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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SANTA CRUZ

FERNANDO CHAVEZ,

Plaintiff,

vs.

VALLEDOR HOLDINGS, INC.; JUAN
JOSE VALLEDOR; and DOES 1 to 25,
inclusive,

Defendants.

CASE NO.: 24CV01664

COMPLAINT FOR DAMAGES FOR:

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

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

3) FAILURE TO PAY OVERTIME;

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

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

**6) FAILURE TO PAY WAGES WHEN
EMPLOYMENT ENDS;**

7) FAILURE TO GIVE REST BREAKS;

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

**9) FAILURE TO REIMBURSE FOR
BUSINESS EXPENSES;**

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

**11) RETALIATION IN VIOLATION OF
LABOR CODE SECTION 98.6;**

**12) WRONGFUL TERMINATION IN
VIOLATION OF PUBLIC POLICY**

**13) VIOLATION OF CALIFORNIA;
BUSINESS AND PROFESSIONS
CODE SECTION 17200**

DEMAND FOR JURY TRIAL

COMES NOW Plaintiff, FERNANDO CHAVEZ (hereinafter “Plaintiff”), and alleges as follows:

PARTIES, JURISDICTION, VENUE

1. Jurisdiction and Venue are proper in this Court and this action is properly filed in the County of Santa Cruz in this judicial district because Defendants VALLEDOR HOLDINGS, INC.; JUAN JOSE VALLEDOR; and DOES 1 to 25, inclusive, do business in the County of Santa Cruz. Moreover, Plaintiff’s damages sought herein exceed \$35,000.

2. Plaintiff is a male resident of the County of Santa Cruz, State of California.

3. Plaintiff is informed and believes that at all times herein mentioned, Defendant VALLEDOR HOLDINGS, INC. is a California Corporation, doing business in Santa Cruz County, California, and which employed Plaintiff.

4. Plaintiff is informed and believes that at all times herein mentioned, Defendant JUAN JOSE VALLEDOR is a male resident of the State of California, and the owner, managing agent, and/or director VALLEDOR HOLDINGS, INC. JUAN JOSE VALLEDOR is being included in this lawsuit pursuant to Labor Code Section 558.1 in that he was involved in the day-to-day operations of the business, including the wage and hour practices and policies, and as such, he controlled the hours, wages, and/or working conditions of Plaintiff and other hourly, non-exempt employees. Defendants VALLEDOR HOLDINGS, INC., JUAN JOSE VALLEDOR, and DOES 1 to 25 are collectively referred to herein as “Defendant(s)” (unless otherwise noted) or “VALLEDOR”.

5. Plaintiff is ignorant of the true names and capacities, whether individual, corporate, or associate of those defendants fictitiously sued as DOES 1 to 25, inclusive, and so Plaintiff sues them by these fictitious names. Plaintiff is informed and believes that each of the DOE

1 defendants, numbers 1 to 25, reside in the State of California and are in some manner
2 responsible for the conduct alleged herein. Upon discovering the true names and capacities of
3 these fictitiously named defendants, Plaintiff will amend this complaint to show the true names
4 and capacities of these fictitiously named defendants.

5 6. Unless otherwise alleged in this complaint, Plaintiff is informed, and on the basis of
6 that information and belief, alleges that at all times herein mentioned, each of the remaining
7 codefendants, in doing the things hereinafter alleged, were acting within the course, scope, and
8 under the authority of their agency, employment, or representative capacity, with the consent
9 of his/her codefendants.
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11 **GENERAL ALLEGATIONS**

12 7. Plaintiff started working at VALLEDOR at Betty's Burgers on or around 2011 as a
13 janitor. Plaintiff was classified as an hourly, non-exempt employee and his latest rate of pay
14 was approximately \$18.00 per hour. Plaintiff's employment ended in or around February 9,
15 2024.
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17 8. In the case of Huff v. Securitas Sec. Servs. USA, Inc., 23 Cal. App. 5th 745 (2018),
18 Plaintiff, Huff, was employed as a security guard for the Defendant Employer, Securitas
19 Security Services USA, Inc., an onsite security provider. After about a year of employment,
20 Huff resigned. Huff then filed suit against Securitas under PAGA. In his claim, Huff
21 specifically alleged violations to the Labor Code requiring immediate payment of wages upon
22 termination of employment and weekly payment of wages to temporary employees. The trial
23 court determined Huff was not a temporary employee, and therefore, lacked standing to bring
24 the claim. Thus, Securitas was granted a motion for summary judgement. Later, the trial court
25 granted Huff a new trial. Securitas then appealed the grant of a new trial. On appeal, the issue
26 was whether Huff could bring a PAGA claim and sue for Labor Code violations that did not
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1 directly affect him. Securitas unsuccessfully argued that the PAGA statute only allows the
2 PAGA representative to sue for violations that the representative has personally suffered. The
3 PAGA statute states that an “aggrieved employee” is able to file suit on behalf of themselves
4 and others. The statute also states that an “aggrieved employee” is “any person who was
5 employed by the alleged violator and against whom one or more of the alleged violations was
6 committed.” Because at least one of the violations that Huff had alleged had affected him
7 personally, the Court of Appeal denied Securitas’ motion.
8

9 9. In sum, since PAGA allows Plaintiffs to bring suit on behalf of both themselves and
10 other employees, it allows for suits broader than the specific violations the named
11 employee experienced. Therefore, even if the employee did not personally experience the
12 Labor Code violations, the employer may still be liable to under PAGA. Consequently, it is
13 Plaintiff’s position that Plaintiff can equivocally bring the following labor code violations on
14 behalf of all other employees, including ALL hourly, non-exempt employees who worked for
15 VALLEDOR at all of their restaurant locations in the state of California during the relevant
16 PAGA period.
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18 10. It is Plaintiff’s position that VALLEDOR has violated the following Labor Code
19 Sections against Plaintiff and other similarly situated aggrieved employees, who include all
20 non-exempt, hourly employees who worked for VALLEDOR at their various restaurant
21 locations in the State of California during the relevant PAGA period.
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23 11. VALLEDOR violated Labor Code § 1194, 1194.2, 1197, and 1197.1 because it failed
24 to pay Plaintiff and other similarly situated aggrieved employees for all hours worked,
25 including the statutory minimum wage for all hours worked and for “off the clock” work. This
26 is so because VALLEDOR had a company policy wherein they would disproportionately
27 round down the number of hours worked, resulting in “time shaving” and further resulting in
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1 aggrieved employees not being paid for all hours worked. Furthermore, and to the extent that
2 aggrieved employees were forced to work through their meal periods and while “off the clock”,
3 the latter was akin to a minimum wage violation. Moreover, VALLEDOR failed to provide its
4 employees with proper and accurate reporting time pay.

5 12. Due to the above “off the clock” violations, VALLEDOR also violated Labor Code
6 §510 because it failed to pay aggrieved employees overtime compensation, even though they
7 worked more than 8 hours per day, 12 hours per day, and/or 40 hours per week throughout
8 their employment. Aggrieved employees’ actual work hours , especially those “off the clock”
9 hours, entitled them to overtime compensation, however, VALLEDOR did not compensate its
10 hourly, non-exempt employees with the correct amount of overtime due to the “off the clock”
11 work and time shaving as described above. Furthermore, VALLEDOR failed to include
12 bonuses/incentive payments in calculating employees’ regular rate of pay for use in
13 deciphering the correct overtime rate of pay. Additionally, the incentive and bonus payments
14 were also not factored into employees’ regular rate for purposes of receiving meal and rest
15 break premiums per the Ferra v. Loews case.

16 13. VALLEDOR also violated Labor Code § 226.7 and the appropriate Industrial Welfare
17 Commission Wage Order no. 5 because it failed to provide Plaintiff and other similarly situated
18 aggrieved employees with 10-minute rest periods for every four hours of work, or majority
19 portion thereof, throughout their employment. VALLEDOR did not completely relieve
20 Plaintiff and others of all duty during said rest periods. VALLEDOR did not pay to Plaintiff
21 and others one additional hour of pay at Plaintiff’s regular rate of compensation for each
22 workday that one or more statutory rest periods was not provided. It was not part of the
23 company policy for employees such as Plaintiff to take any rest breaks, despite working 3.5
24 hours or more per shift. In fact, Plaintiff did not take any rest breaks at all during his
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1 employment tenure. The concept of rest breaks was not implemented as it was not company
2 policy. As such, the culture as well as the policies and procedures of VALLEDOR did not lend
3 itself to the employees receiving consistent statutory rest breaks wherein they were relieved of
4 all work duties. The environment at VALLEDOR was not conducive to receiving multiple
5 statutory rest breaks under California law and timely, statutory rest breaks were not authorized
6 or enforced.

7 14. VALLEDOR violated Labor Code §§ 512 and 226.7 and the appropriate Industrial
8 Welfare Commission Wage Order no. 5 because it failed to provide hourly, non-exempt
9 employees the requisite 30-minute, uninterrupted meal periods for every five (5) hours of work
10 throughout their employment. VALLEDOR did not completely relieve aggrieved employees of
11 all duty during said meal periods. VALLEDOR did not pay to its hourly, non-exempt
12 employees one additional hour of pay at their regular rate of compensation for each workday
13 that one or more statutory meal periods was not provided. The hourly, non-exempt employees
14 would often not be able to receive meal periods before the 5th hour worked that were actually
15 uninterrupted. The latter was due to the workload, being understaffed, and due to being in a
16 fast-paced restaurant environment. Like the rest breaks, receiving a thirty-minute uninterrupted
17 and timely meal break was not part of the company culture and was not enforced by
18 VALLEDOR.

21 15. Consequently, it was the normal practice and custom of VALLEDOR not to authorize,
22 permit, and enforce timely statutory meal periods. If VALLEDOR had aggrieved employees
23 sign a meal period waiver, it would not be valid and enforceable since most employees
24 generally worked more than a 6-hour shift. If VALLEDOR had aggrieved employees sign an
25 on-duty meal period agreement wherein the employees agreed to work through their meal
26 periods, it would be invalid and unenforceable because the nature of employees' jobs as cooks,
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1 cashiers, servers, etc. does not and did not prevent them from taking a meal period and the
2 company could have hired “breakers” to relieve them of their job duties so that they can
3 actually take a timely, uninterrupted meal period. Moreover, any such “on duty” meal period
4 agreement did not allow for employees to revoke such an agreement even if it was signed. As
5 such, aggrieved employees did not always receive statutory, timely meal periods during their
6 employment. To the extent that VALLEDOR argues that employees receive meal break
7 premium pay for missed meal periods, that argument is inconsequential for PAGA penalty
8 purposes since the PAGA penalties are for the violations themselves, irrespective of whether
9 an employee received the premium payment for a missed, short, or interrupted meal period.
10 In *Kirby v. Immoos Fire Protection, Inc.*, the Court stated, “section 226.7 does not give
11 employers a lawful choice between providing *either* meal and rest breaks *or* an additional hour
12 of pay.” *See Kirby v. Immoos Fire Protection, Inc.*, (2012) 53 Cal.4th 1244, 1256 (emphasis in
13 original). Thus, the extra hour of pay does not excuse the violation; the employer has still
14 committed a violation even if the remedy for the violation has been paid. *See Wert v. U.S.*
15 *Bancorp*, (S.D. Cal. Mar. 22, 2016, 2016 WL 1110302 at *4). As such, the work environment
16 and culture at VALLEDOR was not conducive to receiving consistent, timely, statutory meal
17 breaks under California law. Moreover, any meal or rest break premiums paid were not
18 compensated at the weighted average regular rate, inclusive of bonuses and/or incentive
19 payments as well as overtime compensation.

22 16. Furthermore, during the relevant time period, and due to the above labor code
23 violations, VALLEDOR failed to pay Plaintiff and other similarly situated aggrieved
24 employees all wages due to them within any time period specified by California Labor Code
25 section 204. Since Plaintiff was not compensated for his “off the clock” work and since
26 Plaintiff did not receive meal and/or rest break premiums, Plaintiff would still be owed wages
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1 pursuant to Labor Code Section 204. VALLEDOR was also in violation of California Labor
2 Code section 226(a) by failing to include pertinent information on the wage statements,
3 including but not limited to, the correct hourly rate, all hours worked, overtime hours worked,
4 correct overtime pay, gross wages earned, net wages earned, premium pay for missed meal and
5 rest breaks, all deductions, the correct start and end of the pay period, all employee identifying
6 information, the correct and complete name and address of the legal employer, and
7 reimbursement for business expenses, among others. As such, VALLEDOR did not provide
8 Plaintiff and other similarly situated aggrieved employees with complete, accurate itemized
9 wage statements.
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11 17. During the relevant time period, VALLEDOR also failed to keep accurate and complete
12 payroll records showing the actual hours worked per day and the wages paid to Plaintiff and
13 others pursuant to California Labor Code sections 1174(d).

14 18. VALLEDOR also violated Labor Code § 203 because it willfully failed to pay Plaintiff
15 and other similarly situated aggrieved employees earned and due wages upon separation of
16 employment, either immediately upon involuntary termination, or within 72 hours of
17 resignation. These earned but unpaid wages include compensation for all hours worked,
18 including minimum wages, overtime compensation, and premium pay for missed meal and rest
19 breaks.
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21 19. During the relevant time period, Plaintiff and other aggrieved employees incurred
22 necessary, business-related expenses and costs that were not reimbursed by VALLEDOR.
23 These costs include, but are not limited to, personal cell phones for work purposes and
24 uniforms, including shoes. Accordingly, VALLEDOR was in violation of California Labor
25 Code sections 2800 and 2802.
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27 20. Additionally, VALLEDOR violated Labor Code Section 351 and 353 by taking some
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1 of the tips meant for employees and also deducting the tips from others' earned wages.

2 VALLEDOR also deducted the credit card fee from employees' tips and did not timely provide
3 the credit card and even cash tips to aggrieved employees. As such, aggrieved employees were
4 not given accurate tips to which they were entitled.

5 21. Furthermore, VALLEDOR did not provide proper and correct/accurate sick pay that
6 was also delineated on employee pay stubs and also failed to provide proper sick leave in
7 violation of Labor Code sections 233 and 246. In addition, VALLEDOR failed to provide
8 proper rest facilities and suitable seating under IWC Wage Order no. 5-2001.
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10 22. Furthermore, Plaintiff believes Defendants have also violated Labor Code Section 558
11 and have engaged in business practices which violate Business and Professions Code Section
12 17200.

13 23. Plaintiff would also have individual claims for retaliation and wrongful termination
14 in violation of public policy in that Plaintiff was literally terminated for asking for a day off to
15 visit the doctor. In essence, Plaintiff was terminated for use of his sick leave, which he was
16 mandated to receive under California law and to which he was entitled.
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18 **FIRST CAUSE OF ACTION**

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

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

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

23 24. Plaintiff re-alleges and incorporates by reference each and every allegation in
24 paragraphs 1 through 23 inclusive, of this Complaint as though fully set forth herein.
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26 25. At all times relevant herein, Defendants were required to compensate its employees for
27 all hours worked upon reporting for work at the appointed time stated by the employer
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1 pursuant to Industrial Welfare Commission Order 5-2001, California Code of
2 Regulations, Title 8, Section 11050.

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

5 27. Under the aforementioned wage order and regulations, Plaintiff is to recover
6 compensation for all hours worked but not paid by Defendants for the three (3) years
7 preceding the filing of this Complaint.
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9 28. As a proximate result of the aforementioned violations, Plaintiff has been damaged in
10 an amount according to proof at time of trial, but in an amount in excess of the jurisdiction of
11 this Court.

12 29. Defendants' conduct described herein violates Labor Code Section 512, 558, 1194, and
13 1198. Therefore, pursuant to Labor Code Sections 218.5, 512, 558, and 1194, Plaintiff is
14 entitled to recover damages for the nonpayment of wages for all hours worked, penalties, plus
15 reasonable attorney's fees and costs of suit.
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17 30. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
18 along with any allowable interest, penalties, attorney's fees, and costs which will equal an
19 amount known to Plaintiff once he has obtained all of his payroll records from
20 Defendants.
21

22 **SECOND CAUSE OF ACTION**

23 **FAILURE TO PAY MINIMUM WAGES**

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

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

26 31. Plaintiff re-alleges and incorporates by reference each and every allegation in
27 paragraphs 1 through 30, inclusive, of this Complaint as though fully set forth herein.
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1 32. Pursuant to Labor Code Sections 1194, 1194.2 and 1197, it is unlawful for an employer
2 to suffer or permit a California employee to work without paying wages at the minimum wage
3 rate for all hours worked as required by the applicable Industrial Welfare Commission
4 (hereinafter "IWC") Wage Order No. 5-2001, codified at California Code of
5 Regulations, Title 8, Section 11050, subdivision 4.

6 33. Pursuant to IWC Wage Order no. 5-2001, section 2(K), at all relevant times, "hours
7 worked" included "the time during which an employee is subject to the control of an employer,
8 and includes all the time the employee is suffered or permitted to work, whether or not required
9 to do so..."

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

15 35. Plaintiff was, at all relevant times, under the control of Defendants and suffered or
16 permitted to work by Defendants. Defendants' acts or omissions in failing to adequately
17 compensate Plaintiff were not in good faith nor were there reasonable grounds for Defendants
18 to believe that their acts or omissions were not contrary to California law.

19 36. For all hours worked by Plaintiff for which he was paid less than the minimum wage
20 rate by Defendants, Plaintiff is entitled to not less than the applicable California minimum
21 wage rate and, pursuant to Labor Code Section 1194.2(a), liquidated damages in an amount
22 equal to unpaid minimum wages and interests thereon. Pursuant to Labor Code Section 1194,
23 Plaintiff is also entitled to attorney's fees, costs and interests according to proof.

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

3 **THIRD CAUSE OF ACTION**

4 **FAILURE TO PAY OVERTIME**

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

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

8 38. Plaintiff re-alleges and incorporates by reference each and every allegation in
9 paragraphs 1 through 37, inclusive, of this Complaint as though fully set forth herein. This
10 cause of action is brought by Plaintiff against all Defendants jointly and individually.

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

18 40. Plaintiff was a non-exempt employee entitled to the protections of the California
19 Industrial Welfare Commission Order No. 5-2001, California Code of Regulations,
20 Title 8, Section 11050.

21 41. Plaintiff worked more than eight (8) hours in a single workday or forty (40) hours in a
22 single workweek on numerous occasions.

23 42. Plaintiff worked more than twelve (12) hours in a single workday.

24 43. Plaintiff was entitled to the above overtime premiums.

25 44. Defendants did not pay Plaintiff premium wages of at least one and one-half times
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1 Plaintiff's correct regular rate of pay for hours worked past eight (8) in a day.

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

4 46. Defendants did not pay Plaintiff premium wages of at least two times Plaintiff's correct
5 regular rate of pay for hours worked past twelve (12) in a day.

6 47. Plaintiff worked at least one pay period in which he was not properly paid the correct
7 amount of overtime within the three (3) years prior to the initiation of this lawsuit.

8 48. Defendants know or should know the actual dates of overtime worked, the amount of
9 overtime worked, and the amount of unpaid overtime due.

10 49. As a proximate result of Defendants' violations, Plaintiff has been damaged in an
11 amount according to proof at time of trial, but in an amount in excess of the jurisdiction of this
12 Court.

13 50. Pursuant to California Labor Code Sections 218.6, 510, 1194, and California Code of
14 Regulations, Title 8, Section 11050, Plaintiff is entitled to recover damages for the
15 nonpayment of overtime premiums for all overtime hours worked, penalties, interest, plus
16 reasonable attorney's fees and costs of suit.

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20 **FOURTH CAUSE OF ACTION**

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

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

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

24 51. Plaintiff re-alleges and incorporates by reference each and every allegation in
25 paragraphs 1 through 50, inclusive, of this Complaint as though fully set forth herein. This
26 cause of action is brought by Plaintiff against all Defendants jointly and individually.

1 52. Labor Code section 226(a) requires employers provide employees with itemized wage
2 statements.

3 53. Labor Code section 226(a)(2) requires pay stubs accurately account for hours worked
4 and the applicable hourly rates.

5 54. Labor Code section 226(a)(9) requires pay stubs to accurately reflect all applicable
6 hourly rates in effect during the pay period and the corresponding number of hours worked at
7 each hourly rate.

8 55. Pursuant to California Labor Code Section 226, every employer must furnish each
9 employee an itemized statement of wages and deductions at the time of payment of wages.
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11 56. Defendants knowingly and intentionally did not furnish Plaintiff with any pay stubs
12 that accurately reflected all information required by Labor Code Section 226, including but not
13 limited to, gross wages earned, net wages earned, total hours worked by the employee, all
14 deductions, overtime hours and pay, premium pay for rest break and meal break violations, and
15 business expense reimbursement, among others. Therefore, Defendants failed to maintain and
16 provide accurate itemized wage statements to Plaintiff in accordance with California Labor
17 Code Section 226(a).
18

19 57. Pursuant to California Labor Code Section 226(e), Plaintiff is entitled to recover the
20 greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation
21 occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay
22 period, not exceeding an aggregate amount of four thousand dollars (\$4,000), plus costs and
23 reasonable attorney's fees. Plaintiff only claims damages under this cause of action pursuant to
24 the 1-year period immediately preceding the date this lawsuit was filed.
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26 58. As a direct and proximate result of Defendants' unlawful conduct, Plaintiff has
27 sustained damages, including loss of earnings, in an amount to be established at trial. As a
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1 further direct and proximate result of Defendants' unlawful conduct, as set forth herein,
2 Plaintiff is entitled to recover penalties, in an amount to be established at trial, as well as costs
3 and attorney's fees pursuant to statute.

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5 **FIFTH CAUSE OF ACTION**

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

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

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

9 59. Plaintiff re-alleges and incorporates by reference each and every allegation in
10 paragraphs 1 through 58, inclusive, of this Complaint as though fully set forth herein. This
11 cause of action is brought by Plaintiff against all Defendants jointly and individually.

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

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

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

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

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1 forth herein. Plaintiff also prays for interest under California Labor Code Section 218.6.

2 71. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
3 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
4 trial.
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6 **SEVENTH CAUSE OF ACTION**

7 **FAILURE TO GIVE REST BREAKS**

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

9 72. Plaintiff re-alleges and incorporates by reference each and every allegation in
10 paragraphs 1 through 71, inclusive, of this Complaint as though fully set forth herein.
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12 73. Plaintiff brings this cause of action under the following laws, for the following reasons:

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

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

12 75. Under this cause of action, Plaintiff prays for wages due to him under the statutes,
13 regulations, and wage orders alleged in this cause of action along with any allowable interest,
14 penalties, attorney's fees and costs according to proof at trial. Specifically, Plaintiff prays for
15 the foregoing moneys calculated from 3 years immediately preceding the filing of this lawsuit.
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17 76. Plaintiff also prays for Labor Code section 218.5 recovery of costs and attorney's
18 fees as well as interest under Labor Code section 218.6.

19 77. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
20 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
21 trial.
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23 **EIGHTH CAUSE OF ACTION**

24 **FAILURE TO GIVE MEAL BREAKS**

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

26 78. Plaintiff re-alleges and incorporates by reference each and every allegation in
27 paragraphs 1 through 77, inclusive, of this Complaint as though fully set forth herein.
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1 79. Plaintiff brings this cause of action under the following laws, for the following reasons:

- 2 a. California Labor Code section 512(a), which requires that employees be given a 30-
- 3 minute uninterrupted meal break after five (5) hours of work, and a second
- 4 uninterrupted meal break after ten (10) hours of work;
- 5 b. California Labor Code section 226.7, which states that (a) no employer shall require
- 6 any employee to work during any meal period mandated by an applicable order of
- 7 the Industrial Welfare Commission, and (b) if any employer fails to provide an
- 8 employee a meal period in accordance with an applicable order of the Industrial
- 9 Welfare Commission, the employer shall pay the employee one (1) additional hour
- 10 of pay at the employee's regular rate of compensation for each workday that the
- 11 meal period is not provided;
- 12 c. California Industrial Welfare Commission Order No. 5 section 11(B), as codified
- 13 under Title 8 of the California Code of Regulations Section 11050, which state that
- 14 if an employer fails to provide an employee a meal period in accordance with the
- 15 applicable provisions of the Wage Order, the employer shall pay the employee one
- 16 (1) hour of pay at the employee's regular rate of compensation for each workday
- 17 that the meal period is not provided;
- 18 d. California Industrial Welfare Commission Wage Order No. 5 Section 7(A)(3), as
- 19 codified under Title 8 of the California Code of Regulations Section 11050, which
- 20 require an employer to maintain records documenting its employees' meal periods;
- 21 e. California Industrial Welfare Commission wage order No. 5 Section 20(A), as
- 22 codified under California Code of Regulations Section 11050, which penalizes the
- 23 employer \$50.00 for each initial violation, per employee, of any provision of the
- 24 Wage Order, and \$100.00 for each additional violation thereafter per employee; and
- 25
- 26
- 27
- 28

1 f. California Labor Code section 1171 and 1173, which have given the California
2 Labor Commission jurisdiction to enact Wage Orders (such as Wage Order no. 5)
3 as enforceable law.

4 80. Plaintiff alleges that he was not authorized and permitted to take relieved meal breaks
5 after five (5) hours of work. Plaintiff further alleges that he was not authorized and permitted to
6 take a second relieved meal break after ten (10) hours of work, as required by California law.
7 California Labor Code section 512(a) and California Industrial Welfare Commission Order No.
8 5, as codified under California Code of Regulations Sections 11050 et. seq., require that
9 employees receive uninterrupted meal periods every five (5) hours of consecutive work, and
10 that the meal period be at least 30 minutes in length, wherein employee is relieved of all work
11 duty. California Labor Code section 226.7 provides that employers may not require their
12 employees to work through their meal periods. California Labor Code section 226.7 and
13 California Code of Regulations section 11050 require that if the employer fails to provide the
14 employee with an uninterrupted meal period, the employer must pay the employee one (1) hour
15 of pay for each work day that the meal period is not given.
16

17
18 81. Under this cause of action, Plaintiff prays for wages due to him under the statutes,
19 regulations, and wage orders alleged in this cause of action along with any allowable interest,
20 penalties, attorney's fees and costs according to proof at trial. Specifically, Plaintiff prays for
21 the foregoing moneys calculated from 3 years immediately preceding the filing of this lawsuit.

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

24
25 83. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
26 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
27 trial.
28

1 **NINTH CAUSE OF ACTION**

2 **FAILURE TO REIMBURSE FOR BUSINESS EXPENSES**

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

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

6 85. Labor Code section 2802 provides that “[a]n employer shall indemnify his or her
7 employee for all necessary expenditures or losses incurred by the employee in direct
8 consequence of the discharge of his or her duties.”
9

10 86. Beginning at least 3 years prior to the filing of this complaint, in order to discharge
11 their duties for Defendant, Plaintiff incurred reasonable and necessary expenses in the course
12 of completing his job duties, which were not reimbursed by Defendants. These costs include,
13 but are not limited to, personal cell phones for work purposes and uniforms, including shoes.

14 87. Plaintiff is entitled to reimbursement for these necessary expenditures, plus interest
15 and attorney’s fees and costs, under Labor Code section 2802.
16

17 **TENTH CAUSE OF ACTION**

18 **PRIVATE ATTORNEYS GENERAL ACT**

19 **Representative Claim for PAGA penalties under California Labor Code sections 201,**
20 **202, 203, 204 and/or 204b, 210, 226, 226.3, 226.7, 233, 246, 351, 353, 510, 512, 558, 1174,**
21 **1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2800, 2802 and IWC Wage Order No. 5-2001)**

22 **(Against All Named Defendants and all DOE Defendants)**

23 88. Plaintiff re-alleges and incorporates by reference each and every allegation in
24 paragraphs 1 through 87, inclusive, of this Complaint as though fully set forth herein.

25 89. Pursuant to law, Plaintiff provided the required written notice to the LWDA and
26 Defendants of the specific violations of the California Labor Code that Defendants and DOE
27 defendants have violated and continue to violate.
28

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

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

7 92. Pursuant to California Labor Code section 2699, any provisions of the Labor Code
8 that provides for a civil penalty to be assessed and collected by the LWDA or any of its
9 departments, divisions, commissions, boards, agencies, or employees for violation of the code
10 may, as an alternative, be recovered through a civil action brought by an aggrieved employee
11 on behalf of other current or former employees pursuant to the procedures specified in
12 California Labor Code section 2699.3.

13 93. Plaintiff is an "aggrieved employee" because Plaintiff was employed by the alleged
14 violators and had one or more of the alleged violations committed against him, and therefore is
15 properly suited to represent the interests of other current and former hourly, non-exempt
16 employees who worked for VALLEDOR at any and all restaurant locations in the State of
17 California during the relevant time period.

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

21 95. Plaintiff therefore has exhausted all administrative remedies required of him under
22 California Labor Code sections 2698, 2699, and 2699.3, and, as a result, may prosecute this
23 cause of action and pursue penalties in a representative action for Defendants' violations of the
24 Labor Code.

1 96. California Labor Code section 2699 et seq. imposes penalties upon culpable
2 Defendants for violating the Labor Code.

3 97. California Labor Code section 558 establishes a civil penalty as follows: Any
4 employer or other person action on behalf of an employer who violates, or causes to be violated,
5 a section of this chapter or any provision regulating hours and days of work in any order of the
6 Industrial Welfare Commission (including the “Hours and Days of Work” section of the Wage
7 Order) shall be subject to a civil penalty of (1) for any initial violation, fifty dollars (\$50) for
8 each underpaid employee for each pay period for which the employee was underpaid ...; (2) for
9 each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay
10 period for which the employee was underpaid ...;

11 98. Plaintiff seeks penalties for Defendants’ misconduct as alleged herein as permitted
12 by law, but only those penalties that are required to be shared with the LWDA as Plaintiff is not
13 seeking individual/victim specific relief or underpaid wages under this particular cause of action.

14 99. Plaintiff seeks penalties for Defendants’ misconduct as alleged herein as permitted
15 by law. Specifically, Plaintiff seeks penalties under California Labor Code section 2699, for
16 the following:

17 Violations of California Labor Code sections 201, 202, 203, 204 and/or 204b, 210, 226,
18 226.3, 226.7, 233, 246, 351, 353, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1,
19 1198, 2800, 2802 via 2698 and 2699, and any other Labor Codes and Industrial Welfare
20 Commission Wage Order (Order Nos. 5) violated based on the facts alleged in this
21 Complaint.

22 100. Pursuant to Labor Code section 2698 et seq., Plaintiff seeks to recover attorney’s fees,
23 costs, and civil penalties on behalf of other current and former Aggrieved Employees as alleged
24 herein in an amount to be shown according to proof at trial and within the jurisdictional limits
25 of this Court.

26 **ELEVENTH CAUSE OF ACTION**

27 **RETALIATION IN VIOLATION OF LABOR CODE SECTION 98.6**

28 **(California Labor Code section 98.6)**

(Plaintiff against VALLEDOR HOLDINGS, INC. and DOE Defendants, and each of them)

101. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1 through 100, inclusive, of this Complaint as though fully set forth herein.

102. California Labor Code section 98.6 provides, in pertinent part, as follows:

“A person shall not discharge an employee or in any manner discriminate, retaliate, or take any adverse action against any employee or applicant for employment because the employee or applicant engaged in any conduct delineated in this chapter...or because the employee or applicant...made a written or oral complaint that he or she is owed unpaid wages...

103. In doing the things herein alleged, Defendants violated Labor Code Section 98.6 in that they retaliated against Plaintiff for attempting to take and requesting sick leave.

104. As a direct and proximate result of the aforementioned acts and omissions of Defendants, Plaintiff suffered general and compensatory damages, including but not limited to, loss of income (past and future), loss of employment benefits (past and future), general and compensatory damages (past and future), mental pain and anguish and emotional distress (past and future), and will continue to suffer in the future, in an amount to be proved at trial. Moreover, pursuant to Labor Code section 98.6, an employer who violates this section is liable for a civil penalty not exceeding ten thousand dollars (\$10,000) per employee for each violation of this section.

105. The foregoing conduct engaged in by Defendants and each of its directors, officers and/or managing agents, constitutes malice, fraud, and oppression and was authorized, ratified, and carried on with a conscious and willful disregard of their workers’ right to work in an environment free of retaliation, so as to justify the imposition of punitive damages to punish and set an example of said Defendants.

1 **TWELFTH CAUSE OF ACTION**

2 **WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY**

3 **(Plaintiff against VALLEDOR HOLDINGS, INC. and all DOE Defendants)**

4
5 106. Plaintiff re-alleges and incorporates by reference each and every allegation
6 in paragraphs 1 through 105 inclusive, of this Complaint as though fully set forth herein.

7 107. At all times during his employment with Defendants, Plaintiff performed
8 his duties with the utmost diligence and competence.

9 108. Plaintiff is informed and believes and thereon alleges that Defendants' decision and
10 actions to treat him differently and terminate his employment as alleged herein, was motivated
11 by Plaintiff's trying to enforce his rights under the Labor Code. Plaintiff is further informed and
12 believes and thereon alleges that any other reasons proffered by Defendants were and are
13 pretextual in nature.
14

15 109. The employment of Plaintiff was wrongfully terminated in or around
16 February 9, 2024 in violation of the fundamental public policy of the State of California with
17 respect to retaliating against an employee on account of him enforcing his own labor code rights.
18 Plaintiff was forced to hire an attorney to assist him to end these illegal activities. Said conduct
19 violated statutory and constitutional expressions of public policy including, but not limited to,
20 California Labor Code sections 233 and 246.
21

22 110. As set forth above, said actions by Defendants were wrongful and in violation of the
23 fundamental principles of the public policy of the State of California as reflected in its laws,
24 objectives and policies. Said statutes and constitutional expressions of public policy include,
25 but are not limited to, California Labor Code. These laws inure to the benefit of the public at
26 large, and not just the private interests of the employers and employees whom they govern or
27 protect.
28

1 111. As a direct and proximate result of the aforementioned acts and omissions of
2 Defendants, Plaintiff suffered general and compensatory damages, including but not limited to,
3 loss of income (past and future), loss of employment benefits (past and future), general and
4 compensatory damages (past and future), mental pain and anguish and emotional distress (past
5 future), and will continue to suffer in the future, in an amount to be proved at trial.

6 112. The foregoing conduct engaged in by Defendants and each of their directors,
7 officers and/or managing agents, constitutes malice, fraud, and oppression and was authorized,
8 ratified, and carried on with a conscious and willful disregard of their workers' right to work in
9 an environment free of harassment and retaliation due to whistleblowing, so as to justify the
10 imposition of punitive damages to punish and set an example of said Defendants.

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13 **THIRTEENTH CAUSE OF ACTION**

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

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

16 **(Plaintiff against VALLEDOR HOLDINGS, INC. and all DOE defendants)**

17 113. Plaintiff re-alleges and incorporates by reference each and every allegation in
18 paragraphs 1 through 112, inclusive, of this Complaint as though fully set forth herein.

19 114. By virtue of the foregoing statutes, regulations, and laws, the acts of Defendants
20 constitute unfair and unlawful business practices under California Business and Professions
21 Code Section 17200, et seq.

22 115. Defendants' violations of California labor laws constitutes a business practice because
23 it was done repeatedly over a significant period of time in a systematic manner that was
24 detrimental to Plaintiff and others.

25 116. For the four years preceding the filing of this action, Plaintiff has suffered damages
26 and request damages and/or restitution of all monies and profits to be disgorged from
27
28

1 Defendants in an amount according to proof at time of trial, but in excess of the jurisdiction of
2 this Court.

3
4 **PRAYER FOR RELIEF**

5 WHEREFORE, Plaintiff prays for Judgment against Defendants and each of them, as
6 follows:

- 7 1. For compensatory damages to Plaintiff in an amount subject to proof at trial;
- 8 2. For general damages according to proof;
- 9 3. For an award of punitive damages against corporate Defendants according to proof;
- 10 4. For damages for wages not paid to Plaintiff in an amount subject to proof
11 at trial;
- 12 5. For damages and penalties under Labor Code Sections 203/204/210/226 for Plaintiff in
13 an amount subject to proof at trial;
- 14 6. For special, consequential, and liquidated damages to the extent allowed by law;
- 15 7. For the imposition of civil penalties and/or statutory penalties;
- 16 8. For PAGA penalties to the extent permitted pursuant to the Labor Code and Wage
17 Order including, but not limited to, Labor Code §§ 201, 202, 203, 204 and/or 204b,
18 210, 226, 226.3, 226.7, 233, 246, 351, 353, 510, 512, 558, 1174, 1174.5, 1194, 1194.2,
19 1197, 1197.1, 1198, 2800, 2802 via 2698 and 2699.
- 20 9. For an award of liquidated damages to the extent permissible by Labor Code § 1194.2;
- 21 10. For restitution and disgorgement for all unfair business practices by corporate
22 Defendants against Plaintiff in an amount subject to proof at trial;
- 23 11. For an order enjoining corporate Defendants from further unfair and unlawful business
24 practices in violation of Business and Professions Code Sections 17200, et seq.;
- 25 12. For one hour of wages due to Plaintiff for each work period of four (4) hours or major
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1 fraction thereof when Plaintiff did not receive a ten (10) minute rest break;

2 13. For one hour of wages due to Plaintiff for each work period of more than five (5) hours
3 when Plaintiff did not receive an uninterrupted thirty (30) minute meal period;

4 14. For maximum civil penalties available under the Labor Code and applicable Wage
5 Order against Defendants as described more particularly in the Complaint and
6 representative PAGA claims;

7 15. For all remedies available to Plaintiff under the applicable Wage Order and the
8 Labor Code including an award of unpaid wages, attorney's fees, costs, interest,
9 liquidated damages, damages, penalties, and waiting time penalties according to proof
10 to the extent permitted by law via PAGA;

11 16. For all interest as allowed by law;

12 17. For all costs and disbursements incurred in this suit;

13 18. Reasonable attorney's fees where available by law, including but not limited to,
14 pursuant to Labor Code section 2698 et seq., Code of Civil Procedure section 1021.5,
15 the Labor Code generally; and/or other applicable laws; and

16 19. For such other and further relief as this Court may deem proper.
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20
21 DATED: June 6, 2024

MESSRELIAN LAW INC.

22
23 By 
24 Harout Messrelian, Esq.
25 Attorneys for Plaintiff Fernando Chavez
26
27
28

DEMAND FOR JURY TRIAL

Plaintiff hereby demands, as a matter of right, a trial by jury in this case.

DATED: June 6, 2024

MESSRELIAN LAW INC.

By 
Harout Messrelian, Esq.
Attorneys for Plaintiff Fernando Chavez