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*Attorneys for Plaintiff,
PETE KASPER*

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

PETE KASPER, an individual, and on behalf of
all aggrieved employees

Plaintiff,

vs.

DAVENPORT HARBOR ROOM LLC, a
California corporation; SCOTT B.
DAVENPORT, an individual; and DOES 1
through 50 inclusive

Defendants.

Case No. **24STCV21453**

**COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF;
ENFORCEMENT ACTION UNDER
THE PRIVATE ATTORNEYS
GENERAL ACT, CALIFORNIA
LABOR CODE § 2698, ET SEQ:**

- 1. FAILURE TO PAY OVERTIME
COMPENSATION AND
LIQUIDATED DAMAGES (Lab.
Code, §§ 510, 1194, 1194.2, &
1198);**
- 2. FAILURE TO PAY MINIMUM
WAGES AND LIQUIDATED
DAMAGES (Lab. Code, §§ 1182.12,
1194; 1194.2; 1197; 1197.1; & 1198
and Cal. Code Regs., tit 8, § 11050);**
- 3. FAILURE TO PROVIDE MEAL
PERIODS (Lab. Code, § 226.7
& 512, and Cal. Code Regs., tit. 8, §
11050);**
- 4. FAILURE TO PROVIDE REST
PERIODS (Lab. Code, §§ 226.7 &
512, and Cal. Code Regs. tit. 8, §
11050);**
- 5. FAILURE TO PROVIDE
ACCURATE WAGE
STATEMENTS AND MAINTAIN
ACCURATE PAYROLL
RECORDS (Lab. Code, §§ 226,
subd. (a), 1174, subd. (d), & 1198);**
- 6. FAILURE TO PROVIDE**

- 1 ADEQUATE SEATING (Lab.
2 Code, § 1198; CAL. CODE REGS.,
3 Tit. 8, § 11050(14));
4 7. FAILURE TO PAY WAGES
5 UPON TERMINATION OF
6 EMPLOYMENT (Lab. Code, §
7 203);
8 8. VIOLATION OF LABOR CODE
9 SECTION 558;
10 9. UNFAIR COMPETITION (Bus. &
11 Prof. Code, §§ 17200 et seq.); and,
12 10. CIVIL PENALTIES FOR
13 VIOLATIONS OF THE
14 CALIFORNIA LABOR CODE,
15 PURSUANT TO THE PRIVATE
16 ATTORNEYS GENERAL ACT
17 (Lab. Code, §§ 2698, et seq.)

18 **DEMAND FOR A JURY TRIAL**

19 All allegations in this Complaint are based upon information and belief except for
20 those allegations which pertain to the named Plaintiff and his counsel. Each allegation has
21 evidentiary support, or is likely to have evidentiary support, after a reasonable opportunity
22 for further investigation and discovery.

23 **I.**

24 **JURISDICTION AND VENUE**

25 1. The Court has jurisdiction over this Complaint under Code of Civil
26 Procedure section 410.10. Plaintiff brings this complaint on his own behalf, on behalf of all
27 aggrieved employees, and the State of California.

28 2. Venue is proper in the court under Code of Civil Procedure sections 395 and
395.5 because the claims made, and the Labor Code violations as against the persons
identified herein, occurred in the County of Los Angeles. Further, each of the Defendants
operated their businesses in the County of Los Angeles

3 The Private Attorney Generals Act ("PAGA") authorizes aggrieved
employees to sue directly as the proxy of the State of California for civil penalties for
violations of various provisions in the California Labor Code.

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II.

THE PARTIES

PLAINTIFF

4. PETE KASPER (referred to as “PLAINTIFF”) is, and at all material times mentioned was:

- (a) An individual who resides in the County of Los Angeles, California;
- (b) Jointly employed as an employee by DAVENPORT HARBOR ROOM LLC, a California corporation; SCOTT B. DAVENPORT, an individual; and DOES 1 through 50 inclusive (“DEFENDANTS”), from on or about August 12, 2021, to on or about February 7, 2024, as a bartender;
- (c) Was not properly paid overtime wages for hours worked;
- (d) Was not properly paid minimum wages for hours worked;
- (e) Did not receive compliant meal periods or meal-period premiums;
- (f) Did not receive compliant rest periods or rest-period premiums;
- (g) Did not receive accurate itemized wage statements;
- (h) Did not receive adequate seating while on duty;
- (i) When terminated from his employment, was not paid for overtime wages owed, minimum wages owed, meal period wages owed, and rest period wages owed within the time limits prescribed by Labor Code section 201.

DEFENDANTS

5. PLAINTIFF is informed and believes, and based upon that information and belief alleges, that DAVENPORT HARBOR ROOM LLC, is, and at all times mentioned was:

- (a) An California corporation authorized to conduct business, and actually conducting business, in Los Angeles County, California;
- (b) The owner and operator of the “Harbor Room” bar, located at 195

1 Culver Blvd., Playa del Rey, California, 90293;

- 2 (c) Along with SCOTT B. DAVENPORT, and DOES 1 through 50,
3 inclusive, was the former joint employer of PLAINTIFF, and all
4 aggrieved employees, as DAVENPORT HARBOR ROOM LLC,
5 SCOTT B. DAVENPORT, and DOES 1 through 50 controlled
6 PLAINTIFF's, and all aggrieved employees' wages, hours, working
7 conditions, and how PLAINTIFF, and all aggrieved employees were
8 paid;
- 9 (d) Failed to properly pay PLAINTIFF, and all aggrieved employees for
10 overtime wages, for minimum wages, for missed meal periods, for
11 missed rest periods, failed to provide PLAINTIFF and all aggrieved
12 employees with accurate itemized wage statements, failed to provide
13 PLAINTIFF and all aggrieved employees with adequate seating while
14 on duty, and failed to pay PLAINTIFF and all aggrieved employees
15 for wages due upon termination. Each of these transgressions violated
16 the CAL. LAB. CODE.

17 6. PLAINTIFF is informed and believes, and based upon that information and
18 belief alleges, that SCOTT B. DAVENPORT, is, and at all times mentioned was:

- 19 (a) An individual who does business in Los Angeles County, California;
20 (b) An owner and operator of DAVENPORT HARBOR ROOM LLC;
21 (c) Along with DAVENPORT HARBOR ROOM LLC, and DOES 1
22 through 50, inclusive, was the former joint employer of PLAINTIFF,
23 and all aggrieved employees, as DAVENPORT HARBOR ROOM
24 LLC, SCOTT B. DAVENPORT, and DOES 1 through 50 controlled
25 PLAINTIFF's, and all aggrieved employees' wages, hours, working
26 conditions, and how PLAINTIFF, and all aggrieved employees were
27 paid;
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1 (d) Failed to properly pay PLAINTIFF, and all aggrieved employees for
2 overtime wages, for minimum wages, for missed meal periods, for
3 missed rest periods, failed to provide PLAINTIFF and all aggrieved
4 employees with accurate itemized wage statements, failed to provide
5 PLAINTIFF with adequate seating while on duty, and failed to pay
6 PLAINTIFF and all aggrieved employees for wages due upon
7 termination. Each of these transgressions violated the CAL. LAB.
8 CODE.

9 7. DAVENPORT HARBOR ROOM LLC, SCOTT B. DAVENPORT, and
10 DOES 1 through 50 are collectively referred to as “DEFENDANTS” throughout this
11 Complaint.

12 8. The true names and capacities, whether individual, corporate, subsidiary,
13 partnership, associate or otherwise of Defendant DOES 1 through 50, inclusive, are
14 unknown to the PLAINTIFF, who therefore sue these Defendants by those fictitious names
15 under CAL. CIV. PROC. § 474. PLAINTIFF will seek leave to amend the Complaint to
16 allege the true names and capacities of DOES 1 through 50, inclusive, when they are
17 ascertained.

18 9. PLAINTIFF is informed and believes, and based upon that information and
19 belief alleges, that Defendant DOES 1 through 50 are persons, corporations or other entities
20 which reside in, or are otherwise doing business in the State of California. Each of the
21 Defendant DOES 1 through 50 was the managerial agent, employee, predecessor,
22 successor, joint-venturer, co-conspirator, alter ego and/or representative of one or more of
23 the other Defendants named herein, and acted with permission, authorization and/or
24 ratification and consent of other Defendants.

25 10. PLAINTIFF is informed and believes, and based upon that information and
26 belief alleges, that the Defendants named in this Complaint, including DOES 1 through 50,
27 inclusive, are responsible in some manner for one or more of the events and happenings
28 that proximately caused the injuries and damages hereinafter alleged.

1 11. PLAINTIFF is informed and believes, and based upon that information and
2 belief alleges, that the Defendants named in this Complaint, including DOES 1 through 50,
3 inclusive, are, and at all times mentioned herein were, the agents, servants, and/or
4 employees of each of the other Defendants, and that each Defendant was acting within the
5 course of scope of his, hers, or its authority as the agent, servant and/or employee of each
6 of the other Defendants. Consequently, all the Defendants are jointly and severally liable to
7 PLAINTIFF, and all aggrieved employees for their damages sustained as a proximate result
8 of Defendants' conduct.

9 12. PLAINTIFF is informed and believes, and based upon that information and
10 belief alleges, that the Defendants named in this Complaint, including DOES 1 through 50,
11 inclusive, knowingly and willfully acted in concert, conspired and agreed together among
12 themselves and entered into a combination and systemized campaign of activity to *inter*
13 *alia* damage PLAINTIFF, and all aggrieved employees and to otherwise consciously and/or
14 recklessly act in derogation of PLAINTIFF's, and all aggrieved employees' rights, and the
15 trust reposed by PLAINTIFF, and all aggrieved employees in each of the Defendants, the
16 acts being negligently and/or intentionally inflicted. Their conspiracy, and Defendants'
17 concerted actions, were such that, to PLAINTIFF's information and belief, and to all
18 appearances, Defendants represented a unified body so that the actions of one Defendant
19 were accomplished in concert with, and with the knowledge, ratification, authorization and
20 approval of each of the other Defendants.

21 **ALTER-EGO ALLEGATIONS**

22 13. PLAINTIFF is informed and believes, and based upon that information and
23 belief alleges, that:

24 (a) DAVENPORT HARBOR ROOM LLC, and DOES 1 through 50, are, and at
25 all relevant times were, mere shells without capital, assets, stock or stockholders;

26 (b) Defendants DAVENPORT HARBOR ROOM LLC, and DOES 1 through 50
27 are, and at all relevant times were, the alter ego of Defendants SCOTT B. DAVENPORT,
28 and DOES 1 through 50, inclusive, and each of them, who were the controlling

1 shareholders, officers, and directors of DAVENPORT HARBOR ROOM LLC, and DOES 1
2 through 50;

3 (c) There is, and at all relevant times was, a unity of interest and/or ownership
4 between all of these Defendants so that any individuality or separateness between them has
5 ceased to exist in that DAVENPORT HARBOR ROOM LLC, and DOES 1 through 50,
6 inclusive were and are under their control and domination; and

7 (d) DAVENPORT HARBOR ROOM LLC, and DOES 1 through 50, inclusive
8 are, and at all relevant times were, completely controlled, dominated, managed and
9 operated by SCOTT B. DAVENPORT, and Defendants DOES 1 through 50, inclusive, and
10 each of them, so that DAVENPORT HARBOR ROOM LLC, and DOES 1 through 50 were
11 mere shells, instrumentalities, and/or conduits through which each of these Defendants
12 conducted some or all of their/its business. Adherence to the fiction of the separate
13 existence of DAVENPORT HARBOR ROOM LLC, and DOES 1 through 50, inclusive as
14 entities distinct from SCOTT B. DAVENPORT, Defendants DOES 1 through 50, inclusive,
15 or any of them, would permit an abuse of the corporate privilege and sanction fraud or
16 promote injustice in that, among other things, it would enable each of these Defendants to
17 avoid liability and to defraud his, her, or its creditors, the effect of which would be to
18 render each Defendant financially unable to respond to a monetary judgment awarded
19 against each or any of them in the action.

20 14. PLAINTIFF and all persons employed by DEFENDANTS in California who
21 received at least one wage statement are “aggrieved employees” as defined by CAL. LAB.
22 CODE § 2699 in that they are all current or former employees of DEFENDANTS, and one
23 or more of the alleged violations was committed against them.

24 III.

25 **PAGA REPRESENTATIVE ALLEGATIONS**

26 15. At all times herein set forth, PAGA provides that any provision of law under
27 the Labor Code and applicable IWC Wage Order that provides for a civil penalty to be
28 assessed and collected by the LWDA for violations of the Labor Code and applicable IWC

1 Wage Order may, as an alternative, be recovered by aggrieved employees in a civil action
2 brought on behalf of themselves and other current or former employees pursuant to
3 procedures outlined in Labor Code section 2699.3.

4 16. PAGA defines an “aggrieved employee” in Labor Code section 2699,
5 subdivision (c) as “any person who was employed by the alleged violator and against whom
6 one or more of the alleged violations was committed.”

7 17. PLAINTIFF and other current and former employees of DEFENDANTS are
8 “aggrieved employees” as defined by Labor Code section 2699, subdivision (c) in that they
9 are all Defendants’ current or former employees and one or more of the alleged violations
10 were committed against them.

11 18. On March 26, 2024, PLAINTIFF provided written notice by online filing to
12 the LWDA, by Certified Mail to DEFENDANTS of the specific provisions of the
13 California Labor Code alleged to have been violated, including facts and theories to support
14 the alleged violations, in accordance with Labor Code section 2699.3. PLAINTIFF’s notice
15 was accompanied with the applicable filing fee of seventy-five dollars (\$75). The LWDA
16 PAGA Administrator confirmed receipt of Plaintiff’s notice and assigned Plaintiff PAGA
17 Case Number LWDA-CM-1018781-24.

18 19. PLAINTIFF has satisfied the administrative prerequisites under Labor Code
19 sections 2699.3, subdivision (a) and 2699.3, subdivision (c) to recover civil penalties
20 against DEFENDANTS for violations of Labor Code sections 201, 202, 203, 226, 226.7,
21 510, 512, 516, 558, 1182.12, 1174, 1194, 1194.2, 1197, 1197.1, and 1198; the CALIFORNIA
22 CODE OF REGULATIONS; and the applicable Industrial Wage Order No. 5-2001 (as
23 amended).

24 20. Labor Code section 558, subdivision (a) provides, “Any employer or other
25 person acting on behalf of an employer who violates, or causes to be violated, a section of
26 this chapter or any provision regulating hours and days of work in any order of the
27 Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any
28 initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for

1 which the employee was underpaid....(2) For each subsequent violation, one hundred
2 dollars (\$100) for each underpaid employee for each pay period for which the employee
3 was underpaid....” Labor Code section 558, subdivision (d) provides, “The civil penalties
4 provided for in this section are in addition to any other civil or criminal penalty provided
5 by law.”

6 21. DEFENDANTS, at all times relevant to this complaint, were employers or
7 persons acting on behalf of an employer(s) who violated PLAINTIFF’s and other aggrieved
8 employees’ rights by violating various sections of the Labor Code as set forth above.

9 22. As set forth below, DEFENDANTS have violated numerous provisions of
10 both the Labor Code sections regulating hours and days of work as well as the applicable
11 IWC Wage Order.

12 23. Pursuant to PAGA, and in particular, Labor Code sections 2699, subdivision
13 (a), 2699.3, subdivision (a), 2699.3, subdivision (c), 2699.5, and section 558, PLAINTIFF,
14 acting in the public interest as a private attorney general, seeks assessment and collection
15 of civil penalties for herself, all other aggrieved employees, and the State of California
16 against DEFENDANTS for violations of Labor Code sections 201, 202, 203, 226, 226.7,
17 510, 512, 516, 558, 1182.12, 1174, 1194, 1194.2, 1197, 1197.1, and 1198; the CALIFORNIA
18 CODE OF REGULATIONS; and the applicable Industrial Wage Order No. 5-2001 (as
19 amended).

20 **THE CONDUCT**

21 24. DEFENDANTS own and operate the “Harbor Room” bar, located at 195
22 Culver Blvd., Playa del Rey, California, 90293.

23 25. DEFENDANTS’ business requires the use of “non-exempt” employees as
24 defined by the California Labor Code and IWC Wage Order No. 5-2001 (as amended),
25 including but not limited to hosts, wait staff / cashiers, bartenders, cooks, prep cooks,
26 dishwashers, and janitors.
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1 26. DEFENDANTS jointly employed PLAINTIFF from on or about August 12,
2 2021 to on or about February 7, 2024. PLAINTIFF's duties for DEFENDANTS included,
3 without limitation, tending bar, at the Harbor Room, for DEFENDANTS.

4 27. DEFENDANTS typically employed PLAINTIFF on Thursdays through Sundays.
5 DEFENDANTS would employ PLAINTIFF beginning at approximately 6:00 p.m., each day,
6 and would continue to employ PLAINTIFF until approximately 2:30 a.m., the next day. On
7 occasion, DEFENDANTS would require that PLAINTIFF work until approximately 3:00 a.m.

8 28. DEFENDANTS paid PLAINTIFF \$15.96 per hour from on or about July 8,
9 2022, to on or about July 21, 2022. DEFENDANTS paid PLAINTIFF \$16.04 per hour from on
10 or about July 22, 2022, to on or about July 6, 2023. DEFENDANTS paid PLAINTIFF \$16.90
11 per hour from on or about July 7, 2023, to on or about February 7, 2024.

12 29. During PLAINTIFF's, and all aggrieved employees' employment,
13 DEFENDANTS exercised complete and unfettered control over PLAINTIFF's, and all
14 aggrieved employees' work schedules; their hours worked; their rate of pay and method of
15 payment; dictated how PLAINTIFF, and all aggrieved employees would actually perform their
16 job duties; and dictated when PLAINTIFF, and all aggrieved employees could or could not
17 take lunch or rest breaks. PLAINTIFF, and all aggrieved employees could not exercise
18 discretion and independent judgment in performing their tasks. PLAINTIFF, and all aggrieved
19 employees had to obtain approval on all actions they took on their jobs. Additionally,
20 DEFENDANTS did not pay PLAINTIFF, and all aggrieved employees salaries twice the state
21 minimum wage for full-time employment. CAL. CODE REGS. § 11050, including the applicable
22 California Wage Order apply to PLAINTIFF, and all aggrieved employees. PLAINTIFF, and
23 all aggrieved employees were not exempt employees or independent contractors.

24 30. For a period of time between on or about July 8, 2022, to on or about July 21,
25 2022, DEFENDANTS required that PLAINTIFF and other aggrieved employees work hours
26 without paying compensation at the City of Los Angeles's minimum wage. DEFENDANTS
27 paid PLAINTIFF \$15.96 per hour from on or about July 8, 2022, to on or about July 21, 2022.
28 The City of Los Angeles's minimum wage, for employers with 25 or fewer employees was

1 \$16.04 from July 1, 2022, to June 30, 2023. Additionally, DEFENDANTS would fail to pay
2 PLAINTIFF and all aggrieved employees for one-half (0.5) hours worked per shift while
3 PLAINTIFF and all aggrieved employees should have been allowed to take a meal break. As
4 such, Mr. Kasper was typically paid based on an eight (8) hour work shift while he was
5 actually employed for an eight-and-one-half (8.5) hour, or more, work shift.

6 31. During PLAINTIFF's, and all aggrieved employees employment,
7 DEFENDANTS failed to properly pay PLAINTIFF, and all aggrieved employees for overtime
8 hours worked.

9 32. CAL. LAB. CODE § 510 provides that employees in California shall not be
10 employed more than 8 hours in any workday or 40 hours in a workweek unless they receive
11 additional compensation beyond their regular wages in amounts specified by law.

12 33. CAL. LAB. CODE. §§ 1182.12, 1194, 1194.2, 1197, 1197.1, and 1198 require
13 employers to pay employees the minimum wage fixed by the California Industrial Welfare
14 Commission. The payment of a lesser wage than the minimum so fixed is unlawful.

15 34. During PLAINTIFF's, and all aggrieved employees' employment,
16 DEFENDANTS failed to properly pay PLAINTIFF, and aggrieved employees minimum wages
17 for all hours worked.

18 35. DEFENDANTS routinely failed to permit PLAINTIFF, and all aggrieved
19 employees to take code-complaint meal periods.

20 36. DEFENDANTS routinely failed to provide PLAINTIFF, and all aggrieved
21 employees with code-compliant thirty (30) minute meal periods during shifts in excess of five
22 (5) hours, and a second meal period of at least thirty (30) minutes during shifts in excess of ten
23 (10) hours. When meal periods were provided, they were shorter in duration than 30 minutes,
24 were interrupted, or were not provided on or before the fifth hour worked. PLAINTIFF, and
25 other aggrieved employees, could not leave DEFENDANTS' premises during meal periods as
26 there were no other staff available to relieve them from bar duties. DEFENDANTS effectively
27 maintained control over PLAINTIFF, and all aggrieved employees during the meal periods that
28 were provided. On each day where a code-compliant thirty (30) minute meal period was not

1 provided to PLAINTIFF, and all aggrieved employees, DEFENDANTS failed to pay
2 PLAINTIFF, and all aggrieved employees one additional hour of pay at their regular rates of
3 pay.

4 37. DEFENDANTS routinely refused to allow PLAINTIFF, and all aggrieved
5 employees to take code-complaint rest periods.

6 38. DEFENDANTS did not provide PLAINTIFF, and all aggrieved employees with
7 a code compliant 10-minute net rest period for every four (4) hours or major fraction thereof
8 worked. Where rest periods were provided, they were shorter in duration than 10 minutes, were
9 interrupted, or were not provided every four (4) hours or major fraction thereof worked.
10 PLAINTIFF, and other aggrieved employees, could not leave DEFENDANTS' premises
11 during meal periods as there were no other staff available to relieve them from bar duties.
12 PLAINTIFF, and other aggrieved employees, could not leave DEFENDANTS' premises
13 during rest periods as there were no other staff available to relieve them from bar duties.
14 DEFENDANTS effectively maintained control over PLAINTIFF, and all aggrieved employees
15 during rest periods that were provided. On each day when code-compliant ten (10) minute rest
16 periods were not provided to PLAINTIFF, and all aggrieved employees, DEFENDANTS failed
17 to pay PLAINTIFF, and all aggrieved employees one additional hour of pay at their regular
18 rates of pay.

19 39. Under California law, an employee who works more than 4 hours or major
20 fraction thereof is entitled to a compensated rest period of 10 minutes. An employee who works
21 more than 5 hours in a day is entitled to a meal period of at least 30 minutes, and a second meal
22 period of at least 30 minutes if he or she works more than 10 hours in a workday. (CAL. LAB.
23 CODE § 512(a).) An employer that fails to provide a rest or meal period that satisfies the
24 requirements of the applicable IWC Wage Order 5-2001 (as amended) must pay a premium to
25 the employee of one additional hour of pay at the employee's regular rate for each day that a
26 meal or rest period was not provided. (CAL. LAB. CODE § 226.7(b).)

27 40. The wage statements that DEFENDANTS did provide to PLAINTIFF and other
28 aggrieved employees did not conform with CAL. LAB. CODE § 226 as those wage statements

1 failed to accurately reflect PLAINTIFF's, and other aggrieved employees' hours worked,
2 including overtime wages, minimum wages, missed meal periods, and rest periods, and failed
3 to state the correct rate of pay.

4 41. DEFENDANTS did not provide PLAINTIFF and all aggrieved employees
5 with an adequate number of suitable seats in reasonable proximity to the work area that
6 could be used when using the seats would not interfere with the performance of job duties.
7 PLAINTIFF and all aggrieved employees spent substantial parts of their workdays behind
8 cash registers or Point of Sale systems, regardless of their actual job titles or descriptions.
9 The nature of the work of an employee performing cashier duties can reasonably be
10 accomplished from a seated position. However, DEFENDANTS did not provide seats or
11 stools at or near each cash register or Point of Sale System forcing PLAINTIFF and all
12 aggrieved employees to stand throughout their work shifts, or attempt to sit on the edge of a
13 cooler behind the bar.

14 42. CAL. LAB. CODE § 201(a) provides that a discharged employee's unpaid wages
15 are due and payable immediately. Under CAL. LAB. CODE § 202(a), when an employee not
16 having a written contract for a definite period is terminated, his or her wages become
17 immediately due and payable. CAL. LAB. CODE § 203(a) provides, "If an employer willfully
18 fails to pay, without abatement or reduction, in accordance with Sections [201 and 202], any
19 wages of an employee who is discharged or who quits, the wages of the employee shall
20 continue as a penalty from the due date thereof at the same rate until paid or until an action
21 therefore is commenced; but the wages shall not continue for more than 30 days."

22 43. DEFENDANTS last employed PLAINTIFF on or about February 7, 2024. It was
23 not until on or about February 23, 2024, that DEFENDANTS direct deposited a final pay check
24 to PLAINTIFF. Additionally, DEFENDANTS willfully failed to pay PLAINTIFF and other
25 aggrieved employees who are no longer employed by DEFENDANTS all of their wages earned
26 including minimum wages, overtime wages, meal-period wages, and rest-period wages.

27 44. As a result, under CAL. LAB. CODE § 203, PLAINTIFF, and all aggrieved
28 employees are entitled to one day's wages for each day they were not timely paid all wages

1 due, up to a maximum of 30 days' wages. Additionally, because DEFENDANTS failed to pay
2 overtime wages, minimum wages, meal period wages, and rest period wages to PLAINTIFF,
3 and all aggrieved employees, each of these individuals whose employment has been terminated
4 during the applicable statutory period, including PLAINTIFF, are entitled to 30 days' wages.

5 **FIRST CAUSE OF ACTION**
6 **FOR FAILURE TO PAY OVERTIME COMPENSATION AND LIQUIDATED**
7 **DAMAGES**

8 **(Lab. Code, §§ 510, 1194, 1194.2 & 1198)**

9 **(By PLAINTIFF, on his own behalf, and against all DEFENDANTS)**

10 45. PLAINTIFF repeats and re-alleges paragraphs 1 through 44, inclusive, of this
11 Complaint and they are incorporated herein by this reference.

12 46. Under the applicable IWC Wage Order 5-2001 (as amended),
13 DEFENDANTS were the joint employers of PLAINTIFF.

14 47. Labor Code section 510 provides that employees in California shall not be
15 employed more than 8 hours in any workday or 40 hours in a workweek unless they receive
16 additional compensation beyond their regular wages in amounts specified by law.

17 48. California Code of Regulations, title 8, section 11050, subdivision (3)(A)(1)
18 provides that overtime hours shall be compensated at: (a) One and one-half (1 ½) times the
19 employee's regular rate of pay for all hours worked in excess of eight (8) hours up to and
20 including 12 hours in any workday, and for the first eight (8) hours worked on the seventh
21 (7th) consecutive day of work in a workweek; and (b) Double the employee's regular rate
22 of pay for all hours worked in excess of 12 hours in any workday and for all hours worked
23 in excess of eight (8) hours on the seventh (7th) consecutive day of work in a workweek.

24 49. Labor Code section 1194 establishes an employee's right to recover unpaid
25 overtime compensation, interest thereon, together with the costs of suit, and attorneys' fees.

26 50. Labor Code Section 1198 states that the employment of an employee for
27 longer hours than those fixed by the Industrial Welfare Commission is unlawful.

28 51. Labor Code section 1194.2 establishes an employee's right to recover

1 liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon
2 in an action for payment of a wage less than the minimum wage fixed by the Industrial
3 Welfare Commission or by statute.

4 52. At all times relevant hereto, PLAINTIFF worked more than 8 hours in a
5 workday, and/or 40 hours in a workweek, as an employee of DEFENDANTS.

6 53. At all times relevant hereto, DEFENDANTS failed to pay overtime
7 compensation to PLAINTIFF for the hours he worked in excess of the maximum hours
8 permissible by law as required by Labor Code sections 510, 1194, and 1198.

9 54. DEFENDANTS acted intentionally, oppressively, and maliciously toward
10 PLAINTIFF, with a conscious disregard of his rights, or the consequences to him, with the
11 intent of depriving him of property and legal rights and otherwise causing him injury. By
12 virtue of DEFENDANTS' unlawful failure to pay overtime wages, PLAINTIFF has
13 suffered, and will continue to suffer, damages in the amounts which are presently unknown
14 to him, but which exceed the jurisdictional limits of the court, and which will be
15 ascertained according to proof at trial.

16 55. PLAINTIFF seeks to recover overtime wages according to proof, interest, as
17 well as the assessment of all applicable statutory penalties against DEFENDANTS, in a
18 sum as provided by the Labor Code and/or other statutes. PLAINTIFF also seeks to recover
19 liquidated damages as provided by Labor Code section 1194.2, and reasonable attorneys'
20 fees and costs.

21 **SECOND CAUSE OF ACTION**

22 **FOR FAILURE TO PAY MINIMUM WAGES AND LIQUIDATED DAMAGES**

23 **(Lab. Code, §§ 1182.12, 1194, 1194.2, 1197, 1197.1, & 1198, and Cal. Code Regs., tit. 8,**
24 **§ 11050)**

25 **(By PLAINTIFF, on his own behalf, and against all DEFENDANTS)**

26 56. PLAINTIFF repeats and re-alleges paragraphs 1 through 55, inclusive, of this
27 Complaint and they are incorporated herein by this reference.

28 57. Labor Code sections 1182.12, 1197, and 1197.1 require employers to pay

1 employees the minimum wage fixed by the California Industrial Welfare Commission. The
2 payment of a lesser wage than the minimum so fixed is unlawful.

3 58. Compensable work time is defined in Industrial Wage Order No. 5 as “the
4 time during which an employee is subject to the control of an employer, and includes all
5 the time the employee is suffered or permitted to work, whether or not required to do so.”
6 (Cal. Code Regs., tit. 8, § 11050, subd. (2)(K) [defining “Hours Worked”].)

7 59. Labor Code section 1194 establishes an employee’s right to recover unpaid
8 wage compensation, interest thereon, together with the costs of suit, and attorneys’ fees.

9 60. Labor Code section 1194.2 establishes an employee’s right to recover
10 liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon
11 in an action for payment of a wage less than the minimum wage fixed by the Industrial
12 Welfare Commission or by statute.

13 61. At all times relevant hereto, PLAINTIFF did not reside at the place of
14 employment.

15 62. DEFENDANTS failed to properly pay PLAINTIFF for all hours worked at
16 the legal minimum wage.

17 63. DEFENDANTS acted intentionally, oppressively, and maliciously toward
18 PLAINTIFF, with a conscious disregard of his rights, or the consequences to him, with the
19 intent of depriving him of property and legal rights and otherwise causing him injury. By
20 virtue of DEFENDANTS’ unlawful failure to pay wages, PLAINTIFF has suffered, and
21 will continue to suffer damages in an amount that is presently unknown to him, but which
22 exceeds the jurisdictional limits of the court, and which will be ascertained according to
23 proof at trial.

24 64. PLAINTIFF seeks to recover minimum wages according to proof, interest,
25 and the assessment of all applicable statutory penalties against DEFENDANTS, in a sum as
26 provided by the Labor Code and/or other statutes. PLAINTIFF also seeks to recover
27 liquidated damages as provided by Labor Code section 1194.2, and reasonable attorneys’
28 fees and costs.

(By PLAINTIFF, on his own behalf, and against all DEFENDANTS)

70. DEFENDANTS intentionally and improperly denied meal periods to

1 PLAINTIFF, in violation of Labor Code sections 226.7 and 512 and California Code of
2 Regulations, title 8, section 11050, subdivision (11) and other regulations and statutes.

3 71. By virtue of the DEFENDANTS' unlawful failure to provide meal periods to
4 PLAINTIFF, PLAINTIFF has suffered and will continue to suffer damages in amounts that
5 are presently unknown to PLAINTIFF, but which exceed the jurisdictional limits of the
6 court, and which will be ascertained according to proof at trial.

7 72. PLAINTIFF is informed and believes, and based upon that information and
8 belief alleges, that DEFENDANTS purposely elected not to provide meal periods to their
9 hourly paid employees. DEFENDANTS acted intentionally, oppressively, and maliciously
10 toward PLAINTIFF with a conscious disregard of his rights, or the consequences to
11 PLAINTIFF, with the intent of depriving PLAINTIFF of property and legal rights and
12 otherwise causing PLAINTIFF injury.

13 73. PLAINTIFF seeks to recover meal-period compensation according to proof,
14 interest, and all applicable statutory penalties against DEFENDANTS, in a sum as provided
15 by the Labor Code and/or other statutes, and reasonable attorneys' fees and costs/

16 **FOURTH CAUSE OF ACTION**

17 **FOR FAILURE TO PROVIDE REST PERIODS**

18 **(Lab. Code, §§ 226.7 & 512, and Cal. Code Regs., tit. 8, § 11050)**

19 **(By PLAINTIFF, on his own behalf, and against all DEFENDANTS)**

20 74. PLAINTIFF repeats and re-alleges paragraphs 1 through 73, inclusive, of this
21 Complaint and they are incorporated herein by this reference.

22 75. Labor Code section 226.7 and California Code of Regulations, title 8, section
23 11050, subdivision (12)(A) provide that employers shall authorize and permit all employees
24 to take rest periods at the rate of 10 minutes net rest time per 4 hours or major fraction
25 thereof, of work.

26 76. Labor Code section 226.7 and California Code of Regulations, title 8, section
27 11050, subdivision (11)(D) provide that if an employer fails to provide an employee with
28 rest periods in accordance with those statutes, the employer shall pay the employee one

1 hour of pay at the employee's regular rate of compensation for each workday that the rest
2 period was not provided.

3 77. The Wage Order provides a separate remedy for violations of meal-period
4 requirements and violations of rest-period requirements and section 226.7 allows recovery
5 of up to two premium payments per workday – one for each type of violation. (*United*
6 *Parcel Service, Inc. v. Superior Court* (2011) 196 Cal.App.4th 57, 69.)

7 78. At all times relevant, PLAINTIFF worked more than four hours in a workday
8 for DEFENDANTS.

9 79. At all times relevant, DEFENDANT failed to provide rest periods to
10 PLAINTIFF as required by Labor Code section 226.7 and California Code of Regulations,
11 title 8, section 11050, subdivision (11).

12 80. DEFENDANTS did not provide PLAINTIFF with a 10-minute net rest period
13 for every 4 hours or major fraction thereof worked. Where rest periods were provided, they
14 were shorter in duration than 10 minutes, were interrupted, or were not provided every 4
15 hours or major fraction thereof worked. PLAINTIFF, and other aggrieved employees, could
16 not leave DEFENDANTS' premises during rest periods as there were no other staff
17 available to relieve them from bar duties. DEFENDANTS effectively maintained control
18 over PLAINTIFF during rest periods that were provided. On each day where compliant 10-
19 minute rest periods were not provided to PLAINTIFF, DEFENDANTS failed to pay
20 PLAINTIFF one additional hour of pay at his regular rate of pay.

21 81. DEFENDANTS have intentionally and improperly denied rest periods to
22 PLAINTIFF in violation of Labor Code sections 226.7 and 512 and California Code of
23 Regulations, title 8, section 11050, subdivision (12).

24 82. By virtue of the DEFENDANTS' unlawful failure to provide rest periods to
25 the PLAINTIFF, PLAINTIFF has suffered and will continue to suffer damages in amounts
26 that are presently unknown to PLAINTIFF, but which exceed the jurisdictional limits of the
27 court, and which will be ascertained according to proof at trial.

28 83. PLAINTIFF is informed and believes, and based upon that information and

1 belief alleges, that DEFENDANTS knew or should have known that PLAINTIFF was
2 entitled to rest periods and purposely elected not to provide rest periods. DEFENDANTS
3 acted intentionally, oppressively, and maliciously toward PLAINTIFF, with a conscious
4 disregard of his rights or the consequences to PLAINTIFF, with the intent of depriving
5 PLAINTIFF of property and legal rights and otherwise causing PLAINTIFF injury.

6 84. PLAINTIFF seeks to recover rest-period compensation according to proof,
7 interest, and all applicable statutory penalties against DEFENDANTS, in a sum as provided
8 by the Labor Code and/or other statutes, and reasonable attorneys' fees and costs.

9 **FIFTH CAUSE OF ACTION**
10 **FOR FAILURE TO PROVIDE ACCURATE WAGE STATEMENTS AND**
11 **MAINTAIN ACCURATE PAYROLL RECORDS**

12 **(Lab. Code, 226, subd. (a), 1174, subd. (d), & 1198)**

13 **(By PLAINTIFF, on his own behalf, and against all DEFENDANTS)**

14 85. PLAINTIFF repeats and re-alleges paragraphs 1 through 84, inclusive, of this
15 Complaint and they are incorporated herein by this reference.

16 86. Labor Code section 226, subdivision (a) requires employers to provide non-
17 exempt employees with detailed and accurate wage statements (*i.e.* "pay stubs").

18 Specifically, the statute provides:

19 Every employer shall, semimonthly or at the time of each payment of wages,
20 furnish each of his or her employees, either as a detachable part of the check,
21 draft, or voucher paying the employee's wages, or separately when wages are
22 paid by personal check or cash, an accurate itemized statement in writing
23 showing (1) gross wages earned, (2) total hours worked by the employee,
24 except for any employee whose compensation is solely based on a salary and
25 who is exempt from payment of overtime under subdivision (a) of Section
26 515 or any applicable order of the Industrial Welfare Commission, (3) the
27 number of piece-rate units earned and any applicable piece rate if the
28 employee is paid on a piece-rate basis, (4) all deductions, provided that all
deductions made on written orders of the employee may be aggregated and
shown as one item, (5) net wages earned, (6) the inclusive dates of the period
for which the employee is paid, (7) the name of the employee and only the
last four digits of his or her social security number or an employee
identification number other than a social security number, (8) the name and
address of the legal entity that is the employer and, if the employer is a farm

1 labor contractor, as defined in subdivision (b) of Section 1682, the name and
2 address of the legal entity that secured the services of the employer, and (9)
3 all applicable hourly rates in effect during the pay period and the
4 corresponding number of hours worked at each hourly rate by the employee
5 and, beginning July 1, 2013, if the employer is a temporary services
6 employer as defined in Section 201.3, the rate of pay and total hours worked
7 for each temporary services assignment.

8 87. Labor Code section 226, subdivision (e) provides that for each violation of
9 subdivision (a), an employee is entitled to recover the greater of all actual damages or
10 minimum statutory damages of \$50 for the initial pay period in which a violation occurs
11 and \$100 for each subsequent violation, up to a maximum of \$4,000.

12 88. Labor Code section 1174, subdivision (d) provides, "Every person employing
13 labor in this state shall...[k]eep, at a central location in the state or at the plants or
14 establishments at which employees are employed, payroll records showing the hours
15 worked daily by and the wages paid to, and the number of piece-rate units earned by and
16 any applicable piece rate paid to, employees employed at the respective plants or
17 establishments. These records shall be kept in accordance with rules established for this
18 purpose by the commission, but in any case shall be kept on file for not less
19 than three years."

20 89. Labor Code section 1174.5 provides that employers are subject to a \$500
21 civil penalty if they fail to maintain accurate and complete records as required by section
22 1174, subdivision (d).

23 90. DEFENDANTS intentionally failed to furnish to PLAINTIFF, upon the
24 payment of wages, itemized wage statements in conformity with Labor Code section 226.
25 The wage statements failed to accurately reflect PLAINTIFFS' hours worked, including
26 overtime wages, minimum wages, missed meal periods, missed rest periods, and failed to
27 state the correct rate of pay.

28 91. PLAINTIFF was damaged by these failures because, among other things, the
failures led PLAINTIFF to believe that he was not entitled to be paid for all hours worked
even though he was so entitled, and because these failures hindered PLAINTIFF from

1 determining the amounts of wages owed to him.

2 92. PLAINTIFF is also informed and believes, and based upon that information
3 and belief alleges, that DEFENDANTS willfully failed to maintain accurate payroll records
4 showing the daily hours PLAINTIFF worked and the wages that should have been paid as a
5 result of failing to record hours that PLAINTIFF worked, as well as PLAINTIFF's missed
6 meal periods and rest periods.

7 93. PLAINTIFF seeks to recover damages, penalties, and interest under Labor
8 Code sections 226, 1174, and 1198, and reasonable attorneys' fees and costs.

9 **SIXTH CAUSE OF ACTION**

10 **FAILURE TO PROVIDE ADEQUATE SEATING**

11 **(Lab. Code, § 1198; Cal. Code Regs., tit. 8, § 11050, subd. (14))**

12 **(By PLAINTIFF, on his own behalf, and against all DEFENDANTS)**

13 94. PLAINTIFF repeats and re-alleges paragraphs 1 through 93, inclusive, of this
14 Complaint and they are incorporated herein by this reference.

15 95. Labor Code section 1198 makes it illegal to employ an employee under
16 conditions of labor that are prohibited by the applicable wage order.

17 96. Labor Code section 1198 provides in relevant part, "[T]he standard conditions of
18 labor fixed by the commission shall be the...standard conditions of labor for employees. The
19 employment of any employee...under conditions of labor prohibited by the order is unlawful."

20 97. California Code of Regulations, title 8, section 11050, subdivision (14)(A)
21 provides, "All working employees shall be provided with suitable seats when the nature of the
22 work reasonably permits the use of seats."

23 98. California Code of Regulations, title 8, section 11050, subdivision (14)(B)
24 provides, "When employees are not engaged in the active duties of their employment and the
25 nature of the work requires standing, an adequate number of suitable seats shall be placed in
26 reasonable proximity to the work area and employees shall be permitted to use such seats when
27 it does not interfere with the performance of their duties."
28

99. DEFENDANTS violated Labor Code section 1198 and California Code of Regulations, title 8, section 11050, subdivision (14) because DEFENDANTS did not provide PLAINTIFF with an adequate number of suitable seats in reasonable proximity to the work area that could be used when the seats would not interfere with the performance of his job duties. PLAINTIFF spent substantial parts of his workday behind a cash register or Point of Sale System, regardless of his actual job title or description. The nature of the work of an employee performing cashier duties can reasonably be accomplished from a seated position. However, DEFENDANTS did not provide seats or stools at or near each cash register or Point of Sale System, forcing PLAINTIFF to stand throughout his work shifts, or attempt to sit on the edge of a cooler behind the bar.

100. PLAINTIFF seeks all remedies available for violations of Labor Code section 1198 and California Code of Regulations, title 8, section 11050, subdivision (14).

SEVENTH CAUSE OF ACTION

FOR FAILURE TO PAY WAGES UPON TERMINATION OF EMPLOYMENT

(Lab. Code, § 203)

(By PLAINTIFF, on his own behalf, and against all DEFENDANTS)

101. PLAINTIFF repeats and re-alleges paragraphs 1 through 100, inclusive, of this Complaint and they are incorporated herein by this reference.

102. Labor Code section 201, subdivision (a) provides that a discharged employee's unpaid wages are due and payable immediately.

103. Labor Code section 203, subdivision (a) provides, “If an employer willfully fails to pay, without abatement or reduction, in accordance with Sections [201 and 202], any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefore is commenced; but the wages shall not continue for more than 30 days.”

104. DEFENDANTS discharged PLAINTIFF from his employment within the applicable statute of limitations.

105. DEFENDANTS willfully failed to pay PLAINTIFF the wages due to him—

1 without abatement or reduction.

2 106. Under Labor Code section 203, PLAINTIFF is entitled to one day's wages
3 for each day he was not timely paid all wages due, up to a maximum of 30 days' wages.

4 107. DEFENDANTS last employed PLAINTIFF on or about February 7, 2024. It
5 was not until on or about February 23, 2024, that DEFENDANTS direct deposited a final
6 pay check to PLAINTIFF.

7 108. Additionally, because DEFENDANTS failed to pay overtime wages,
8 minimum wages owed, meal period wages owed, and rest period wages owed, PLAINTIFF
9 seeks to recover 30 days' wages and applicable penalties.

10 109. PLAINTIFF also seeks reasonable attorneys' fees and costs.

11 **EIGHTH CAUSE OF ACTION**

12 **FOR VIOLATION OF CALIFORNIA LABOR CODE SECTION 558**

13 **(Lab. Code, § 558)**

14 **(By PLAINTIFF, on his own behalf, and against all DEFENDANTS)**

15 110. PLAINTIFF re-alleges paragraphs 1 through 109, inclusive, of this
16 Complaint and they are incorporated herein by this reference.

17 111. Labor Code section 558, subdivision (a) provides, "Any employer or other
18 person acting on behalf of an employer who violates, or causes to be violated, a section of
19 this chapter or any provision regulating hours and days of work in any order of the
20 Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any
21 initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for
22 which the employee was underpaid in addition to an amount sufficient to recover underpaid
23 wages. (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid
24 employee for each pay period for which the employee was underpaid in addition to an
25 amount sufficient to recover underpaid wages." Section 558, subdivision (d) provides, "The
26 civil penalties provided for in this section are in addition to any other civil or criminal
27 penalty provided by law."

28 112. At all relevant times, DEFENDANTS violated the rights of PLAINTIFF by

1 violating various sections of the Labor Code. PLAINTIFF seeks the remedies set forth in
2 Labor Code section 558, and reasonable attorneys' fees and costs.

3 **NINTH CAUSE OF ACTION**

4 **FOR UNFAIR COMPETITION**

5 **(Bus. & Prof. Code, §§ 17200 et seq.)**

6 **(By PLAINTIFF, on his own behalf, and against all DEFENDANTS)**

7 113. PLAINTIFF repeats and re-alleges paragraphs 1 through 112, inclusive, of
8 this Complaint and they are incorporated herein by this reference.

9 114. Each of the DEFENDANTS are a "person" as that term is defined under
10 Business and Professions Code section 17021.

11 115. Business and Professions Code section 17200 defines unfair competition as
12 any unlawful, unfair, or fraudulent business act or practice. At all relevant times, by and
13 through the conduct described herein, DEFENDANTS have engaged in unfair and unlawful
14 practices by, among other violations, failing to pay overtime wages to PLAINTIFF, failing
15 to pay minimum wages to PLAINTIFF, failing to provide compliant meal periods to
16 PLAINTIFF, failing to provide compliant rest periods to PLAINTIFF, failing to provide
17 accurate wage statements to PLAINTIFF, failing to provide adequate seating to
18 PLAINTIFF, and failing to provide wages due upon termination of employment to
19 PLAINTIFF, under the applicable Labor Code and Industrial Welfare Commission
20 requirements in violation of Business and Professions Code section 17200 *et seq.*, and have
21 thereby deprived PLAINTIFF of fundamental rights and privileges.

22 116. By and through the unfair and unlawful business practices described herein,
23 DEFENDANTS have obtained valuable property, money, and services from PLAINTIFF
24 and have deprived him of valuable rights and benefits guaranteed by law, all to the
25 detriment of PLAINTIFF.

26 117. All the acts described herein are violations of, among other things, the Labor
27 Code and Industrial Welfare Commission Wage Order 5; are unlawful and in violation of
28 public policy; and in addition are immoral, unethical, oppressive, and unscrupulous, and

1 thereby constitute unfair and unlawful business practices in violation of Business and
2 Professions Code section 17200 *et seq.*

3 118. PLAINTIFF is entitled to and seeks such relief as may be necessary to
4 restore to them the money and property that DEFENDANTS have acquired, or of which
5 PLAINTIFF has been deprived by means of the above-described unfair and unlawful
6 business practices.

7 119. PLAINTIFF is further entitled to seek a declaration that the above-described
8 business practices are unfair and unlawful and that an injunctive relief should be issued
9 restraining DEFENDANTS from engaging in any of the above-described unfair and
10 unlawful business practices in the future.

11 120. PLAINTIFF has no plain, speedy, and/or adequate remedy at law to redress
12 the injuries that he has suffered as a consequence of DEFENDANTS' unfair and unlawful
13 business practices. As a result of the unfair and unlawful business practices described
14 above, PLAINTIFF has suffered and will continue to suffer irreparable harm unless
15 DEFENDANTS are restrained from continuing to engage in these unfair and unlawful
16 business practices. In addition, DEFENDANTS should be required to disgorge the unpaid
17 moneys to PLAINTIFF.

18 **TENTH CAUSE OF ACTION**
19 **FOR PENALTIES PURSUANT TO THE PRIVATE ATTORNEYS GENERAL ACT**
20 **(Lab. Code, § 2698 *et seq.*)**

21 **(By PLAINTIFF, On his Own Behalf, and As a Private Attorneys General for All**
22 **Aggrieved Employees, and Against All Defendants)**

23 121. PLAINTIFF repeats and re-alleges paragraphs 1 through 120, inclusive, of this
24 Complaint and they are incorporated herein by this reference.

25 122. Labor Code sections 2698-2699, the Private Attorneys General Act of 2004
26 expressly establishes that any provision of the Labor Code that provides for a civil penalty to
27 be assessed and collected by the Labor and Workforce Development Agency ("LWDA"), or
28 any of its departments, divisions, commissions, boards, agencies or employees for a violation

1 of the Labor Code, may be recovered through a civil action brought by an aggrieved employee
2 on behalf of himself or herself, and other current or former employees.

3 123. Whenever the LWDA, or any of its departments, divisions, commissions, boards,
4 agencies, or employees has discretion to assess a civil penalty, a court in a civil action is
5 authorized to exercise the same discretion, subject to the same limitations and conditions, to
6 assess a civil penalty.

7 124. PLAINTIFF and all persons employed by DEFENDANTS as hourly paid
8 employees, or misclassified employees, are “aggrieved employees” as defined by Labor Code
9 section 2699 in that they are all current or former employees of DEFENDANTS, and one or
10 more of the alleged violations was committed against them.

11 125. PLAINTIFF asserts all of his claims in this Complaint on his own behalf and on
12 behalf of all aggrieved employees in his capacity as a Private Attorney General and seeks all
13 statutory penalties available under Labor Code sections 2698-2699.

14 126. On March 26, 2024, PLAINTIFF gave written by Certified Mail to
15 DEFENDANTS of the specific code provisions alleged to have been violated, as required by
16 Labor Code section 2699.3. On the same date, PLAINTIFF submitted a “PAGA Claim Notice”
17 to the LWDA through its online portal. PLAINTIFF’s PAGA Notice Letter and LWDA Claim
18 Submissions indicated that he, “as an aggrieved employee, on his own behalf and on behalf of
19 other aggrieved employees of Davenport Harbor Room LLC, Scott B. Davenport, and any
20 other affiliated entity (collectively referred to herein as “DHR”), intends to avail himself of the
21 protections granted by the CALIFORNIA LABOR CODE PRIVATE ATTORNEY GENERAL ACT OF
22 2004 (“the Act”) (LAB. CODE, § 2698 et seq.).” The statutory waiting period for PLAINTIFF to
23 add these allegations to the Complaint has expired. As a result, pursuant to Labor Code section
24 2699.3, PLAINTIFF, on behalf of himself and all aggrieved employees, may now commence a
25 representative civil action under Labor Code section 2699 as the proxy of the State of
26 California.

27 127. DEFENDANTS’ conduct, as alleged herein, violates numerous sections of the
28 Labor Code, including, but not limited to, the following:

- 1 A. Violations of Labor Code sections 510, 1194, 1194.2, and 1198 and California
2 Code of Regulations, title 8, section 11050 for DEFENDANTS' failure to pay
3 overtime wages and liquidated damages to PLAINTIFF, and other aggrieved
4 employees;
- 5 B. Violations of Labor Code sections 1182.12, 1194, 1194.2, 1197, 1197.1, and
6 1198 and California Code of Regulations, title 8, section 11050 for
7 DEFENDANTS' failure to pay minimum wages and liquidated damages to
8 PLAINTIFF, and other aggrieved employees;
- 9 C. Violations of Labor Code sections 226.7, 512, and 516, 1198, and California
10 Code of Regulations, title 8, section 11050 for DEFENDANTS' failure to
11 provide meal periods to PLAINTIFF, and other aggrieved employees;
- 12 D. Violations of Labor Code sections 226.7, 512, 516, and 1198, and California
13 Code of Regulations, title 8, section 11050 for DEFENDANTS' failure to
14 provide rest periods to PLAINTIFF, and other aggrieved employees;
- 15 E. Violations of Labor Code sections 226, subdivision (a), 1174, subdivision (d),
16 and 1198 for DEFENDANTS' failure to provide accurate itemized wage
17 statements to PLAINTIFF, and other aggrieved employees and to maintain
18 accurate payroll records for PLAINTIFF and other aggrieved employees;
- 19 F. Violations of Labor Code section 1198 and California Code of Regulations, title
20 8, section 11050 for DEFENDANTS' failure to provide adequate seating to
21 PLAINTIFF, and other aggrieved employees; and,
- 22 G. Violations of Labor Code sections 201, 202, and 203 for DEFENDANTS' failure
23 to timely pay wages to PLAINTIFF, and other aggrieved employees

24 128. PLAINTIFF therefore, on his own behalf and on behalf of all aggrieved
25 employees, can and hereby does seeks recovery of all civil penalties as prescribed by Labor
26 Code sections the Private Attorneys General Act of 2004, as the representative of the State of
27 California, for the illegal conduct perpetrated on PLAINTIFF and all aggrieved employees by
28 DEFENDANTS.

1 **PRAYER**

2 WHEREFORE, PLAINTIFF, individually, prays for judgment against each
3 Defendant, jointly and severally, as follows:

4 **1. ON THE FIRST CAUSE OF ACTION:**

- 5 (a) For overtime wage compensation, and liquidated damages;
6 (b) For an award of interest, including prejudgment interest at the legal rate;
7 and,
8 (c) For statutory penalties, interest, costs of suit and attorneys' fees.

9 **2. ON THE SECOND CAUSE OF ACTION:**

- 10 (a) For minimum wage compensation, and liquidated damages;
11 (b) For an award of interest, including prejudgment interest at the legal rate;
12 and,
13 (c) For statutory penalties, interest, costs of suit, and attorneys' fees.

14 **3. ON THE THIRD, FOURTH, FIFTH, SIXTH, and SEVENTH CAUSES OF**
15 **ACTION:**

- 16 (a) For compensatory damages, including lost wages;
17 (b) For an award of interest, including prejudgment interest at the legal rate;
18 and,
19 (c) For statutory penalties, interest, costs of suit, and attorneys' fees.

20 **4. ON THE EIGHTH CAUSE OF ACTION:**

- 21 (a) For statutory penalties, interest, costs of suit and attorneys' fees.

22 **5. ON THE NINTH CAUSE OF ACTION:**

- 23 (a) For restitution and disgorgement;
24 (b) For injunctive relief ordering the continuing unfair business acts and
25 practices to cease, or as the Court otherwise deems just and proper; and,
26 (c) For other injunctive relief ordering DEFENDANTS to notify Plaintiff that
27 he has not been paid the proper amounts required in accordance with
28 California law.

1 **6. ON THE TENTH CAUSE OF ACTION:**

2 (a) That the Court declare, adjudge and decree that DEFENDANTS violated
3 the following Labor Code provisions as to PLAINTIFF and/or other
4 aggrieved employees:

- 5 1. Labor Code sections 510, 1194, 1194.2, and 1198 and
6 California Code of Regulations, title 8, section 11050 for
7 DEFENDANTS' failure to pay overtime compensation and
8 liquidated damages to PLAINTIFF, and other aggrieved
9 employees;
- 10 2. Labor Code sections 1182.12, 1194; 1194.2; 1197; 1197.1; and
11 1198 and California Code of Regulations, title 8, section 11050
12 for DEFENDANTS' failure to pay minimum wages and
13 liquidated damages to PLAINTIFF, and other aggrieved
14 employees;
- 15 3. Labor Code sections 226.7 and 512, 516, and California Code
16 of Regulations, title 8, section 11050 for DEFENDANTS'
17 failure to provide meal periods to PLAINTIFF, and other
18 aggrieved employees;
- 19 4. Labor Code sections 226.7 and 512, 516, and California Code
20 of Regulations, title 8, section 11050 for DEFENDANTS'
21 failure to provide rest periods to PLAINTIFF, and other
22 aggrieved employees;
- 23 5. Labor Code sections 226, subdivision (a), 1174, subdivision
24 (d), and 1198 for DEFENDANTS' failure to provide accurate
25 itemized wage statements to PLAINTIFF, and other aggrieved
26 employees and to maintain accurate payroll records for
27 PLAINTIFF and other aggrieved employees;
- 28

- 1 6. Labor Code section 1198 and California Code of Regulations,
2 title 8, section 11050 for DEFENDANTS' failure to provide
3 adequate seating to PLAINTIFF, and other aggrieved
4 employees; and,
5 7. Labor Code sections 201, 202, 203 for DEFENDANTS' failure
6 to timely pay wages to PLAINTIFF, and other aggrieved
7 employees,

8 (b) For civil penalties pursuant to Labor Code sections 210, 226.3, 256, 558,
9 1174.5, 1197.1, and/or 2699, subdivisions (a), (f) and (g), for violations
10 of Labor Code sections 201, 202, 203, 226, 226.7, 510, 512, 516, 558,
11 1182.12, 1174, 1194, 1194.2, 1197, 1197.1, and 1198; the CALIFORNIA
12 CODE OF REGULATIONS; and the applicable Industrial Wage Order No. 5-
13 2001 (as amended);

14 (c) For attorneys' fees and costs pursuant to California Labor Code section
15 2699, subdivision (g)(1), and any and all other relevant statutes, for
16 Defendant's violations of Labor Code sections 201, 202, 203, 226, 226.7,
17 510, 512, 516, 558, 1182.12, 1174, 1194, 1194.2, 1197, 1197.1, and
18 1198; the CALIFORNIA CODE OF REGULATIONS; and the applicable
19 Industrial Wage Order No. 5-2001 (as amended);

20 (d) For pre-judgment and post-judgment interest as provided by law; and
21 For such other and further relief as the Court may deem equitable and
22 appropriate.

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