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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF RIVERSIDE**

David Harris, an individual; Khaleehan
Curtis, an individual; Marisol Olivera, an
individual; and Fabiola Delgado, an
individual, individually and on behalf of all
similarly situated and aggrieved employees of
Defendants in the State of California,

Plaintiffs,

vs.

Colony Palms, LLC, a California limited
liability company, and DOES 1 through 10,
inclusive

Defendants.

Case No. CVPS2400946

**CLASS ACTION COMPLAINT
[Cal. Code Civ. Proc. § 382]**

1. Failure to Pay Minimum Wage in violation of Labor Code §§ 1194, 1197, 1198;
2. Failure to Pay Overtime Wage in Violation of Labor Code §§ 510, 1194, 1198;
3. Failure to Provide Meal and Rest Periods in Violation of Labor Code §§ 226.7, 512, 1198;
4. Failure to Reimburse Employee for Necessary Expenditures in Violation of Labor Code § 2802;
5. Failure to Furnish Timely and Accurate Wage Statements in Violation of Labor Code § 226;
6. Failure to Timely Pay Wages in Violation of Labor Code § 204; and
7. Failure to Pay All Wages Due Upon Discharge in Violation of Labor Code §§ 201, 202;

REPRESENTATIVE ACTION
[Labor Code § 2698, et seq.]

8. Representative Claims Under the Labor Code Private Attorneys General Act (PAGA)

JURY TRIAL DEMANDED

COMES NOW Plaintiffs DAVID HARRIS, an individual (hereinafter, "HARRIS"), KHALEEHAH CURTIS, an individual (hereinafter, "CURTIS"), MARISOL OLIVERA, an individual (hereinafter, "OLIVERA"), and FABIOLA DELGADO an individual (hereinafter, "DELGADO," and collectively, "PLAINTIFFS") to complain against Defendants Colony Palms, LLC, a California limited liability company (hereinafter, "COLONY PALMS"), and DOES 1 through 10 (hereinafter, collectively with COLONY PALMS, "DEFENDANTS") as follows:

INTRODUCTION

1. PLAINTIFFS bring this individual and putative class action against DEFENDANTS for engaging in a pattern of wage and hour violations under the California Labor Code and the Industrial Welfare Commission ("IWC") Wage Orders.

2. PLAINTIFFS bring this action on behalf of all current and former employees employed by Defendants in the State of California and who worked in any non-exempt position during the applicable relevant time period (hereinafter, "similarly situated employees").

3. PLAINTIFFS also bring this representative action pursuant to the Private Attorneys General Act of 2004, California Labor Code § 2698, et seq. ("PAGA") against DEFENDANTS for engaging in wage and hour violations under the California Labor Code and the applicable IWC Wage Orders. PLAINTIFFS brings this action on behalf of all other current and former non-exempt employees of Defendants in the State of California who suffered at least one of the wage and hour violations described herein during the relevant time period (hereinafter, "aggrieved employees").

4. PLAINTIFFS are informed and believe, and on that basis allege, that DEFENDANTS decreased their employment-related costs by systematically violating California wage and hour laws and engaging in unlawful and unfair business practices.

5. DEFENDANTS' systematic pattern of Labor Code and IWC Wage Order violations toward Plaintiff and other similarly situated employees in California include, but are not limited to:

a. Failure to Pay Minimum Wage in violation of Labor Code §§ 1194, 1197, 1198;

- b. Failure to Pay Overtime Wage in Violation of Labor Code §§ 510, 1194, 1198;
- c. Failure to Provide Meal and Rest Periods in Violation of Labor Code §§ 226.7, 512, 1198;
- d. Failure to Reimburse Employee for Necessary Expenditures in Violation of Labor Code § 2802;
- e. Failure to Furnish Timely and Accurate Wage Statements in Violation of Labor Code § 226;
- f. Failure to Timely Pay Wages in Violation of Labor Code § 204; and
- g. Failure to Pay All Wages Due Upon Discharge in Violation of Labor Code §§ 201, 202;

6. Plaintiff brings this lawsuit against Defendants seeking damages, restitution, declaratory judgment, injunctive relief, statutory and civil penalties, and monetary relief on behalf of himself and all other similarly situated employees of DEFENDANTS in California. Plaintiff seeks to recover, among other things, unpaid wages, unreimbursed expenses, interest, attorney's fees, damages, liquidated damages, statutory and civil penalties, and costs pursuant to Labor Code §§ 201, 202, 203, 204, 210, 218.5, 218.6, 226, 226.3, 226.7, 510, 512, 558, 558.1, 1194, 1194.2, 1197, 1197.1, 1198, 2802, 2699, and the provisions of the applicable IWC Wage Orders.¹

THE PARTIES

7. Plaintiff HARRIS is an individual residing in the County of Riverside State of California.

8. Plaintiff CURTIS is an individual residing in the County of Riverside State of California.

9. Plaintiff OLIVERA is an individual residing in the County of Riverside State of California.

¹ Plaintiffs and Defendants have entered into four successive tolling agreements tolling the deadline and statutes of limitations for Plaintiffs to bring any and all claims since mid April 2024.

1 10. Plaintiff DELGADO is an individual residing in the County of Riverside State of
2 California.

3 11. Defendant COLONY PALMS, LLC (hereinafter, "COLONY PALMS") is a
4 California limited liability company that operates the luxury hotel, The Colony Palms Hotel and
5 Bungalows, in the County of Riverside State of California.

6 12. PLAINTIFFS are informed and believe, and thereon alleges, that each of the
7 DEFENDANTS, whether named or fictitious, is and, at all relevant times, was authorized to do
8 business and did business in the State of California and was PLAINTIFFS' and other similarly
9 situated and aggrieved employees' "employer" as defined in and subject to the California Labor
10 Code and the applicable IWC Wage Order.

11 13. Each of the fictitiously named DEFENDANTS participated in the acts alleged in
12 this Complaint. The true names and capacities of the DEFENDANTS named as DOES 1 through
13 10, inclusive, are presently unknown to PLAINTIFFS. PLAINTIFFS will amend this Complaint,
14 setting forth the true names and capacities of the fictitious DEFENDANTS when their true names
15 and capacities are ascertained. PLAINTIFFS are informed and believe, and on that basis alleges,
16 that each of the fictitious DEFENDANTS participated in the acts alleged in this Complaint.
17 PLAINTIFFS and all other similarly situated and aggrieved employees are, and at all relevant
18 times were, non-exempt employees of each of the DEFENDANTS, including DOES 1 through 10,
19 within the meanings set forth in the California Labor Code and applicable IWC Wage Order.

20 14. PLAINTIFFS are informed and believe that at all relevant times, each of the
21 DEFENDANTS, whether named or fictitious, was the agent, employee, or other person acting on
22 behalf of the other DEFENDANTS, and, in participating in the acts alleged in this Complaint,
23 acted within the scope of such agency or employment and ratified the acts of the other
24 DEFENDANTS.

25 15. PLAINTIFFS are informed and believe that at all relevant times, each of the
26 DEFENDANTS, whether named or fictitious, exercised control over PLAINTIFFS' and other
27 similarly situated and aggrieved employees' wages, hours, and working conditions.

28 16. PLAINTIFFS are informed and believe that at all relevant times, each of the
29 DEFENDANTS, whether named or fictitious, acted as the agent for the other DEFENDANTS,
30
31

1 carried out a joint scheme, business plan, or policy, and the acts of each of the DEFENDANTS are
2 legally attributable to the other DEFENDANTS.

3 17. Each of the DEFENDANTS, whether named or fictitious, was the alter ego of each
4 of the other Defendants at all relevant times herein.

5 18. A unity of interest and ownership between each of the DEFENDANTS, whether
6 named or fictitious, exists such that all DEFENDANTS acted as a single employer of
7 PLAINTIFFS and all other similarly situated employees.

8 19. DEFENDANTS, including DOES 1 THROUGH 10, were PLAINTIFFS'
9 employers or persons acting on behalf of PLAINTIFFS' employer, within the meaning of
10 California Labor Code section 558.1 and, as such, are liable as the employer for violations of Labor
11 Code sections 203, 226, 226.7, 1193.6, 1194, or 2802.

12 20. DEFENDANTS, including DOES 1 through 10, were PLAINTIFFS' employers or
13 persons acting on behalf of PLAINTIFFS' employer either individually or as an officer, agent, or
14 employee of another person, within the meaning of California Labor Code sections 558 and
15 1197.1, and as such, are subject to civil penalties for each underpaid employee.

16 17 **JURISDICTION AND VENUE**

18 21. This Court has jurisdiction over this action pursuant to California Code of Civil
19 Procedure section 410.10 because all the named DEFENDANTS are domiciled in, are
20 incorporated in, have their principal place of business in, and conduct substantial business in the
21 State of California.

22 22. Venue is proper in this Court pursuant to California Code of Civil Procedure section
23 395 because DEFENDANTS' tortious and unlawful acts were carried out in the County of
24 Riverside with the intent to cause damages to persons and entities therein.

25 26 **GENERAL FACTUAL ALLEGATIONS**

27 23. Colony Palms operates a luxury hotel, The Colony Palms Hotel and Bungalows,
28 located at 572 North Indian Canyon Drive, Palm Springs, California 92262.

29 24. HARRIS was employed by Colony Palms as a valet and subsequently as a front
30 desk attendant from on or about March 16, 2021, through on or about February 23, 2023.

25. As a valet, HARRIS was regularly the sole individual working as a valet, and, resultingly, was expected to be available during his meal and rest periods should a guest drop off or seek to retrieve his vehicle.

26. As a front desk attendant, HARRIS was regularly the sole individual working at the hotel front desk, and, resultingly, was expected to be available during his meal and rest periods should a guest (or any other individual) call or come to the front desk.

27. Colony Palms had a strict dress code requiring that its employees wear a specific color of dress shoes and dress pants. Although Colony Palms did provide two pairs of shorts and slacks, HARRIS subsequently had to purchase additional dress pairs of shorts and slacks for which he was not reimbursed.

28. On information and belief, this above conduct was common to all employees of Colony Palms who were employed as valets or front desk.

CLASS ACTION DESIGNATION

29. PLAINTIFFS herein re-allege and incorporate by reference each allegation contained in the previous paragraphs as though fully set forth herein.

30. PLAINTIFFS brings Causes of Action one through seven as a Class Action pursuant to California Code of Civil Procedure section 382 on behalf of themselves and all current and former employees of Defendants in California and who worked in any non-exempt position and who were affected by Defendants' Labor Code, Business and Professions Code, and IWC Wage Order violations, as alleged herein.

31. **Designation of Classes.** PLAINTIFFS seek to represent the following classes:

The Non-Exempt Class

All current and former employees of COLONY PALMS in the State of California who worked in any non-exempt position during any pay period from September 7, 2021, through the present time.

The Waiting Time Penalties Subclass

All members of the Non-Exempt Class whose employment with Defendants ended between September 7, 2021, and the present time.

32. **Reservation of Rights:** Pursuant to California Rule of Court 3.765(b), PLAINTIFFS reserve the right to amend or modify the class definitions with greater specificity, by further division into subclasses, or by limiting the class to particular issues.

33. Causes of Action One through Seven are appropriately suited for a class action pursuant to 382 of the Code of Civil Procedure because the following requirements are met:

34. **Numerosity.** The members of the Class and Subclass are sufficiently numerous to render the joinder of all their members impracticable. While PLAINTIFFS have not yet determined the precise number of members of the Class and Subclass, PLAINTIFFS are informed and believe that the Class and Subclass likely consist of over 30 individuals. Although the exact number is currently unknown to PLAINTIFFS, this information is easily ascertainable from DEFENDANTS' time and payroll records and other personnel records.

35. **Commonality and Predominance.** Common questions of law and fact exist as to all class members and predominate over any questions affecting only individual members of the Class or Subclass. The common questions of law and fact that predominate include, but are not limited to:

- a. Whether DEFENDANTS failed to provide Non-Exempt Class members with a first off-duty, 30-minute meal period before the commencement of the sixth hour of work;
- b. Whether DEFENDANTS required Non-Exempt Class members to work through their meal periods or end their meal periods early and return to work;
- c. Whether DEFENDANTS failed to pay one additional hour of pay at the employee's regular rate of compensation to Non-Exempt Class members when they were not provided with compliant and timely meal, rest, or recovery periods;
- d. Whether DEFENDANTS failed to pay Non-Exempt Class members at least minimum wages or all regular wages owed for all hours or fractions of an hour worked and under the control of DEFENDANTS;
- e. Whether DEFENDANTS failed to pay Non-Exempt Class members all overtime wages for all hours, or fraction of hours, worked and under the control of Defendants;
- f. Whether DEFENDANTS failed to indemnify Non-Exempt Class members for necessary business expenses incurred in direct consequence of the discharge of their duties;

- 1 g. Whether DEFENDANTS failed to properly and accurately record and maintain records
2 of all hours worked and wages earned by Non-Exempt Class members;
3 h. Whether DEFENDANTS failed to provide Non-Exempt Class members with accurate
4 itemized wage statements showing, among other things, the number of hours worked
5 and the correct amount of gross and net wages earned;
6 i. Whether DEFENDANTS failed to timely pay the Non-Exempt Class members all of
7 their wages owed within the time frames prescribed by statute; and
8 j. Whether DEFENDANTS failed to pay the Waiting Time Penalties Subclass members
9 all of their wages owed within time frames prescribed by statute upon separation from
10 employment.

11 36. **Typicality.** PLAINTIFFS' claims are typical of the claims of all class members
12 because Plaintiff and all class members' claims arise from the same event, practice, or course of
13 conduct of DEFENDANTS. PLAINTIFFS and all class members sustained injuries and damages
14 because of DEFENDANTS' illegal policies, practices, and common course of conduct in violation
15 of California wage and hour laws, constituting illegal, unfair, or fraudulent business practices.

16 37. Furthermore, PLAINTIFFS' claims under the Labor Code and applicable IWC
17 Wage Orders are typical of the class because DEFENDANTS' failure to comply with the
18 provisions of California's wage and hour laws entitles PLAINTIFFS and each class member to
19 similar pay, benefits, and other relief. Accordingly, the legal theories underlying each cause of
20 action are the same, and the remedies sought by Plaintiff and all class members are the same.

21 38. **Adequacy of Representation.** PLAINTIFFS has no fundamental conflict of
22 interest with the classes they seek to represent. PLAINTIFFS will adequately protect the interests
23 of all class members because it is in PLAINTIFFS' best interest to prosecute the claims alleged
24 herein to obtain full compensation and penalties due to them and the putative class members.

25 39. Furthermore, PLAINTIFFS retained experienced employment law litigators with
26 significant wage, hour, and class action experience.

27 40. **Superiority of Class Action.** PLAINTIFFS believe a class action is a superior
28 method of litigation for the fair and efficient adjudication of this controversy. Individual joinder
29 of all class members is not practicable. Class action treatment will allow similarly situated
30

employees to litigate their claims in the manner that is most efficient and economical for the parties and the judicial system.

41. Furthermore, PLAINTIFFS know of no difficulty that might be encountered in the management of this suit, which would preclude maintenance as a class action.

THE PAGA REPRESENTATIVE ACTION DESIGNATION

42. PLAINTIFFS herein re-allege and incorporate by reference each allegation contained in the previous paragraphs as though fully set forth herein.

43. The Seventh Cause of Action alleged herein is appropriately suited for a PAGA action because:

- a. Pursuant to Labor Code section 2699(a), any provision of the Labor Code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency (hereinafter, "LWDA") or any of its departments, divisions, commissions, boards, agencies, or employees, for a violation of the Labor Code, may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of themselves and all other current or former employees pursuant to the procedures specified in section 2699;
- b. This action involves allegations of violations of provisions of the Labor Code that provide or do not provide for a civil penalty to be assessed and collected by the LWDA or any departments, divisions, commissions, boards, agencies, or employees;
- c. PLAINTIFFS are "aggrieved employees" because he was employed by the alleged violators and had one or more of the alleged violations committed against them;
- d. On February 14, 2024, HARRIS satisfied the procedural requirements of Labor Code § 2699.3 by serving the LWDA electronically and Defendant COLONY PALMS via Certified Mail with his notice for wage and hour violations and penalties, including the facts and theories to support each violation. A true and correct copy of the notice and proof of service is attached as Exhibit A;
- e. More than 65 days have passed since HARRIS served notice via Certified Mail to the LWDA and his employers. Therefore, PLAINTIFFS have satisfied all the administrative requirements to pursue civil penalties against Defendants;

- 1 f. PLAINTIFFS filed this action pursuant to Labor Code sections 2699(a), (f), on behalf
2 of themselves and all other aggrieved employees of Defendant to recover civil
3 penalties.
- 4 g. DEFENDANTS were PLAINTIFFS' employers or persons acting on behalf of
5 PLAINTIFFS' employers, within the meaning of California Labor Code section 558,
6 who violated or caused to be violated, a section of Part 2, Chapter 1 of the California
7 Labor Code or any provision regulating hours and days of work in any order of the
8 Industrial Welfare Commission and, as such, are subject to civil penalties, as set forth
9 in Labor Code section 558, at all relevant times.
- 10 h. DEFENDANTS were PLAINTIFFS' employers or persons acting on behalf of
11 PLAINTIFFS' employers either individually or as an officer, agent, or employee of
12 another person, within the meaning of California Labor Code section 1197.1, who paid
13 or caused to be paid to any employee a wage less than the minimum fixed by California
14 state law, and as such, are subject to civil penalties.

15
16 **FIRST CAUSE OF ACTION**

17 **Failure to Pay Minimum Wage in Violation of**

18 **Labor Code §§ 1197, 1198 and Applicable IWC Wage Orders**

19 (Alleged by all PLAINTIFFS, individually and on behalf of the Non-
20 Exempt Class, against all DEFENDANTS)

21 44. PLAINTIFFS herein re-allege and incorporate by reference each allegation
22 contained in the previous paragraphs as though fully set forth herein.

23 45. California Labor Code section 1197 provides, "[t]he minimum wage for employees
24 fixed by the commission is the minimum wage to be paid to employees, and the payment of a less
25 wage than the minimum wage so fixed is unlawful."

26 46. California Labor Code section 1198 provides that the standard conditions of labor
27 fixed by the wage orders are the standard condition of labor for employees and that the
28 "employment of any employee ... under conditions of labor prohibited by the order is unlawful."

29 47. The "Minimum Wages" section of the applicable IWC Wage Order provides that
30 an employer may not pay employees less than the applicable minimum for all hours worked.

48. The term "hours worked" of the applicable IWC Wage Order is defined as "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so."

49. The "Meal Periods" section of the applicable IWC Wage Order states, "[u]nless the employee is relieved of all duty during a 30-minute meal period, the meal period shall be considered an 'on duty' meal period and counted as time worked."

50. Because such meal period counts as time worked, DEFENDANTS failed to pay PLAINTIFFS and, on information and belief, the Non-Exempt Class at least minimum wage for all the time spent working and under DEFENDANTS' control. For example, PLAINTIFFS, and on information and belief, the Non-Exempt Class, regularly worked through 30-minute meal periods and were not compensated minimum wages for this time.

51. California Labor Code section 1194 provides, in part, that any employee receiving less than the legal minimum wage is entitled to recover in a civil action the unpaid balance of the minimum wage, including interest thereon, reasonable attorney's fees, and costs of suit.

52. California Labor Code section 1194.2 allows an employee to recover liquidated damages equal to the wages unlawfully unpaid and interest thereon for any action under California Labor Code section 1194.

53. PLAINTIFFS and, on information and belief, the Non-Exempt Class suffered losses related to the use and enjoyment of compensation due and owing to them as a direct result of DEFENDANTS' unlawful acts and labor code violations in an amount to be shown according to proof at trial and within the jurisdictional limitations of this Court.

54. PLAINTIFFS seek all available remedies for DEFENDANTS' violations, including, but not limited to, all wages due, monies, interest, liquidated damages, attorney's fees, and costs to the extent permitted by law.

SECOND CAUSE OF ACTION

**Failure to Pay Overtime Wage in Violation of Labor Code §§ 510,
1194, 1198, and Applicable IWC Wage Orders**
(Alleged by all PLAINTIFFS, individually and on behalf of the Non-
Exempt Class, against all DEFENDANTS)

1 55. PLAINTIFFS herein re-allege and incorporate by reference each allegation
2 contained in the previous paragraphs as though fully set forth herein.

3 56. California Labor Code section 510 subdivision (a) provides that any work
4 performed by a non-exempt employee in excess of eight (8) hours in a day or forty (40) hours in a
5 week must be compensated at a rate not less than one-and-one-half times the regular rate of pay
6 for an employee. The "Hours and Days of Work" section of the applicable IWC Wage Order
7 mandates the same requirements."

8 57. California Labor Code section 1198 provides that the standard conditions of labor
9 fixed by the wage orders are the standard condition of labor for employees and that the
10 "employment of any employee ... under conditions of labor prohibited by the order is unlawful."

11 58. The term "hours worked" of the applicable IWC Wage Order is defined as "the time
12 during which an employee is subject to the control of an employer, and includes all the time the
13 employee is suffered or permitted to work, whether or not required to do so."

14 59. The "Meal Periods" section of the applicable IWC Wage Order states, "[u]nless the
15 employee is relieved of all duty during a 30-minute meal period, the meal period shall be
16 considered an 'on duty' meal period and counted as time worked."

17 60. Because such meal period counts as time worked, DEFENDANTS failed to pay
18 PLAINTIFFS and, on information and belief, the Non-Exempt Class, overtime wages for all hours
19 worked in excess of eight (8) hours in a day or forty (40) hours in a week.

20 61. California Labor Code section 1194 provides, in part, that any employee receiving
21 less than the legal overtime wage is entitled to recover in a civil action the unpaid balance of the
22 minimum wage, including interest thereon, reasonable attorney's fees, and costs of suit.

23 62. California Labor Code section 1194.2 allows an employee to recover liquidated
24 damages equal to the wages unlawfully unpaid and interest thereon for any action under California
25 Labor Code section 1194.

26 63. PLAINTIFFS and, on information and belief, the Non-Exempt Class suffered
27 losses related to the use and enjoyment of compensation due and owing to them as a direct result
28 of DEFENDANTS' unlawful acts and labor code violations in an amount to be shown according
29 to proof at trial and within the jurisdictional limitations of this Court.

64. PLAINTIFFS seeks all available remedies for Defendants' violations, including, but not limited to, all wages due, monies, interest, liquidated damages, attorney's fees, and costs to the extent permitted by law.

THIRD CAUSE OF ACTION

Failure to Provide Meal and Rest Periods in Violation of Labor Code

§§ 226.7, 512, 1198, and Applicable IWC Wage Orders

(Alleged by all PLAINTIFFS, individually and on behalf of the Non-Exempt Class, against all DEFENDANTS)

65. PLAINTIFFS herein re-allege and incorporate by reference each allegation contained in the previous paragraphs as though fully set forth herein.

66. California Labor Code section 512(a) provides, in part, that employers "may not employ an employee for a work period of more than five hours per day without providing an employee with a meal period of not less than 30 minutes" and "may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes."

67. California Labor Code section 226.7 subdivision (b) requires that employers provide their employees with meal and rest periods as mandated by the applicable IWC Wage Order and prohibits employers from requiring any employee "to work during any meal ... period mandated by an applicable order of the Industrial Welfare Commission."

68. California Labor Code section 226.7 subdivision (c) states that "[i]f an employer fails to provide an employee a meal or rest ... period in accordance with a state law... the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest ... period is not provided."

69. California Labor Code section 1198 provides that the standard conditions of labor fixed by the wage orders are the standard condition of labor for employees and that the "employment of any employee ... under conditions of labor prohibited by the order is unlawful."

70. The "Meal Periods" section of the applicable IWC Wage Order states, "[n]o employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, except that when a work period of not more than six (6) hours

1 will complete the day's work the meal period may be waived by mutual consent of employer and
2 employee.

3 71. The "Meal Periods" section of the applicable IWC Wage Order further states,
4 "[u]nless the employee is relieved of all duty during a 30-minute meal period, the meal period shall
5 be considered an 'on duty' meal period and counted as time worked. An 'on duty' meal period shall
6 only be permitted when the nature of the work prevents an employee from being relieved of all
7 duty and when, by written agreement between the parties, an on-the-job paid meal period is agreed
8 to and complies with Labor Code Section 512." No written agreement exists between Defendants
9 and Plaintiff, or, on information and belief, Defendants and the Aggrieved Employees.

10 72. The "Meal Periods" section of the applicable IWC Wage Order further states, "[i]f
11 an employer fails to provide an employee a meal period in accordance with the applicable
12 provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's
13 regular rate of compensation for each workday that the meal period is not provided."

14 73. DEFENDANTS failed to provide PLAINTIFFS and, on information and belief, the
15 Non-Exempt Class, statutory complaint duty-free 30-minute meal periods.

16 74. The "Rest Periods" section of the applicable IWC Wage Order states, "[e]very
17 employer shall authorize and permit employees to take rest periods, which insofar as practicable
18 shall be in the middle of each work period. . .The authorized rest period time shall be based on the
19 total hours worked daily at the rate of ten (10) minutes net rest time for every four (4) hours worked
20 or major fraction thereof."

21 75. The "Rest Periods" section of the applicable IWC Wage Order further states, "[i]f
22 an employer fails to provide an employee a rest period in accordance with the applicable provisions
23 of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular
24 rate of compensation for each workday that the rest period is not provided."

25 76. California case law establishes that employers must relieve employees of all duties
26 during rest breaks and relinquish any control over how employees spend their break time.

27 77. DEFENDANTS failed to provide PLAINTIFFS and, on information and belief, the
28 Non-Exempt Class, statutory complaint duty-free 10-minute rest periods.

1 78. DEFENDANTS failed to provide PLAINTIFFS and, on information and belief, the
2 Non-Exempt Class, an additional hour of pay for each day a legally compliant meal or rest period
3 was not provided.

4 79. PLAINTIFFS and, on information and belief, the Non-Exempt Class suffered
5 losses related to the use and enjoyment of compensation due and owing to them as a direct result
6 of DEFENDANTS' unlawful acts and labor code violations in an amount to be shown according
7 to proof at trial and within the jurisdictional limitations of this Court.

8 80. PLAINTIFFS seeks all available remedies for DEFENDANTS' violations,
9 including, but not limited to, all wages due, monies, interest, attorney's fees, and costs to the extent
10 permitted by law.

11
12 **FOURTH CAUSE OF ACTION**

13 **Failure to Reimburse Employee for Necessary Expenditures in**

14 **Violation of Labor Code § 2802**

15 (Alleged by all PLAINTIFFS, individually and on behalf of the Non-
16 Exempt Class, against all DEFENDANTS)

17 81. PLAINTIFFS herein re-allege and incorporate by reference each allegation
18 contained in the previous paragraphs as though fully set forth herein.

19 82. California Labor Code section 2802 subdivision (a) requires an employer to
20 indemnify its employees for all necessary expenditures or losses incurred by an employee in direct
21 consequence of the discharge of his or her duties of employment.

22 83. California Labor Code § 2802 subdivision (c) states, "[f]or the purposes of this
23 section, the term 'necessary expenditures or losses' shall include all reasonable costs, including,
24 but not limited to, attorney's fees incurred by the employee enforcing the rights granted by this
25 section."

26 84. The "Uniforms and Equipment" section of the applicable Wage Order provides that
27 "[w]hen the employer requires uniforms to be worn by the employee as a condition of employment,
28 such uniforms shall be provided and maintained by the employer. The term 'uniform' includes
29 wearing apparel and accessories of distinctive design and color."

85. DEFENDANTS failed to reimburse PLAINTIFFS and, on information and belief, the Non-Exempt Class for all necessary expenses incurred in the discharge of their duties, as required by California Labor Code section 2802. For example, DEFENDANTS required PLAINTIFFS and, on information and belief, the Non-Exempt Class to purchase items such as uniforms for the discharge of their job duties and failed to reimburse them for these items.

86. PLAINTIFFS and, on information and belief, the Non-Exempt Class suffered losses related to the use and enjoyment of reimbursement due and owing to them as a direct result of DEFENDANTS' unlawful acts and labor code violations in an amount to be shown according to proof at trial and within the jurisdictional limitations of this Court.

87. PLAINTIFFS seeks all available remedies for DEFENDANTS' violations, including, but not limited to, monies, interest, attorney's fees, and costs to the extent permitted by law.

FIFTH CAUSE OF ACTION

Penalties for Failure to Furnish Timely and Accurate Wage

Statements in Violation of Labor Code § 226

(Alleged by all PLAINTIFFS, individually and on behalf of the Non-Exempt Class, against all DEFENDANTS)

88. PLAINTIFFS herein re-allege and incorporate by reference each allegation contained in the previous paragraphs as though fully set forth herein.

89. California Labor Code section 226 subdivision (a) requires an employer to furnish its employees with an accurate itemized statement in writing showing, among other things: (a) all applicable hourly rates in effect during each respective pay period and corresponding number of hours worked by each respective individual; (b) total hours worked by each respective individual; (c) gross wages earned; (d) all deductions; (e) inclusive dates of the period for which the employee is paid; (f) the name of the employee and an employee identification or social security number; and (g) the name and address of the legal entity that is the employer.

90. California Labor Code section 226 subdivision (e)(2)(B) provides that "[a]n employee is deemed to suffer injury for purposes of this subdivision if the employer fails to provide accurate and complete information as required by any one or more of items (1) to (9), inclusive, of subdivision (a) and the employee cannot promptly and easily determine from the wage statement

1 alone one or more of the following: (i) [t]he amount of the gross wages or net wages paid to the
2 employee during the pay period or any of the other information required to be provided on the
3 itemized wage statement pursuant to items (2) to (4), inclusive, (6), and (9) of subdivision (a)."

4 91. California Labor Code section 226 subdivision (e)(1) provides that "[a]n employee
5 suffering injury as a result of a knowing and intentional failure by an employer to comply with
6 subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the
7 initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for
8 each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand
9 dollars (\$4,000), and is entitled to an award of costs and reasonable attorney's fees."

10 92. DEFENDANTS failed to provide PLAINTIFFS and, on information and belief, the
11 Non-Exempt Class, accurate and itemized wage statements, as the wage statements did not report
12 the regular and overtime hours that PLAINTIFFS and, on information and belief, the Non-Exempt
13 Class, worked during their non-statutory complaint meal periods.

14 93. DEFENDANTS' failure to provide accurate itemized wage statements constitutes
15 an injury as defined under California Labor Code section 226 subdivision (e)(2)(B). PLAINTIFFS
16 and, on information and belief, the Non-Exempt Class are entitled to recover the greater of his
17 actual damages or the statutory damages in an amount to be proven at trial.

18 94. PLAINTIFFS seeks all available remedies for Defendants' violations, including,
19 but not limited to, actual or statutory damages, interest, attorney's fees, and costs to the extent
20 permitted by law.

21 **SIXTH CAUSE OF ACTION**

22 **Failure to Timely Pay Wages in Violation of Labor Code § 204**

23 (Alleged by all PLAINTIFFS, individually and on behalf of the Non-
24 Exempt Class, against all DEFENDANTS)

25 95. PLAINTIFFS herein re-allege and incorporate by reference each allegation
26 contained in the previous paragraphs as though fully set forth herein.

27 96. California Labor Code section 204 subdivision (a) provides that all wages earned
28 by any person in any employment are due and payable twice during each calendar month.

29 97. California Labor Code section 210 provides that, for any wages not timely paid, an
30 employee may recover as a statutory penalty one hundred dollars (\$100) for the initial violation of
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1 Labor Code section 204 and two hundred dollars (\$200) plus twenty-five percent of the unpaid
2 wages for each subsequent violation.

3 98. California Labor Code section 1198 provides that the standard conditions of labor
4 fixed by the wage orders are the standard condition of labor for employees and that the
5 "employment of any employee ... under conditions of labor prohibited by the order is unlawful."

6 99. The term "hours worked" of the applicable IWC Wage Order is defined as "the time
7 during which an employee is subject to the control of an employer, and includes all the time the
8 employee is suffered or permitted to work, whether or not required to do so."

9 100. The "Meal Periods" section of the applicable IWC Wage Order states, "[u]nless the
10 employee is relieved of all duty during a 30-minute meal period, the meal period shall be
11 considered an 'on duty' meal period and counted as time worked."

12 101. Because such meal period counts as time worked, DEFENDANTS failed to pay
13 PLAINTIFFS timely and, upon information and belief, the Non-Exempt Class, all wages earned.

14 102. PLAINTIFFS and, on information and belief, the Non-Exempt Class suffered
15 losses related to the use and enjoyment of compensation due and owing to them as a direct result
16 of DEFENDANTS' unlawful acts and labor code violations in an amount to be shown according
17 to proof at trial and within the jurisdictional limitations of this Court.

18 103. PLAINTIFFS seeks all available remedies for Defendants' violations, including,
19 but not limited to, all wages due, monies, interest, statutory penalties, attorney's fees, and costs to
20 the extent permitted by law.

21 22 **SEVENTH CAUSE OF ACTION**

23 **Penalties for Failure to Pay All Wages Due Upon Discharge in**

24 **Violation of Labor Code §§ 202, 203**

25 (Alleged by all PLAINTIFFS, individually and on behalf of the Waiting
26 Time Penalty Subclass, against all DEFENDANTS)

27 104. PLAINTIFFS herein re-alleges and incorporates by reference each allegation
28 contained in the previous paragraphs as though fully set forth herein.

29 105. California Labor Code section 201 requires employers to immediately pay any
30 wages, without abatement or reduction, to any employee who is discharged. California Labor Code

1 section 202 requires employers to pay all wages due and owing to an employee not having a written
2 contract for a definite period who quits his or her employment within 72 hours of the employee
3 quitting his or her employment unless the employee has given 72 hours previous notice of his or
4 her intention to leave, in which case the employee is entitled to his or her wages at the time of
5 quitting.

6 106. For violation of California Labor Code sections 201 and 202, California Labor
7 Code section 203 causes the unpaid wages of an employee to continue as a penalty from the due
8 date thereof, at the same rate until paid or until an action is commenced, but the wages shall not
9 continue for more than 30 days.

10 107. DEFENDANTS willfully failed to pay PLAINTIFFS and, upon information and
11 belief, the Non-Exempt Class all wages due and owing to them, including minimum wages,
12 overtime wages, and regular wages for all the time he suffered or was permitted to work, as well
13 as all meal period premiums and rest period premiums owed within the time required by California
14 Labor Code sections 202 or 203. To date, PLAINTIFFS and, upon information and belief, the
15 Waiting Time Penalties Subclass have not yet received all wages due and payable, including but
16 not limited to minimum wages, overtime wages, regular wages, and meal and rest period premium
17 wages owing to him.

18 108. PLAINTIFFS seeks all available remedies for DEFENDANTS' violations,
19 including, but not limited to, statutory penalties, interest, attorney's fees, and costs to the extent
20 permitted by law.

21 **SEVENTH CAUSE OF ACTION**
22 **REPRESENTATIVE CLAIMS UNDER THE CALIFORNIA**
23 **PRIVATE ATTORNEYS GENERAL ACT OF 2004,**
24 **(Labor Code § 2698, et seq.)**

25 (Alleged by all PLAINTIFFS, in a representative capacity, against all
26 DEFENDANTS)

27 109. PLAINTIFFS herein re-allege and incorporate by reference each allegation
28 contained in the previous paragraphs as though fully set forth herein.

29 110. Pursuant to Labor Code section 2699(a), any provision of the Labor Code that
30 provides for a civil penalty to be assessed and collected by the LWDA or any of its departments,
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1 divisions, commissions, boards, agencies, or employees for violation of the code may, as an
2 alternative, be recovered through a civil action brought by an aggrieved employee on themselves
3 and other current or former employees pursuant to the procedures specified in Labor Code section
4 2699.3.

5 111. This cause of action involves allegations of violations of provisions of the Labor
6 Code that provide for a civil penalty to be assessed and collected by the LWDA or recovered
7 through a civil action brought by an aggrieved employee on behalf of himself or herself and other
8 current or former employees pursuant to the procedures specified in Labor Code section 2699.3.

9 112. DEFENDANTS employed PLAINTIFFS, and PLAINTIFFS had one or more of
10 the alleged violations committed against them. Therefore, PLAINTIFFS are "aggrieved
11 employees" under PAGA because the alleged violator employed them, and they had one or more
12 of the alleged violations committed against them. As such, Each of the PLAINTIFFS is properly-
13 suited to represent the interests of other aggrieved employees in a PAGA Representative action.

14 113. PLAINTIFFS seek to recover civil penalties, including underpaid wages, pursuant
15 to Labor Code sections 558, 558.1, 1174.5, 1197.1, and 2699 on behalf of themselves and other
16 aggrieved employees for DEFENDANTS' violations of the Labor Code, including but not limited
17 to Defendants' violations of Labor Code sections 201,202, 203, 226, 226.7, 510, 512, 1174, 1194,
18 1194.2, 1197, 1198 and 2802.

19 114. For all provisions of the Labor Code for which a civil penalty is not specifically
20 provided, Labor Code § 2699(f) imposes upon DEFENDANTS, and each of them, a penalty of
21 one hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation
22 and two hundred dollars (\$200.00) for each aggrieved employee per pay period for each
23 subsequent violation.

24 115. DEFENDANTS violated Labor Code sections 226.7, 512, and 1198 by failing to
25 provide PLAINTIFFS and, upon information and belief, other aggrieved employees lawfully
26 compliant meal periods and by failing to pay them meal period premium wages for each day a
27 meal period was not provided.

28 116. Under Labor Code section 558, DEFENDANTS are subject to a civil penalty of
29 fifty dollars (\$50) for each aggrieved employee per pay period for the initial violation of Labor
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Code sections 512 and one hundred dollars (\$100) for each aggrieved employee per pay period for each subsequent violation.

117. Under Labor Code section 2699(f)(2), DEFENDANTS are subject to a civil penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation of Labor Code sections 226.7 and 1098, and two hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent violation.

118. DEFENDANTS violated Labor Code sections 1194, 1197, and 1198 by not paying PLAINTIFFS and, upon information and belief, other aggrieved employees at least minimum and regular wages for all the time they were suffered or permitted to work, engaged in work or under DEFENDANTS' control, as alleged herein.

119. Under Labor Code § 2699(f)(2), DEFENDANTS are subject to a civil penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation of Labor Codes sections 1194, 1197, and 1198, and two hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent violation.

120. DEFENDANTS violated Labor Code sections 510 and 1198, by not paying PLAINTIFFS and, upon information and belief, other aggrieved employees all overtime wages earned for all the time they were suffered or permitted to work, engaged in work, or were under DEFENDANTS' control as alleged herein.

121. PLAINTIFFS and, upon on information and belief, other aggrieved employees were not paid all overtime when they worked in excess of eight hours a workday or forty hours in a workweek.

122. Under Labor Code section 558, DEFENDANTS are subject to a civil penalty of fifty dollars (\$50) for each aggrieved employee per pay period for the initial violation of Labor Code sections 510 and one hundred dollars (\$100) for each aggrieved employee per pay period for each subsequent violation.

123. Under Labor Code § 2699(f)(2), DEFENDANTS are subject to a civil penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation of Labor Code section 1198 and two hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent violation.

124. Defendants violated Labor Code § 2802 by failing to reimburse PLAINTIFFS and, upon information and belief, other aggrieved employees for necessary expenses incurred in the discharge of their duties of employment.

125. Under Labor Code section 2699(f)(2), DEFENDANTS are subject to a civil penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation of Labor Code section 2802 and two hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent violation.

126. DEFENDANTS violated Labor Code sections 201, 202, and 203 by not paying PLAINTIFFS and, upon information and belief, other aggrieved employees all minimum, regular, and overtime wages owed, and all meal, rest, and recovery premium wages owed by the time set forth by law upon their separation of employment, as alleged herein.

127. Under Labor Code § 2699(f)(2), DEFENDANTS are subject to a civil penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation of Labor Code sections 201, 201, and 203 and two hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent violation.

128. DEFENDANTS violated Labor Code sections 226 and 1198 by failing to maintain records detailing the start and end times of work shifts and meal periods and knowingly and intentionally failing to maintain and provide PLAINTIFFS and, upon information and belief, other aggrieved employees of DEFENDANTS with wage statements itemizing accurately all information required by Labor Code § 226(a), as alleged herein, including the total hours worked, all regular hours worked, all overtime hours worked, the applicable hourly rate per hour worked, and the total wages earned.

129. Under Labor Code section 226.3, DEFENDANTS are subject to a civil penalty of two hundred fifty dollars (\$250) for each aggrieved employee per pay period for the initial violation of Labor Code section 226 and one thousand dollars (\$1000) for each aggrieved employee per pay period for each subsequent violation.

130. Defendants violated Labor Code sections 204 and 1198 by not paying Plaintiff and aggrieved employees all minimum, regular, and overtime wages owed, and all meal, rest, and recovery premium wages owed by the time set forth by law during their employment, as alleged herein.

131. Under Labor Code section 210, DEFENDANTS are subject to a penalty of one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation of Labor Code section 204 and one hundred dollars (\$200) plus twenty-five percent of the unpaid wages for each aggrieved employee per pay period for each subsequent violation. This penalty can be recovered by an employee as a statutory penalty or by the LWDA as a civil penalty, but not both. To the extent that the penalty is not recovered by the employee as a statutory penalty, PLAINTIFFS seek to recover these penalties as a civil penalty.

132. DEFENDANTS violated Labor Code section 1174 by failing to maintain accurate records required under Labor Code section 1174 subdivision (d).

133. Under Labor Code section 1174.5, DEFENDANTS are subject to a civil penalty of five hundred dollars (\$500) for violating Labor Code section 1174.

134. For bringing this action, Plaintiff is additionally entitled to attorney's fees and costs incurred herein.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff David Harris prays for judgment against Colony Palms, LLC,
as follows:

1. For general and special damages;
2. For an award of damages in the amount of unpaid compensation and monies including, but not limited to, actual damages, unpaid wages, minimum wages, regular wages, and overtime wages;
3. For an award of an additional hour of pay at the regular rate of compensation for each non-compliant meal or rest period under California Labor Code section 226.7 and applicable IWC Wage Orders;
4. For liquidated damages to the extent permissible by law, including those under California Labor Code section 1194.2;
5. For statutory damages to the extent permissible by law, including those under California Labor Code section 226;

- 1 6. For statutory penalties to the extent permissible by law, including those under
2 California Labor Code sections 203 and 210;
3 7. For indemnification of all losses incurred as a result of employment with Defendants;
4 8. For costs of suit;
5 9. For pre-judgment and post-judgment interest to the extent permitted by law;
6 10. For reasonable attorneys' fees to the extent permitted by law; and
7 11. Such other and further relief as the Court deems just and proper.
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10 **DEMAND FOR JURY TRIAL**

11 PLAINTIFFS hereby demand a trial by jury as to all causes of action.
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14 Dated: October 28, 2024

15 By: John K. Landay
16 John K. Landay
17 Landay Roberts LLP
18 Attorneys for Plaintiffs David Harris.
19 Khaleehan Curtis, Marisol Olivera, and
20 Fabiola Delgado
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