around early 2023 as a cook.
9 Plaintiff was classified as an hourly, non-exempt employee. Plaintiff's employment ended in or
10 around October 2023.

11 7. In the case of Huff v. Securitas Sec. Servs. USA, Inc., 23 Cal. App. 5th 745 (2018),
12 Plaintiff, Huff, was employed as a security guard for the Defendant Employer, Securitas
13 Security Services USA, Inc., an onsite security provider. After about a year of employment,
14 Huff resigned. Huff then filed suit against Securitas under PAGA. In his claim, Huff
15 specifically alleged violations to the Labor Code requiring immediate payment of wages upon
16 termination of employment and weekly payment of wages to temporary employees. The trial
17 court determined Huff was not a temporary employee, and therefore, lacked standing to bring
18 the claim. Thus, Securitas was granted a motion for summary judgement. Later, the trial court
19 granted Huff a new trial. Securitas then appealed the grant of a new trial. On appeal, the issue
20 was whether Huff could bring a PAGA claim and sue for Labor Code violations that did not
21 directly affect him. Securitas unsuccessfully argued that the PAGA statute only allows the
22 PAGA representative to sue for violations that the representative has personally suffered. The
23 PAGA statute states that an "aggrieved employee" is able to file suit on behalf of themselves
24 and others. The statute also states that an "aggrieved employee" is "any person who was
25 employed by the alleged violator and against whom one or more of the alleged violations was
26 committed." Because at least one of the violations that Huff had alleged had affected him
27 personally, the Court of Appeal denied Securitas' motion.

28 8. In sum, since PAGA allows Plaintiffs to bring suit on behalf of both themselves and

1 other employees, it allows for suits broader than the specific violations the named employee
2 experienced. Therefore, even if the employee did not personally experience the Labor Code
3 violations, the employer may still be liable to under PAGA. Consequently, it is Plaintiff's
4 position that Plaintiff can equivocally bring the following labor code violations on behalf of all
5 employees, including hourly non-exempt employees, irrespective of job title or job duties.
6

7 9. It is Plaintiff's position that RANGOON RUBY has violated the following Labor Code
8 Sections against Plaintiff and other similarly situated aggrieved employees, who include all non-
9 exempt, hourly employees who worked for RANGOON RUBY at their various locations in the
10 State of California during the relevant PAGA period.

11 10. RANGOON RUBY violated Labor Code § 1194, 1194.2, 1197, and 1197.1 because it
12 failed to pay Plaintiff and other similarly situated aggrieved employees for all hours worked,
13 including the statutory minimum wage for all hours worked and for "off the clock" work. This
14 is so because Plaintiff would engage in work-related tasks before (setting up) clocking in for
15 shifts and after clocking out for shifts (clean up duties). RANGOON RUBY was unequivocally
16 aware of Plaintiff working these "off the clock" hours, however, Plaintiff was not paid for all
17 hours worked, which is a minimum wage violation. Moreover, RANGOON RUBY had a
18 company policy wherein they would disproportionately round down the number of hours
19 worked, resulting in "time shaving" and further resulting in aggrieved employees not being paid
20 for all hours worked. Furthermore, and to the extent that Plaintiff and others worked through
21 their meal periods while "off the clock", they were not compensated for all hours worked, which
22 would be akin to a minimum wage violation. Moreover, RANGOON RUBY failed to provide
23 its employees with proper and accurate reporting time pay.

24 11. Due to the above "off the clock" violations, RANGOON RUBY also violated Labor Code
25 §510 because it failed to pay Plaintiff and other aggrieved employees overtime compensation,
26 even though they worked more than 8 hours per day, 12 hours per day, and/or 40 hours per week
27 throughout their employment. Plaintiff's and other aggrieved employees' actual work hours
28

1 entitled them to overtime compensation, however, RANGOON RUBY did not compensate its
2 hourly, non-exempt employees with the correct amount of overtime due to the “off the clock”
3 work and time shaving as described above. Furthermore, RANGOON RUBY failed to include
4 bonuses/incentive payments in calculating employees’ regular rate of pay for use in deciphering
5 the correct overtime rate of pay. Additionally, the incentive and bonus payments were also not
6 factored into employees’ regular rate for purposes of receiving meal and rest break premiums
7 per the Ferra v. Loews case

8 12. RANGOON RUBY also violated Labor Code § 226.7 and the appropriate Industrial
9 Welfare Commission Wage Order no. 5 because it failed to provide Plaintiff and other similarly
10 situated aggrieved employees with 10-minute rest periods for every four hours of work, or
11 majority portion thereof, throughout their employment. RANGOON RUBY did not completely
12 relieve Plaintiff and others of all duty during said rest periods. RANGOON RUBY did not pay
13 to Plaintiff and others one additional hour of pay at Plaintiff’s regular rate of compensation for
14 each workday that one or more statutory rest periods was not provided. It was not part of the
15 company policy for employees such as Plaintiff to take at least two rest breaks per shift. In fact,
16 Plaintiff and others did not take any rest breaks at all. The concept of rest breaks was not
17 implemented as it was not company policy. Moreover, it would not have been possible for
18 employees such as Plaintiff to take such rest breaks due to being understaffed and due to a heavy
19 workload, especially as cooks in the fast-paced restaurant industry. As such, the culture as well
20 as the policies and procedures of RANGOON RUBY did not lend itself to the employees
21 receiving consistent statutory rest breaks wherein they were relieved of all work duties. The
22 environment at RANGOON RUBY was not conducive to receiving multiple statutory rest breaks
23 under California law and timely, statutory rest breaks were not authorized or enforced.

24 13. RANGOON RUBY violated Labor Code §§ 512 and 226.7 and the appropriate Industrial
25 Welfare Commission Wage Order no. 5 because it failed to provide hourly, non-exempt
26 employees, including Plaintiff and others, the requisite 30-minute, uninterrupted meal periods
27 for every five (5) hours of work throughout their employment. RANGOON RUBY did not
28 completely relieve Plaintiff and other employees of all duty during said meal periods.

1 RANGOON RUBY did not pay to Plaintiff and its hourly, non-exempt employees one additional
2 hour of pay at their regular rate of compensation for each workday that one or more statutory
3 meal periods was not provided. The hourly, non-exempt employees would often not be able to
4 receive their meal breaks before the 5th hour worked. The latter was due to the workload, being
5 understaffed, and due to being in a fast-paced restaurant environment. Like the rest breaks,
6 receiving a TIMELY thirty-minute meal break was not part of the company culture and was not
7 enforced by RANGOON RUBY. Consequently, it was the normal practice and custom of
8 RANGOON RUBY not to authorize, permit, and enforce timely statutory meal periods. If
9 RANGOON RUBY had Plaintiff sign a meal period waiver, it would not be valid and
10 enforceable since Plaintiff and others generally worked more than a 6-hour shift. If RANGOON
11 RUBY had Plaintiff sign an on-duty meal period agreement wherein Plaintiff agreed to work
12 through the meal periods, it would be invalid and unenforceable because the nature of Plaintiff's
13 job as a cook does not and did not prevent him from taking a meal period and the company could
14 have hired "breakers" to relieve Plaintiff of his job duties so that he can actually take a timely,
15 uninterrupted meal period. Moreover, any such "on duty" meal period agreement did not allow
16 for Plaintiff to revoke such an agreement even if it was signed. As such, Plaintiff and others did
17 not always receive statutory, timely meal periods during their employment. To the extent that
18 RANGOON RUBY argues that employees receive meal break premium pay for missed meal
19 periods, that argument is inconsequential for PAGA penalty purposes since the PAGA penalties
20 are for the violations themselves, irrespective of whether an employee received the premium
21 payment for a missed, short, or interrupted meal period. In *Kirby v. Immoos Fire Protection,*
22 *Inc.*, the Court stated, "section 226.7 does not give employers a lawful choice between
23 providing *either* meal and rest breaks *or* an additional hour of pay." See *Kirby v. Immoos Fire*
24 *Protection, Inc.*, (2012) 53 Cal.4th 1244, 1256 (emphasis in original). Thus, the extra hour of
25 pay does not excuse the violation; the employer has still committed a violation even if the remedy
26 for the violation has been paid. See *Wert v. U.S. Bancorp*, (S.D. Cal. Mar. 22, 2016, 2016 WL
27 1110302 at *4). As such, the work environment and culture at RANGOON RUBY was not
28 conducive to receiving consistent, timely, statutory meal breaks under California law. Moreover,
any meal or rest break premiums paid were not compensated at the weighted average regular

1 rate, inclusive of bonuses and/or incentive payments as well as overtime compensation.

2 14. Furthermore, during the relevant time period, and due to the above labor code violations,
3 RANGOON RUBY failed to pay Plaintiff and other similarly situated aggrieved employees all
4 wages due to them within any time period specified by California Labor Code section 204. Since
5 Plaintiff was not compensated for his “off the clock” work and since Plaintiff did not receive
6 full and complete meal and rest break premiums, Plaintiff would still be owed wages pursuant
7 to Labor Code Section 204. RANGOON RUBY was also in violation of California Labor Code
8 section 226(a) by failing to include pertinent information on the wage statements, including but
9 not limited to, the correct hourly rate, all hours worked, overtime hours worked, correct overtime
10 pay, gross wages earned, net wages earned, premium pay for missed meal and rest breaks, all
11 deductions, the correct start and end of the pay period, all employee identifying information, the
12 correct and complete name and address of the legal employer, and reimbursement for business
13 expenses, among others. As such, RANGOON RUBY did not provide Plaintiff and other
14 similarly situated aggrieved employees with complete, accurate itemized wage statements.

15 15. During the relevant time period, RANGOON RUBY also failed to keep accurate and
16 complete payroll records showing the actual hours worked per day and the wages paid to Plaintiff
17 and others pursuant to California Labor Code sections 1174(d).

18 16. RANGOON RUBY also violated Labor Code § 203 because it willfully failed to pay
19 Plaintiff and other similarly situated aggrieved employees earned and due wages upon separation
20 of employment, either immediately upon involuntary termination, or within 72 hours of
21 resignation. These earned but unpaid wages include compensation for all hours worked,
22 including minimum wages, overtime compensation, and premium pay for missed meal and rest
23 breaks.

24 17. During the relevant time period, Plaintiff and other aggrieved employees incurred
25 necessary, business-related expenses and costs that were not reimbursed by RANGOON RUBY.
26 These costs include, but are not limited to, uniforms (including shoes). Accordingly, RANGOON
27 RUBY was in violation of California Labor Code sections 2800 and 2802.
28

1 18. Additionally, RANGOON RUBY violated Labor Code Section 351 and 353 by taking
2 some of the tips meant for employees and also deducting the tips from Plaintiff's and others'
3 earned wages. RANGOON RUBY also deducted the credit card fee from Plaintiff's and others'
4 tips and did not timely provide the credit card and even cash tips to Plaintiff and other similarly
5 situated aggrieved employees. As such, Plaintiff and the other similarly situated employees were
6 not given accurate tips to which they were entitled.

7 19. Furthermore, RANGOON RUBY did not provide proper and correct/accurate sick pay
8 that was also accurately delineated on employee pay stubs and also failed to provide proper sick
9 leave in violation of Labor Code sections 233 and 246. Furthermore, RANGOON RUBY failed
10 to provide suitable seating for breaks in violation of Industrial Welfare Commission Wage order
11 no. 5-2001, sections 13(B) and 14(B) by not providing suitable resting facilities and not
12 providing suitable seating for breaks as Plaintiff and others' (including other cooks and
13 servers/bussers, etc.) jobs required them to stand most of the time in effectuating their job duties.

14 20. Furthermore, Plaintiff believes your companies have also violated Labor Code Section
15 558 and has engaged in business practices which violate Business and Professions Code
16 Section 17200.

17 **FIRST CAUSE OF ACTION**

18 **FAILURE TO COMPENSATE FOR ALL HOURS WORKED**

19 **(California Industrial Welfare Commission Order 5-2001, California Code of**
20 **Regulations Title 8 Section 11050, and California Labor Code Section 1198)**

21 **(Plaintiff against all named defendants and all DOE defendants)**

22 21. Plaintiff re-alleges and incorporates by reference each and every allegation in
23 paragraphs 1 through 20, inclusive, of this Complaint as though fully set forth herein.

24 22. At all times relevant herein, Defendants were required to compensate its employees for
25 all hours worked upon reporting for work at the appointed time stated by the employer
26 pursuant to Industrial Welfare Commission Order 5-2001, California Code of Regulations,
27
28

1 Title 8, Section 11050.

2 23. For the three (3) years preceding filing of this action, Defendants failed to compensate
3 Plaintiff for all hours worked.

4 24. Under the aforementioned wage order and regulations, Plaintiff is to recover
5 compensation for all hours worked but not paid by Defendants for the three (3) years
6 preceding the filing of this Complaint.

7 25. As a proximate result of the aforementioned violations, Plaintiff has been damaged in
8 an amount according to proof at time of trial, but in an amount in excess of the jurisdiction of
9 this Court.

10 26. Defendants' conduct described herein violates Labor Code Section 512, 558, 1194, and
11 1198. Therefore, pursuant to Labor Code Sections 218.5, 512, 558, and 1194, Plaintiff is
12 entitled to recover damages for the nonpayment of wages for all hours worked, penalties, plus
13 reasonable attorney's fees and costs of suit.

14 27. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
15 along with any allowable interest, penalties, attorney's fees, and costs which will equal an
16 amount known to Plaintiff once he has obtained all of his payroll records from Defendants.

17 **SECOND CAUSE OF ACTION**

18 **FAILURE TO PAY MINIMUM WAGES**

19 **(California Labor Code Sections 1194, 1194.2, 1197)**

20 **(Plaintiff against all named defendants and all DOE defendants)**

21 28. Plaintiff re-alleges and incorporates by reference each and every allegation in
22 paragraphs 1 through 27, inclusive, of this Complaint as though fully set forth herein.

23 29. Pursuant to Labor Code Sections 1194, 1194.2 and 1197, it is unlawful for an employer
24 to suffer or permit a California employee to work without paying wages at the minimum wage
25 rate for all hours worked as required by the applicable Industrial Welfare Commission
26 (hereinafter "IWC") Wage Order No. 5-2001, codified at California Code of Regulations, Title
27 8, Section 11050, subdivision 4.
28

1 30. Pursuant to IWC Wage Order no. 5-2001, subdivision 2(K), at all relevant times, “hours
2 worked” included “the time during which an employee is subject to the control of an employer,
3 and includes all the time the employee is suffered or permitted to work, whether or not required
4 to do so...”

5 31. During his employment, Plaintiff was regularly required as a matter of uniform
6 policy and practice to work, and in fact worked, as an employee of Defendants and Plaintiff
7 was paid less than the minimum wage rate by Defendants for hours worked in violation of
8 California Labor Code Section 1197 and the applicable California Industrial Wage
9 Commission wage order(s).

10 32. Plaintiff was, at all relevant times, under the control of Defendants and suffered or
11 permitted to work by Defendants. Defendants’ acts or omissions in failing to adequately
12 compensate Plaintiff were not in good faith nor were there reasonable grounds for Defendants
13 to believe that their acts or omissions were not contrary to California law.

14 33. For all hours worked by Plaintiff for which he was paid less than the minimum wage
15 rate by Defendants, Plaintiff is entitled to not less than the applicable California minimum
16 wage rate and, pursuant to Labor Code Section 1194.2(a), liquidated damages in an amount
17 equal to unpaid minimum wages and interests thereon. Pursuant to Labor Code Section 1194,
18 Plaintiff is also entitled to attorney’s fees, costs and interests according to proof.

19 34. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
20 along with any allowable interest, penalties, attorney’s fees, and costs according to proof at
21 trial.

22 **THIRD CAUSE OF ACTION**

23 **FAILURE TO PAY OVERTIME**

24 **(California Industrial Welfare Commission Order 5-2001, California Code of**
25 **Regulations Title 8 Section 11050)**

26 **(Plaintiff against all named defendants and all DOE defendants)**

27 35. Plaintiff re-alleges and incorporates by reference each and every allegation in
28

1 paragraphs 1 through 34, inclusive, of this Complaint as though fully set forth herein.

2 36. Pursuant to Industrial Welfare Commission Order No. 5-2001, California Code of
3 Regulations, Title 8, Section 11050, for the period of Plaintiff's employment, Defendants were
4 required to compensate Plaintiff for all overtime, which is calculated at one and one-half (1.5)
5 times the regular rate of pay for hours worked in excess of eight (8) in a day or forty (40) hours
6 in a week, and two (2) times the regular rate of pay for hours worked in excess of twelve (12)
7 hours in a day or hours worked in excess of eight (8) on the seventh consecutive work day in a
8 week.

9 37. Plaintiff was a non-exempt employee entitled to the protections of the California
10 Industrial Welfare Commission Order No. 5-2001, California Code of Regulations, Title 8,
11 Section 11050.

12 38. Plaintiff worked more than eight (8) hours in a single workday, more than twelve (12)
13 hours in a single day, or forty (40) hours in a single workweek on numerous occasions.

14 39. Plaintiff was entitled to the above overtime premiums.

15 40. Defendants did not pay Plaintiff premium wages of at least one and one-half times
16 Plaintiff's regular rate of pay for hours worked past eight (8) in a day or two times Plaintiff's
17 regular rate of pay for hours worked past twelve (12) in a day.

18 41. Defendants did not pay Plaintiff premium wages of at least one and one-half times
19 Plaintiff's regular rate of pay for hours worked past forty (40) in a week.

20 42. Plaintiff worked at least one pay period in which he was not properly paid overtime
21 within the three (3) years prior to the initiation of this lawsuit.

22 43. Defendants know or should know the actual dates of overtime worked, the amount of
23 overtime worked, and the amount of unpaid overtime due.

24 44. As a proximate result of Defendants' violations, Plaintiff has been damaged in an
25 amount according to proof at time of trial, but in an amount in excess of the jurisdiction of this
26 Court.

27 45. Pursuant to California Labor Code Sections 218.6, 510, 1194, and California Code of
28 Regulations, Title 8, Sections 11050, Plaintiff is entitled to recover damages for the

1 nonpayment of overtime premiums for all overtime hours worked, penalties, interest, plus
2 reasonable attorney's fees and costs of suit.

3 46. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
4 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
5 trial.

6 **FOURTH CAUSE OF ACTION**

7 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

8 **(California Labor Code Section 226)**

9 **(Plaintiff against all named and all DOE defendants)**

10 47. Plaintiff re-alleges and incorporates by reference each and every allegation in
11 paragraphs 1 through 46, inclusive, of this Complaint as though fully set forth herein.

12 48. Pursuant to California Labor Code Section 226, every employer must furnish each
13 employee an itemized statement of wages and deductions at the time of payment of wages.

14 49. Defendants knowingly and intentionally did not furnish Plaintiff with any pay stubs that
15 accurately reflected all information required by Labor Code Section 226, including but not
16 limited to, gross wages earned, including overtime, net wages earned, total hours worked by
17 the employee, all deductions, and premium pay for missed meal breaks and rest breaks.
18 Therefore, Defendants failed to maintain and provide accurate itemized wage statements to
19 Plaintiff in accordance with California Labor Code Section 226(a).

20 50. Pursuant to California Labor Code Section 226(e), Plaintiff is entitled to recover the
21 greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation
22 occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay
23 period, not exceeding an aggregate amount of four thousand dollars (\$4,000), plus costs and
24 reasonable attorney's fees. Plaintiff only claims damages under this cause of action pursuant to
25 the 1-year period immediately preceding the date this lawsuit was filed.

26 51. As a direct and proximate result of Defendants' unlawful conduct, Plaintiff has
27 sustained damages, including loss of earnings, in an amount to be established at trial. As a
28

1 further direct and proximate result of Defendants' unlawful conduct, as set forth herein,
2 Plaintiff is entitled to recover penalties, in an amount to be established at trial, as well as costs
3 and attorney's fees pursuant to statute.

4 52. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
5 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
6 trial.

7 **FIFTH CAUSE OF ACTION**

8 **FAILURE TO PAY WAGES OWED EVERY PAY PERIOD**

9 **(California Labor Code Section 204)**

10 **(Plaintiff against all named defendants and all DOE defendants)**

11 53. Plaintiff re-alleges and incorporates by reference each and every allegation in
12 paragraphs 1 through 52, inclusive, of this Complaint as though fully set forth herein.

14 54. California Labor Code Section 204 establishes the fundamental right of all employees
15 in the State of California to be paid wages in a timely fashion for their work.

16 55. At all times relevant during the liability period, Defendants failed to pay Plaintiff the
17 full amount of all owed wages when due as required by California Labor Code Section 204.

18 56. Defendants failed to pay Plaintiff all wages earned each pay period. Plaintiff is
19 informed, believes, and thereon alleges, that all times relevant during the liability period,
20 Defendants maintained a policy or practice of not paying Plaintiff wages for all hours worked,
21 including overtime hours and the minimum wage along with premiums for missed meal breaks
22 and rest breaks.

23 57. As a result of Defendants' unlawful conduct, Plaintiff has suffered damages in an
24 amount, subject to proof, to the extent he was not paid all wages each pay period. The precise
25 amount of unpaid wages is not presently known to Plaintiff but can be determined directly
26 from Defendants' records or indirectly based on information from Defendants' records.

27 58. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
28 along with any allowable interest, penalties, attorney's fees, and costs according to proof at

1 trial.

2
3 **SIXTH CAUSE OF ACTION**

4 **FAILURE TO GIVE REST BREAKS**

5 **(Plaintiff against all named defendants and all DOE defendants)**

6 59. Plaintiff re-alleges and incorporates by reference each and every allegation in
7 paragraphs 1 through 58, inclusive, of this Complaint as though fully set forth herein.

8 60. Plaintiff brings this cause of action under the following laws, for the following reasons:

- 9 a. Title 8 of the California Code of Regulations Sections 11050(12)(A), which
10 provides that every employer shall authorize and permit all employees to take rest
11 periods, which insofar as practicable shall be in the middle of each work period.
12 The authorized rest period time shall be based on the total hours worked daily at the
13 rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof;
14
15 b. Title 8 of the California Code of Regulations Sections 11050(12)(B), which
16 provides that if an employer fails to provide an employee a rest period in
17 accordance with the applicable provisions of this order, the employer shall pay the
18 employee one (1) hour of pay at employee's regular rate of compensation for each
19 workday that the rest period is not provided;
20
21 c. Title 8 of the California Code of Regulations sections 11050(20)(A), which
22 penalizes the employer \$50.00 for each initial violation, per employee, of any
23 provision of the Wage Order, and \$100.00 for each additional violation thereafter
24 per employee; and
25
26 d. California Labor Code section 226.7, which states that (a) no employer shall require
27 any employee to work during any rest period mandated by an applicable order of
28 the Industrial Welfare Commission, and (b) if an employer fails to provide an

1 employee a rest period in accordance with an applicable order of the Industrial
2 Welfare Commission, the employer shall pay the employee one (1) additional hour
3 of pay at employee's regular rate of compensation for each work day that the rest
4 period is not provided.

5 61. Plaintiff alleges that he was not authorized and permitted to take a ten (10) minute
6 rest break after every four (4) hours of work or major fraction thereof, as required by California
7 law.

8 62. Under this cause of action, Plaintiff prays for wages due to him under the statutes,
9 regulations, and wage orders alleged in this cause of action along with any allowable interest,
10 penalties, attorney's fees and costs according to proof at trial. Specifically, Plaintiff prays for
11 the foregoing moneys calculated from 3 years immediately preceding the filing of this lawsuit.

12 63. Plaintiff also prays for Labor Code section 218.5 recovery of costs and attorney's
13 fees as well as interest under Labor Code section 218.6.

14 64. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
15 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
16 trial.

17 ///
18 ///
19 ///

20 **SEVENTH CAUSE OF ACTION**

21 **FAILURE TO GIVE MEAL BREAKS**

22 **(Plaintiff against all named defendants and all DOE defendants)**

23 65. Plaintiff re-alleges and incorporates by reference each and every allegation in
24 paragraphs 1 through 64, inclusive, of this Complaint as though fully set forth herein.

25 66. Plaintiff brings this cause of action under the following laws, for the following
26 reasons:
27
28

- 1 a. California Labor Code section 512(a), which requires that employees be given a 30-
2 minute uninterrupted meal break after five (5) hours of work, and a second
3 uninterrupted meal break after ten (10) hours of work;
- 4 b. California Labor Code section 226.7, which states that (a) no employer shall require
5 any employee to work during any meal period mandated by an applicable order of
6 the Industrial Welfare Commission, and (b) if any employer fails to provide an
7 employee a meal period in accordance with an applicable order of the Industrial
8 Welfare Commission, the employer shall pay the employee one (1) additional hour
9 of pay at the employee's regular rate of compensation for each workday that the
10 meal period is not provided;
- 11 c. California Industrial Welfare Commission Order No. 5 section 11(B), as codified
12 under Title 8 of the California Code of Regulations Section 11050, which states that
13 if an employer fails to provide an employee a meal period in accordance with the
14 applicable provisions of the Wage Order, the employer shall pay the employee one
15 (1) hour of pay at the employee's regular rate of compensation for each workday
16 that the meal period is not provided;
- 17 d. California Industrial Welfare Commission Wage Order No. 5 Section 7(A)(3), as
18 codified under Title 8 of the California Code of Regulations Section 11050, which
19 requires an employer to maintain records documenting its employees' meal periods;
- 20 e. California Industrial Welfare Commission wage order No. 5 Section 20(A), as
21 codified under California Code of Regulations Section 11050, which penalizes the
22 employer \$50.00 for each initial violation, per employee, of any provision of the
23 Wage Order, and \$100.00 for each additional violation thereafter per employee; and
24 f. California Labor Code section 1171 and 1173, which have given the California
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1 Labor Commission jurisdiction to enact Wage Orders (such as Wage Order no. 5)
2 as enforceable law.

3 67. Plaintiff alleges that he was not authorized and permitted to take relieved meal breaks
4 after five (5) hours of work. Plaintiff further alleges that he was not authorized and permitted to
5 take a second relieved meal break after ten (10) hours of work, as required by California law.
6 California Labor Code section 512(a) and California Industrial Welfare Commission Order No.
7 5, as codified under California Code of Regulations Sections 11050 et. seq. requires that
8 employees receive uninterrupted meal periods every five (5) hours of consecutive work, and
9 that the meal period be at least 30 minutes in length, wherein employee is relieved of all work
10 duty. California Labor Code section 226.7 provides that employers may not require their
11 employees to work through their meal periods. California Labor Code section 226.7 and
12 California Code of Regulations section 11050 requires that if the employer fails to provide the
13 employee with an uninterrupted meal period, the employer must pay the employee one (1) hour
14 of pay for each work day that the meal period is not given.
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16
17 68. Under this cause of action, Plaintiff prays for wages due to him under the statutes,
18 regulations, and wage orders alleged in this cause of action along with any allowable interest,
19 penalties, attorney's fees and costs according to proof at trial. Specifically, Plaintiff prays for
20 the foregoing moneys calculated from 3 years immediately preceding the filing of this lawsuit.

21 69. Plaintiff also prays for Labor Code section 218.5 recovery of costs and attorney's
22 fees as well as interest under Labor Code section 218.6.

23 70. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
24 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
25 trial.

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1 **EIGHTH CAUSE OF ACTION**

2 **PRIVATE ATTORNEYS GENERAL ACT**

3 **Representative Claim for PAGA penalties under California Labor Code sections 201,**
4 **202, 203, 204 and/or 204b, 210, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1197,**
5 **1198, 2802)**

6 **(Plaintiff Against all Named Defendants and all DOE Defendants)**

7 71. Plaintiff re-alleges and incorporates by reference each and every allegation in
8 paragraphs 1 through 70, inclusive, of this Complaint as though fully set forth herein.

9 72. Pursuant to law, Plaintiff provided the required written notice to the LWDA and
10 Defendants of the specific violations of the California Labor Code that Defendants
11 and DOE defendants have violated and continue to violate.

12 73. Pursuant to California Labor code section 2699.3, no response was received from the
13 LWDA within 65 days of the postmark date of the above-alleged letter.

14 74. Plaintiff therefore has exhausted all administrative remedies required of him under
15 California Labor Code sections 2698, 2699, and 2699.3, and, as a result, may prosecute this
16 cause of action and pursue penalties in a representative action for Defendants' violations of the
17 Labor Code.

18 75. Pursuant to California Labor Code section 2699, any provisions of the Labor Code
19 that provides for a civil penalty to be assessed and collected by the LWDA or any of its
20 departments, divisions, commissions, boards, agencies, or employees for violation of the code
21 may, as an alternative, be recovered through a civil action brought by an aggrieved employee
22 on behalf of himself or herself and other current or former employees pursuant to the
23 procedures specified in California Labor Code section 2699.3.

24 76. Plaintiff is an "aggrieved employee" because Plaintiff was employed by the alleged
25 violator and had one or more of the alleged violations committed against him, and therefore is
26 properly suited to represent the interests of other current and former hourly, non-exempt
27 employees who worked for RANGOON RUBY INVESTMENT LLC at all locations in the
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1 state of California during the relevant PAGA Period.

2 77. Based on the acts alleged above, Plaintiff, on behalf of others, seeks penalties under
3 California Labor Code sections 2698 and 2699 because of Defendants' violations of numerous
4 provisions of the California Labor Code as alleged in this Complaint.

5 78. Plaintiff therefore has exhausted all administrative remedies required of him under
6 California Labor Code sections 2698, 2699, and 2699.3, and, as a result, may prosecute this
7 cause of action and pursue penalties in a representative action for Defendants' violations of the
8 Labor Code.

9 79. California Labor Code section 2699 et seq. imposes penalties upon culpable
10 Defendants for violating the Labor Code.

11 80. California Labor Code section 558 establishes a civil penalty as follows: Any
12 employer or other person action on behalf of an employer who violates, or causes to be
13 violated, a section of this chapter or any provision regulating hours and days of work in any
14 order of the Industrial Welfare Commission (including the "Hours and Days of Work" section
15 of the Wage Order) shall be subject to a civil penalty of (1) for any initial violation, fifty
16 dollars (\$50) for each underpaid employee for each pay period for which the employee was
17 underpaid... (2) for each subsequent violation, one hundred dollars (\$100) for each underpaid
18 employee for each pay period for which the employee was underpaid...

19 81. Plaintiff seeks penalties for Defendants' misconduct as alleged herein as permitted by
20 law, but only those penalties that are required to be shared with the LWDA as Plaintiff is not
21 seeking individual/victim specific relief or underpaid wages for Plaintiff or other aggrieved
22 employees in this specific cause of action under the Private Attorneys General Act.

23 82. Specifically, Plaintiff seeks penalties under California Labor Code section 2699, for
24 the following:

25 Violations of California Labor Code sections 201, 202, 203, 204 and/or 204b, 210, 226,
26 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1198, 2802, via 2698 and
27 2699 and any other Labor Codes and Industrial Welfare Commission Wage Order
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Provisions (no. 5) violated based on the facts alleged in this Complaint.

83. Pursuant to Labor Code section 2698 et seq., Plaintiff seeks to recover attorney's fees, costs, and civil penalties on behalf of other current and former aggrieved employees as alleged herein in an amount to be shown according to proof at trial and within the jurisdictional limits of this Court.

NINTH CAUSE OF ACTION

FAILURE TO PAY WAGES WHEN EMPLOYMENT ENDS

(California Labor Code Sections 201, 202, 203)

(Plaintiff against all named defendants and all DOE defendants)

84. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1 through 83, inclusive, of this Complaint as though fully set forth herein.

85. Pursuant to California Labor Code Section 201(a), an employer who discharges an employee must immediately pay for all compensation due and owing.

86. Pursuant to California Labor Code Section 202, when an employee resigns, the employer must pay all compensation due and owing within 72 hours of resignation, or on the employee's last day of work, if the employee gives more than 72 hours notice of resignation.

87. Pursuant to California Labor Code Section 203, if an employer willfully fails to pay, without abatement or reduction, any wages of an employee whose employment ends, the wages of the employee shall continue as a penalty from the due date at the same rate until paid or until an action is commenced; however, the wages shall not continue for more than 30 days for failure to pay an employee owed wages.

88. After Plaintiff's employment with Defendants ended, Defendants willfully refused and continue to refuse to pay him unpaid wages as required by Labor Code Section 203.

89. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged along with any allowable interest, penalties, attorney's fees, and costs according to proof at trial. Moreover, Plaintiff prays for the above-mentioned money from 1 year

1 immediately preceding the filing of this lawsuit.

2 90. Under this cause of action, Plaintiff also prays for attorney's fees and costs
3 under California Labor Code Section 218.5 for time spent pursuing the non-payment of wages
4 as set forth herein. Plaintiff also prays for interest under California Labor Code Section 218.6.

5 91. Under this cause of action, Plaintiff prays for penalties due under the statutes
6 alleged along with any allowable interest, penalties, attorney's fees, and costs according to
7 proof at trial.

8 **TENTH CAUSE OF ACTION**

9 **FAILURE TO REIMBURSE FOR BUSINESS EXPENSES**

10 **(Plaintiff against all Defendants and DOE Defendants, and each of them)**

11 92. Plaintiff re-alleges and incorporates by reference each and every allegation in
12 paragraphs 1 through 91, inclusive, of this Complaint as thought fully set forth herein.

13 93. Labor Code section 2802 provides that "[a]n employer shall indemnify his or her
14 employee for all necessary expenditures or losses incurred by the employee in direct
15 consequence of the discharge of his or her duties."

16 94. Beginning at least 3 years prior to the filing of this complaint, in order to discharge
17 their duties for Defendant, Plaintiff incurred reasonable and necessary expenses in the course
18 of completing his job duties, which were not reimbursed by Defendant. These expenses
19 include, uniforms (including shoes).
20

21 95. Plaintiff is entitled to reimbursement for these necessary expenditures, plus interest
22 and attorney's fees and costs, under Labor Code section 2802.

23 **ELEVENTH CAUSE OF ACTION**

24 **VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17200**

25 **(California Business and Professions Code Section 17200)**

26 **(Plaintiff against RANGOON RUBY INVESTMENT LLC and all DOE defendants)**

27 96. Plaintiff re-alleges and incorporates by reference each and every allegation in
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1 paragraphs 1 through 95, inclusive, of this Complaint as though fully set forth herein.

2 97. By virtue of the foregoing statutes, regulations, and laws, the acts of Defendants
3 constitutes unfair and unlawful business practices under California Business and Professions
4 Code Section 17200, et seq.

5 98. Defendant's violations of California labor laws and the Labor Code constitutes a
6 business practice because it was done repeatedly over a significant period of time in a
7 systematic manner that was detrimental to Plaintiff and others.

8 99. For the four years preceding the filing of this action, Plaintiff has suffered damages
9 and requests restitution of all monies and profits to be disgorged from corporate defendant
10 RANGOON RUBY INVESTMENT LLC in an amount according to proof at time of trial, but
11 in excess of the jurisdiction of this Court.

12 **PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiff prays for Judgment against Defendants, and each of them, as
14 follows:

- 15 1. For compensatory damages including lost past and future wages, regular wages,
16 overtime, and all other sums of money, including employment benefits, together with
17 interest on said amounts, and any other economic injury to Plaintiff, up to an amount of
18 **\$250,000;**
- 19 2. For special and consequential damages to Plaintiff in an amount up to **\$250,000;**
- 20 3. For damages and penalties under Labor Code Section 226 for Plaintiff in an amount up
21 to **\$4,000;**
- 22 4. For damages and penalties pursuant to Labor Code Section 203 in an amount up to
23 **\$25,000;**
- 24 5. For damages and penalties pursuant to Labor Code Section 204/210 in an amount up to
25 **\$50,000;**
- 26 6. For restitution and disgorgement for all unfair business practices by corporate Defendants
27 against Plaintiff in an amount subject to proof at trial;
- 28 7. For an order enjoining corporate Defendants from further unfair and unlawful business

- practices in violation of Business and Professions Code Sections 17200, et seq.;
8. For one hour of wages due to Plaintiff for each work period of more than five (5) hours when Plaintiff did not receive an uninterrupted thirty (30) minute meal period for an amount up to **\$50,000**;
 9. For one hour of wages due to Plaintiff for each work period of four (4) hours or major fraction thereof when Plaintiff did not receive a ten (10) minute rest break for an amount up to **\$50,000**;
 10. For maximum civil penalties available under the Labor Code and applicable Wage Order against Defendant as described more particularly in the Complaint and Representative PAGA claim/action up to an amount of **\$250,000** for Plaintiff individually and up to an amount of **\$5,000,000** for other aggrieved employees;
 11. For all remedies available to Plaintiff under the applicable Wage Order and the Labor Code including an award of attorney's fees, costs, interest, and penalties according to proof to the extent permitted by law;
 12. For restitution and/or damages for all amounts unlawfully withheld from the wages of Plaintiff, as may be proven;
 13. For the imposition of civil penalties and/or statutory penalties;
 14. For all interest as allowed by law;
 15. For all costs and disbursements incurred in this suit;
 16. Reasonable attorney's fees where available by law, including but not limited to, pursuant to the California Labor Code, including 2698 et seq., Code of Civil Procedure section 1021.5, and/or other applicable laws; and
 17. For such other and further relief as this Court may deem proper.

DATED: December 6, 2024

MESSRELIAN LAW INC.

By



Harout Messrelian, Esq.

Attorneys for Plaintiff Gerson Perez

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2 **DEMAND FOR JURY TRIAL**

3 Plaintiff hereby demands, as a matter of right, a trial by jury in this case.
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6 **DATED:** December 6, 2024

MESSRELIAN LAW INC.

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8 By  _____
9 Harout Messrelian, Esq.
10 Attorneys for Plaintiff Gerson Perez
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