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JUAL F. REYES, ESQ. (SBN #237043)
LAW OFFICES OF JUAL F. REYES
A PROFESSIONAL LAW CORPORATION
100 N. Brand Blvd, Suite 532
Glendale, CA 91203
Tel: (818) 334-6389
Fax: (877) 227-5276

Attorneys for Plaintiff JASON CORREA

FILED
Superior Court of California
County of Los Angeles
06/13/2024
David W. Slayton, Executive Officer / Clerk of Court
By: N. Osollo Deputy

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

JASON CORREA, an Individual; and on	)	CASE NO. 24STCV10563	Dept. 3
behalf of All Other Aggrieved Employees,	)		
	)	FIRST AMENDED COMPLAINT	
Plaintiffs,	)	FOR:	
	)		
v.	)	1. FAILURE TO PAY MINIMUM	
	)	WAGE;	
THISTLE HEALTH INC., a Corporation;	)	2. FAILURE TO PAY OVERTIME	
ASHWIN CHERIYAN, an Individual;	)	COMPENSATION;	
KYUSIK CHUNG, an Individual; and DOES	)	3. FAILURE TO REIMBURSE FOR	
1 through 25, Inclusive,	)	BUSINESS EXPENSES;	
	)	4. FAILURE TO PROVIDE	
Defendants.	)	ITEMIZED AND ACCURATE	
	)	WAGE AND HOUR	
	)	STATEMENTS;	
	)	5. FAILURE TO PROVIDE REST	
	)	BREAKS;	
	)	6. FAILURE TO PROVIDE MEAL	
	)	PERIODS;	
	)	7. WAITING TIME PENALTIES;	
	)	8. VIOLATION OF BUSINESS AND	
	)	PROFESSIONS CODE §17200;	
	)	9. FAILURE TO PROVIDE	
	)	GRATUITIES; AND	
	)	10. VIOLATION OF LABOR CODE	
	)	§§ 2698, et seq. ("PAGA").	
	)		
	)	DEMAND FOR JURY TRIAL	

Plaintiffs JASON CORREA, by and through his counsel of record, claims and alleges as follows:

PARTIES

1. Plaintiff, JASON CORREA (“Plaintiff” and/or “Correa”), an individual who, at all times relevant to this action, was employed by Defendants THISTLE HEALTH INC., ASHWIN CHERIYAN, KYUSIK CHUNG (collectively “Defendants”), and resided in the County of Los Angeles, State of California.

2. Plaintiff is informed, believes, and thereupon alleges that Defendant THISTLE HEALTH INC. (hereinafter “Thistle”) is and was a corporation, doing business in the County of Los Angeles, State of California, with its principal place of business and headquarters located in California, and was Plaintiff’s employer at all times relevant.

3. Plaintiff is informed, believes, and thereupon alleges that Defendant ASHWIN CHERIYAN (hereinafter “Cheriyán”) is and was the Chief Executive Officer, Secretary, and managing agent of Defendant Thistle, was the joint employer of Plaintiff, and based upon knowledge and belief, is a resident of Los Angeles County, State of California. As a result of acting on behalf of Defendant Thistle in connection with the violation of numerous Labor Code Sections set forth in the allegations below, Defendant Cheriyán is also being sued in his capacity as an owner, director, officer, or managing agent of Defendant Thistle pursuant to Labor Code §§ 558 and 558.1. Defendant Cheriyán violated and/or caused to be violated numerous Labor Code provisions set forth in the allegations below.

4. Plaintiff is informed, believes, and thereupon alleges that Defendant KYUSIK CHUNG (hereinafter “Chung”) is and was the Chief Financial Officer, and managing agent of Defendant Thistle, was the joint employer of Plaintiff, and based upon knowledge and belief, is a resident of Los Angeles County, State of California. As a result of acting on behalf of Defendant Thistle in connection with the violation of numerous Labor Code Sections set forth in the allegations below, Defendant Chung is also being sued in his capacity as an owner, director, officer, or managing agent of Defendant Thistle pursuant to Labor Code §§ 558 and 558.1. Defendant Chung violated and/or caused to be violated numerous Labor Code provisions set forth in the allegations below.

5. Plaintiff is ignorant of the true names and capacities, whether individual,

1 corporate, associate or otherwise, of the Defendants sued herein under fictitious names DOES 1
2 through 25, inclusive, and for that reason sue said Defendants, and each of them, by such
3 fictitious names.

4 6. Plaintiff is informed, believes, and thereupon alleges that each of the Defendants
5 DOES 1 through 25, inclusive, is and was in some manner responsible for, participated in, or
6 contributed to the matters and things of which Plaintiff complains herein, and in some fashion,
7 has legal responsibility therefore. When Plaintiff ascertains the names and capacities of the
8 fictitiously named Defendants DOES 1 though 25, inclusive, Plaintiff will seek leave to amend
9 this Complaint to set forth such facts.

10 7. Plaintiff is informed, believes, and thereupon alleges that each Defendant is, and
11 at all times relevant herein was, the agent of his, her, or its co-defendants, and in committing the
12 acts alleged herein, was acting within the scope of his, her, or its authority as such agent, and
13 with the knowledge, permission, and consent of his, her, or its co-defendants.

14 **JURISDICTION AND VENUE**

15 8. The California Superior Court has jurisdiction in this matter due to Defendants'
16 violations of the California Labor Code, California Business and Professions Code, California
17 statutes and common law principles.

18 9. This Court also has jurisdiction in this matter because monetary damages and
19 restitution sought herein exceed the minimal jurisdictional limits of the Superior Court and will
20 be established at trial, according to proof. This Court also has jurisdiction in this matter as the
21 acts complained of occurred in the County of Los Angeles, State of California where Defendants
22 conduct substantial business.

23 10. Venue is proper in Los Angeles County pursuant to California Code of Civil
24 Procedure §395 et seq. because liability arose there and at least some, if not all, of the
25 transactions that are the subject matter of this Complaint occurred therein and/or each Defendant
26 either is found, maintains offices, transacts business and/or has an agent therein.

27 **ALTER-EGO ALLEGATIONS**

28 11. Plaintiff is informed and believes and thereon alleges that Defendants Cheriyan

1 and Chung at all times relevant hereto were residents of the State of California, and at all times
2 mentioned herein held executive positions with and were a managing and controlling agents and
3 acted on behalf of Defendant Thistle, which included decision-making responsibility for
4 Defendant Thistle as well as possessing economic and operational control of the corporation.

5 12. Plaintiff is informed and believes and thereon alleges that Defendants Cheriyan
6 and Chung are the managers and controlling officers and directors of Defendant Thistle. There
7 exists and at all times mentioned has existed, a unity of interest and ownership between
8 Defendants Cheriyan and Chung on the one hand and Defendant Thistle on the other, such that
9 any individuality and separateness among these Defendants and individuals, and each of them,
10 have ceased, and that Defendant Thistle is the alter ego of Defendants Cheriyan and Chung.

11 Plaintiff is informed and believes, and thereon alleges, that:

12 A. Defendants Cheriyan and Chung have completely controlled, dominated,
13 managed and operated Defendant Thistle for their sole and exclusive benefit;

14 B. Defendants Cheriyan and Chung were the equitable owners and persons in charge
15 of Defendant Thistle.

16 C. Defendants Cheriyan and Chung commingled the assets of the corporation with
17 their own assets to suit their needs and convenience.

18 D. Defendants Cheriyan and Chung have failed to maintain the proper degree of
19 separateness with Defendant Thistle and have failed to observe corporate formalities. The
20 activities of Defendant Thistle have been carried out without the holding of corporate formalities,
21 meetings, and proper records or minutes of corporate proceedings have not been maintained.

22 E. Defendants Cheriyan and Chung at all times herein mentioned, have controlled
23 and operated Defendant Thistle, and other corporations, devised to avoid individual agency and
24 respondeat superior liability, and for the purpose of substituting a financially insolvent
25 corporation with limited financial resources, in the place of Defendants Cheriyan and Chung.

26 F. Defendants Cheriyan and Chung have so inadequately capitalized Defendant
27 Thistle, and other corporations, compared with the business to be done by said corporation's and
28 risks of loss attendant thereto, that their capitalization is trifling and/or illusory. Plaintiff is

1 informed and believes, and thereon alleges that Defendants Cheriyan and Chung have committed
2 additional acts and omissions sufficient to impose alter ego liability. Additional acts and
3 omissions on the part of Defendants Cheriyan and Chung consistent with those factors listed in
4 *Associated Vendors, Inc. v. Oakland Meet Co.* (1962) 210 Cal. App. 2d 825, 838-840, and
5 subsequent cases, will be more fully developed through discovery during this litigation.
6 An inequitable result will ensue if the corporate veil is not pierced, including, but not limited to,
7 Plaintiff's inability to recover damages for violations of the California Labor Code and California
8 Business and Professions Code as set forth in further detail below. As such, adherence to the
9 fiction of the separate existence of Defendant Thistle as an entity distinct from Defendants
10 Cheriyan and Chung would permit an abuse of corporate privilege, sanction fraud and promote
11 injustice. Defendant Thistle, as a corporation, has insufficient assets to respond to the ultimate
12 award of general damages, special damages, attorneys' fees, costs, and interest in this action.

13 **GENERAL ALLEGATIONS**

14 13. On or about January 24, 2020, Plaintiff began his employment with Defendants as
15 a delivery driver. During Plaintiff's employment with Defendants, he was an exemplary
16 employee and performed his duties with the highest standards. However, Plaintiff was subject to
17 ongoing wage and hour violations committed by Defendants. Plaintiff was ultimately forced to
18 resign on or about February 28, 2024 as a result of said ongoing wage and hour violations
19 committed by Defendants.

20 14. Defendants are a food preparation and delivery company which deliver fully
21 prepared meals and juices to customer homes and businesses through the use of delivery drivers
22 such as Plaintiff.

23 15. Defendants required Plaintiff to use his personal vehicle in order to make
24 deliveries in the course of his employment.

25 16. Throughout Plaintiff's employment, Defendants intentionally and willfully failed
26 to pay minimum wages due each pay period, failed to pay overtime wages, and failed to pay
27 mileage reimbursement expenses to Plaintiff in violation of Labor Code §§ 204, 210, 510, 1194,
28 1197, 1197.2, and 2802 for the time he worked for Defendants returning from his last delivery to

1 home and/or the fulfillment center, and time traveling from home to the fulfillment center, while
2 carrying a large volume of Defendants' reusable storage bags and ice packs in his vehicle which
3 did not allow him to use his time driving effectively for his own purposes.

4 17. On average, Plaintiff was required to pick-up and transport 100 pounds of
5 reusable storage bags and icepacks from customer homes and businesses with the use of his
6 personal vehicle. Such a large volume of Defendants' property required a substantial use of
7 Plaintiff's vehicle space which rendered his vehicle useless for any other purpose other than
8 storage and transport of Defendants' property.

9 18. Moreover, Plaintiff was required to clean, organize, and store said bags and
10 icepacks. However, said bags and ice packs contained hazardous, dangerous, and putrid
11 substances and materials. Said hazardous, unsafe, and putrid substances and materials, included,
12 but were not limited to: soiled diapers, feces, blood, human waste, bodily fluids, used condoms,
13 spiders, cockroaches, spoiled and rotting food, trash, mold, and other hazardous and noxious
14 materials.

15 19. Despite being forced to transport, clean, organize, and store said bags and ice
16 packs, Plaintiff was not paid wages or reimbursed for mileage expenses incurred in connection
17 with transporting, cleaning, organizing, and storing said bags.

18 20. Also, Plaintiff was required to self-perform an off-the-clock COVID-19 screening
19 before starting his shift. Plaintiff was not paid wages in connection with this off the clock work.

20 21. Further, Defendants intentionally and willfully failed to provide Plaintiff with net
21 rest time of 10 minutes for every 4 hours worked, or major fraction thereof, where he was
22 relieved of all duties in violation of Labor Code § 226.7.

23 22. Additionally, Defendants intentionally and willfully failed to provide Plaintiff
24 with 30-minute meal periods for every 5 hours of work, where he was relieved of all duties in
25 violation of Labor Code §§ 226.7 and 512.

26 23. Defendants intentionally and willfully failed to provide Plaintiff with the
27 opportunity to take uninterrupted 30-minute meal periods and 10-minute rest breaks because they
28 issued numerous delivery routes to Plaintiff which did not provide Plaintiff with the opportunity

1 to take a 30-minute uninterrupted meal periods and 10-minute rest breaks. Furthermore,
2 Defendants required Plaintiff to work off the clock as set forth above and during that time period
3 did not provide 30-minute meal periods and 10-minute rest breaks.

4 24. Defendants intentionally and willfully misappropriated tips and gratuities from
5 Plaintiff by collecting, taking, and receiving said tips in violation of Labor Code §§ 350 and 351.
6 Moreover, Defendants at all times had a policy and practice of illegally allocating said tips to the
7 owner, directors, corporate agents, managers, supervisors, and non-employees. Also, the tip
8 pooling distributions to Plaintiff were not fair and reasonable. In addition, Defendants' alleged
9 tip pooling policy failed to define what if any employees were entitled to receive tips, how tips
10 were calculated, and Defendants allocated said tips to individuals that were not in the chain of
11 service.

12 25. Defendants also violated Labor Code § 226 by knowingly and intentionally
13 failing to provide accurate itemized wage statements to Plaintiff. Specifically, Defendants had a
14 policy and practice of failing to include on wage statements the following: gross wages earned,
15 net wages earned, total hours worked by the employee, and all applicable hourly rates in effect
16 during the pay period and the corresponding number of hours worked at each hourly rate by the
17 employee.

18 26. The above conduct constituted fraudulent business practices under California
19 Business and Professions Code § 17200 et seq.

20 27. Plaintiff is informed and believes, and based thereon alleges that Defendants
21 controlled or affected the working conditions, wages, working hours, scope and conditions of
22 employment of Plaintiff during Plaintiff's employment with Defendants.

23 **PAGA ALLEGATIONS**

24 28. Plaintiff alleges and incorporates herein by this reference each and every
25 allegation set forth in all previous paragraphs of the Complaint.

26 29. Defendants violated Labor Code §§ 201, 202, 203, 558, and 558.1 by
27 intentionally and willfully failing to pay Plaintiff and all other aggrieved employees, all wages
28 due at the time they are discharged or quit. Labor Code § 203 provides that if "an employer

1 willfully fails to pay...any wages of an employee who is discharged or who quits, the wages of
2 the employee shall continue as a penalty from the due date thereof at the same rate until paid or
3 until an action therefor is commenced; but the wages shall not continue for more than 30 days.”

4 30. Here, Plaintiff and all other aggrieved employees were not paid all wages due
5 upon their separation from Defendants’ employ and/or within seventy-two (72) hours of their
6 resignation and Employer failed to pay those sums for thirty (30) days thereafter in violation of
7 Labor Code §§ 201, 202, 203, 558, and 558.1. (See *Huff v. Securitas Security Services USA Inc.*
8 (2018) 23 Cal. App. 5th 745, 754, reh’g denied (June 13, 2018), review denied (Aug. 8, 2018),
9 allowing named Plaintiff to pursue PAGA penalties for violations that he may not have
10 personally suffered.

11 31. Defendants violated Labor Code §§ 226(a), 226.3, 558, and 558.1 by knowingly
12 and intentionally failing to provide accurate itemized wage statements to Plaintiff and all other
13 aggrieved employees. Specifically, Defendants had a policy and practice of failing to include
14 accurate information on wage statements, including, but not limited to, the following
15 information: gross wages earned, net wages earned, total hours worked by the employee, and all
16 applicable hourly rates in effect during the pay period and the corresponding number of hours
17 worked at each hourly rate by the employee.

18 32. Defendants violated Labor Code §§ 1174(d) and 1174.5 by knowingly and
19 intentionally failing to maintain complete and accurate payroll records showing when Plaintiff
20 and all other aggrieved employees begin and end each work period; total hours worked in the
21 payroll period and applicable pay rates; and total wages paid each payroll period, as required by
22 *Industrial Welfare Commission Wage Order* Nos. 9-2001(7) and the above Labor Codes.

23 33. Defendants violated Labor Code §§ 204, 210, 558, and 558.1 by intentionally and
24 willfully failing to pay all wages due during each pay day to employees, including, but not
25 limited to, Plaintiff and all other aggrieved employees. Specifically, Defendants failed to pay
26 wages to said employees for time returning from their last delivery to home and/or the
27 fulfillment center and time traveling from home to the fulfillment center, while carrying a large
28 volume of Defendants’ reusable storage bags and ice packs in their vehicles which did not allow

1 them to use their time driving effectively for their own purposes. On average, Plaintiff and all
2 other aggrieved employees were required to pick-up and transport 100 pounds of reusable
3 storage bags and icepacks. Such a large volume of Defendants' property required a substantial
4 use of said employees' vehicle space which rendered their vehicles useless for any other purpose
5 other than storage and transport of Defendants' property. In addition, Plaintiff and all other
6 aggrieved employees were required to clean the bags and ice packs as they often contained
7 hazardous and dangerous materials. In addition to not being paid wages for transporting the bags
8 and icepacks, said employees were not paid wages for the hours they spent cleaning, organizing,
9 and storing said bags. Also, Plaintiff and all other aggrieved employees were required to self-
10 perform an off-the clock COVID 19 screening before starting their shifts. Plaintiff and all
11 aggrieved employees were not paid wages in connection with this off the clock work. Thus,
12 Plaintiff and all other aggrieved employees were subject to the control of Defendants; and
13 engaged, suffered, and permitted said employees to work for Defendants during this time.

14 34. Defendants violated Labor Code §§ 223, 1194, 1197, 1197.1 and Industrial
15 Welfare Commission Wage Order Nos. 9-2001(4) by failing to pay wages to Plaintiff and all
16 other aggrieved employees in an amount equal to or greater than the minimum wage for all hours
17 worked, as required by Labor Code §§ 1194, 1197, and 1197.1 and Industrial Welfare
18 Commission Wage Order Nos. 9-2001(4). All hours must be paid at the statutory or agreed rate
19 and no part of this rate may be used as a credit against a minimum wage obligation. Defendants
20 did not compensate Plaintiff and all other aggrieved employees for time spent working off the
21 clock.

22 35. Defendants violated Labor Code §§ 510, 1194, 558, and 558.1 by failing to pay
23 for all premium overtime wages earned by Plaintiff and all other aggrieved employees.
24 Specifically, Defendants had a policy and practice of failing to pay employees 1.5 times their
25 regular rate of pay despite working more than 8 hours per day and/or more than 40 hours per
26 week. In fact, Plaintiff and all other aggrieved employees regularly worked over 8 hours per day
27 during shifts as a result of being forced to pick-up, transport, clean, and store Defendants'
28 reusable storage bags and icepacks referenced above with the use of their vehicles, but were not

1 compensated for overtime worked. Also, Plaintiff and all other aggrieved employees were
2 required to self-perform an off-the clock COVID 19 screening before starting their shifts.
3 Plaintiff and all aggrieved employees were not paid overtime wages in connection with this off
4 the clock work. Despite working overtime hours off the clock, Defendants had a pattern and
5 practice of willfully refusing to pay Plaintiff and all other aggrieved employees during each pay
6 period date for hours worked off the clock and failed to pay said employees overtime pay due.

7 36. Defendants violated Labor Code § 1199 by intentionally and willfully violating
8 provisions of the Labor Code and/or neglected to comply with provisions of the Labor Code
9 regarding all employees' wages, hours, and working conditions as described above, including,
10 Plaintiff and all other aggrieved employees.

11 37. Defendants violated Labor Code §§ 558 and 2802 by intentionally and willfully
12 failing to reimburse Plaintiff and all other aggrieved employees for all necessary work expenses.
13 Specifically, Defendants failed to reimburse Plaintiff and all aggrieved employees for mileage
14 incurred for the use of their vehicles in the course and scope of their employment including, but
15 not limited to, vehicle mileage incurred in connection with returning from their last delivery to
16 home and/or the fulfillment center, and time traveling from home to the fulfillment center, while
17 carrying a large volume of Defendants' reusable storage bags and ice packs in their vehicles
18 which did not allow them to use their time driving effectively for their own purposes. On
19 average, employees were required to pick-up and transport 100 pounds of storage bags and
20 icepacks at the end of each shift. Such a large volume of Defendants' property required a
21 substantial use of said employees' vehicle space which rendered their vehicles useless for any
22 other purpose other than storage and transport of Defendants' property.

23 38. Defendants violated Labor Code §§ 512, 226.7(a), 558, 558.1, and Wage Order
24 No. 9-2001(11) by intentionally and willfully failing to provide employees, including, but not
25 limited to, Plaintiff and all other aggrieved employees, with 30-minute meal periods for every 5
26 hours of work, where they were relieved of all duties. Defendants knowingly and willfully
27 permits, encourages and requires employees to forego meal periods and work through meal
28 periods and/or failed to provide the aggrieved employees with the opportunity to take 30-minute

1 meal periods before the 5th hour of their work. Plaintiff and all other aggrieved employees
2 regularly worked and continue to work beyond five-hour periods without a 30-minute meal
3 period.

4 39. Defendants violated Labor Code §§ 226.7, 558, 558.1 and Wage Order No. 9-
5 2001(12) by intentionally and willfully failing to provide all employees, including, but not
6 limited to, Plaintiff and all other aggrieved employees, with net rest time of 10 minutes for every
7 4 hours worked, or major fraction thereof, where they were relieved of all duties. Defendants
8 knowingly and willfully permits, encourages and requires employees to forego rest periods and
9 work through rest periods and/or failed to provide the aggrieved employees with the opportunity
10 to take 10-minute rest periods before the 4th hour of their work. Plaintiff and the aggrieved
11 employees regularly work and continue to work beyond four-hour periods without a 10-minute
12 rest break.

13 40. Defendants violated Labor Code §§ 351, 558, and 558.1 by intentionally and
14 willfully misappropriating tips and gratuities from Plaintiff and all other aggrieved employees by
15 collecting, taking, and receiving said tips. Further, Defendants have a policy and practice of
16 illegally allocating said tips to the owners, directors, corporate agents, managers, supervisors,
17 and non-employees. Also, the tip pooling distributions to Plaintiff and all other aggrieved
18 employees are not fair and reasonable. In addition, Defendant's alleged tip pooling policy fails
19 to define what if any employees are entitled to receive tips, how tips were calculated, and
20 allocates said tips to individuals that are not in the chain of service.

21 41. Defendants violated *Labor Code* §§ 98.6, 98.7, and 1102.5 by intentionally and
22 willfully retaliating against Plaintiff because of his reports to Defendants regarding the failure to
23 pay regular wages and overtime wages, failure to reimburse for business expenses, failure to
24 provide meal periods and rest breaks, as more fully set forth above. Defendants substantially
25 decreased Plaintiff's work hours, transferred Plaintiff to the least desirable delivery routes, and
26 issued Plaintiff numerous false write-ups as a result of Plaintiff's complaints of the above Labor
27 Code violations.

28 //

1 **FIRST CAUSE OF ACTION**

2 **FAILURE TO PAY MINIMUM AND REGULAR WAGES FOR ALL HOURS WORKED**

3 **(Labor Code §§ 204, 1194, 1194.2, 1197, 1197.1)**

4 **AGAINST ALL DEFENDANTS AND DOES 1 THROUGH 25**

5 42. Plaintiff alleges and incorporates herein by this reference each and every
6 allegation set forth in all previous paragraphs of the Complaint.

7 43. Pursuant to Labor Code § 204, other applicable laws and regulations, and public
8 policy, an employer must timely pay its employees for all hours worked.

9 44. Labor Code § 1197 states: “The minimum wage for employees fixed by
10 commission is the minimum wage to be paid to employees, and the payment of a lower wage
11 than minimum wage so fixed is unlawful.”

12 45. Labor Code § 1198 states: “The maximum hours of work and the standard
13 conditions of labor fixed by the commission shall be the maximum hours of work and the
14 standard conditions of labor for employees. The employment of any employee for longer hours
15 than those fixed by the order or under conditions of labor prohibited by the order is unlawful.”

16 46. Labor Code § 223 states: “Where any statute or contract requires an employer to
17 maintain the designated wage scale, it shall be unlawful to secretly pay a lower wage while
18 purporting to pay the wage designated by statute or by contract.”

19 47. Section 9 of the applicable IWC Wage Order provides that an employer may not
20 pay employees less than the applicable minimum wage for all hours worked.

21 48. Labor Code § 1194 states: “Notwithstanding any agreement to work for a lesser
22 wage, any employee receiving less than the legal minimum wage or the legal overtime
23 compensation applicable to the employee is entitled to recover in a civil action the unpaid
24 balance of the full amount of his minimum wage or overtime compensation, including interest
25 thereon, reasonable attorney’s fees and costs of suit.”

26 49. As set forth in more detail in the General Allegations above, Defendants
27 intentionally and willfully breached their obligation and failed to pay Plaintiff all minimum and
28 regular wages for all hours worked in violation of Labor Code §§ 204, 1194, 1194.2, 1197,

1 1197.1, and the applicable Wage Order.

2 50. As a result of the unlawful acts of Defendants, Plaintiff has been deprived of
3 minimum and regular wages and/or other compensation in amounts to be determined at trial, and
4 is entitled to recovery of such amounts, plus interest thereon, liquidated damages in an amount
5 equal to the wages unlawfully unpaid, attorneys' fees, and costs to the fullest extent permitted by
6 law.

7 **SECOND CAUSE OF ACTION**

8 **FAILURE TO PAY OVERTIME COMPENSATION IN VIOLATION OF LABOR CODE**

9 **§ 510 AGAINST ALL DEFENDANTS AND DOES 1 THROUGH 25**

10 51. Plaintiff alleges and incorporates herein by this reference each and every
11 allegation set forth in all previous paragraphs of the Complaint.

12 52. Pursuant to California Labor Code § 510, Defendants were required to
13 compensate Plaintiff for all overtime worked, which is calculated at one and one-half (1½) times
14 the regular rate of pay for hours worked in excess of eight (8) hours per day and/or forty (40)
15 hours per week, and two (2) times the regular rate of pay for hours worked in excess of twelve
16 (12) hours per day.

17 53. Defendants intentionally and willfully failed to pay Plaintiff overtime wages to
18 which he was entitled to under California Labor Code § 510 throughout his employment with
19 Defendants as indicated in the General Allegations above.

20 54. Labor Code § 1194 provides a private right of action to recover unpaid overtime
21 compensation, interest, attorneys' fees, and costs of suit. Plaintiff seeks to recover all unpaid
22 overtime wages and interest due to him, as well as attorney's fees and costs, under this section.

23 55. As a result, Defendants have violated California Labor Code § 510 and related
24 statutes by not paying Plaintiff overtime when said overtime payments were due. Therefore,
25 Plaintiff is entitled to back wages for unpaid overtime wages, prejudgment interest, reasonable
26 attorneys' fees and costs, and penalties. The exact amount and nature of such damages are
27 presently unknown to Plaintiff, who will either seek leave to amend this Complaint upon
28 ascertaining such information, or will prove the same at the time of trial.

1 **THIRD CAUSE OF ACTION**

2 **FAILURE TO REIMBURSE BUSINESS EXPENSES IN VIOLATION OF CALIFORNIA**
3 **LABOR CODE §2802 AGAINST ALL DEFENDANTS AND DOES 1 THROUGH 25**

4 56. Plaintiff alleges and incorporates herein by this reference each and every
5 allegation set forth in all previous paragraphs of the Complaint.

6 57. California Labor Code § 2802 provides that: “An employer shall indemnify his or
7 her employee for all necessary expenditures or losses incurred by the employee in direct
8 consequence of the discharge of his or her duties, or of his or her obedience to the directions of
9 the employer, even though unlawful, unless the employee, at the time of obeying the directions,
10 believed them to be unlawful... For purposes of this section, the term ‘necessary expenditures or
11 losses’ shall include all reasonable costs, including, but not limited to, attorney’s fees incurred by
12 the employee enforcing the rights granted by this section.” This provision of the California
13 Labor Code imposes strict limitations on an employer’s ability to offset the costs of business by
14 imposing financial obligations on employees as a condition of discharging their duties.

15 58. Defendants routinely and intentionally required Plaintiff to incur business
16 expenses during the course and scope of his employment which they refused to reimburse as set
17 forth in the General Allegations above.

18 59. Defendants’ failure to pay for or reimburse the business expenses of Plaintiff
19 violated non-waivable rights secured to him by California Labor Code § 2802. As a result,
20 Plaintiff is entitled to recover all unreimbursed business expenses, interest thereon, and
21 reasonable attorneys’ fees and costs.

22 **FOURTH CAUSE OF ACTION**

23 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS IN**
24 **VIOLATION OF LABOR CODE § 226 AGAINST ALL DEFENDANTS AND DOES 1**
25 **THROUGH 25**

26 60. Plaintiff alleges and incorporates herein by this reference each and every
27 allegation set forth in all previous paragraphs of the Complaint.

28 61. During Plaintiff’s employment with Defendants, they intentionally and knowingly

1 failed to provide Plaintiff with timely and accurate wage and hour statements. Specifically,
2 Defendants had a policy and practice of failing to include on wage statements the following:
3 gross wages earned, net wages earned, total hours worked by the employee, and all applicable
4 hourly rates in effect during the pay period and the corresponding number of hours worked at
5 each hourly rate by the employee.

6 62. Defendants systemically failed to provide such wage statements with accurate
7 information and engaged in a policy of failing to set forth wage statement information in
8 violation of California Labor Code §226 and related statutes.

9 63. As a result of Defendants' violation of California Labor Code § 226 and related
10 statutes, Plaintiff has suffered injuries and damages, including, but not limited to: the inability to
11 collect and calculate all wages due, all time worked during each pay period, and deductions
12 made during each pay period.

13 64. As a result of Defendants' intentional failure to provide Plaintiff with accurate
14 and itemized wage statements, Plaintiff is entitled to all available penalties, costs, and attorneys'
15 fees, including those provided in California Labor Code § 226(e), as well as all other available
16 remedies.

17 **FIFTH CAUSE OF ACTION**

18 **FAILURE TO PROVIDE REST BREAKS IN VIOLATION OF LABOR CODE § 226.7**

19 **AGAINST ALL DEFENDANTS AND DOES 1 THROUGH 25**

20 65. Plaintiff alleges and incorporates herein by this reference each and every
21 allegation set forth in all previous paragraphs of the Complaint.

22 66. California Labor Code § 226.7(a) and Wage Order 9-2001(12) prohibit an
23 employer from requiring an employee to work more than four hours per day without providing
24 the employee with a 10-minute rest break. If an employer fails to provide an employee with a
25 rest break, the employer must pay the employee one hour of pay for each missed rest period.
26 Labor Code § 226.7(b).

27 67. Defendants intentionally and consistently required Plaintiff to work for extended
28 periods of time, well over four hours, without providing the rest breaks required by law as set

1 forth in the General Allegations above, thus violating California Labor Code § 226.7 and Wage
2 Order 9-2001(12).

3 68. As a result, Plaintiff is entitled to penalties pursuant to California Labor Code §
4 226.7 and related statutes. Also, Plaintiff is entitled to recover all unpaid rest periods,
5 prejudgment interest, penalties, reasonable attorneys' fees, and costs of suit. The exact amounts
6 of such damages are presently unknown to Plaintiff, who will either seek leave to amend this
7 Complaint upon ascertaining such information, or will prove the same at the time of trial.

8 **SIXTH CAUSE OF ACTION**

9 **FAILURE TO PROVIDE MEAL PERIODS AGAINST ALL DEFENDANTS AND DOES**
10 **1 THROUGH 25**

11 69. Plaintiff alleges and incorporates herein by this reference each and every
12 allegation set forth in all previous paragraphs of the Complaint.

13 70. California Labor Code §§ 226.7(a), 512, and Wage Order 9-2001(11) prohibit an
14 employer from requiring an employee to work more than five hours per day without providing
15 the employee with a meal period of not less than 30 minutes; and after ten hours, without
16 providing the employee with a second meal period of not less than 30 minutes.

17 71. Defendants intentionally and consistently required Plaintiff to work for extended
18 periods of time, well over five hours and ten hours, without providing the meal periods required
19 by law as set forth in the General Allegations above, thus violating California Labor Code §§
20 226.7(a), 512.

21 72. As a result, Plaintiff is entitled to penalties pursuant to California Labor Code §§
22 §§ 226.7(a), 512, and related statutes. Plaintiff is also entitled to recover all unpaid meal periods,
23 prejudgment interest, penalties, reasonable attorneys' fees, and costs of suit. The exact amounts
24 of such damages are presently unknown to Plaintiff, who will either seek leave to amend this
25 Complaint upon ascertaining such information, or will prove the same at the time of trial.

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1 **SEVENTH CAUSE OF ACTION**

2 **VIOLATION OF LABOR CODE §§ 202 & 203 AGAINST ALL DEFENDANTS AND**
3 **DOES 1 THROUGH 25**

4 73. Plaintiff alleges and incorporate herein by this reference each and every allegation
5 set forth in all previous paragraphs of the Complaint.

6 74. Labor Code § 201 requires that “[i]f an employer discharges an employee, the
7 wages earned and unpaid at the time of discharge are due and payable immediately.”

8 75. Labor Code § 202 requires that “If an employee not having a written contract for
9 a definite period quits his or her employment, his or her wages shall become due and payable not
10 later than 72 hours thereafter...”

11 76. Labor Code § 203 requires that, if an employer fails to pay any wages of an
12 employee who is discharged or quits in violation of §§ 201 and 202, the wages of the employee
13 shall continue as a penalty from the date of discharge:

- 14 a. If an employer willfully fails to pay, without abatement or reduction..., any
15 wages of an employee who is discharged or who quits, the wages of the
16 employee shall continue as a penalty from the due date thereof at the same
17 rate until paid or until an action therefor is commenced; but the wages shall
18 not continue for more than 30 days.

19 77. At all relevant times, Defendants intentionally and willfully did not pay Plaintiff
20 for all wages due for hours worked at the time he was discharged and/or forced to resign,
21 including, but not limited to, all wages due as set forth in greater detail in the General
22 Allegations above.

23 78. As a result, Plaintiff is entitled to back wages, prejudgment interest, and
24 reasonable attorneys’ fees and costs and penalties pursuant to California Labor Code §203 and
25 related statutes. The exact amounts of such damages are presently unknown to Plaintiff, who
26 will either seek leave to amend this Complaint upon ascertaining such information, or will prove
27 the same time of trial.

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EIGHTH CAUSE OF ACTION

VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17200 ET SEQ.

AGAINST ALL DEFENDANTS AND DOES 1 THROUGH 25

79. Plaintiff alleges and incorporates herein by this reference each and every allegation set forth in all previous paragraphs of the Complaint.

80. California Business and Professions Code §17200 provides: “As used in this chapter, unfair competition shall mean and include any unlawful or fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising and any act prohibited by Chapter 1 (commencing with Section 17500) of Part 3 of Division 7 of the Business and Professions Code.”

81. During the course of Plaintiff’s employment, Defendants engaged in multiple violations of the California Labor Code as set forth in the General Allegations above.

82. The acts of Defendants, as previously described above, were unfair, unlawful, and fraudulent as defined in California Business and Professions Code §17200. Such acts constitute unfair business practices and unfair competition, thus violating California Business and Professions Code §17200 et seq. As a result, Defendants have gained an unfair advantage over other comparable companies doing business in the state of California that comply with their obligations to comply with labor laws.

83. As a result of the foregoing conduct, Plaintiff is entitled to recover restitution damages, injunctive relief, and other such relief. Plaintiff is also entitled to recover reasonable attorneys’ fees pursuant to California Code of Civil Procedure §1021.5, the substantial benefit doctrine.

NINTH CAUSE OF ACTION

FAILURE TO PROVIDE GRATUITIES IN VIOLATION OF LABOR CODE § 351 ET

SEQ. AGAINST ALL DEFENDANTS AND DOES 1 THROUGH 25

84. Plaintiff alleges and incorporates herein by this reference each and every allegation set forth in all previous paragraphs of the Complaint.

85. Defendants’ intentional conduct, as set forth above, in failing to remit to Plaintiff

1 the total proceeds of gratuities constitutes violation of Labor Code § 351. This violation is
2 enforceable pursuant to the California Unfair Competition Law, Cal. Bus. and Prof. Code §
3 17200 et seq. Defendants' conduct constitutes unlawful, unfair, and/or fraudulent business acts
4 or practices, in that Defendants have violated California Labor Code § 351 in not remitting to
5 Plaintiff the total gratuities that were paid by customers.

6 86. As a proximate result of the aforementioned violations, Plaintiff has been
7 damaged in an amount according to proof at trial, including the loss of gratuities to which he is
8 entitled and seeks all wages earned and due, interest, penalties, expenses, and costs of suit.

9 **TENTH CAUSE OF ACTION**

10 **VIOLATION OF CALIFORNIA LABOR CODE §§ 2698, ET SEQ.**

11 **(Plaintiff and All Other Aggrieved Employees v. All Defendants) AND DOES 1**

12 **THROUGH 25**

13 87. Plaintiff alleges and incorporates herein by this reference each and every
14 allegation set forth in all previous paragraphs of the Complaint.

15 88. Under the Private Attorneys General Act of 2006, California Labor Code §§
16 2698-2699.5, an aggrieved employee, on behalf of himself or herself and other current or former
17 employees, may recover penalties under any provision of the California Labor Code that
18 provides for civil penalties. These penalties are in addition to any other relief available under the
19 California Labor Code.

20 89. Defendants, at all times relevant to this Complaint, were employers or persons
21 acting on behalf of an employer(s) who violated Plaintiff and all other aggrieved employees'
22 rights by violating various sections of the California Labor Code as set forth above.

23 90. Defendants have committed numerous violations for which the Labor Code
24 provides for penalties, including, but not limited to, violations of California Labor Code §§ 98.6,
25 98.7, 201, 202, 203, 204, 210, 223, 226, 226.3, 226.7, 351, 510, 512, 558, 558.1, 1102.5, 1174,
26 1174.5, 1194, 1194.2, 1197, 1197.1, 1199, 2802, and as detailed in the previous paragraphs
27 above.

91. Plaintiff has provided written notice by certified mail to the Labor & Workforce Development Agency (“LWDA”) and to Defendants of the legal claims and theories of this case on or about March 7, 2024, April 1, 2024, and April 2, 2024. After sixty-five (65) days from the postmark date of giving notice to the LWDA, Plaintiff received no response from the LWDA.

92. Pursuant to PAGA, and in particular California Labor Code §§ 2699(a), 2699.3, 2699.5, 558, and 558.1, Plaintiff, acting in the public interest as a private attorney general, seeks assessment and collection of unpaid wages and civil penalties for Plaintiff, and all other aggrieved employees, and the State of California against Defendants, in addition to other remedies, for violations of California Labor Code §§ 98.6, 98.7, 201, 202, 203, 204, 210, 223, 226, 226.3, 226.7, 351, 510, 512, 558, 558.1, 1102.5, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1199, and 2802.

93. As a direct result of Defendants' conduct as described, Plaintiff is entitled to recover, on his own behalf and on behalf of other aggrieved employees, the maximum civil penalties permitted by the Private Attorneys General Act from Defendants for all violations of the above California Labor Code provisions, as well as reasonable attorneys' fees and costs.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendants, and each of them, as follows:

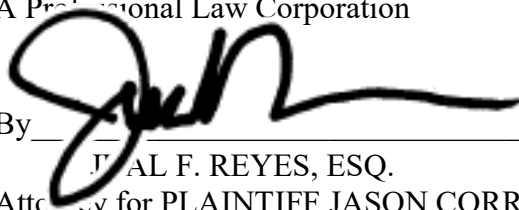
1. For such general, special and compensatory, actual and liquidated damages, according to proof;
2. For an order requiring full restitution and payment, according to proof;
3. For injunctive relief, according to proof;
4. For damages and penalties pursuant to the California Labor Code, including, but not limited to, California Labor Code §§ 201, 202, 226, 226.7, 510, 512, 558, 558.1, 1194, 1194.2, 1197, 2802, according to proof;
5. For civil penalties pursuant to California Labor Code §§ 98.6, 98.7, 201, 202, 203, 204, 210, 223, 226, 226.3, 226.7, 351, 510, 512, 558, 558.1, 1102.5, 1174, 1174.5,

1 1194, 1194.2, 1197, 1197.1, 1199, 2699(a), 2699(f) and (g), 2699.3, 2699.5, and
2 2802.

- 3 6. For waiting time statutory amounts under Labor Code § 203, according to proof;
4 7. For reasonable attorneys' fees under California Code of Civil Procedure § 1021.5;
5 California Labor Code § 218.5, 226, 1194, 2699(g), 2802, and all related statutes;
6 8. For costs of suit incurred herein;
7 9. For pre- and post-judgment interest at the prevailing statutory rates; and
8 10. For such other relief as the Court may deem proper.

9
10 Dated: June 13, 2024

LAW OFFICES OF JUAL F. REYES,
A Professional Law Corporation

11
12
13 By 
14 JUAL F. REYES, ESQ.

Attorney for PLAINTIFF JASON CORREA

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial for the causes of action set forth herein.

Dated: June 13, 2024

LAW OFFICES OF JUAL F. REYES,
A Professional Law Corporation

By  _____
JUAL F. REYES, ESQ.
Attorney for PLAINTIFF JASON CORREA