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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA

JOSE VILLALOBOS, an individual and in his
representative capacity on behalf of himself, the
State of California, and fellow current and
former AGGRIEVED EMPLOYEES,

Plaintiff,

vs.

BILLS NEWBURY, INC., a California
corporation, BILLS KOOSER INC., a California
Corporation, BILLS HOPYARD INC., a
California Corporation, BILLS STEVENS
CREEK INC., a California corporation,
GEORGE ZAFIRIS, an individual, DIMITRIOS
ZAFARIS, an individual, and DOES 1-25

Defendants.

Case No. 24CV451459
COMPLAINT FOR DAMAGES

DEMAND FOR JURY TRIAL

PLAINTIFF JOSE VILLALOBOS (“PLAINTIFF”), an individual and in his representative
capacity on behalf of himself, the State of California, and fellow current and former AGGRIEVED
EMPLOYEES, defined below, against DEFENDANT BILLS NEWBURY, INC., DEFENDANT
BILLS KOOSER INC., DEFENDANT BILLS HOPYARD INC., DEFENDANT BILLS
STEVENS CREEK INC., DEFENDANT GEORGE ZAFIRIS, DEFENDANT DIMITRIOS

1 ZAFARIS, and DOES 1-25 (“Defendant DOES”) (collectively “DEFENDANTS”), alleges on
2 information and belief, except for his own acts and knowledge which are based on personal
3 knowledge, the following:

4 **I. INTRODUCTION**

5 1. PLAINTIFF brings this action as an individual and in his representative capacity on
6 behalf of the State of California and pursuant to the Private Attorneys General Act of 2004,
7 California Labor Code § 2698, *et seq.* (“PAGA”) on behalf of other current and former
8 AGGRIEVED EMPLOYEES of DEFENDANTS for engaging in a pattern and practice of wage and
9 hour violations under the California Labor Code.

10 2. PLAINTIFF is informed and believes, and thereon alleges, that DEFENDANTS
11 decreased their employment-related costs by systematically violating California wage and hour
12 laws.

13 3. DEFENDANTS’ systematic pattern of wage and hour and IWC Wage Order
14 violations toward PLAINTIFF and other AGGRIEVED EMPLOYEES in California include, *inter*
15 *alia*:

- 16 a. Failure to provide meal periods;
- 17 b. Failure to provide rest periods;
- 18 c. Failure to provide reimbursements;
- 19 d. Failure to pay wages when due;
- 20 e. Failure to provide wages upon termination;
- 21 f. Failure to provide accurate, itemized wage statements;

22 4. PLAINTIFF brings the representative action against DEFENDANTS on behalf of
23 the State of California and all other AGGRIEVED EMPLOYEES of DEFENDANTS in California,
24 seeking all civil penalties permitted pursuant to California Labor Code § 2699, *et seq.*

25 5. PLAINTIFF reserves the right to name additional representatives throughout the
26 State of California.

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7. DEFENDANT BILLS NEWBURY INC, is a California corporation, registered with the California Secretary of State as file No. 3970501, that at all relevant times mentioned herein conducted and continues to conduct substantial and regular business throughout California.

8. DEFENDANT BILLS KOOSER INC, is a California corporation, registered with the California Secretary of State as file No. 3545887, that at all relevant times mentioned herein conducted and continues to conduct substantial and regular business throughout California.

9. DEFENDANT BILLS HOPYARD INC, is a California corporation, registered with the California Secretary of State as file No. 3673815, that at all relevant times mentioned herein conducted and continues to conduct substantial and regular business throughout California.

10. DEFENDANT BILLS STEVENS CREEK INC, is a California corporation, registered with the California Secretary of State as file No. 4027188, that at all relevant times mentioned herein conducted and continues to conduct substantial and regular business throughout California.

11. DEFENDANT GEORGE ZAFIRIS is, on information and belief, doing business in California as the Chief Executive Officer of DEFENDANT BILLS NEWBURY INC, DEFENDANT BILLS KOOSER INC., DEFENDANT BILLS HOPYARD INC., and DEFENDANT BILLS STEVENS CREEK INC. DEFENDANT GEORGE ZAFIRIS is an owner, director, officer, or managing agent of DEFENDANT BILLS NEWBURY INC, DEFENDANT BILLS KOOSER INC., DEFENDANT BILLS HOPYARD INC., and DEFENDANT BILLS STEVENS CREEK INC

12. DEFENDANT DIMITRIOS ZAFIRIS is, on information and belief, doing business in California as the Chief Financial Officer of DEFENDANT BILLS NEWBURY INC, DEFENDANT BILLS KOOSER INC., DEFENDANT BILLS HOPYARD INC., and DEFENDANT BILLS STEVENS CREEK INC. DEFENDANT DIMITRIOS ZAFIRIS is an owner, director, officer, or managing agent of DEFENDANT BILLS NEWBURY INC, DEFENDANT

1 BILLS KOOSER INC., DEFENDANT BILLS HOPYARD INC., and DEFENDANT BILLS
2 STEVENS CREEK INC

3 13. DEFENDANT PANAGIOLIS ZAFARIS is, on information and belief, doing
4 business in California as the Secretary of DEFENDANT BILLS NEWBURY INC, DEFENDANT
5 BILLS KOOSER INC., DEFENDANT BILLS HOPYARD INC., and DEFENDANT BILLS
6 STEVENS CREEK INC. DEFENDANT PANAGIOLIS ZAFARIS is an owner, director, officer,
7 or managing agent of DEFENDANT BILLS NEWBURY INC, DEFENDANT BILLS KOOSER
8 INC., DEFENDANT BILLS HOPYARD INC., and DEFENDANT BILLS STEVENS CREEK
9 INC.

10 14. DEFENDANT DOES 1-25 (“DEFENDANT DOES”) are persons and/or entities
11 that at all relevant times mentioned herein conducted and continue to conduct substantial and
12 regular business throughout California.

13 15. Each of the fictitiously named DEFENDANTS participated in the acts alleged in this
14 Complaint. The true names and capacities, whether individual, corporate, subsidiary, partnership,
15 associate or otherwise of DEFENDANT DOES 1 through 25, inclusive, are presently unknown to
16 PLAINTIFF who therefore sues these DEFENDANTS by such fictitious names pursuant to Cal.
17 Civ. Proc. Code. § 474. PLAINTIFF will seek leave to amend this Complaint to allege the true
18 names and capacities of DOES 1 through 50, inclusive, when they are ascertained. PLAINTIFF is
19 informed and believes, and based upon that information and belief alleges, that the DEFENDANTS
20 named in this Complaint, including DOES 1 through 25, inclusive (hereinafter collectively
21 “DEFENDANTS”), are responsible in some manner for one or more of the events and happenings
22 that proximately caused the injuries and damages hereinafter alleged.

23 16. DEFENDANTS own, operate, and/or manage a chain of restaurants throughout
24 northern California.

25 17. DEFENDANTS employed PLAINTIFF as a cook between approximately
26 September 2019 and January 24, 2024, primarily working at BILLS NEWBURY INC’s Branch at
27 1700 Newbury Park Drive Suite 10 San Jose, CA 95133 with occasional work shifts scheduled at
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1 DEFENDANTS' other locations including: Bills Cottle Road, Bills Kooser Road, Bills Willow
2 Glenn, Bills Pleasanton, Bills Newbury Park, and Bills Stevens Creek.

3 18. At all times, DEFENDANTS paid PLAINTIFF on an hourly basis.

4 **III. JOINT EMPLOYER AND PAGA**

5 19. PLAINTIFF brings the representative action in a representative capacity on behalf
6 of the State of California and on behalf of all non-union individuals who are or previously were
7 employed by DEFENDANTS in California who suffered one or more Labor Code violations
8 enumerated in Labor Code §§ 2698 *et seq.* (hereinafter "AGGRIEVED EMPLOYEES") and who
9 worked for DEFENDANTS between January 24, 2023, and the present ("PAGA PERIOD").

10 20. PLAINTIFF is an "AGGRIEVED EMPLOYEE" within the meaning of Labor Code
11 § 2699(c) because he was employed by DEFENDANTS and suffered one or more of the alleged
12 Labor Code violations committed by DEFENDANTS.

13 21. PLAINTIFF and all other AGGRIEVED EMPLOYEES are, and at all relevant times
14 were, employees of DEFENDANTS, within the meanings set forth in the California Labor Code
15 and the applicable Industrial Welfare Commission Wage Order.

16 22. The Private Attorney General Act ("PAGA") permits an aggrieved employee to
17 enforce any provision of the California Labor Code that provides for a civil penalty. (*Lab. Code* §
18 2699(a).)

19 23. Section 558 of the California Labor Code provides that "any employer *or other*
20 *person* acting on behalf of an employer who violates, or causes to be violated, a section of this
21 chapter or any provision regulating hours and days of work in any order of the Industrial Welfare
22 Commissions shall be subject to a civil penalty..." (*Lab. Code* § 558(a).)

23 24. Section 1197.1 of the Labor Code provides that "[a]ny employer *or other person*
24 acting either individually or as an officer, agent, or employee of another person, who pays or causes
25 to be paid to any employee a wage less than the minimum fixed by an applicable state or local law,
26 or by an order of the commission shall be subject to a civil penalty..." (*Lab. Code* § 1197.1(a).)

27 25. Interpreting Sections 558 and 1197.1 of the Labor Code, California courts have held
28 that a corporate employer's owners, officers and directors, are subject to civil penalties for the

1 employer's failure to pay appropriate wages to its employees, and, since liability under either 558
2 or 1197.1 does not depend on a finding of an alter ego, no alter ego allegations or findings are
3 necessary. *Atempa v. Pedrazzani*, (2018) 27 Cal.App.5th 809; see generally *Ochoa-Hernandez v.*
4 *Cjaders Food, Inc.* (2009 WL 1404694); *Thurman v. Bayshore Management, Inc.* (2017) 203
5 Cal.App.4th 1112, 1145-1146.

6 26. PLAINTIFF is informed and believes, and thereon alleges, that DEFENDANTS, and
7 each of them, are subject to civil penalties for their failure to pay PLAINTIFF and other
8 AGGRIEVED EMPLOYEES the appropriate wages as complained of herein and proximately
9 caused the complaints, injuries, and damages alleged herein.

10 27. At all relevant times, each DEFENDANT, whether named or fictitious, was the
11 agent, employee or other person acting on behalf of each other DEFENDANT, and, in participating
12 in the acts alleged in this Complaint, acted within the scope of such agency or employment and
13 ratified the acts of the other.

14 28. Each DEFENDANT, whether named or fictitious, exercised control over
15 PLAINTIFF' wages, working hours, and/or working conditions.

16 29. Each DEFENDANT, whether named or fictitious, acted in all respects pertinent to
17 this action as the agent of the other DEFENDANTS, carried out a joint scheme, business plan or
18 policy, and the acts of each DEFENDANT are legally attributable to the other DEFENDANTS.

19 **IV. JURISDICTION AND VENUE**

20 30. This Court has jurisdiction over this Action pursuant to California Code of Civil
21 Procedure, Section 410.10.

22 31. Venue is proper in this Court pursuant to California Code of Civil Procedure,
23 Sections 395 and 395.5, because PLAINTIFF worked in this County for DEFENDANTS and
24 DEFENDANTS (i) currently maintain and at all relevant times-maintained offices and facilities in
25 this County, and (ii) committed the wrongful conduct herein alleged in this County against
26 PLAINTIFF.

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1 V. FACTUAL ALLEGATIONS

2 A. Rest Period Violations

3 32. PLAINTIFF and other AGGRIEVED EMPLOYEES were required to work in excess
4 of four (4) hours without being provided ten (10) minute rest periods as a result of the nature and
5 constraints of their job duties, commentary from DEFENDANTS' managers and supervisors,
6 DEFENDANTS' understaffing, and DEFENDANTS' policies and practices. Specifically,
7 DEFENDANTS' required PLAINTIFF and other AGGRIEVED EMPLOYEES to work through
8 their rest periods in order to fulfill customer's orders.

9 33. PLANITIFF and other AGGRIEVED EMPLOYEES, from time to time were
10 required to work in excess of eight (8) hours or more, without being provided a second ten (10)
11 minute rest period for the same reasons.

12 34. PLAINTIFF and other AGGRIEVED EMPLOYEES were also not provided with
13 one-hour wages *in lieu* thereof, and as a result, PLAINTIFF and other AGGRIEVED EMPLOYEES
14 were denied their proper rest periods by DEFENDANTS and DEFENDANTS' managers.

15 35. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANTS were
16 required to provide rest periods to PLAINTIFF and other AGGRIEVED EMPLOYEES per every
17 four (4) hours worked or major fraction thereof or provide the employee one (1) hour of pay at the
18 employee's regular rate of compensation for each workday the rest period is not provided. During
19 the entirety of PLAINTIFF'S employment and the PAGA Period, DEFENDANTS required
20 PLAINTIFF and other AGGRIEVED EMPLOYEES to work through rest periods without paying
21 them in accordance with Industrial Wage Orders. As a result, PLAINTIFF and other AGGRIEVED
22 EMPLOYEES forfeited their regular wages by working without compensation at the applicable
23 wage and rates. DEFENDANTS had, and may continue to practice, a uniform policy to not pay
24 PLAINTIFF and other AGGRIEVED EMPLOYEES all rest premiums owed.

25 B. Meal Period Violations

26 36. DEFENDANTS from time-to-time required PLAINTIFF and other AGGRIEVED
27 EMPLOYEES to work during the meal break during what was scheduled to be PLAINTIFF'S and
28 other AGGRIEVED EMPLOYEES' off-duty meal break due to the nature and constraints of their

1 job duties, commentary from DEFENDANTS' managers and supervisors, DEFENDANTS'
2 understaffing, and DEFENDANTS' policies and practices. Specifically, on occasion,
3 DEFENDANTS' required PLAINTIFF and other AGGRIEVED EMPLOYEES to continue their
4 work and fulfill customer's food orders rather than take a timely meal period.

5 37. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANTS were
6 required to provide meal periods of not less than thirty (30) minutes to PLAINTIFF and other
7 AGGRIEVED EMPLOYEES for each work period of more than five (5) hours, except when that
8 work period is not more than six (6) and validly waived or provide one (1) hour of pay at the
9 employee's regular rate of compensation. DEFENDANTS required PLAINTIFF and other
10 AGGRIEVED EMPLOYEES to work during the meal break during what was supposed to be off-
11 duty meal break. As a result, PLAINTIFF and other AGGRIEVED EMPLOYEES forfeited their
12 meal premiums without compensation at the applicable wage and rates. DEFENDANTS had, and
13 may continue to practice, a uniform policy to not pay PLAINTIFF and other AGGRIEVED
14 EMPLOYEES meal periods.

15 38. As a result of work requirements and DEFENDANTS' inadequate staffing practices,
16 PLAINTIFF and other AGGRIEVED EMPLOYEES were unable to take thirty (30) minute off-duty
17 meal breaks and were not fully relieved of duty for their meal period. PLAINTIFF and other
18 AGGRIEVED EMPLOYEES were required to perform work as ordered by DEFENDANTS for
19 more than five (5) hours during some shifts without receiving a meal break. The nature of the work
20 performed by PLAINTIFF and other AGGRIEVED EMPLOYEES do not qualify for limited and
21 narrowly construed "on-duty" meal period exception. PLAINTIFF and other AGGRIEVED
22 EMPLOYEES therefore forfeited meal breaks without additional compensation and in accordance
23 with DEFENDANTS' policies and practices.

24 C. Violations for Untimely Payment of Wages

25 39. Pursuant to California Labor Code section 204, PLAINTIFF and other
26 AGGRIEVED EMPLOYEES are entitled to timely payment of wages during their employment.
27 PLAINTIFF and other AGGRIEVED EMPLOYEES, from time to time, did not receive payment of
28 all wages, including, but not limited to meal period premium wages and rest period premium wages

1 within permissible time period and on days designated in advance by the employer as regular
2 paydays.

3 40. Accordingly, DEFENDANTS failed to timely pay PLAINTIFF and other
4 AGGRIEVED EMPLOYEES all wages due and owe on regularly established paydays.

5 D. Unreimbursed Business Expenses

6 41. DEFENDANTS failed to indemnify PLAINTIFF and other AGGRIEVED
7 EMPLOYEES for expenses incurred in direct consequence of discharging work duties.

8 42. DEFENDANTS required PLAINTIFF and other AGGRIEVED EMPLOYEES to
9 use personal cell phones to discharge work duties but failed to reimburse PLAINTIFF and other
10 AGGRIEVED EMPLOYEES for the use and cost of their cell phones.

11 43. DEFENDANTS additionally required PLAINTIFF and other AGGRIEVED
12 EMPLOYEES to purchase uniforms but failed to reimburse PLAINTIFF and other AGGRIEVED
13 EMPLOYEES for the purchase.

14 44. DEFENDANTS shifted costs associated with running a business onto PLAINTIFF
15 and other AGGRIEVED EMPLOYEES.

16 45. Specifically, DEFENDANTS required PLAINTIFF and other AGGRIEVED
17 EMPLOYEES to buy their uniform which included black and other uniform shirts, and nonslip
18 shoes to perform their work duties.

19 46. DEFENDANTS did not provide PLAINTIFF or other AGGRIEVED EMPLOYEES
20 with a proper uniform and shoes, nor did DEFENDANTS reimburse PLAINTIFF or other
21 AGGRIEVED EMPLOYEES cost of the purchase.

22 **CAUSES OF ACTION**

23 **FIRST CAUSE OF ACTION**

24 For Failure to Provide Rest Periods
(Cal. Lab. Code §§ 226.7 & 512)
25 (Against All DEFENDANTS)

26 47. PLAINTIFF incorporates by reference and realleges as if fully stated herein each and
27 every allegation set forth above.
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48. Labor Code Sections 226.7 and 512 and the Industrial Wage Orders requires DEFENDANTS to provide employees all rest periods specified in the applicable Wage Order. These laws and regulations further entitle employees to be paid one additional hour of pay at their regular rate of compensation for each day of denied rest period.

49. PLAINTIFF was required to work in excess of four (4) hours without being provided ten (10) minute rest periods. Further and for the same reasons PLAINTIFF was denied his first rest period of at least ten (10) minutes for some shifts worked of at least two (2) to four (4) hours, PLAINTIFF was also denied a first and second rest period of at least ten (10) minutes for shifts worked of between six (6) and eight (8) hours. PLAINTIFF was also not provided with one-hour wages in lieu thereof.

50. As a result of the nature and constraints of PLAINTIFF'S position, DEFENDANTS' work schedules and staffing practices, PLAINTIFF was denied his proper rest periods by DEFENDANTS and DEFENDANTS' managers.

51. DEFENDANTS violated California Labor Code §§ 226.7 and the applicable IWC Wage Order by failing to compensate PLAINTIFF who was not provided a rest period, in accordance with the applicable Wage Order, one additional hour of compensation at each employee's regular rate of pay for each workday that rest period was not provided.

52. As a proximate result of the aforementioned violations, PLAINTIFF has been damaged in an amount according to proof at trial, and seek all wages earned and due, interest, penalties, expenses and costs of suit.

SECOND CAUSE OF ACTION

**For Failure to Provide Required Meal Periods
(Cal. Lab. Code §§ 226.7& 512)
(Against All DEFENDANTS)**

53. PLAINTIFF incorporates by reference and realleges as if fully stated herein each and every allegation set forth above.

54. DEFENDANTS failed to provide all the legally required off-duty meal breaks to PLAINTIFF as required by the applicable Wage Order and Labor Code. The nature of the work performed by PLAINTIFF does not prevent these employees from being relieved of all of their

1 duties for the legally required off-duty meal periods. As a result of their work schedules and
2 inadequate staffing practices by DEFENDANTS, PLAINTIFF from time-to-time was not fully
3 relieved of duty by DEFENDANTS for their meal periods.

4 55. DEFENDANTS further violated California Labor Code §§ 226.7, 512 and the
5 applicable IWC Wage Order by failing to compensate PLAINTIFF who was not provided a meal
6 period, in accordance with the applicable Wage Order, one additional hour of compensation at each
7 employee's regular rate of pay for each workday that a meal period was not provided.

8 56. As a proximate result of the aforementioned violations, PLAINTIFF has been
9 damaged in an amount according to proof at trial, and seek all wages earned and due, interest,
10 penalties, expenses and costs of suit.

11 **THIRD CAUSE OF ACTION**

12 For Failure to Reimburse Business Expenses
13 (Cal. Lab. Code §§ 2802)
(Against DEFENDANT)

14 57. PLAINTIFF incorporates by reference and realleges as if fully stated herein each and
15 every allegation set forth above.

16 58. Pursuant to California Labor Code section 2802, DEFENDANTS are required to
17 indemnify PLAINTIFF for the expenses and losses incurred during the performance of his job
18 duties. The purpose of this statute is to prevent employers from passing their operating expenses on
19 to their employees.

20 59. In violation of Labor Code section 2802, DEFENDANTS failed to reimburse
21 PLAINTIFF for necessary business expenditures for the use of his personal cell phone and purchase
22 of uniform.

23 60. DEFENDANTS sought to pay their own pockets at the expense of their employees,
24 and instead of compensating their employees for the necessary business costs, the employer passed
25 on its costs to its employees.

26 61. DEFENDANTS intentionally failed to reimburse its employees for the actual
27 expenses incurred and thereby increased its profits to the detriment of its employees.
28

1 62. PLAINTIFF seeks to recover these business expenditures, plus interest thereon,
2 reasonable attorneys' fees, costs, and statutory penalties as provided by the Labor Code in an amount
3 to be proven.

4 63. Interest accrues from the date the employee incurred the necessary expenditure or
5 loss.

6 **FOURTH CAUSE OF ACTION**

7 For Failure to Pay Wages
8 (Cal. Lab. Code § 204, 210)
9 (Against All DEFENDANTS)

10 64. PLAINTIFF incorporates by reference and realleges as if fully stated herein each and
every allegation set forth above.

11 65. Labor Code Section 204 provides in part provides in part that "all wages, ..., earned
12 by any person in any employment are due and payable twice during each calendar month, on days
13 designated in advance by the employer as the regular paydays."

14 66. In violation of Labor Code section 204, defendants knowingly and willfully refused
15 to perform their obligations to compensate their employees for all wages earned including meal and
16 rest premiums owed.

17 67. Pursuant to Labor Code section 210, PLAINTIFF is entitled to recover a penalty of
18 \$100.00 for the initial failure to timely pay each employee all of the wages earned, and \$200.00 for
19 each subsequent failure to pay each employee all of the wages earned; in addition, pursuant to
20 section 210, for each subsequent failure to pay in compliance with Labor Code section 204,
21 PLAINTIFF is entitled to recover an additional amount equal to 25% of the unlawfully withheld
22 wages.

23 68. As a direct and proximate result of defendants' conduct in violation of Labor Code
24 section 204 as alleged above, DEFENDANTS' employees have suffered, and continue to suffer,
25 losses related to the use and enjoyment of wages and lost interest on such wages all to their damage
26 in amounts according to proof at trial.

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1 **FIFTH CAUSE OF ACTION**

2 For Failure to Pay Wages Upon Termination
3 (Cal. Lab. Code § 201, 202, 203)
4 (Against All DEFENDANTS)

5 69. PLAINTIFF incorporates by reference and realleges as if fully stated herein each and
6 every allegation set forth above.

7 70. If an employer willfully fails to pay, without abatement or reduction, in accordance
8 with Sections 201, . . . 202, any wages of an employee who is discharged or who quits, the wages
9 of the employee shall continue as a penalty from the due date thereof at the same rate until paid or
10 until an action therefor is commenced; but the wages shall not continue for more than 30 days. (Cal.
11 Lab. Code § 203).

12 71. To date, DEFENDANTS have yet to pay PLAINTIFF all of the wages and all
13 premiums due missed meal breaks and missed rest breaks and DEFENDANTS have failed to pay
14 any penalty wages owed under California Labor Code section 203.

15 72. Additionally, DEFENDANTS indefinitely suspended PLAINTIFF and therefore
16 effectively terminating PLAINTIFF, and DEFENDANTS have not tendered payment of wages to
17 this employee who was underpaid for minimum wage, and/or missed meal and rest breaks, as
18 required by law.

19 73. DEFENDANTS knowingly and willfully violated the laws, regulations and orders
20 governing the wages of PLAINTIFF as described in the causes of action above.

21 74. Therefore, as provided by Cal Lab. Code § 203, on behalf of herself whose
22 employment has terminated, PLAINTIFF demands up to thirty (30) days of pay as penalty for not
23 paying all wages due at time of termination and demand an accounting and payment of all wages
24 due, plus interest and statutory costs as allowed by law.

25 **SIXTH CAUSE OF ACTION**

26 For Failure to Provide Accurate, Itemized Wage Statements
27 (Cal. Lab. Code §§ 226; 226.3; 1174.5)
28 (Against All DEFENDANTS)

75. PLAINTIFF incorporates by reference and reallege as if fully stated herein each and
every allegation set forth above.

1 76. Labor Code section 226 requires defendants to provide employees an accurate
2 itemized statement showing (1) gross wages earned, (2) total hours worked by the employee, (3) the
3 number of piece units and rates if applicable, (4) all deductions, (5) net wages earned, (6) the
4 inclusive date of the period for which the employee is paid, (7) the name of the employee and his/her
5 or her social security number, (8) the name and address of the legal entity that is the employer, and
6 (9) all applicable hourly rates in effect and the corresponding number of hours worked

7 77. DEFENDANTS did not accurately record PLAINTIFF'S missed meal and rest
8 breaks. DEFENDANTS failed to provide an accurate wage statement in writing that properly and
9 accurately itemizes all wages, missed meal and rest periods, applicable hourly wages in effect for
10 wages owed to PLAINTIFF and thereby also failed to set forth the correct wages earned by the
11 employees.

12 78. DEFENDANTS knowingly and intentionally failed to comply with Labor Code
13 section 226(a) on each and every wage statement that they provided to PLAINTIFF.

14 79. By failing to keep adequate records, as required by Labor Code sections 226 and
15 1174, DEFENDANTS injured PLAINTIFF making it difficult for this employee to calculate the
16 minimum wages owed. Those injuries include unpaid wages, interest, and penalties thereon.

17 80. PLAINTIFF seeks to recover the statutory penalties provided by Labor Code section
18 226(e), 226.3, and 1174.5 for the wage statement violations committed by DEFENDANTS.

19 **SEVENTH CAUSE OF ACTION**

20 For Recovery of Civil Penalties Under the Labor Code Private Attorney General Act
21 (Cal. Lab. Code §§ 2698 et seq.)
22 (Against All DEFENDANTS)

23 81. PLAINTIFF and other AGGRIEVED EMPLOYEES incorporate by reference and
24 reallege as if fully stated herein each and every allegation set forth above.

25 82. As a result of the acts alleged herein, PLAINTIFF, as an AGGRIEVED EMPLOYEE
26 within the meaning of Labor Code section 2699, subdivision (c), on behalf of herself and all other
27 AGGRIEVED EMPLOYEES of DEFENDANTS, seeks the recovery of civil penalties against
28 DEFENDANTS pursuant to California Labor Code sections 2698 et seq., for the following knowing
and intentional violations of the California Labor Code:

- a. For failing to pay wages when due, in violation of Labor Code sections 204 and 210;
- b. For failing to pay wages upon termination, in violation of Labor Code sections 201, 202, and 203;
- c. For failing to compensate employees who were not provided a meal period in violation of Labor Code Section 226.7 and 512; and
- d. For failing to compensate employees who were not provided a rest period in violation of Labor Code Section 226.7 and 512; and
- e. For failing to reimburse employees in violation of Labor Code Section 2802;
- f. For failing to maintain for and provide accurate, itemized wage statements required by Labor Code Section 226, 226.3 and 1174.5.

83. The above-referenced civil penalties shall include the recovery of amounts specified in the applicable sections of the Labor Code, and if not specifically provided, those under section 2699(f), and shall include those amounts sufficient to recover underpaid wages pursuant to C.C.R. section 11040 and Labor Code sections §§ 201, 202, 203, 204, 210, 218.5, 218.6, 226, 226.3, 226.7, 510, 512, 1174.5, 1199, 2802, and 2699, subdivisions (a) and (f).

84. PLAINTIFF filed this complaint after the LWDA was afforded the opportunity to consider PLAINTIFF's notice of DEFENDANTS' Labor Code violations and of PLAINTIFF's intent to prosecute a private enforcement action for civil penalties under PAGA. After the LWDA declined to investigate, PLAINTIFF brought this PAGA cause of action against DEFENDANTS, pursuant to California Labor Code section 2699.3, subdivision (a)(2)(A).

DEMAND FOR RELIEF

WHEREFORE, PLAINTIFF prays for a judgment against each DEFENDANT, jointly and severally, as follows:

1. On behalf of the PLAINTIFF:

A. Compensatory damages, according to proof at trial, including unpaid wages, due to PLAINTIFF plus interest thereon at the statutory rate;

B. Restitutionary disgorgement of DEFENDANTS' ill-gotten gains into a fluid fund for restitution of the sums incidental to DEFENDANTS' violations due to PLAINTIFF;

1 C. Meal and rest period compensation pursuant to Cal. Lab. Code §§ 226.7, 512 and the
2 applicable IWC Wage Order;

3 D. The wages of all terminated employees from the PLAINTIFF as a penalty from the
4 due date thereof at the same rate until paid or until an action therefore is commenced, in accordance
5 with Cal. Lab. Code § 203;

6 E. The greater of all actual damages or fifty dollars (\$50) for the initial pay period in
7 which a violation occurs and one hundred dollars (\$100) per employee for each violation in a
8 subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000), and
9 an award of costs for violation of Cal. Lab. Code § 226.

10 F. Punitive damages in an amount to punish DEFENDANTS to be proven at trial.

11 G. Liquidates damages pursuant to Cal. Lab. Code § 1194.2 in an amount equal to the
12 unpaid minimum wages according to proof at trial;

13 2. On Behalf of the State of California and with respect to all AGGRIEVED EMPLOYEES

14 i. Recovery of civil penalties as prescribed by the Labor Code Private Attorneys
15 General Act of 2004;

16 2. On all claims:

17 A. An award of interest, including prejudgment interest at the legal rate;

18 B. Such other and further relief as the Court deems just and equitable; and

19 C. An award of penalties, attorneys' fees and cost of suit, as allowable under the law.
20

21 DATED: November 11, 2024

EMRAN LAW

24 By: Harris Emran

25 Harris Emran

26 Attorney for PLAINTIFF and OTHER
27 AGGRIEVED EMPLOYEES
28