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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF MONTEREY

CHRISTOPHER LOPEZ, individually, and
on behalf of other members of the general
public similarly situated, and as an
aggrieved employee pursuant to the Private
Attorneys General Act ("PAGA")

Plaintiff,

vs.

RIO GRILL, INC., a California
corporation; RIO RESTAURANTS
CORPORATION, a California corporation;
DOWNTOWN DINING, INC., a California
corporation; TARPY'S ROADHOUSE,
LLC, a California limited liability
company; MONTRIO, LLC, a California
limited liability company; BOVH -
MONTRIO BISTRO, a California
corporation; BOVH - RIO GRILL, a
California corporation; BOVH - TARPY'S
ROADHOUSE, a California corporation;
and DOES 1 through 10, inclusive,

Defendants.

Case No.: 24CV001342

**FIRST AMENDED CLASS ACTION
COMPLAINT & ENFORCEMENT
ACTION UNDER THE PRIVATE
ATTORNEYS GENERAL ACT,
CALIFORNIA LABOR CODE §§ 2698, ET
SEQ.**

- (1) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime);
- (2) Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 (Unpaid Minimum Wages);
- (3) Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 (Failure to Provide Meal Periods);
- (4) Violation of California Labor Code §§ 226.7, 516, and 1198 (Failure to Authorize and Permit Rest Periods);
- (5) Violation of California Labor Code §§ 226(a), 1174(d), and 1198 (Non-Compliant Wage Statements and Failure to Maintain Payroll Records);
- (6) Violation of California Labor Code §§ 201 and 202 (Wages Not Timely Paid Upon Termination);
- (7) Violation of California Labor Code § 204 (Failure to Timely Pay Wages During Employment);

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- (8) Violation of Labor Code § 1198 and California Code of Regulations, Title 8, Section 11050 Subdivision 5(A) (Failure to Provide Reporting Time Pay);
- (9) Violation of California Labor Code § 2802 (Unreimbursed Business Expenses);
- (10) Civil Penalties for Violations of California Labor Code, Pursuant to PAGA, §§ 2698, *et seq.*;
- (11) Violation of California Business & Professions Code §§ 17200, *et seq.* (Unlawful Business Practices); and
- (12) Violation of California Business & Professions Code §§ 17200, *et seq.* (Unfair Business Practices)

Jury Trial Demanded

1 Plaintiff Christopher Lopez, individually and on behalf of all other members of the
2 public similarly situated, and as an aggrieved employee and on behalf of all aggrieved
3 employees, alleges as follows:

4 JURISDICTION AND VENUE

5 1. This class action is brought pursuant to California Code of Civil Procedure
6 section 382 and California Labor Code sections 2698, *et seq.* (“PAGA”) to recover civil
7 penalties and any other available relief on behalf of Plaintiff, the State of California, and other
8 current and former employees who worked for Defendants in California as non-exempt,
9 hourly paid employees and received at least one wage statement and against whom one or
10 more violations of any provision in Division 2 Part 2 Chapter 1 of the Labor Code or any
11 provision regulating hours and days of work in the applicable Industrial Welfare Commission
12 (“IWC”) Wage Order were committed, as set forth in this complaint. The monetary damages,
13 penalties, and restitution sought by Plaintiff exceed the minimal jurisdiction limits of the
14 Superior Court and will be established according to proof at trial. This Court has jurisdiction
15 over this action pursuant to the California Constitution, Article VI, section 10. The statutes
16 under which this action is brought do not specify any other basis for jurisdiction. Plaintiff’s
17 share of damages, penalties, and other relief sought in this action does not exceed \$75,000.

18 2. This Court has jurisdiction over Defendants because Defendants are either
19 citizens of California, have sufficient minimum contacts in California, or otherwise
20 intentionally avail themselves of the California market so as to render the exercise of
21 jurisdiction over them by the California courts consistent with traditional notions of fair play
22 and substantial justice. There is no basis for federal diversity jurisdiction in this action
23 because there is no complete diversity, and this case falls within the statutory exceptions to
24 “minimal diversity” jurisdiction under the Class Action Fairness Act, 28 U.S.C. § 1332(d)(4).
25 Upon information and belief, two-thirds or more of the class members and Defendants are
26 citizens of California and/or (a) two-thirds of the class members and Defendants are citizens
27 of California; (b) the alleged wage and hour violations occurred in California; (c) significant
28 relief is being sought against Defendants whose violations of California wage and hour laws

1 form a significant basis for Plaintiff's claims; and (d) no other class action has been filed
2 within the past three (3) years on behalf of the same proposed class against Defendants
3 asserting the same or similar factual allegations.

4 3. Venue is proper in this Court because Defendants employ persons in this
5 county, and employed Plaintiff in this county, and thus a substantial portion of the transactions
6 and occurrences related to this action occurred in this county.

7 8 **THE PARTIES**

9 4. Plaintiff Christopher Lopez is a resident of Seaside, California. Defendants
10 employed Plaintiff as an hourly paid, non-exempt Server from approximately May 2022 to
11 January 2024. Plaintiff worked for Defendants at their Rio Grill restaurant location in Carmel,
12 California. During his employment, Plaintiff typically worked five (5) to eight (8) or more
13 hours per day and four (4) days per week. Plaintiff's primary job duties included, without
14 limitation, taking orders, serving food, preparing the dining room for large parties, and
15 cleaning.

16 5. RIO GRILL, INC. was and is, upon information and belief, a California
17 corporation, and at all times hereinafter mentioned, an employer whose employees are
18 engaged throughout this county and the State of California.

19 6. RIO RESTAURANTS CORPORATION was and is, upon information and
20 belief, a California corporation, and at all times hereinafter mentioned, an employer whose
21 employees are engaged throughout this county and the State of California.

22 7. DOWNTOWN DINING, INC. was and is, upon information and belief, a
23 California corporation, and at all times hereinafter mentioned, an employer whose employees
24 are engaged throughout this county and the State of California.

25 8. TARPY'S ROADHOUSE, LLC was and is, upon information and belief, a
26 California limited liability company, and at all times hereinafter mentioned, an employer
27 whose employees are engaged throughout this county and the State of California.

28 9. MONTRIO, LLC was and is, upon information and belief, a California limited

liability company, and at all times hereinafter mentioned, an employer whose employees are engaged throughout this county and the State of California.

10. BOVH - MONTRIO BISTRO was and is, upon information and belief, a California corporation, and at all times hereinafter mentioned, an employer whose employees are engaged throughout this county and the State of California.

11. BOVH - RIO GRILL was and is, upon information and belief, a California corporation, and at all times hereinafter mentioned, an employer whose employees are engaged throughout this county and the State of California.

12. BOVH - TARPY'S ROADHOUSE was and is, upon information and belief, a California corporation, and at all times hereinafter mentioned, an employer whose employees are engaged throughout this county and the State of California.

13. Plaintiff is unaware of the true names or capacities of the Defendants sued herein under the fictitious names DOES 1 through 10, but will seek leave of this Court to amend the complaint and serve such fictitiously named Defendants once their names and capacities become known.

14. Plaintiff is informed and believes, and thereon alleges, that DOES 1 through 10 were the partners, agents, owners, or managers of Defendants at all relevant times.

15. Plaintiff is informed and believes, and thereon alleges, that each and all of the acts and omissions alleged herein was performed by, or is attributable to, RIO GRILL, INC.; RIO RESTAURANTS CORPORATION; DOWNTOWN DINING, INC.; TARPY'S ROADHOUSE, LLC; MONTRIO, LLC; BOVH - MONTRIO BISTRO; BOVH - RIO GRILL; BOVH - TARPY'S ROADHOUSE; and/or DOES 1 through 10 (collectively, "Defendants" or "Coastal Roots Hospitality"), each acting as the agent, employee, alter ego, and/or joint venturer of, or working in concert with, each of the other co-Defendants and was acting within the course and scope of such agency, employment, joint venture, or concerted activity with legal authority to act on the others' behalf. The acts of any and all Defendants were in accordance with, and represent, the official policy of Defendants.

16. At all relevant times, Defendants, and each of them, ratified each and every act

1 or omission complained of herein. At all relevant times, Defendants, and each of them, aided
2 and abetted the acts and omissions of each and all the other Defendants in proximately causing
3 the damages herein alleged.

4 17. Plaintiff is informed and believes, and thereon alleges, that each of said
5 Defendants is in some manner intentionally, negligently, or otherwise responsible for the acts,
6 omissions, occurrences, and transactions alleged herein.

7 18. Under California law, Defendants are jointly and severally liable as employers
8 for the violations alleged herein because they have each exercised sufficient control over the
9 wages, hours, working conditions, and employment status of Plaintiff and class members.
10 Each Defendant had the power to hire and fire Plaintiff and class members, supervised and
11 controlled their work schedule and/or conditions of employment, determined their rate of pay,
12 and maintained their employment records. Defendants suffered or permitted Plaintiff and
13 class members to work and/or “engaged” Plaintiff and class members so as to create a
14 common-law employment relationship. As joint employers of Plaintiff and class members,
15 Defendants are jointly and severally liable for the civil penalties and all other relief available
16 to Plaintiff and class members under the law.

17 19. Plaintiff is informed and believes, and thereon alleges, that at all relevant times,
18 Defendants, and each of them, have acted as joint employers with respect to Plaintiff and class
19 members because Defendants have:

- 20 (a) jointly exercised meaningful control over the work performed by
21 Plaintiff and class members;
- 22 (b) jointly exercised meaningful control over Plaintiff’s and class members’
23 wages, hours, and working conditions, including the quantity, quality
24 standards, speed, scheduling, and operative details of the tasks
25 performed by Plaintiff and class members;
- 26 (c) jointly required that Plaintiff and class members perform work which is
27 an integral part of Defendants’ businesses; and
- 28 (d) jointly exercised control over Plaintiff and class members as a matter of

1 economic reality in that Plaintiff and class members were dependent on
2 Defendants, who shared the power to set the wages of Plaintiff and class
3 members and determined their working conditions, and who jointly
4 reaped the benefits from the underpayment of their wages and
5 noncompliance with other statutory provisions governing their
6 employment.

7 20. Plaintiff is informed and believes, and thereon alleges, that at all relevant times
8 there has existed a unity of interest and ownership between Defendants such that any
9 individuality and separateness between the entities has ceased.

10 21. Furthermore, Defendants are jointly and severally liable as employers for the
11 violations alleged herein because Defendants have acted as a single integrated enterprise.
12 Courts consider four factors in determining whether two or more entities may be treated as a
13 single employer for the purposes of determining liability for labor code violations:
14 (1) centralized control of labor relations; (2) interrelation of operations; (3) common
15 management; and (4) common ownership or financial control. No factor is controlling and all
16 need not be present.

17 22. Plaintiff is informed and believes, and thereon alleges, that at all relevant times,
18 Defendants have acted as a single integrated enterprise because:

- 19 (a) Defendant DOWNTOWN DINING, INC. made final decisions
20 regarding employment matters related to Plaintiff and class members in
21 the same manner and through the same entity, regardless of which entity
22 was acting as Plaintiff's and class members' immediate employer;
- 23 (b) Defendants DOWNTOWN DINING, INC. controlled day-to-day
24 employment decisions of Defendants RIO GRILL, INC.; RIO
25 RESTAURANTS CORPORATION; TARPY'S ROADHOUSE, LLC;
26 MONTRIO, LLC; BOVH - MONTRIO BISTRO; BOVH - RIO GRILL;
27 and BOVH - TARPY'S ROADHOUSE;
- 28 (c) Defendants shared common officers, directors, and/or managers;

1 (d) Defendants utilized the same bank accounts, accounting records, lines of
2 credit, payroll preparation, telephone lines, company websites, office
3 space, facilities, employees and/or other facets of operation; and/or

4 (e) Defendants were subject to common ownership and financial control.

5 23. RIO GRILL, INC.; RIO RESTAURANTS CORPORATION; DOWNTOWN
6 DINING, INC.; TARPY'S ROADHOUSE, LLC; MONTRIO, LLC; BOVH - MONTRIO
7 BISTRO; BOVH - RIO GRILL; BOVH - TARPY'S ROADHOUSE; and DOES 1 through 10
8 are therefore alter egos of each other.

9 24. Adherence to the fiction of the separate existence of Defendants would permit
10 an abuse of the corporate privilege, and would promote injustice by protecting Defendants
11 from liability for the wrongful acts committed by them under the name DOWNTOWN
12 DINING, INC. or "Coastal Roots Hospitality."

13 25. Plaintiff further alleges, upon information and belief, that Defendants RIO
14 GRILL, INC.; RIO RESTAURANTS CORPORATION; DOWNTOWN DINING, INC.;
15 TARPY'S ROADHOUSE, LLC; MONTRIO, LLC; BOVH - MONTRIO BISTRO; BOVH -
16 RIO GRILL; and BOVH - TARPY'S ROADHOUSE are alter egos of each other for the
17 following reasons:

18 (a) On the California Secretary of State's website
19 (<https://bizfileonline.sos.ca.gov/>), RIO GRILL, INC.; RIO
20 RESTAURANTS CORPORATION; DOWNTOWN DINING, INC.;
21 TARPY'S ROADHOUSE, LLC; MONTRIO, LLC; BOVH -
22 MONTRIO BISTRO; BOVH - RIO GRILL; and BOVH - TARPY'S
23 ROADHOUSE share the same principal address of "2999
24 MONTEREY[-]SALINAS HWY[, STE 1] MONTEREY, CA 93940"
25 and/or mailing address of "316 MID VALLEY CENTER 206
26 CARMEL, CA 93940";

27 (b) According to Statement of Information forms filed with the California
28 Secretary of State, RIO GRILL, INC.; RIO RESTAURANTS

CORPORATION; DOWNTOWN DINING, INC.; TARPY'S ROADHOUSE, LLC; MONTRIO, LLC; BOVH - MONTRIO BISTRO; BOVH - RIO GRILL; and BOVH - TARPY'S ROADHOUSE share the same officers and/or managers or members, including, but not limited to:

- (i) Ken Donkersloot, who serves as Chief Executive Officer and Chief Financial Officer of RIO GRILL, INC.; RIO RESTAURANTS CORPORATION; DOWNTOWN DINING, INC.; BOVH - MONTRIO BISTRO; BOVH - RIO GRILL; and BOVH - TARPY'S ROADHOUSE, and Manager or Member of MONTRIO, LLC;
- (ii) Mona Calis, who serves as Secretary of RIO GRILL, INC.; RIO RESTAURANTS CORPORATION; DOWNTOWN DINING, INC.; BOVH - MONTRIO BISTRO; BOVH - RIO GRILL; and BOVH - TARPY'S ROADHOUSE, and Manager or Member of MONTRIO, LLC; and
- (iii) RIO RESTAURANTS CORPORATION, which serves as a Manager or Member of TARPY'S ROADHOUSE, LLC;

- (c) On the California Secretary of State's website, RIO GRILL, INC.; RIO RESTAURANTS CORPORATION; DOWNTOWN DINING, INC.; TARPY'S ROADHOUSE, LLC; MONTRIO, LLC; BOVH - MONTRIO BISTRO; BOVH - RIO GRILL; and BOVH - TARPY'S ROADHOUSE share the same agent for service of process, Ken Donkersloot; and
- (d) On information and belief, RIO GRILL, INC.; RIO RESTAURANTS CORPORATION; DOWNTOWN DINING, INC.; TARPY'S ROADHOUSE, LLC; MONTRIO, LLC; BOVH - MONTRIO BISTRO; BOVH - RIO GRILL; and BOVH - TARPY'S ROADHOUSE utilize

1 the same standardized employment forms and issue the same
2 employment policies.

3 **GENERAL ALLEGATIONS**

4 26. Defendants operate at least three (3) restaurants in California and also offer
5 catering services. Upon information and belief, Defendants maintain a single, centralized
6 Human Resources (“HR”) department at their corporate headquarters in Monterey, California,
7 which is responsible for the recruiting and hiring of new employees, and communicating and
8 implementing Defendants’ company-wide policies, including timekeeping policies and meal
9 and rest period policies, to employees throughout California.

10 27. In particular, Plaintiff and class members, on information and belief, received
11 the same standardized documents and/or written policies. Upon information and belief, the
12 usage of standardized documents and/or written policies, including new-hire documents,
13 indicate that Defendants dictated policies at the corporate level and implemented them
14 company-wide, regardless of their employees’ assigned locations or positions.

15 28. Upon information and belief, Defendants maintain a centralized Payroll
16 department at their corporate headquarters in Monterey, California, which processes payroll
17 for all non-exempt, hourly paid employees working for Defendants at their various locations
18 in California, including Plaintiff and class members. Based upon information and belief,
19 Defendants issue the same formatted wage statements to all non-exempt, hourly paid
20 employees in California, irrespective of their work locations. Upon information and belief,
21 Defendants process payroll for departing employees in the same manner throughout the State
22 of California, regardless of the manner in which each employee’s employment ends.

23 29. Defendants continue to employ non-exempt or hourly paid employees in
24 California.

25 30. Plaintiff is informed and believes, and thereon alleges, that at all times herein
26 mentioned, Defendants were advised by skilled lawyers and other professionals, employees
27 and advisors knowledgeable about California labor and wage law, employment and personnel
28 practices, and about the requirements of California law.

1 31. Plaintiff is informed and believes, and thereon alleges, that Plaintiff and class
2 members were not paid for all hours worked because all hours worked were not recorded.

3 32. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
4 should have known that Plaintiff and class members were entitled to receive certain wages for
5 overtime compensation and that they were not receiving certain wages for overtime
6 compensation.

7 33. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
8 should have known that Plaintiff and class members were entitled to be paid at a regular rate
9 of pay, and corresponding rates of pay for overtime wages and/or meal and rest period
10 premiums, that included as eligible income all remuneration required by law, including but not
11 limited to, all income derived from incentive pay, nondiscretionary bonuses, and/or other
12 forms of compensation, but failed to include all forms of remuneration in calculating the
13 regular rate of pay for Plaintiff and class members.

14 34. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
15 should have known that Plaintiff and class members were entitled to receive at least minimum
16 wages for compensation and that they were not receiving at least minimum wages for work
17 that was required to be done off-the-clock. In violation of the California Labor Code, Plaintiff
18 and class members were not paid at least minimum wages for work done off-the-clock.

19 35. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
20 should have known that Plaintiff and class members were entitled to meal periods in
21 accordance with the California Labor Code and applicable IWC Wage Order or payment of
22 one (1) additional hour of pay at their regular rates of pay when they were not provided with
23 timely, uninterrupted, thirty (30) minute meal periods and that Plaintiff and class members
24 were not provided with all meal periods or payment of one (1) additional hour of pay at their
25 regular rates of pay when they did not receive a timely, uninterrupted, thirty (30) minute meal
26 period.

27 36. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
28 should have known that Plaintiff and class members were entitled to rest periods in

1 accordance with the California Labor Code and applicable IWC Wage Order or payment of
2 one (1) additional hour of pay at their regular rates of pay when they were not authorized and
3 permitted to take a compliant rest period and that Plaintiff and class members were not
4 authorized and permitted to take compliant rest periods or provided with payment of one (1)
5 additional hour of pay at their regular rates of pay when they were not authorized and
6 permitted to take a compliant rest period.

7 37. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
8 should have known that Plaintiff and class members were entitled to receive complete and
9 accurate wage statements in accordance with California law. In violation of the California
10 Labor Code, Plaintiff and class members were not provided complete and accurate wage
11 statements.

12 38. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
13 should have known that they had a duty to maintain accurate and complete payroll records in
14 accordance with the California Labor Code and applicable IWC Wage Order, but willfully,
15 knowingly, and intentionally failed to do so.

16 39. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
17 should have known that Plaintiff and class members were entitled to timely payment of all
18 wages earned upon termination of employment. In violation of the California Labor Code,
19 Plaintiff and class members did not receive payment of all wages due, including, but not
20 limited to, overtime wages, minimum wages, meal and rest period premiums, and/or reporting
21 time pay, within permissible time periods.

22 40. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
23 should have known that Plaintiff and class members were entitled to timely payment of wages
24 during their employment. In violation of the California Labor Code, Plaintiff and class
25 members did not receive payment of all wages, including, but not limited to, overtime wages,
26 minimum wages, meal and rest period premiums, and/or reporting time pay, within
27 permissible time periods.

28 41. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or

1 should have known that Plaintiff and class members were entitled to receive split shift
2 premium pay when Defendants required Plaintiff and class members to return to work for an
3 additional shift in the same day, after having been clocked out for more than an hour. In
4 violation of the California Labor Code and applicable IWC Wage Order, Defendants did not
5 pay Plaintiff and class members all split-shift premiums due.

6 42. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
7 should have known that Plaintiff and class members were entitled to receive all reporting time
8 pay when Plaintiff and class members were required to report to work but were put to work
9 for less than half of their usual or scheduled shift. In violation of the California Labor Code
10 and applicable IWC Wage Order, Plaintiff and class members were not paid all reporting time
11 pay.

12 43. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
13 should have known that Plaintiff and class members were entitled to suitable seating and/or
14 were entitled to have seats nearby to use during a lull in tasks that do require moving about or
15 standing.

16 44. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
17 should have known that Plaintiff and class members were entitled to receive full
18 reimbursement for all business-related expenses and costs they incurred during the course and
19 scope of their employment and that they did not receive full reimbursement of applicable
20 business-related expenses and costs incurred.

21 45. Plaintiff is informed and believes, and thereon alleges, that at all times herein
22 mentioned, Defendants knew or should have known that Defendants had a duty to provide
23 Plaintiff and class members with written notice of the material terms of their employment with
24 Defendants as required by the California Wage Theft Prevention Act, but failed to do so.

25 46. Plaintiff is informed and believes, and thereon alleges, that at all times herein
26 mentioned, Defendants knew or should have known that they had a duty to compensate
27 Plaintiff and class members for all hours worked, and that Defendants had the financial ability
28 to pay such compensation, but willfully, knowingly, and intentionally failed to do so, and

falsely represented to Plaintiff and class members that they were properly denied wages, all in order to increase Defendants' profits.

PAGA REPRESENTATIVE ALLEGATIONS

47. At all times herein set forth, PAGA provides that any provision of law under the Labor Code and applicable IWC Wage Order that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency ("LWDA") for violations of the California Labor Code and applicable IWC Wage Order may, as an alternative, be recovered by aggrieved employees in a civil action brought on behalf of themselves and other current or former employees pursuant to procedures outlined in California Labor Code section 2699.3.

48. PAGA defines an "aggrieved employee" in Labor Code section 2699(c)(1) as "any person who was employed by the alleged violator and personally suffered each of the violations alleged."

49. Plaintiff and other current and former employees of Defendants are "aggrieved employees" as defined by Labor Code section 2699(c)(1) in that they are all Defendants' current or former employees and each of the alleged violations were committed against them.

50. Pursuant to California Labor Code sections 2699.3 and 2699.5, an aggrieved employee, including Plaintiff, may pursue a civil action arising under PAGA after the following requirements have been met:

- (a) The aggrieved employee or representative shall give written notice by online filing with the LWDA and by certified mail to the employer of the specific provisions of the California Labor Code alleged to have been violated, including the facts and theories to support the alleged violation.
- (b) An aggrieved employee's notice filed with the LWDA pursuant to 2699.3(a) and any employer response to that notice shall be accompanied by a filing fee of seventy-five dollars (\$75).
- (c) The LWDA shall notify the employer and the aggrieved employee or

1 representative by certified mail that it does not intend to investigate the
2 alleged violation (“LWDA Notice”) within sixty (60) calendar days of
3 the postmark date of the aggrieved employee’s notice. Upon receipt of
4 the LWDA Notice, or if no LWDA Notice is provided within sixty-five
5 (65) calendar days of the postmark date of the aggrieved employee’s
6 notice, the aggrieved employee may commence a civil action pursuant
7 to California Labor Code section 2699 to recover civil penalties.

8 51. Pursuant to California Labor Code section 2699.3(c), aggrieved employees,
9 through Plaintiff, may pursue a civil action arising under PAGA for violations of any
10 provision other than those listed in Section 2699.5 after the following requirements have been
11 met:

- 12 (a) The aggrieved employee or representative shall give written notice by
13 online filing with the LWDA and by certified mail to the employer of
14 the specific provisions of the California Labor Code alleged to have
15 been violated (other than those listed in Section 2699.5), including the
16 facts and theories to support the alleged violation.
- 17 (b) An aggrieved employee’s notice filed with the LWDA pursuant to
18 2699.3(c) and any employer response to that notice shall be
19 accompanied by a filing fee of seventy-five dollars (\$75).
- 20 (c) The employer may cure the alleged violation within thirty-three (33)
21 calendar days of the postmark date of the notice sent by the aggrieved
22 employee or representative. The employer shall give written notice
23 within that period of time by certified mail to the aggrieved employee or
24 representative and by online filing with the LWDA if the alleged
25 violation is cured, including a description of actions taken, and no civil
26 action pursuant to Section 2699 may commence. If the alleged violation
27 is not cured within the 33-day period, the aggrieved employee may
28 commence a civil action pursuant to Section 2699.

1 52. On May 17, 2024, Plaintiff provided written notice by online filing to the
2 LWDA and by Certified Mail to Defendants of the specific provisions of the California Labor
3 Code alleged to have been violated, including facts and theories to support the alleged
4 violations, in accordance with California Labor Code section 2699.3. Plaintiff's written
5 notice was accompanied with the applicable filing fee of seventy-five dollars (\$75). The
6 LWDA PAGA Administrator confirmed receipt of Plaintiff's written notice and assigned
7 Plaintiff PAGA Case Number LWDA-CM-1029024-24. A true and correct copy of Plaintiff's
8 written notice to the LWDA and Defendants is attached hereto as "Exhibit 1."

9 53. As of the filing date of this complaint, over 65 days have passed since Plaintiff
10 sent the notice described above to the LWDA, and the LWDA has not responded that it
11 intends to investigate Plaintiff's claims and Defendants have not cured the violations.

12 54. Thus, Plaintiff has satisfied the administrative prerequisites under California
13 Labor Code sections 2699.3(a) and 2699.3(c) to recover civil penalties against Defendants for
14 violations of California Labor Code sections 201, 202, 204, 226(a), 226.7, 510, 512(a), 516,
15 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5.

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

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

28 57. As set forth below, Defendants have violated numerous provisions of both the

1 Labor Code sections regulating hours and days of work as well as the applicable IWC Wage
2 Order.

3 58. Pursuant to PAGA, and in particular, California Labor Code sections 2699(a),
4 2699.3(a), 2699.3(c), and 2699.5, and section 558, Plaintiff, acting in the public interest as a
5 private attorney general, seeks assessment and collection of civil penalties for himself, all
6 other aggrieved employees, and the State of California against Defendants for violations of
7 California Labor Code sections 201, 202, 204, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12,
8 1194, 1197, 1197.1, 1198, 2802, and 2810.5.

9 **CLASS ACTION ALLEGATIONS**

10 59. Plaintiff brings this action on his own behalf, as well as on behalf of each and
11 all other persons similarly situated, and thus seeks class certification under California Code of
12 Civil Procedure section 382.

13 60. All claims alleged herein arise under California law for which Plaintiff seeks
14 relief authorized by California law.

15 61. Plaintiff's proposed class consists of and is defined as follows:

16 All persons who worked for Defendants as non-exempt, hourly
17 paid employees in California, within four years prior to the filing
of the initial complaint until the date of trial ("Class").

18 62. Plaintiff's proposed subclass consists of and is defined as follows:

19 All persons who worked for Defendants as non-exempt, hourly
20 paid employees in California and who received at least one wage
21 statement within one (1) year prior to the filing of the initial
complaint until the date of trial ("Subclass").

22 63. Members of the Class and Subclass are referred to herein as "class members."

23 64. Plaintiff reserves the right to redefine the Class and Subclass and to add
24 additional subclasses as appropriate based on further investigation, discovery, and specific
25 theories of liability.

26 65. There are common questions of law and fact as to class members that
27 predominate over questions affecting only individual members, including, but not limited to:

28 (a) Whether Defendants required Plaintiff and class members to work over

1 eight (8) hours per day, over twelve (12) hours per day, or over forty
2 (40) hours per week and failed to pay all legally required overtime
3 compensation to Plaintiff and class members;

4 (b) Whether Defendants failed to include all forms of remuneration in the
5 regular rate of pay as required by law for purposes of paying overtime
6 wages and/or meal and rest period premiums to Plaintiff and class
7 members;

8 (c) Whether Defendants failed to pay Plaintiff and class members at least
9 minimum wages for all hours worked;

10 (d) Whether Defendants failed to provide Plaintiff and class members meal
11 periods;

12 (e) Whether Defendants failed to authorize and permit Plaintiff and class
13 members to take rest periods;

14 (f) Whether Defendants provided Plaintiff and class members with
15 complete and accurate wage statements as required by California Labor
16 Code section 226(a);

17 (g) Whether Defendants maintained accurate payroll records as required by
18 California Labor Code section 1174(d);

19 (h) Whether Defendants failed to pay earned overtime wages, minimum
20 wages, meal and rest period premiums, and/or reporting time pay due to
21 Plaintiff and class members upon their discharge;

22 (i) Whether Defendants failed to timely pay overtime wages, minimum
23 wages, meal and rest period premiums, and/or reporting time pay to
24 Plaintiff and class members during their employment;

25 (j) Whether Defendants required Plaintiff and class members to return to
26 work for an additional shift in the same day, after having been clocked
27 out for more than an hour, without paying Plaintiff and class members
28 an addition hour of pay at the minimum wage as required by California

Code of Regulations, Title 8, section 11050(4)(C);

- (k) Whether Defendants required Plaintiff and class members to report to work, but failed to provide them with work or provided them with less than half their usual or scheduled day's work, without properly compensating them as required by California Code of Regulations, Title 8, section 11050(5);
- (l) Whether Defendants failed to provide Plaintiff and class members with suitable seating;
- (m) Whether Defendants failed to reimburse Plaintiff and class members for necessary and required business-related expenditures and/or losses incurred by them in the scope of their employment;
- (n) Whether Defendants failed to provide written notice of information material to Plaintiff's and class members' employment with Defendants;
- (o) Whether Defendants engaged in unlawful and unfair business practices in violation of California Business & Professions Code sections 17200, *et seq.*; and
- (p) The appropriate amount of damages, restitution, or monetary penalties resulting from Defendants' violations of California law.

66. There is a well-defined community of interest in the litigation and the class members are readily ascertainable:

- (a) Numerosity: The class members are so numerous that joinder of all members would be unfeasible and impractical. The membership of the entire class is unknown to Plaintiff at this time; however, the class is estimated to be greater than one hundred (100) individuals and the identity of such membership is readily ascertainable by inspection of Defendants' employment records.
- (b) Typicality: Plaintiff is qualified to, and will, fairly and adequately protect the interests of each class member with whom he has a well-

1 defined community of interest, and Plaintiff's claims (or defenses, if
2 any) are typical of all class members as demonstrated herein.

3 (c) Adequacy: Plaintiff is qualified to, and will, fairly and adequately
4 protect the interests of each class member with whom he has a well-
5 defined community of interest and typicality of claims, as demonstrated
6 herein. Plaintiff acknowledges that he has an obligation to make known
7 to the Court any relationship, conflicts or differences with any class
8 member. Plaintiff's attorneys, the proposed class counsel, are versed in
9 the rules governing class action discovery, certification, and settlement.
10 Plaintiff has incurred, and throughout the duration of this action, will
11 continue to incur costs and attorneys' fees that have been, are, and will
12 be necessarily expended for the prosecution of this action for the
13 substantial benefit of each class member.

14 (d) Superiority: The nature of this action makes the use of class action
15 adjudication superior to other methods. A class action will achieve
16 economies of time, effort, and expense as compared with separate
17 lawsuits, and will avoid inconsistent outcomes because the same issues
18 can be adjudicated in the same manner and at the same time for the
19 entire class.

20 (e) Public Policy Considerations: Employers in the State of California
21 violate employment and labor laws every day. Current employees are
22 often afraid to assert their rights out of fear of direct or indirect
23 retaliation. Former employees are fearful of bringing actions because
24 they believe their former employers might damage their future
25 endeavors through negative references and/or other means. Class
26 actions provide the class members who are not named in the complaint
27 with a type of anonymity that allows for the vindication of their rights
28 while simultaneously protecting their privacy.

1 **FIRST CAUSE OF ACTION**

2 **Violation of California Labor Code §§ 510 and 1198—Unpaid Overtime**

3 **(Against all Defendants)**

4 67. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
5 and every allegation set forth above.

6 68. Labor Code section 1198 makes it illegal to employ an employee under
7 conditions of labor that are prohibited by the applicable IWC Wage Order. California Labor
8 Code section 1198 requires that “. . . the standard conditions of labor fixed by the commission
9 shall be the . . . standard conditions of labor for employees. The employment of any employee
10 . . . under conditions of labor prohibited by the order is unlawful.”

11 69. California Labor Code section 1198 and the applicable IWC Wage Order
12 provide that it is unlawful to employ persons without compensating them at a rate of pay
13 either time-and-one-half or two-times that person’s regular rate of pay, depending on the
14 number of hours worked by the person on a daily or weekly basis.

15 70. Specifically, the applicable IWC Wage Order provides that Defendants are and
16 were required to pay Plaintiff and class members working more than eight (8) hours in a day
17 or more than forty (40) hours in a workweek, at the rate of time and one-half (1 ½) for all
18 hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a
19 workweek.

20 71. The applicable IWC Wage Order further provides that Defendants are and were
21 required to pay Plaintiff and class members working more than twelve (12) hours in a day,
22 overtime compensation at a rate of two (2) times their regular rate of pay. An employee’s
23 regular rate of pay includes all remuneration for employment paid to, or on behalf of, the
24 employee, including nondiscretionary bonuses and incentive pay.

25 72. California Labor Code section 510 codifies the right to overtime compensation
26 at one and one-half (1 ½) times the regular rate of pay for hours worked in excess of eight (8)
27 hours in a day or forty (40) hours in a week or for the first eight (8) hours worked on the
28 seventh (7th) day of work, and to overtime compensation at twice the employee’s regular rate

1 of pay for hours worked in excess of twelve (12) hours in a day or in excess of eight (8) hours
2 in a day on the seventh (7th) day of work.

3 73. During the relevant time period, Defendants willfully failed to pay all overtime
4 wages owed to Plaintiff and class members. During the relevant time period, Plaintiff and
5 class members were not paid overtime premiums for all of the hours they worked in excess of
6 eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40)
7 hours in a week, because all hours worked were not recorded.

8 74. First, during the relevant time period, Defendants had, and continue to have, a
9 company-wide policy and/or practice of discouraging and impeding Plaintiff and class
10 members from recording hours worked that were outside of their scheduled shifts in order to
11 limit the amount of overtime employees could accrue. This policy of limiting overtime led
12 Plaintiff and class members to work off-the-clock outside of their scheduled shift times. For
13 example, at least once per week, Plaintiff was required to attend meetings held by supervisors
14 to discuss work-related matters, such as menus, daily specials, and service notes, which could
15 take from 5 to 20 minutes, but was not permitted to clock in and record this time spent
16 working before his scheduled shift start-time. Additionally, on information and belief,
17 Defendants' management would alter and/or falsify time records to shave off time Plaintiff
18 spent working in order to limit overtime accrual.

19 75. Second, upon information and belief, because Defendants frowned upon
20 employees accruing meal period penalties, Defendants pressured employees who had signed
21 invalid meal period waivers (*see infra*) to clock out before they had worked six (6) hours in a
22 day, in order to limit their eligibility for meal periods they otherwise would have received. As
23 stated, Defendants did not permit Plaintiff to clock in before his scheduled shift start-time, but
24 required him to attend work-related meetings held before his scheduled shift start-time. Thus,
25 Plaintiff and class members were required to perform work-related tasks off-the-clock because
26 Defendants wanted to avoid paying penalties for missed meal periods.

27 76. Defendants knew or should have known that as a result of these company-wide
28 practices and/or policies, Plaintiff and class members were performing their assigned duties

1 off-the-clock before and/or after their scheduled shifts, and were suffered or permitted to
2 perform work for which they were not paid. Because Plaintiff and class members sometimes
3 worked shifts of eight (8) hours a day or more or forty (40) hours a week or more, some of this
4 off-the-clock work qualified for overtime premium pay. Therefore, Plaintiff and class
5 members were not paid overtime wages for all of the overtime hours they actually worked.

6 77. Moreover, Defendants did not pay Plaintiff and class members the correct
7 overtime rate for the recorded overtime hours that they generated. In addition to an hourly
8 wage, Defendants paid Plaintiff and class members incentive pay, nondiscretionary bonuses,
9 and/or other forms of remuneration. However, in violation of the California Labor Code,
10 Defendants failed to incorporate all compensation, including incentive pay, nondiscretionary
11 bonuses, and/or other forms of remuneration, into the calculation of the regular rate of pay for
12 purposes of calculating the overtime wage rate. Therefore, during times when Plaintiff and
13 class members worked overtime and received these other forms of pay, Defendants failed to
14 pay all overtime wages by paying a lower overtime rate than required.

15 78. For example, Defendants paid Plaintiff and class members incentive pay and/or
16 bonuses which were listed on Plaintiff's and class members' wage statements as "Bonus."
17 During pay periods that Plaintiff and class members were paid overtime wages, Defendants
18 did not incorporate the incentive pay and/or bonuses into Plaintiff's and class members'
19 regular rate of pay and, as a result, paid them at incorrect and lower rates of pay for overtime
20 hours worked. Specifically, Defendants paid Plaintiff and class members 1.5 times their
21 hourly rate of pay instead of 1.5 times their regular rate of pay. Defendants' failure to
22 properly calculate the overtime rates of pay based on all remuneration paid has resulted in an
23 underpayment of overtime wages to Plaintiff and class members on a company-wide basis.

24 79. Defendants' failure to pay Plaintiff and class members the balance of overtime
25 compensation as required by California law, violates the provisions of California Labor Code
26 sections 510 and 1198. Pursuant to California Labor Code section 1194, Plaintiff and class
27 members are entitled to recover from Defendants their unpaid overtime compensation, as well
28 as interest, costs, and attorneys' fees.

SECOND CAUSE OF ACTION
Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198—Unpaid
Minimum Wages
(Against all Defendants)

80. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every allegation set forth above.

81. At all relevant times, California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 provide that the minimum wage for employees fixed by the IWC is the minimum wage to be paid to employees, and the payment of a wage less than the minimum so fixed is unlawful. Compensable work time is defined in IWC Wage Order No. 5-2001 as “the time during which an employee is suffered or permitted to work for the employer, whether or not required to do so, as interpreted in accordance with the provisions of the Fair Labor Standards Act.” Cal. Code Regs. Tit. 8, § 11050(2)(L) (defining “Hours Worked”).

82. First, as set forth above, as a result of Defendants’ policy of limiting the amount of overtime employees could accrue, Defendants required Plaintiff and class members to perform work off-the-clock. As stated, Defendants required Plaintiff and class members to perform work off-the-clock outside of their scheduled shift start and end times, such as attending meetings held by supervisors to discuss work-related matters, but were not permitted record this time spent working before their scheduled shift start-times. As also stated, on information and belief, due to Defendants’ practices of management altering and/or falsifying time records, Plaintiff and class members were prevented from recording the entire time worked outside of their scheduled shifts, and thus were not paid for this time. As a result, Defendants failed to track this time that Plaintiff and class members spent working off-the-clock, and thus, Plaintiff and class members received no compensation for this time.

83. Second, as stated above, on information and belief, in order to limit the meal penalties that Defendants would otherwise owe, Defendants pressured Plaintiff and class members to clock out before they worked six (6) hours in day to limit their eligibility for meal periods, but required them to perform work outside of their scheduled shifts, time for which

1 they were not paid.

2 84. Defendants did not pay minimum wages for all hours worked by Plaintiff and
3 class members. To the extent that these off-the-clock hours did not qualify for overtime
4 premium payment, Defendants did not pay at least minimum wages for those hours worked
5 off-the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and
6 1198.

7 85. Defendants' failure to pay Plaintiff and class members minimum wages violates
8 California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Pursuant to
9 California Labor Code section 1194.2, Plaintiff and class members are entitled to recover from
10 Defendants liquidated damages in an amount equal to the wages unlawfully unpaid and
11 interest thereon.

12 **THIRD CAUSE OF ACTION**

13 **Violations of California Labor Code §§ 226.7, 512(a), 516, and 1198—Meal Period**
14 **Violations**
15 **(Against all Defendants)**

16 86. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
17 and every allegation set forth above.

18 87. At all relevant times herein set forth, California Labor Code section 512(a)
19 provides that an employer may not require, cause, or permit an employee to work for a period
20 of more than five (5) hours per day without providing the employee with a meal period of not
21 less than thirty (30) minutes, except that if the total work period per day of the employee is
22 not more than six (6) hours, the meal period may be waived by mutual consent of both the
23 employer and the employee. Under California law, first meal periods must start after no more
24 than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (2012).

25 88. At all relevant times herein set forth, California Labor Code sections 226.7,
26 512(a), 516, and 1198 provide that no employer shall require an employee to work during any
27 meal period mandated by an applicable order of the IWC.

28 89. At all relevant times herein set forth, Labor Code sections 226.7 and 512(a) and

the applicable IWC Wage Order also require employers to provide a second meal period of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1) additional hour of pay at the employee's regular rate, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

90. First, during the relevant time period, Defendants maintained a company-wide, unlawful written meal period policy insofar as it fails to correctly state the timing of when meal periods must occur. Under California law, first meal periods must start after no more than five hours of work. *Brinker*, 53 Cal. 4th at 1041-1042. However, Defendants' written "Wage and Hour Law" policy document states in part:

If you work more than five (5) hours on a given day, you must take one (1) thirty (30) minute meal break. However, if you work six (6) or fewer hours that day, you and your employer can agree to waive this meal break. **You may also waive the timing of your meal break - i.e. you may agree to take your [meal] break more than 5 hours after the start of your shift [...]** [o]n those days on which I am scheduled to work more for more than six (6) and up to and including eight (8) hours, I knowingly and voluntarily waive my right to take a thirty (30) minute meal break within the first (5) hours of my shift. (Emphasis added.)

Defendants' written policy fails to state the correct timing of when the first meal period must take place (i.e. within the first five (5) hours of work) under California law by improperly allowing an employee to "waive" the timing of his or her meal period, and is therefore facially invalid.

91. Second, during the relevant time period, Defendants had, and continue to have, a company-wide policy and/or practice of understaffing while assigning heavy workloads, which has resulted in a lack of meal period coverage and prevented Plaintiff and class members from taking all timely, uninterrupted meal periods to which they were entitled. Moreover, Defendants also failed to schedule meal periods, which further caused Plaintiff and class members to not be relieved of their duties for compliant meal periods. As a result, Plaintiff and class members had to work through all or part of their meal periods, had their meal periods interrupted, and/or had to wait extended periods of time before taking meal periods. For example, approximately twice per week, Plaintiff missed his meal periods, due to

1 the heavy workload and lack of coverage. Thus, Defendants failed to provide Plaintiff and
2 class members with compliant, 30-minute meal periods.

3 92. Moreover, Defendants had a company-wide policy of requiring all newly hired
4 employees to sign blanket meal period waivers. Defendants took the position that non-
5 exempt, hourly paid employees had waived their rights to first and/or second meal periods for
6 the entirety of their employment and, on that basis, did not provide them with all meal periods
7 to which they were entitled. Defendants' presumption that meal periods would not be
8 provided for shifts in excess of five (5) hours but less than six (6) hours and/or for shifts in
9 excess of ten (10) hours but less than twelve (12) hours, due to blanket meal period waivers
10 signed at or near the time of hire, discouraged and impeded Plaintiff and class members from
11 taking all meal periods to which they were entitled.

12 93. Furthermore, an employer's obligation to provide a meal period is only
13 "triggered" when the employer "employs an employee for a work period of more than five
14 hours per day." *Brinker*, 53 Cal. 4th at 1039 ("If an employer engages, suffers, or permits
15 anyone to work for a full five hours, its meal break obligation is triggered.").

16 [A]fter the meal break obligation is triggered . . . an employer is put to a
17 choice: it must (1) afford an off-duty meal period; (2) consent to a mutually
18 agreed-upon waiver if one hour or less will end the shift; or (3) obtain
19 written agreement to an on-duty meal period if circumstances permit.
Failure to do one of these will render the employer liable for premium pay.

20 *Id.* (citing Cal. Labor Code § 226.7; Wage Order No. 5, subd. 11(A), (B)). That Defendants
21 required Plaintiff and class members to sign meal period waivers simultaneously at or near
22 their time of hire (as opposed to on a specific work day) renders them invalid and
23 unenforceable, because Defendants' obligation to provide Plaintiff and class members with
24 meal periods did not arise until they had employed them for a full five (5) hours.

25 94. At all times herein mentioned, Defendants knew or should have known that, as
26 a result of these policies, Plaintiff and class members were prevented from being relieved of
27 all duties and were required to perform some of their assigned duties during meal periods.
28 Defendants further knew or should have known that Defendants did not pay Plaintiff and class

1 members all meal period premiums when meal periods were late, missed, shortened, or
2 interrupted. As stated, on information and belief, because Defendants frowned upon
3 employees accruing meal period penalties, Defendants' management pressured Plaintiff and
4 class members who had signed invalid meal period waivers (*see supra*) to clock out before
5 they had worked six (6) hours in a day but required them to work off-the-clock to limit their
6 eligibility for meal periods, in order to strictly limit the meal penalties that would need to be
7 paid by Defendants. Thus, Defendants failed to provide Plaintiff and class members with
8 compliant, 30-minute meal periods altogether when they were scheduled for shifts of more
9 than five (5) hours.

10 95. Furthermore, Defendants engaged in a company-wide practice and/or policy of
11 not paying all meal period premiums owed when compliant meal periods were not provided.
12 Because of this practice and/or policy, Plaintiff and class members have not received premium
13 pay for missed, late, and interrupted meal periods. Alternatively, to the extent that Defendants
14 did pay Plaintiff and class members premium pay for missed, late, and interrupted meal
15 periods, Defendants did not pay Plaintiff and class members at the correct rate of pay for
16 premiums because Defendants systematically failed to include all forms of compensation,
17 such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the
18 regular rate of pay. As a result, Defendants failed to provide Plaintiff and class members
19 compliant meal periods in violation of California Labor Code sections 226.7, 512(a), and 516
20 and failed to pay the full meal period premiums due.

21 96. Defendants' conduct violates the applicable IWC Wage Order, and California
22 Labor Code sections 226.7, 512(a), 516, and 1198. Plaintiff and class members are therefore
23 entitled to recover from Defendants one (1) additional hour of pay at the employee's regular
24 rate of compensation for each work day that the meal period was not provided.

25 **FOURTH CAUSE OF ACTION**

26 **Violation of California Labor Code §§ 226.7, 516, and 1198—Rest Period Violations** 27 **(Against all Defendants)**

28 97. Plaintiff incorporates by reference and re-alleges as if fully stated herein each

1 and every allegation set forth above.

2 98. At all relevant times herein set forth, the applicable IWC Wage Order and
3 California Labor Code sections 226.7, 516, and 1198 were applicable to Plaintiff's and class
4 members' employment by Defendants.

5 99. At all relevant times, the applicable IWC Wage Order provides that "[e]very
6 employer shall authorize and permit all employees to take rest periods, which insofar as
7 practicable shall be in the middle of each work period" and that the "rest period time shall be
8 based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4)
9 hours or major fraction thereof" unless the total daily work time is less than three and one-half
10 (3 ½) hours.

11 100. At all relevant times, California Labor Code section 226.7 provides that no
12 employer shall require an employee to work during any rest period mandated by an applicable
13 order of the California IWC. To comply with its obligation to authorize and permit rest
14 periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an
15 employer must "relinquish any control over how employees spend their break time, and
16 relieve their employees of all duties—including the obligation that an employee remain on
17 call. A rest period, in short, must be a period of rest." *Augustus v. ABM Security Services,*
18 *Inc.*, 2 Cal. 5th 257, 273 (2016). Pursuant to the applicable IWC Wage Order and California
19 Labor Code section 226.7(c), Plaintiff and class members are entitled to recover from
20 Defendants one (1) additional hour of pay at their regular rates of pay for each work day that a
21 required rest period was not authorized and permitted.

22 101. During the relevant time period, Defendants regularly failed to authorize and
23 permit Plaintiff and class members to take a ten (10) minute rest period per each four (4) hour
24 period worked or major fraction thereof. As with meal periods, Defendants' company-wide
25 practices, including understaffing and assigning heavy workloads, resulted in a lack of rest
26 period coverage and prevented Plaintiff and class members from being relieved of all duty in
27 order to take compliant rest periods. Defendants also failed to schedule rest periods, which,
28 coupled with Defendants' failure to provide adequate rest period coverage, further led to

1 Plaintiff and class members not being authorized and permitted to take rest periods.

2 102. Furthermore, on information and belief, Defendants maintained a company-
3 wide on-premises rest period policy, which effectively required that Plaintiff and class
4 members remain on Defendants' premises during their rest periods. Because Plaintiff and
5 class members were restricted from leaving the premises during rest periods, they were denied
6 the ability to use their rest periods freely for their own purposes, such as running personal
7 errands. Thus, Defendants effectively maintained control over Plaintiff and class members
8 during rest periods.

9 103. As a result of Defendants' practices and policies, Plaintiff and class members
10 worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without
11 receiving all uninterrupted 10-minute rest periods to which they were entitled. For example,
12 throughout his employment, Plaintiff had to forego all of his rest periods because the
13 restaurant was busy and did not have coverage.

14 104. Defendants have also engaged in a systematic, company-wide practice and/or
15 policy of not paying rest period premiums owed when rest periods are not authorized and
16 permitted. Because of this practice and/or policy, Plaintiff and class members have not
17 received premium pay for all missed rest periods. Alternatively, to the extent that Defendants
18 did pay Plaintiff and class members one (1) additional hour of premium pay for missed rest
19 periods, Defendants did not pay Plaintiff and class members at the correct rate of pay for
20 premium wages because Defendants failed to include all forms of compensation, such as
21 incentive pay, nondiscretionary bonuses, and/or other forms of compensation, in the regular
22 rate of pay. As a result, Defendants denied Plaintiff and class members rest periods and failed
23 to pay them rest period premiums due, in violation of Labor Code sections 226.7 and 516, and
24 the applicable IWC Wage Order.

25 105. Defendants' conduct violates the applicable IWC Wage Order and California
26 Labor Code sections 226.7, 516, and 1198. Plaintiff and class members are therefore entitled
27 to recover from Defendants one (1) additional hour of pay at the employee's regular rate of
28 compensation for each work day that a compliant rest period was not authorized and

permitted.

FIFTH CAUSE OF ACTION

Violation of California Labor Code §§ 226(a), 1174(d), and 1198—Non-Compliant Wage Statements and Failure to Maintain Accurate Payroll Records (Against all Defendants)

106. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every allegation set forth above.

107. At all relevant times herein set forth, California Labor Code section 226(a) provides that every employer shall furnish each of his or her employees an accurate and complete itemized wage statement in writing, including, but not limited to, the name and address of the legal entity that is the employer, the inclusive dates of the pay period, total hours worked, and all applicable rates of pay.

108. At all relevant times, Defendants have knowingly and intentionally provided Plaintiff and Subclass members with uniform, incomplete, and inaccurate wage statements. For example, Defendants issued uniform wage statements to Plaintiff and Subclass members that fail to correctly list: gross wages earned; total hours worked; net wages earned; and all applicable hourly rates in effect during the pay period, including rates of pay for overtime wages and/or meal and rest period premiums, and the corresponding number of hours worked at each hourly rate. Specifically, Defendants violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

109. Because Defendants did not accurately record the time Plaintiff and Subclass members spent working off-the-clock, Defendants did not list the correct amount of gross wages and net wages earned by Plaintiff and Subclass members in compliance with sections 226(a)(1) and 226(a)(5). For the same reason, Defendants failed to accurately list the total number of hours worked by Plaintiff and Subclass members in violation of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay period and corresponding accurate number of work hours worked at each hourly rate in violation of section 226(a)(9).

110. Moreover, because Defendants did not calculate Plaintiff's and Subclass members' regular rate of pay correctly for purposes of paying overtime wages and/or meal and rest period premiums, Defendants did not list the correct amount of gross wages in compliance with section 226(a)(1). For the same reason, Defendants failed to list the correct amount of net wages in violation of section 226(a)(5). Defendants also failed to correctly list all applicable hourly rates in effect during the pay period, namely, correct rates of pay for overtime wages and/or meal and rest period premiums, in violation of section 226(a)(9).

111. The wage statement deficiencies also include, without limitation, failing to list the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; failing to list all deductions; failing to list the inclusive dates of the period for which employees were paid; failing to list 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; failing to list the name and address of the legal entity that is the employer; and/or failing to state all hours worked as a result of not recording or stating hours worked off-the-clock.

112. California Labor Code section 1174(d) provides that "[e]very person employing labor in this state shall . . . [k]eep a record showing the names and addresses of all employees employed and the ages of all minors" and "[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments" At all relevant times, and in violation of Labor Code section 1174(d), Defendants willfully failed to maintain accurate payroll records for Plaintiff and Subclass members showing the daily hours they worked and the wages paid thereto as a result of failing to record the off-the-clock hours that they worked.

113. California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Order. Section 1198 further provides that "[t]he

1 employment of any employees for longer hours than those fixed by the order or under
2 conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC
3 Wage Order, employers are required to keep accurate time records showing when the
4 employee begins and ends each work period. During the relevant time period, Defendants
5 engaged in company-wide practices and/or policies of failing to record actual hours worked,
6 and thereby failed to keep accurate records of work period and meal period start and end times
7 for Plaintiff and Subclass members, in violation of section 1198.

8 114. Plaintiff and Subclass members are entitled to recover from Defendants the
9 greater of their actual damages caused by Defendants’ failure to comply with California Labor
10 Code section 226(a), or an aggregate penalty not exceeding four thousand dollars (\$4,000) per
11 employee.

12 **SIXTH CAUSE OF ACTION**

13 **Violation of California Labor Code §§ 201 and 202—Wages Not Timely Paid Upon** 14 **Termination** 15 **(Against all Defendants)**

16 115. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
17 and every allegation set forth above.

18 116. This cause of action is dependent upon, and wholly derivative of, the overtime
19 wages, minimum wages, meal and rest period premiums, and/or reporting time pay that were
20 not timely paid to Plaintiff and those class members no longer employed by Defendants upon
21 their termination.

22 117. At all times relevant herein set forth, Labor Code sections 201 and 202 provide
23 that if an employer discharges an employee, the wages earned and unpaid at the time of
24 discharge are due and payable immediately, and that if an employee voluntarily leaves his or
25 her employment, his or her wages shall become due and payable not later than seventy-two
26 (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of
27 his or her intention to quit, in which case the employee is entitled to his or her wages at the
28 time of quitting.

118. Defendants willfully failed to pay Plaintiff and class members who are no longer employed by Defendants the earned and unpaid wages set forth above, including but not limited to, overtime wages, minimum wages, meal and rest period premiums, and/or reporting time pay, either at the time of discharge, or within seventy-two (72) hours of their leaving Defendants' employ.

119. Defendants' failure to pay Plaintiff and class members who are no longer employed by Defendants their wages earned and unpaid at the time of discharge, or within seventy-two (72) hours of their leaving Defendants' employ, violates Labor Code sections 201 and 202. Plaintiff and class members are therefore entitled to recover from Defendants the statutory penalty wages for each day they were not paid, at their regular rate of pay, up to a thirty (30) day maximum pursuant to California Labor Code section 203.

SEVENTH CAUSE OF ACTION

Violation of California Labor Code § 204—Failure to Timely Pay Wages During Employment (Against all Defendants)

120. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every allegation set forth above.

121. This cause of action is dependent upon, and wholly derivative of, the overtime wages, minimum wages, meal and rest period premiums, and/or reporting time pay that were not timely paid to Plaintiff and class members during their employment.

122. At all times relevant herein set forth, Labor Code section 204 provides that all wages earned by any person in any employment between the first (1st) and the fifteenth (15th) days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the sixteenth (16th) and the twenty-sixth (26th) day of the month during which the labor was performed. Labor Code section 204 further provides that all wages earned by any person in any employment between the sixteenth (16th) and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the first (1st) and the tenth (10th) day of the following

1 month.

2 123. At all times relevant herein, Labor Code section 204 provides that all wages
3 earned for labor in excess of the normal work period shall be paid no later than the payday for
4 the next regular payroll period. Alternatively, at all times relevant herein, Labor Code section
5 204 provides that the requirements of this section are deemed satisfied by the payment of
6 wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than
7 seven (7) calendar days following the close of the payroll period.

8 124. During the relevant time period, Defendants willfully failed to pay Plaintiff and
9 class members all wages due including, but not limited to, overtime wages, minimum wages,
10 meal and rest period premiums, and/or reporting time pay, within the time periods specified
11 by California Labor Code section 204.

12 125. Defendants' failure to pay Plaintiff and class members all wages due violates
13 Labor Code section 204. Plaintiff and class members are therefore entitled to recover from
14 Defendants the statutory penalty wages pursuant to California Labor Code section 210.

15 **EIGHTH CAUSE OF ACTION**

16 **Violation of Labor Code § 1198 and California Code of Regulations Title 8, Section** 17 **11050 Subdivision 5(A)—Failure to Provide Reporting Time Pay** 18 **(Against all Defendants)**

19 126. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
20 and every allegation set forth above.

21 127. California Labor Code section 1198 dictates that no employer may employ an
22 employee under conditions of labor that are prohibited by the applicable IWC Wage Order.
23 California Labor Code section 1198 further requires that “. . . the standard conditions of labor
24 fixed by the commission shall be the . . . standard conditions of labor for employees. The
25 employment of any employee . . . under conditions of labor prohibited by the order is
26 unlawful.”

27 128. The applicable IWC Wage Order, California Code of Regulations, Title 8,
28 section 11050(5)(A), provides that “[e]ach workday an employee is required to report to the

1 work site and does report, but is not put to work or is furnished less than half of his/her usual
2 or scheduled day's work, the employer shall be pay him/her for half the usual or scheduled
3 day's work, but in no event for less than two (2) hours nor more than four (4) hours, at the
4 employee's regular rate of pay, which shall not be less than the minimum wage." The
5 "primary purpose of the reporting time regulation" is "to guarantee at least partial
6 compensation for employees who report to work expecting to work a specified number of
7 hours, and who are deprived of that amount because of inadequate scheduling or lack of
8 proper notice by the employer." *Aleman v. AirTouch Cellular*, 209 Cal. App. 4th 556 (2012).

9 129. During the relevant time period, Defendants violated California Labor Code
10 section 1198 and California Code of Regulations, Title 8, section 11050(5)(A), because
11 Defendants failed to pay Plaintiff and class members reporting time pay when they reported to
12 work for their usual or scheduled shift but were put to work for less than half of their usual or
13 scheduled day's work.

14 130. Defendants had a company-wide practice of sending Plaintiff and class
15 members home early from their shifts, including before they had worked at least half of their
16 usual or scheduled shift, but would not pay Plaintiff and class members for half of their usual
17 or scheduled shift. For example, when scheduled to work a shift of at least five (5) hours,
18 Defendants' managers sent Plaintiff home 30 minutes after the start of his shift. Although
19 Plaintiff and class members reported to work based on the schedule that was provided to them,
20 Defendants would send them home before they worked at least half of their usual or scheduled
21 shifts. When this occurred, Defendants did not pay Plaintiff and class members for at least
22 half of their scheduled day's work or the minimum reporting time pay.

23 131. Accordingly, Plaintiff and class members were not properly compensated with
24 reporting time pay in violation of California Labor Code section 1198 and California Code of
25 Regulations, Title 8, section 11050(5)(A). Plaintiff and class members are therefore entitled
26 to recover from Defendants unpaid wages and interest.

27 //

28 //

1 **NINTH CAUSE OF ACTION**

2 **Violation of California Labor Code § 2802—Unpaid Business-Related Expenses**
3 **(Against all Defendants)**

4 132. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
5 and every allegation set forth above.

6 133. At all times herein set forth, California Labor Code section 2802 provides that
7 an employer must reimburse employees for all necessary expenditures and losses incurred by
8 the employee in the performance of his or her job. The purpose of Labor Code section 2802 is
9 to prevent employers from passing off their cost of doing business and operating expenses on
10 to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144
11 (2014).

12 134. During the relevant time period, Defendants, on a company-wide basis,
13 required Plaintiff and class members to obtain and pay for certain certifications, such as a
14 ServSafe certificate, which were required for their continued employment, as well as
15 associated costs such as training and/or examination fees. For example, Plaintiff complied
16 with this requirement and spent approximately \$12 to obtain a ServSafe certificate, but
17 Defendants did not reimburse him for the costs of obtaining the certification. Thus,
18 Defendants failed to reimburse Plaintiff and class members for the costs of obtaining these
19 certifications, including training and/or examination fees.

20 135. Defendants could have reimbursed employees for the costs of their
21 certifications. Instead, Defendants passed these operating costs off onto Plaintiff and class
22 members. At all relevant times, Plaintiff did not earn at least two (2) times the minimum
23 wage.

24 136. Defendants' company-wide policy and/or practice of not reimbursing
25 employees for expenses necessarily incurred and passing on their operating costs to Plaintiff
26 and class members violates California Labor Code section 2802. Defendants have
27 intentionally and willfully failed to reimburse Plaintiff and class members for necessary
28 business-related expenses and costs.

137. Plaintiff and class members are entitled to recover from Defendants their business-related expenses incurred during the course and scope of their employment, plus interest.

TENTH CAUSE OF ACTION

For Civil Penalties Pursuant to California Labor Code §§ 2698, *et seq.*

(Against all Defendants)

138. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every allegation set forth above.

139. California Labor Code §§ 2698, *et seq.* (“PAGA”) permits Plaintiff to recover civil penalties for the violation(s) of the Labor Code sections enumerated in Labor Code section 2699.5. Section 2699.5 enumerates Labor Code sections 201, 202, 204, 1174(d), and 1198. Labor Code section 2699.3(c) permits aggrieved employees, including Plaintiff, to recover civil penalties for violations of those Labor Code sections not found in section 2699.5, including sections 226(a), 226.7, 510, 512(a), 516, 1182.12, 1194, 1197, 1197.1, 2802, and 2810.5.

140. Defendants’ conduct, as alleged herein, violates numerous sections of the California Labor Code, including, but not limited to, the following:

- (a) Violation of Labor Code sections 510 and 1198, and the applicable IWC Wage Order for Defendants’ failure to compensate Plaintiff and other aggrieved employees with all required overtime pay, as alleged herein;
- (b) Violations of Labor Code sections 226.7, 510, and 1198, and the applicable IWC Wage Order for Defendants’ failure to include all forms of remuneration in the regular rate of pay as required by law for purposes of paying overtime wages and/or meal and rest period premiums to Plaintiff and other aggrieved employees, as alleged herein;
- (c) Violation of Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198, and the applicable IWC Wage Order for Defendants’ failure to compensate Plaintiff and other aggrieved employees with at least

1 minimum wages for all hours worked, as alleged herein;

2 (d) Violation of Labor Code sections 226.7, 512(a), 516, and 1198, and the
3 applicable IWC Wage Order for Defendants' failure to provide Plaintiff
4 and other aggrieved employees with meal periods, as alleged herein;

5 (e) Violation of Labor Code sections 226.7, 516, and 1198, and the
6 applicable IWC Wage Order for Defendants' failure to authorize and
7 permit Plaintiff and other aggrieved employees to take rest periods, as
8 alleged herein;

9 (f) Violation of Labor Code sections 226(a) and 1198, and the applicable
10 IWC Wage Order for failure to provide accurate and complete wage
11 statements to Plaintiff and other aggrieved employees, as alleged herein;

12 (g) Violation of Labor Code sections 1174(d) and 1198, and the applicable
13 IWC Wage Order for failure to maintain payroll records, as alleged
14 herein;

15 (h) Violation of Labor Code sections 201 and 202 for failure to pay all
16 earned wages upon termination, as alleged herein;

17 (i) Violation of Labor Code section 204 for failure to pay all earned wages
18 during employment, as alleged herein;

19 (j) Violation of Labor Code sections 1198 and the applicable IWC Wage
20 Order for failure to pay split-shift premiums when Plaintiff and other
21 aggrieved employees returned to work for an additional shift in the same
22 day, after having been clocked out for more than an hour, as set forth
23 below;

24 (k) Violation of Labor Code sections 1198 and the applicable IWC Wage
25 Order for failure to pay when Plaintiff and other aggrieved employees
26 were put to work for less than half of their usual or scheduled shifts, as
27 alleged herein;

28 (l) Violation of Labor Code section 1198 for failing to provide suitable

- 1 seating to Plaintiff and other aggrieved employees, as set forth below;
- 2 (m) Violation of Labor Code section 2802 for failure to reimburse Plaintiff
- 3 and other aggrieved employees for all business expenses necessarily
- 4 incurred, as alleged herein; and
- 5 (n) Violation of Labor Code section 2810.5 for failure to provide notice of
- 6 material terms of employment, as set forth below.

7 141. At all relevant times herein, California Labor Code section 1198 makes it

8 illegal to employ an employee under conditions of labor that are prohibited by the applicable

9 IWC Wage Order. California Labor Code section 1198 requires that “. . . the standard

10 conditions of labor fixed by the commission shall be the . . . standard conditions of labor for

11 employees. The employment of any employee . . . under conditions of labor prohibited by the

12 order is unlawful.”

13 142. California Code of Regulations, Title 8, section 11050(14)(B) provides that

14 “[w]hen employees are not engaged in the active duties of their employment and the nature of

15 the work requires standing, an adequate number of suitable seats shall be placed in reasonable

16 proximity to the work area and employees shall be permitted to use such seats when it does

17 not interfere with the performance of their duties.”

18 143. During the relevant time period, Defendants violated California Labor Code

19 section 1198 and California Code of Regulations, Title 8, section 11050(14)(B), because

20 Plaintiff and other aggrieved employees were not allowed to sit, even during lulls in their

21 work duties, nor were they provided with suitable seats in reasonable proximity to their work

22 areas.

23 144. Defendants’ California restaurants are generally similar in their layout and

24 design and there was, and continues to be, space near their work areas (with reasonable or no

25 modification to these work areas) to allow for the presence and use of a seat or stool by

26 Plaintiff and other aggrieved employees during lulls in operation. Defendants could have

27 provided Plaintiff and other aggrieved employees with a seat or stool in their work areas, but

28 instead denied Plaintiff and other aggrieved employees suitable seating altogether and

effectively forced Plaintiff and other aggrieved employees to stand throughout the day.

145. Defendants did not provide Plaintiff and other aggrieved employees with seats or stools in reasonable proximity to their work areas to allow them to use seats when it would not interfere with the performance of their duties for times when they were not engaged in active duties that require standing. In other words, to the extent Plaintiff and other aggrieved employees engaged in duties in which the nature of the work required standing, Defendants denied them the use of seats nearby during lulls in their work duties. Moreover, Defendants did not inform Plaintiff and other aggrieved employees of their rights to a seat or stool under California law.

146. As a result of Defendants' company-wide policy and/or practice prohibiting employees from sitting at any time, even when they were not engaged in active duties requiring standing, and company-wide failure to provide seats in reasonable proximity to their work areas, Plaintiff and other aggrieved employees were forced to stand during shifts and denied seats. Defendants' failure to provide suitable seating to Plaintiff and other aggrieved employees violated and continues to violate California Labor Code section 1198 and IWC Wage Order No. 5-2001, subdivision 14(B). Plaintiff and other aggrieved employees are therefore entitled to recover civil penalties pursuant to Labor Code sections 2699(a), (f), and (k).

147. At all relevant times herein, California's Wage Theft Prevention Act was enacted to ensure that employers provide employees with basic information material to their employment relationship at the time of hiring, and to ensure that employees are given written and timely notice of any changes to basic information material to their employment. Codified at California Labor Code section 2810.5, the Wage Theft Prevention Act provides that at the time of hiring, an employer must provide written notice to employees containing basic and material payroll information, including, among other things, the rate(s) of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, the regular payday designated by the employer, and any allowances claims as part of the minimum wage, including meal or lodging allowances. Labor

Code § 2810.5(a)(1)(A)-(C).

148. At all relevant times, on information and belief, Defendants failed, on a company-wide basis, to provide written notice to Plaintiff and other aggrieved employees that lists the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C). Defendants' failure to provide Plaintiff and other aggrieved employees with written notice of basic information regarding their employment with Defendants is in violation of California Labor Code section 2810.5. Plaintiff and other aggrieved employees are therefore entitled to recover civil penalties pursuant to Labor Code sections 2699(a), (f), and (k).

ELEVENTH CAUSE OF ACTION

Violation of California Business & Professions Code §§ 17200, *et seq.* –

Unlawful Business Practices

(Against all Defendants)

149. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every allegation set forth above.

150. Defendants are "persons" as defined by California Business & Professions Code section 17201, as they are corporations, firms, partnerships, joint stock companies, and/or associations.

151. Defendants' conduct, as alleged herein, has been, and continues to be, unfair, unlawful and harmful to Plaintiff, class members, and to the general public. Plaintiff has suffered injury in fact and has lost money as a result of Defendants' unlawful business practices. Plaintiff seeks to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure section 1021.5.

152. Defendants' activities, as alleged herein, are violations of California law, and constitute unlawful business acts and practices in violation of California Business & Professions Code sections 17200, *et seq.*

153. A violation of California Business & Professions Code sections 17200, *et seq.* may be predicated on the violation of any state or federal law. In the instant case, Defendants' policies and practices have violated state law in at least the following respects:

- 1 (a) Requiring non-exempt, hourly paid employees, including Plaintiff and
2 class members, to work overtime without paying them proper
3 compensation in violation of California Labor Code sections 510 and
4 1198, and the applicable IWC Wage Order, as alleged herein;
- 5 (b) Failing to include all forms of remuneration in the regular rate of pay as
6 required by law for purposes of paying overtime wages and/or meal and
7 rest period premiums to Plaintiff and class members, in violation of
8 California Labor Code sections 226.7, 510, and 1198, and the applicable
9 IWC Wage Order, as alleged herein;
- 10 (c) Failing to pay at least minimum wage to Plaintiff and class members in
11 violation of California Labor Code sections 1182.12, 1194, 1197,
12 1197.1, and 1198, and the applicable IWC Wage Order, as alleged
13 herein;
- 14 (d) Failing to provide all meal periods to Plaintiff and class members in
15 violation of California Labor Code sections 226.7, 512(a), 516, and
16 1198, and the applicable IWC Wage Order, as alleged herein;
- 17 (e) Failing to authorize and permit Plaintiff and class members to take all
18 rest periods in violation of California Labor Code sections 226.7, 516,
19 and 1198, and the applicable IWC Wage Order, as alleged herein;
- 20 (f) Failing to provide Plaintiff and class members with accurate wage
21 statements and failing to maintain accurate payroll records in violation
22 of California Labor Code sections 226(a), 1174(d), and 1198, and the
23 applicable IWC Wage Order, as alleged herein;
- 24 (g) Failing timely to pay all earned wages to Plaintiff and class members in
25 violation of California Labor Code section 204, as alleged herein;
- 26 (h) Failing to pay Plaintiff and class members split-shift premium wage of
27 an additional hour of pay at the minimum wage, when they returned to
28 work for an additional shift in the same day, after having been clocked

1 out form more than an hour, in violation of California Labor Code
2 section 1198 and the applicable IWC Wage Order, as set forth below;

3 (i) Failing to pay reporting time pay in violation of California Labor Code
4 section 1198 and the applicable IWC Wage Order, as alleged herein;

5 (j) Failing to reimburse Plaintiff and class members for all business
6 expenses necessarily incurred in violation of California Labor Code
7 section 2802, as alleged herein; and

8 (k) Failing to provide written notice of information material to Plaintiff's
9 and class members' employment with Defendants in violation of
10 California Labor Code section 2810.5(a)(1)(A)-(C), as set forth below.

11 154. At all relevant times herein, Labor Code section 1198 provides that no
12 employer may employ an employee under conditions of labor that are prohibited by the
13 applicable IWC Wage Order. California Code of Regulations, Title 8, section 11050(4)(C)
14 provides that, "When an employee works a split shift, one (1) hour's pay at the minimum
15 wage shall be paid in addition to the minimum wage for that workday, except when the
16 employee resides at the place of employment." Plaintiff and class members did not reside at
17 Defendants' locations. California Code of Regulations, Title 8, defines a split shift as "a work
18 schedule, which is interrupted by non-paid non-working periods established by the employer,
19 other than bona fide rest or meal periods."

20 155. Defendants violated California Labor Code section 1198 and California Code
21 of Regulations, Title 8, section 11050(4)(C), because Defendants failed to pay Plaintiff and
22 class members a split-shift premium when they returned to work for an additional shift in the
23 same day, after having been clocked out for at least an hour. For instance, Plaintiff would be
24 scheduled to work a 4-hour to 8-hour shift, clock out for at least an hour, and then return to
25 work later in the day for an additional shift. When this occurred, Defendants did not always
26 pay Plaintiff and class members an additional hour at minimum wage.

27 156. Accordingly, Defendants required Plaintiff and class members to work split
28 shifts but failed to pay them the split-shift premium wage in violation of California Labor

1 Code section 1198. Defendants' failure to compensate Plaintiff and class members with split-
2 shift pay when they returned to work for an additional shift in the same day, after having been
3 clocked out for more than an hour, violates California Labor Code section 1198 and California
4 Code of Regulations, Title 8, section 11050(4)(C).

5 157. At all relevant times herein, California's Wage Theft Prevention Act was
6 enacted to ensure that employers provide employees with basic information material to their
7 employment relationship at the time of hiring, and to ensure that employees are given written
8 and timely notice of any changes to basic information material to their employment. Codified
9 at California Labor Code section 2810.5, the Wage Theft Prevention Act provides that at the
10 time of hiring, an employer must provide written notice to employees containing basic and
11 material payroll information, including, among other things, the rate(s) of pay and basis
12 thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise,
13 including any rates for overtime, the regular payday designated by the employer, and any
14 allowances claims as part of the minimum wage, including meal or lodging allowances. Labor
15 Code § 2810.5(a)(1)(A)-(C).

16 158. At all relevant times, on information and belief, Defendants failed, on a
17 company-wide basis, to provide written notice to Plaintiff and class members that lists the
18 requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C). Defendants' failure
19 to provide Plaintiff and class members with written notice of basic information regarding their
20 employment with Defendants is in violation of California Labor Code section 2810.5.

21 159. As a result of the violations of California law herein described, Defendants
22 unlawfully gained an unfair advantage over other businesses. Plaintiff and class members
23 have suffered pecuniary loss by Defendants' unlawful business acts and practices alleged
24 herein.

25 160. Pursuant to California Business & Professions Code sections 17200, *et seq.*,
26 Plaintiff and class members are entitled to restitution of the wages withheld and retained by
27 Defendants during a period that commences four years prior to the filing of the initial
28 complaint; a permanent injunction requiring Defendants to pay all outstanding wages due to

1 Plaintiff and class members; and an award of attorneys' fees pursuant to California Code of
2 Civil Procedure section 1021.5 and other applicable laws; and an award of costs.

3 **TWELFTH CAUSE OF ACTION**

4 **Violation of California Business & Professions Code §§ 17200, *et seq.* –**
5 **Unfair Business Practices**
6 **(Against all Defendants)**

7 161. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
8 and every allegation set forth above.

9 162. Defendants are "persons" as defined by California Business & Professions
10 Code section 17201, as they are corporations, firms, partnerships, joint stock companies,
11 and/or associations.

12 163. Defendants' conduct, as alleged herein, has been, and continues to be, unfair,
13 and harmful to Plaintiff, class members, and to the general public. Plaintiff has suffered
14 injury in fact and has lost money as a result of Defendants' unfair business practices. Plaintiff
15 seeks to enforce important rights affecting the public interest within the meaning of Code of
16 Civil Procedure section 1021.5.

17 164. Defendants' activities, namely Defendants' company-wide practice and/or
18 policy of not paying Plaintiff and class members all meal and rest period premiums due to
19 them under Labor Code section 226.7, deprived Plaintiff and class members of the
20 compensation guarantee and enhanced enforcement implemented by section 226.7. The
21 statutory remedy provided by section 226.7 is a "'dual-purpose' remedy intended primarily to
22 compensate employees, and secondarily to shape employer conduct." *Safeway, Inc. v.*
23 *Superior Court*, 238 Cal. App. 4th 1138, 1149 (2015). The statutory benefits of section 226.7
24 were guaranteed to Plaintiff and class members as part of their employment with Defendants,
25 and thus Defendants' practice and/or policy of denying these statutory benefits constitutes an
26 unfair business practice in violation of California Business & Professions Code sections
27 17200, *et seq.* (*Id.*)

28 165. A violation of California Business & Professions Code sections 17200, *et seq.*

1 may be predicated on any unfair business practice. In the instant case, Defendants' policies
2 and practices have violated the spirit of California's meal and rest period laws and constitute
3 acts against the public policy behind these laws.

4 166. Pursuant to California Business & Professions Code sections 17200, *et seq.*,
5 Plaintiff and class members are entitled to restitution for the class-wide loss of the statutory
6 benefits implemented by section 226.7 withheld and retained by Defendants during a period
7 that commences four years prior to the filing of the initial complaint; a permanent injunction
8 requiring Defendants to pay all statutory benefits implemented by section 226.7 due to
9 Plaintiff and class members; an award of attorneys' fees pursuant to California Code of Civil
10 Procedure section 1021.5 and other applicable laws; and an award of costs.

11 **REQUEST FOR JURY TRIAL**

12 Plaintiff requests a trial by jury.

13 **PRAYER FOR RELIEF**

14 Plaintiff, on behalf of all others similarly situated, prays for relief and judgment
15 against Defendants, jointly and severally, as follows:

16 1. For damages, unpaid wages, penalties, injunctive relief, and attorneys' fees in
17 excess of twenty-five thousand dollars (\$25,000), exclusive of interest and costs. Plaintiff
18 reserves the right to amend his prayer for relief to seek a different amount.

19 **Class Certification**

- 20 2. That this case be certified as a class action;
21 3. That Plaintiff be appointed as the representative of the Class and Subclass;
22 4. That counsel for Plaintiff be appointed as class counsel.

23 **As to the First Cause of Action**

24 5. That the Court declare, adjudge, and decree that Defendants violated California
25 Labor Code sections 510 and 1198, and the applicable IWC Wage Order by willfully failing to
26 pay all overtime wages due to Plaintiff and class members;

27 6. For general unpaid wages at overtime wage rates and such general and special
28 damages as may be appropriate;

7. For pre-judgment interest on any unpaid overtime compensation commencing from the date such amounts were due, or as otherwise provided by law;

8. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to California Labor Code section 1194(a); and

9. For such other and further relief as the Court may deem equitable and appropriate.

As to the Second Cause of Action

10. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198, and the applicable IWC Wage Order by willfully failing to pay minimum wages to Plaintiff and class members;

11. For general unpaid wages and such general and special damages as may be appropriate;

12. For pre-judgment interest on any unpaid compensation from the date such amounts were due, or as otherwise provided by law;

13. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to California Labor Code section 1194(a);

14. For liquidated damages pursuant to California Labor Code section 1194.2; and

15. For such other and further relief as the Court may deem equitable and appropriate.

As to the Third Cause of Action

16. That the Court declare, adjudge, and decree that Defendants violated California Labor Code sections 226.7, 512(a), 516, and 1198, and the applicable IWC Wage Order by willfully failing to provide all meal periods to Plaintiff and class members;

17. That the Court make an award to the Plaintiff and class members of one (1) hour of pay at each employee's regular rate of pay for each workday that a meal period was not provided;

18. For all actual, consequential, and incidental losses and damages, according to proof;

1 31. For all actual, consequential, and incidental losses and damages, according to
2 proof;

3 32. For injunctive relief pursuant to California Labor Code section 226(h);

4 33. For statutory penalties pursuant to California Labor Code section 226(e);

5 34. For attorneys' fees and costs pursuant to California Labor Code section
6 226(e)(1); and

7 35. For such other and further relief as the Court may deem equitable and
8 appropriate.

9 **As to the Sixth Cause of Action**

10 36. That the Court declare, adjudge and decree that Defendants violated California
11 Labor Code sections 201 and 202 by willfully failing to pay overtime wages, minimum wages,
12 meal and rest period premiums, and/or reporting time pay owed at the time of termination of
13 the employment of Plaintiff and other terminated class members;

14 37. For all actual, consequential and incidental losses and damages, according to
15 proof;

16 38. For waiting time penalties according to proof pursuant to California Labor
17 Code section 203 for all employees who have left Defendants' employ;

18 39. For pre-judgment interest on any unpaid wages from the date such amounts
19 were due, or as otherwise provided by law;

20 40. For attorneys' fees pursuant to California Code of Civil Procedure section
21 1021.5, or as otherwise provided by law; and

22 41. For such other and further relief as the Court may deem equitable and
23 appropriate.

24 **As to the Seventh Cause of Action**

25 42. That the Court declare, adjudge and decree that Defendants violated California
26 Labor Code section 204 by willfully failing to timely pay Plaintiff and class members
27 overtime wages, minimum wages, meal and rest period premiums, and/or reporting time pay
28 during their employment;

1 43. For all actual, consequential and incidental losses and damages, according to
2 proof;

3 44. For statutory penalties according to proof pursuant to California Labor Code
4 section 210;

5 45. For pre-judgment interest on any unpaid wages from the date such amounts
6 were due, or as otherwise provided by law;

7 46. For attorneys' fees pursuant to California Code of Civil Procedure section
8 1021.5, or as otherwise provided by law; and

9 47. For such other and further relief as the Court may deem equitable and
10 appropriate.

11 **As to the Eighth Cause of Action**

12 48. That the Court declare, adjudge and decree that Defendants violated California
13 Labor Code section 1198 and California Code of Regulations, Title 8, section 11050(5)(A) by
14 failing to provide Plaintiff and class members with reporting time pay;

15 49. For all actual, consequential and incidental losses and damages, according to
16 proof;

17 50. For pre-judgment interest on any unpaid wages from the date such amounts
18 were due, or as otherwise provided by law; and

19 51. For such other and further relief as the Court may deem equitable and
20 appropriate.

21 **As to the Ninth Cause of Action**

22 52. That the Court declare, adjudge and decree that Defendants violated California
23 Labor Code section 2802 by willfully failing to reimburse and/or indemnify all business-
24 related expenses and costs incurred by Plaintiff and class members;

25 53. For unpaid business-related expenses and such general and special damages as
26 may be appropriate;

27 54. For pre-judgment interest on any unpaid business-related expenses from the
28 date such amounts were due, or as otherwise provided by law;

1 55. For all actual, consequential, and incidental losses and damages, according to
2 proof;

3 56. For attorneys' fees and costs pursuant to California Labor Code section
4 2802(c), or as otherwise provided by law; and

5 57. For such other and further relief as the Court may deem equitable and
6 appropriate.

7 **As to the Tenth Cause of Action**

8 58. That the Court declare, adjudge and decree that Defendants violated the
9 following California Labor Code provisions as to Plaintiff and other aggrieved employees:
10 510 and 1198 (by failing to pay all overtime compensation); 226.7, 510, and 1198 (by failing
11 to include all forms of remuneration in the regular rate of pay for purposes of paying overtime
12 wages and/or meal and rest period premiums); 1182.12, 1194, 1197, 1197.1, and 1198 (by
13 failing to pay at least minimum wages for all hours worked); 226.7, 512(a), 516, and 1198 (by
14 failing to provide all meal periods); 226.7, 516, and 1198 (by failing to authorize and permit
15 all rest periods); 226(a), 1174(d), and 1198 (by failing to provide accurate wage statements
16 and maintain accurate payroll records); 201 and 202 (by failing to timely pay all earned wages
17 upon termination); 204 (by failing to timely pay all earned wages during employment); 1198
18 and the applicable IWC Wage Order (by failing to provide split-shift pay); 1198 and the
19 applicable IWC Wage Order (by failing to provide reporting time pay); 1198 and the
20 applicable IWC Wage Order (by failing to provide suitable seating); 2802 (by failing to
21 reimburse business expenses); and 2810.5 (by failing to provide notice of material terms of
22 employment;

23 59. For civil penalties pursuant to the California Labor Code, including sections
24 210, 226.3, 256, 558, 1174.5, 2699(a), (f), and (k), for violations of California Labor Code
25 sections 201, 202, 204, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1,
26 1198, 2802, and 2810.5;

27 60. For attorneys' fees and costs pursuant to California Labor Code section
28 2699(k)(1), and any and all other relevant statutes, for Defendants' violations of California

1 Labor Code sections 201, 202, 204, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194,
2 1197, 1197.1, 1198, 2802, and 2810.5;

3 61. For pre-judgment and post-judgment interest as provided by law; and

4 62. For such other and further relief as the Court may deem equitable and
5 appropriate.

6 **As to the Eleventh Cause of Action**

7 63. That the Court declare, adjudge and decree that Defendants' conduct of failing
8 to provide Plaintiff and class members all overtime wages due to them, failing to include all
9 forms of remuneration in the regular rate of pay for purposes of paying overtime wages and/or
10 meal and rest period premiums to Plaintiff and class members, failing to provide Plaintiff and
11 class members all minimum wages due to them, failing to provide Plaintiff and class members
12 all meal periods, failing to authorize and permit Plaintiff and class members to take all rest
13 periods, failing to provide Plaintiff and class members accurate and complete wage
14 statements, failing to maintain accurate payroll records for Plaintiff and class members, failing
15 to timely pay Plaintiff and class members all earned wages during employment, failing to
16 properly compensate Plaintiff and class members for split shifts, failing to pay Plaintiff and
17 class members reporting time pay, failing to reimburse Plaintiff and class members for
18 business-related expenses, and failing to provide written notice of material terms of
19 employment, constitutes an unlawful business practice in violation of California Business and
20 Professions Code sections 17200, *et seq.*;

21 64. For restitution of unpaid wages to Plaintiff and all class members and
22 prejudgment interest from the day such amounts were due and payable;

23 65. For the appointment of a receiver to receive, manage and distribute any and all
24 funds disgorged from Defendants and determined to have been wrongfully acquired by
25 Defendants as a result of violations of California Business & Professions Code sections
26 17200, *et seq.*;

27 66. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
28 California Code of Civil Procedure section 1021.5; and

67. For such other and further relief as the Court may deem equitable and appropriate.

As to the Twelfth Cause of Action

68. That the Court declare, adjudge and decree that Defendants' conduct of denying Plaintiff and class members the statutory benefits guaranteed under section 226.7 constitutes an unfair business practice in violation of California Business and Professions Code sections 17200, *et seq.*;

69. For restitution of the statutory benefits under section 226.7 unfairly withheld from Plaintiff and class members and prejudgment interest from the day such amounts were due and payable;

70. For the appointment of a receiver to receive, manage and distribute any and all funds disgorged from Defendants and determined to have been wrongfully acquired by Defendants as a result of violations of California Business & Professions Code sections 17200, *et seq.*;

71. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California Code of Civil Procedure section 1021.5;

72. For pre-judgment and post-judgment interest as provided by law; and

73. For such other and further relief as the Court may deem equitable and appropriate.

Dated: September 5, 2024

Respectfully submitted,

Capstone Law APC

By: Alex Wallin

Roxanna Tabatabaeepour

Ryan Tish

Alexander Wallin

Attorneys for Plaintiff Christopher Lopez

EXHIBIT “1”



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May 17, 2024

VIA ONLINE SUBMISSION

California Labor & Workforce Development Agency
ATTN: PAGA Administrator
(<https://dir.govfa.net/308>)

Subject: *Christopher Lopez v. Rio Grill, Inc., et al.*

Dear PAGA Administrator:

This office represents Christopher Lopez in connection with his claims under the California Labor Code. Mr. Lopez was an employee of RIO GRILL, INC.; RIO RESTAURANTS CORPORATION; DOWNTOWN DINING, INC.; TARPY'S ROADHOUSE, LLC; MONTRIO, LLC; BOVH - MONTRIO BISTRO; BOVH - RIO GRILL; and/or BOVH - TARPY'S ROADHOUSE. For the purpose of this letter, Mr. Lopez collectively refers to these entities as "DOWNTOWN DINING."

The employers may be contacted directly at the addresses below:

RIO GRILL, INC.
2999 MONTEREY SALINAS HWY, STE 1
MONTEREY, CA 93940

RIO GRILL, INC.
316 MID VALLEY CENTER 206
CARMEL, CA 93923

RIO RESTAURANTS CORPORATION
2999 MONTEREY SALINAS HWY, STE 1
MONTEREY, CA 93940

RIO RESTAURANTS CORPORATION
316 MID VALLEY CENTER 206
CARMEL, CA 93923

DOWNTOWN DINING, INC.
2999 MONTEREY SALINAS HWY, STE 1
MONTEREY, CA 93940

DOWNTOWN DINING, INC.
316 MID VALLEY CENTER 206
CARMEL, CA 93923

TARPY'S ROADHOUSE, LLC
2999 MONTEREY SALINAS HWY, STE 1
MONTEREY, CA 93940

TARPY'S ROADHOUSE, LLC
316 MID VALLEY CENTER 206
CARMEL, CA 93923

MONTRIO, LLC
2999 MONTEREY SALINAS HWY, STE 1
MONTEREY, CA 93940

MONTRIO, LLC
316 MID VALLEY CENTER 206
CARMEL, CA 93923

BOVH - MONTRIO BISTRO
2999 MONTEREY - SALINAS HWY, STE 1
MONTEREY, CA 93940

BOVH - RIO GRILL
2999 MONTEREY - SALINAS HWY, STE 1
MONTEREY, CA 93940

BOVH - TARPY'S ROADHOUSE
2999 MONTEREY - SALINAS HWY, STE 1
MONTEREY, CA 93940

Mr. Lopez intends to seek civil penalties, attorney's fees, costs, and other available relief for violations of the California Labor Code, which are recoverable under sections 2698, *et seq.*, the Labor Code Private Attorneys General Act of 2004 ("PAGA"). Mr. Lopez seeks relief on behalf of himself, the State of California, and other persons who are or were employed by DOWNTOWN DINING as a non-exempt, hourly paid employee in California and who received at least one wage statement ("aggrieved employees"). This letter is sent in compliance with the notice and reporting requirements of California Labor Code section 2699.3.

DOWNTOWN DINING employed Mr. Lopez as an hourly paid, non-exempt Server from approximately May 2022 to January 2024. Mr. Lopez worked for DOWNTOWN DINING at its Rio Grill restaurant location in Carmel, California. During his employment, Mr. Lopez typically worked five (5) to eight (8) or more hours per day and four (4) days per week. At the time his employment ended, Mr. Lopez was compensated approximately \$16.00 per hour. His primary job duties included, without limitation, taking customer orders and preparing and serving food.

DOWNTOWN DINING committed one or more of the following Labor Code violations against Mr. Lopez, the facts and theories of which follow, making him an "aggrieved employee" pursuant to California Labor Code section 2699(c):¹

DOWNTOWN DINING's Company-Wide and Uniform Payroll and HR Practices

RIO GRILL, INC.; RIO RESTAURANTS CORPORATION; DOWNTOWN DINING, INC.; BOVH - MONTRIO BISTRO; BOVH - RIO GRILL; and BOVH - TARPY'S ROADHOUSE are California corporations. TARPY'S ROADHOUSE, LLC and MONTRIO, LLC are California limited liability companies. Together, they operate at least three (3) restaurants in California and also offer catering services. Upon information and belief, DOWNTOWN DINING maintains a single, centralized Human Resources (HR) department at its corporate headquarters in Monterey, California, for all non-exempt, hourly paid employees working for DOWNTOWN DINING in California, including Mr. Lopez and other aggrieved employees. At all relevant times, DOWNTOWN DINING issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Mr. Lopez and other aggrieved employees, regardless of their location or position.

Upon information and belief, DOWNTOWN DINING maintains a centralized Payroll department at its corporate headquarters in Monterey, California, which processes payroll for all non-exempt, hourly paid

¹ These facts, theories, and claims are based on Mr. Lopez's experience and counsel's review of those records currently available relating to Mr. Lopez's employment. Discovery conducted in litigation of wage and hour claims such as these often reveals additional claims that the aggrieved employee was not initially aware of (because the aggrieved employee was not aware of the law's requirements, the employer misinformed its employee of the law's requirements, or because the employer effectively hid the violations). Thus, Mr. Lopez reserves the right to supplement this letter with additional facts, theories, and claims if he becomes aware of them subsequent to the submission of this letter.

employees working for DOWNTOWN DINING in California, including Mr. Lopez and other aggrieved employees. Further, DOWNTOWN DINING issues the same formatted wage statements in the same manner for all non-exempt, hourly paid employees working in California, including Mr. Lopez and other aggrieved employees, irrespective of their location, position, or manner in which each employee's employment ended. In other words, DOWNTOWN DINING utilized the same methods and formulas when calculating wages due to Mr. Lopez and other aggrieved employees in California.

Violation of California Labor Code §§ 510 and 1198 – Unpaid Overtime

California Labor Code sections 510 and 1198 and the applicable Industrial Welfare Commission ("IWC") Wage Order require employers to pay employees working more than eight (8) hours in a day or more than forty (40) hours in a workweek at the rate of time-and-one-half (1 ½) times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek. The applicable IWC Wage Order further provides that employers are required to pay employees working more than twelve (12) hours in a day overtime compensation at a rate of two (2) times their regular rate of pay. An employee's regular rate of pay includes all remuneration for employment paid to, or on behalf of, the employee, including nondiscretionary bonuses and incentive pay.

DOWNTOWN DINING willfully failed to pay all overtime wages owed to Mr. Lopez and other aggrieved employees. During the relevant time period, Mr. Lopez and other aggrieved employees were not paid overtime premiums for all of the hours they worked in excess of eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40) hours in a week, because all hours that they worked were not recorded.

First, during the relevant time period, DOWNTOWN DINING had, and continues to have, a company-wide policy and/or practice of discouraging and impeding Mr. Lopez and other aggrieved employees from recording hours worked that were outside of their scheduled shifts in order to limit the amount of overtime employees could accrue. This policy of limiting overtime led Mr. Lopez and other aggrieved employees to work off-the-clock outside of their scheduled shifts. For example, at least once per week, Mr. Lopez was required to attend meetings held by supervisors to discuss work-related matters, such as menus, daily specials, and service notes, which could take from 5 to 20 minutes, but was not permitted to clock in and record this time spent working before his scheduled shift start-time. Additionally, on information and belief, DOWNTOWN DINING's management would alter and/or falsify time records to shave off time Mr. Lopez spent working in order to limit overtime accrual.

Second, upon information and belief, because DOWNTOWN DINING frowned upon employees accruing meal period penalties, DOWNTOWN DINING pressured employees who had signed invalid meal period waivers (*see infra*) to clock out before they had worked six (6) hours in a day, in order to limit their eligibility for meal periods they otherwise would have received. As stated, DOWNTOWN DINING did not permit Mr. Lopez to clock in before his scheduled shift start-time, but required him to attend work-related meetings held before his scheduled shift start-time. Thus, Mr. Lopez and other aggrieved employees were required to perform work-related tasks off-the-clock because DOWNTOWN DINING wanted to avoid paying penalties for missed meal periods.

Third, during the relevant time period, DOWNTOWN DINING had, and continues to have, a company-wide policy and/or practice of understaffing while assigning heavy workloads (*see infra*), which has resulted in a lack of meal period coverage and prevented other aggrieved employees from taking all uninterrupted meal periods to which they were entitled. Moreover, DOWNTOWN DINING also failed to schedule meal periods, which further caused other aggrieved employees to not be relieved of their duties for compliant meal periods. As a result, other aggrieved employees had to work through all or part of their meal periods and/or had their meal periods interrupted, time for which they were not paid.

DOWNTOWN DINING knew or should have known that as a result of these company-wide practices and/or policies, Mr. Lopez and other aggrieved employees were performing their assigned duties off-the-clock before and/or after their shifts, and were suffered or permitted to perform work for which they were not paid. Because Mr. Lopez and other aggrieved employees sometimes worked shifts of eight (8) hours a day or more or forty (40) hours a week or more, some of this off-the-clock work qualified for overtime premium pay. Therefore, Mr. Lopez and other aggrieved employees were not paid overtime wages for all of the overtime hours they actually worked.

Moreover, DOWNTOWN DINING did not pay Mr. Lopez and other aggrieved employees the correct overtime rate for the recorded overtime hours that they generated. In addition to an hourly wage, DOWNTOWN DINING paid Mr. Lopez and other aggrieved employees incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, DOWNTOWN DINING failed to incorporate all compensation, including incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, into the calculation of the regular rate of pay for purposes of calculating the overtime wage rates. Therefore, during times when Mr. Lopez and other aggrieved employees worked overtime and received these other forms of pay, DOWNTOWN DINING failed to pay all overtime wages by paying a lower overtime rate than required.

For example, DOWNTOWN DINING paid Mr. Lopez and other aggrieved employees incentive pay and/or bonuses which were listed on Mr. Lopez's and other aggrieved employees' wage statements as "Bonus." During pay periods that Mr. Lopez and other aggrieved employees were paid overtime wages, DOWNTOWN DINING did not incorporate the incentive pay and/or bonuses into Mr. Lopez's and other aggrieved employees' regular rate of pay and, as a result, paid them at incorrect and lower rates of pay for overtime hours worked. Specifically, DOWNTOWN DINING paid Mr. Lopez and other aggrieved employees 1.5 times their hourly rate of pay instead of 1.5 times their regular rate of pay. DOWNTOWN DINING's failure to properly calculate the overtime rates of pay based on all remuneration paid has resulted in an underpayment of overtime wages to Mr. Lopez and other aggrieved employees on a company-wide basis.

DOWNTOWN DINING's failure to pay Mr. Lopez and other aggrieved employees the balance of overtime compensation, as required by California law, violates the provisions of California Labor Code sections 510 and 1198. Mr. Lopez and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 – Unpaid Minimum Wages

California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 require employers to pay employees the minimum wage fixed by the IWC. The payment of a lesser wage than the minimum so fixed is unlawful. Compensable work time is defined in IWC Wage Order No. 5-2001 as "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so." Cal. Code Regs. tit. 8, § 11050(2)(L) (defining "Hours Worked").

First, as set forth above, as a result of DOWNTOWN DINING's policy of limiting the amount of overtime employees could accrue, DOWNTOWN DINING required Mr. Lopez and other aggrieved employees to perform work off-the-clock. As stated, DOWNTOWN DINING required Mr. Lopez and other aggrieved employees to perform work off-the-clock outside of their scheduled shifts, such as attending meetings held by supervisors to discuss work-related matters, but were not permitted record this time spent working before their scheduled shift start-times. As also stated, on information and belief, due to DOWNTOWN DINING's practices of management altering and/or falsifying time records, Mr. Lopez

and other aggrieved employees were prevented from recording the entire time worked outside of their scheduled shifts, and thus were not paid for this time. As a result, DOWNTOWN DINING failed to track this time that Mr. Lopez and other aggrieved employees spent working off-the-clock, and thus, Mr. Lopez and other aggrieved employees received no compensation for this time.

Second, as stated above, on information and belief, in order to limit the meal penalties that DOWNTOWN DINING would otherwise owe, DOWNTOWN DINING pressured Mr. Lopez and other aggrieved employees to clock out before they worked six (6) hours in day to limit their eligibility for meal periods, but required them to perform work outside of their scheduled shifts, time for which they were not paid.

Third, as also stated, during the relevant time period, DOWNTOWN DINING had, and continues to have, a company-wide policy and/or practice of understaffing while assigning heavy workloads, and failing to schedule meal periods, which has resulted in a lack of meal period coverage and prevented other aggrieved employees from taking all uninterrupted meal periods to which they were entitled. As a result, other aggrieved employees had to work through all or part of their meal periods and/or had their meal periods interrupted, time for which they were not paid.

Thus, DOWNTOWN DINING did not pay minimum wages for all hours worked by Mr. Lopez and other aggrieved employees. To the extent that these off-the-clock hours did not qualify for overtime premium payment, DOWNTOWN DINING did not pay at least minimum wages for those hours worked off-the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198.

Accordingly, DOWNTOWN DINING regularly failed to pay at least minimum wages to Mr. Lopez and other aggrieved employees for all of the hours they worked in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Mr. Lopez and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 1197.1 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 – Failure to Provide Meal Periods

California Labor Code sections 226.7, 512(a), 516, and 1198, and the applicable IWC Wage Order require employers to provide meal periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. Pursuant to Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order, an employer may not require, cause or permit an employee to work for a period of more than five (5) hours per day without providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee. Under California law, first meal periods must start after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (2012). Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order also require employers to provide a second meal period of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1) additional hour of pay at the employee's regular rate, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

First, during the relevant time period, DOWNTOWN DINING maintained a company-wide, unlawful written meal period policy insofar as it fails to correctly state the timing of when meal periods must occur. Under California law, first meal periods must start after no more than five hours of work. *Brinker*, 53

Cal. 4th at 1041-1042. However, DOWNTOWN DINING's written "Wage and Hour Law" policy document states in part:

If you work more than five (5) hours on a given day, you must take one (1) thirty (30) minute meal break. However, if you work six (6) or fewer hours that day, you and your employer can agree to waive this meal break. **You may also waive the timing of your meal break - i.e. you may agree to take your [meal] break more than 5 hours after the start of your shift [...]** [o]n those days on which I am scheduled to work more for more than six (6) and up to and including eight (8) hours, I knowingly and voluntarily waive my right to take a thirty (30) minute meal break within the first (5) hours of my shift. (Emphasis added.)

DOWNTOWN DINING's written policy fails to state the correct timing of when the first meal period must take place (i.e., within the first five (5) hours of work) under California law by improperly allowing an employee to "waive" the timing of his or her meal period, and is therefore facially invalid.

Second, as stated, during the relevant time period, DOWNTOWN DINING had, and continues to have, a company-wide policy and/or practice of understaffing while assigning heavy workloads, which has resulted in a lack of meal period coverage and prevented Mr. Lopez and other aggrieved employees from taking all timely, uninterrupted meal periods to which they were entitled. Moreover, DOWNTOWN DINING also failed to schedule meal periods, which further caused Mr. Lopez and other aggrieved employees to not be relieved of their duties for compliant meal periods. As a result, Mr. Lopez and other aggrieved employees had to work through all or part of their meal periods, had their meal periods interrupted, and/or had to wait extended periods of time before taking meal periods. For example, approximately twice per week, Plaintiff missed his meal periods, due to the heavy workload and lack of coverage. Thus, DOWNTOWN DINING failed to provide Mr. Lopez and other aggrieved employees with compliant, 30-minute meal periods. Further, DOWNTOWN DINING did not provide other aggrieved employees with second 30-minute meal periods on days that they worked in excess of ten (10) hours in one day. Mr. Lopez and other aggrieved employees did not sign valid meal period waivers on days that they were entitled to meal periods and were not relieved of all duties.

Moreover, DOWNTOWN DINING had a company-wide policy of requiring all newly hired employees to sign blanket meal period waivers at or near their time of hire. DOWNTOWN DINING took the position that non-exempt, hourly paid employees had waived their rights to first and/or second meal periods for the entirety of their employment and, on that basis, did not provide them with all meal periods to which they were entitled. DOWNTOWN DINING's presumption that meal periods would not be provided for shifts in excess of five (5) hours but less than six (6) hours and/or for shifts in excess of ten (10) hours but less than twelve (12) hours, due to blanket meal period waivers signed at or near the time of hire, discouraged and impeded Mr. Lopez and other aggrieved employees from taking all meal periods to which they were entitled.

Furthermore, an employer's obligation to provide a meal period is only "triggered" when the employer "employs an employee for a work period of more than five hours per day." *Brinker*, 53 Cal. 4th at 1039 ("If an employer engages, suffers, or permits anyone to work for a full five hours, its meal break obligation is triggered.").

[A]fter the meal break obligation is triggered . . . an employer is put to a choice: it must (1) afford an off-duty meal period; (2) consent to a mutually agreed-upon waiver if one hour or less will end the shift; or (3) obtain written agreement to an on-duty meal period if circumstances permit. Failure to do one of these will render the employer liable for premium pay.

Id. (citing Cal. Labor Code § 226.7; Wage Order No. 5, subd. 11(A), (B)). That DOWNTOWN DINING required Mr. Lopez and other aggrieved employees to sign meal period waivers simultaneously at or near their time of hire (as opposed to on a specific work day) renders them invalid and unenforceable, because DOWNTOWN DINING’s obligation to provide Mr. Lopez and other aggrieved employees with meal periods did not arise until they had employed them for a full five (5) hours.

At all times herein mentioned, DOWNTOWN DINING knew or should have known that, as a result of these policies, Mr. Lopez and other aggrieved employees were prevented from being relieved of all duties and were required to perform some of their assigned duties during meal periods. DOWNTOWN DINING further knew or should have known that DOWNTOWN DINING did not pay Mr. Lopez and other aggrieved employees all meal period premiums when meal periods were late, missed, shortened, or interrupted.

As stated, on information and belief, because DOWNTOWN DINING frowned upon employees accruing meal period penalties, DOWNTOWN DINING’s management pressured Mr. Lopez and other aggrieved employees who had signed invalid meal period waivers (*see supra*) to clock out before they had worked six (6) hours in a day but required them to work off-the-clock to limit their eligibility for meal periods, in order to strictly limit the meal penalties that would need to be paid by DOWNTOWN DINING. Thus, DOWNTOWN DINING failed to provide Mr. Lopez and other aggrieved employees with compliant, 30-minute meal periods altogether when they were scheduled for shifts of more than five (5) hours.

Moreover, DOWNTOWN DINING engaged in a company-wide practice and/or policy of not paying all meal period premiums owed when compliant meal periods are not provided. Because of this practice and/or policy, Mr. Lopez and other aggrieved employees have not received premium pay for missed, late, and interrupted meal periods. Alternatively, to the extent that DOWNTOWN DINING did pay Mr. Lopez and other aggrieved employees for missed, late, and interrupted meal periods, DOWNTOWN DINING did not pay Mr. Lopez and other aggrieved employees at the correct rate of pay for premiums because DOWNTOWN DINING systematically failed to include all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

Accordingly, DOWNTOWN DINING failed to provide all meal periods in violation of California Labor Code sections 226.7, 512(a), 516, and 1198. Mr. Lopez and other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 516, and 1198 – Failure to Authorize and Permit Rest Periods

California Labor Code sections 226.7, 516, and 1198, and the applicable IWC Wage Order require employers to provide rest periods and to pay an employee one (1) additional hour of pay at the employee’s regular rate for each work day that a meal or rest period is not provided. California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC. The applicable IWC Wage Order provides that “[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period” and that the “rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof” unless the total daily work time is less than three and one-half (3 ½) hours.

To comply with its obligation to authorize and permit rest periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer must “relinquish any control over how employees spend their break time, and relieve their employees of all duties—including the obligation that

an employee remain on call. A rest period, in short, must be a period of rest.” *Augustus, et al. v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 273 (2016).

During the relevant time period, DOWNTOWN DINING regularly failed to authorize and permit Mr. Lopez and other aggrieved employees to take a ten (10) minute rest period per each four (4) hour period worked or major fraction thereof. As with meal periods, DOWNTOWN DINING’s company-wide practices, including understaffing and assigning heavy workloads, resulted in a lack of rest period coverage and prevented Mr. Lopez and other aggrieved employees from being relieved of all duty in order to take compliant rest periods. DOWNTOWN DINING also failed to schedule rest periods, which, coupled with DOWNTOWN DINING’s failure to provide adequate rest period coverage, further led to Mr. Lopez and other aggrieved employees not being authorized and permitted to take rest periods.

Furthermore, upon information and belief, during the relevant time period, DOWNTOWN DINING maintained a company-wide on-premises rest period policy, which effectively required that Mr. Lopez and other aggrieved employees remain on the work premises during their rest periods. Because Mr. Lopez and other aggrieved employees were restricted from leaving the premises during rest periods, they were denied the ability to use their rest periods freely for their own purposes, such as running personal errands. Thus, DOWNTOWN DINING effectively maintained control over Mr. Lopez and/or other aggrieved employees during rest periods.

As a result of DOWNTOWN DINING’s practices and policies, Mr. Lopez and other aggrieved employees worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without receiving all uninterrupted 10-minute rest periods to which they were entitled. For example, throughout his employment, Mr. Lopez had to forego all of his rest periods because the restaurant was busy and did not have coverage.

DOWNTOWN DINING has also engaged in a company-wide practice and/or policy of not paying rest period premiums owed when compliant rest periods are not authorized and permitted. Because of this practice and/or policy, Mr. Lopez and other aggrieved employees have not received premium pay for all missed rest periods. Alternatively, to the extent that DOWNTOWN DINING did pay Mr. Lopez and other aggrieved employees one (1) additional hour of premium pay for missed rest periods, DOWNTOWN DINING did not pay Mr. Lopez and other aggrieved employees at the correct rate of pay for premiums because DOWNTOWN DINING failed to include all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

Accordingly, DOWNTOWN DINING failed to authorize and permit all rest periods in violation of California Labor Code sections 226.7, 516, and 1198. Mr. Lopez and other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226(a), 1174(d), and 1198 – Non-Compliant Wage Statements and Failure to Maintain Accurate Payroll Records

California Labor Code section 226(a) requires employers to make, keep, and provide true, accurate, and complete employment records. DOWNTOWN DINING has not provided Mr. Lopez and other aggrieved employees with properly itemized wage statements. Labor Code section 226(e) provides that if an employer fails to comply with providing an employee with properly itemized wage statements as set forth in 226(a), then the employee is entitled to recover the greater of all actual damages or \$50 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not to exceed \$4,000. Further, Labor Code section 226.3 provides that any employer who violates section 226(a) shall be subject to a civil penalty in the amount of \$250 per employee per violation in an

initial citation and \$1,000 per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage statement or fails to keep the required records pursuant to Section 226(a).

During the relevant time period, DOWNTOWN DINING has knowingly and intentionally provided Mr. Lopez and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. For example, DOWNTOWN DINING issued uniform wage statements to Mr. Lopez and other aggrieved employees that fail to correctly list: gross wages earned; total hours worked; net wages earned; and all applicable hourly rates in effect during the pay period, including rates of pay for overtime wages, meal and rest period premiums, paid sick leave, and/or reporting time pay, and the corresponding number of hours worked at each hourly rate. Specifically, DOWNTOWN DINING violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

Because DOWNTOWN DINING did not record the time Mr. Lopez and other aggrieved employees spent working off-the-clock and deducted time from their records for meal periods that were interrupted and/or missed (and therefore time for which they should have been paid), DOWNTOWN DINING did not list the correct amount of gross wages and net wages earned by Mr. Lopez and other aggrieved employees in compliance with section 226(a)(1) and section 226(a)(5), respectively. For the same reason, DOWNTOWN DINING failed to accurately list the total number of hours worked by Mr. Lopez and other aggrieved employees, in violation of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay period and the corresponding accurate number of hours worked at each hourly rate, in violation of section 226(a)(9)).

Additionally, because DOWNTOWN DINING did not calculate Mr. Lopez's and other aggrieved employees' regular rate of pay correctly for purposes of paying overtime wages, meal and rest period premiums, paid sick leave, and/or reporting time pay, DOWNTOWN DINING did not list the correct amount of gross wages in compliance with section 226(a)(1). For the same reason, DOWNTOWN DINING failed to list the correct amount of net wages in violation of section 226(a)(5). DOWNTOWN DINING also failed to correctly list all applicable hourly rates in effect during the pay period, namely, correct rates of pay for overtime wages, meal and rest period premiums, paid sick leave, and/or reporting time pay, in violation of section 226(a)(9).

The wage statement deficiencies also include, among other things, failing to list the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; failing to list all deductions; failing to list the inclusive dates of the period for which aggrieved employees were paid; failing to list 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; failing to list the name and address of the legal entity that is the employer; and/or failing to state all hours worked as a result of not recording or stating hours worked off-the-clock.

California Labor Code section 1174(d) provides that "[e]very person employing labor in this state shall . . . [k]eep a record showing the names and addresses of all employees employed and the ages of all minors" and "[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments" Labor Code section 1174.5 provides that employers are subject to a \$500 civil penalty if they fail to maintain accurate and complete records as required by section 1174(d). During the relevant time period, and in violation of Labor Code section 1174(d), DOWNTOWN DINING willfully failed to maintain accurate payroll records for Mr. Lopez and other aggrieved employees showing the daily hours they worked and the wages paid thereto as a result of failing to record the off-the-clock hours that they worked.

California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Order. Section 1198 further provides that “[t]he employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period. During the relevant time period, DOWNTOWN DINING engaged in company-wide practices and/or policies of failing to record actual hours worked, and thereby failed to keep accurate records of work period and meal period start and end times for Mr. Lopez and other aggrieved employees, in violation of section 1198. Furthermore, in light of DOWNTOWN DINING’s failure to provide other aggrieved employees with second 30-minute meal periods to which they were entitled, DOWNTOWN DINING kept no records of meal start and end times for second meal periods.

Mr. Lopez and other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f)-(g).

Violation of California Labor Code § 204 – Failure to Timely Pay Wages During Employment

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. Alternatively, California Labor Code section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

During the relevant time period, DOWNTOWN DINING willfully failed to pay Mr. Lopez and other aggrieved employees all wages due including, but not limited to, overtime wages, minimum wages, meal and rest period premiums, sick leave pay, and/or reporting time pay, within the time periods specified by California Labor Code section 204.

Mr. Lopez and other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon, pursuant to Labor Code sections 210 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 201 and 202 – Failure to Timely Pay Final Wages Upon Termination

California Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

DOWNTOWN DINING willfully failed to pay Mr. Lopez and other aggrieved employees who are no longer employed by DOWNTOWN DINING the earned and unpaid wages set forth above, including but not limited to, overtime wages, minimum wages, meal and rest period premiums, sick leave pay, and/or

reporting time pay, either at the time of discharge, or within seventy-two (72) hours of their leaving DOWNTOWN DINING's employ.

Mr. Lopez and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 256 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 246 – Failure to Properly Calculate Paid Sick Leave

At all relevant times herein, California Labor Code sections 245.5, 246, 246.5, 247, 247.5, 248.5, and 249 provide employees who have worked in California for 30 or more days from the commencement of employment with paid sick days, to be accrued at least one hour for every 30 hours worked. Effective January 1, 2024, California Labor Code section 246(b)(4) requires employers to provide no less than 40 hours or five (5) days of paid sick leave (or equivalent paid leave or paid time off) in each year of the employee's employment. Further, Labor Code section 246(l) provides that an employer shall calculate paid sick leave by using one of two calculations: 1) "[p]aid sick time for nonexempt employees shall be calculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek[;]" or 2) "[p]aid sick time for nonexempt employees shall be calculated by dividing the employee's total wages, not including overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of employment."

During the relevant time period, DOWNTOWN DINING did not pay other aggrieved employees the correct sick leave rates of pay. In addition to an hourly wage, DOWNTOWN DINING paid other aggrieved employees incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, DOWNTOWN DINING failed to incorporate all remunerations, including incentive pay and/or nondiscretionary bonuses, into the calculation of the regular rate of pay for purposes of calculating the sick leave pay rate. Therefore, during times when other aggrieved employees took sick leave and received these other forms of pay, DOWNTOWN DINING failed to pay all sick leave benefits by paying a lower sick leave pay rate than required. Specifically, DOWNTOWN DINING paid other aggrieved employees sick leave based on their hourly rate of pay instead of their regular rate of pay.

DOWNTOWN DINING's failure to properly calculate the sick leave rates of pay based on all remuneration paid has resulted in an underpayment of sick leave benefits to other aggrieved employees on a company-wide basis in violation of Labor Code section 246(l).

Other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 248.5 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 1198 and California Code of Regulations Title 8, Section 11050 Subdivision 4(C) – Failure to Pay Split-Shift Premiums

California Labor Code section 1198 provides that no employer may employ an employee under conditions of labor that are prohibited by the applicable IWC wage order. California Labor Code section 1198 further requires that "... the standard conditions of labor fixed by the commission shall be the ... standard conditions of labor for employees. The employment of any employee ... under conditions of labor prohibited by the order is unlawful."

California Code of Regulations, Title 8, section 11050(4)(C) provides that, "When an employee works a split shift, one (1) hour's pay at the minimum wage shall be paid in addition to the minimum wage for that workday, except when the employee resides at the place of employment." California Code of

Regulations, Title 8, defines a split shift as “a work schedule, which is interrupted by non-paid non-working periods established by the employer, other than bona fide rest or meal periods.”

DOWNTOWN DINING willfully violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11050(4)(C), because DOWNTOWN DINING failed to pay Mr. Lopez and other aggrieved employees a split-shift premium when they returned to work for an additional shift in the same day, after having been clocked out for more than an hour. For example, Mr. Lopez would be scheduled to work a 4-hour to 8-hour shift, clock out for at least an hour, and then return to work later in the day for an additional shift. When this occurred, DOWNTOWN DINING did not pay Mr. Lopez and other aggrieved employees an additional hour at minimum wage.

DOWNTOWN DINING’s failure to provide Mr. Lopez and other aggrieved employees with split-shift pay when they returned to work for an additional shift in the same day, after having been clocked out for more than an hour, violates California Labor Code section 1198 and California Code of Regulations Title 8, Section 11050(4)(C). Mr. Lopez and other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

Violation of California Labor Code § 1198 and California Code of Regulations Title 8, Section 11050 Subdivision 5(A) – Failure to Pay Reporting Time Pay

California Labor Code section 1198 dictates that no employer may employ an employee under conditions of labor that are prohibited by the applicable IWC Wage Order. California Labor Code section 1198 further requires that “. . . the standard conditions of labor fixed by the commission shall be the . . . standard conditions of labor for employees. The employment of any employee . . . under conditions of labor prohibited by the order is unlawful.”

California Code of Regulations, Title 8, section 11050(5)(A) provides that “[e]ach workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee’s usual or scheduled day’s work, the employee shall be paid for half the usual or scheduled day’s work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee’s regular rate of pay, which shall not be less than the minimum wage.” The “primary purpose of the reporting time regulation” is “to guarantee at least partial compensation for employees who report to work expecting to work a specified number of hours, and who are deprived of that amount because of inadequate scheduling or lack of proper notice by the employer.” *Aleman v. AirTouch Cellular*, 209 Cal. App. 4th 556 (2012).

During the relevant time period, DOWNTOWN DINING violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11050(5)(A), because DOWNTOWN DINING failed to pay Mr. Lopez and other aggrieved employees reporting time pay when they reported to work for their scheduled shift but were put to work for less than half of the usual or scheduled day’s work.

DOWNTOWN DINING had a company-wide practice of sending Mr. Lopez and other aggrieved employees home early from their shifts, including before they had worked at least half of their usual or scheduled shift, but would not pay Mr. Lopez and other aggrieved employees for half of their usual or scheduled shift. For example, when scheduled to work a shift of at least five (5) hours, DOWNTOWN DINING’s managers sent Mr. Lopez home 30 minutes after the start of his shift. Although Mr. Lopez and other aggrieved employees reported to work based on the schedule that was provided to them, DOWNTOWN DINING would send them home before they worked at least half of their usual or scheduled shifts. When this occurred, DOWNTOWN DINING did not pay Mr. Lopez and other aggrieved employees for at least half of their scheduled day’s work or the minimum reporting time pay.

Moreover, to the extent that DOWNTOWN DINING did pay other aggrieved employees reporting time pay, DOWNTOWN DINING did not pay the correct reporting time rates of pay. As stated, in addition to an hourly wage, DOWNTOWN DINING paid other aggrieved employees incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, DOWNTOWN DINING failed to incorporate all remunerations, including incentive pay, and/or nondiscretionary bonuses, into the calculation of the regular rate of pay for purposes of calculating the reporting time pay rate. Therefore, during times when other aggrieved employees were paid reporting time and received these other forms of pay, DOWNTOWN DINING failed to pay all reporting time pay by paying a lower pay rate than required. Specifically, DOWNTOWN DINING paid other aggrieved employees reporting time pay based on their hourly rate of pay instead of their regular rate of pay.

Accordingly, Mr. Lopez and other aggrieved employees were not properly compensated with reporting time pay in violation of California Labor Code section 1198 and California Code of Regulations, Title 8, section 11050(5)(A). Mr. Lopez and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

Violation of California Labor Code § 1198 and California Code of Regulations Title 8, Section 11050 Subdivision 14(A) – Failure to Provide Suitable Seating

California Labor Code section 1198 makes it illegal to employ an employee under conditions of labor that are prohibited by the applicable wage order. California Labor Code section 1198 requires that “. . . the standard conditions of labor fixed by the commission shall be the . . . standard conditions of labor for employees. The employment of any employee . . . under conditions of labor prohibited by the order is unlawful.” California Code of Regulations, Title 8, section 11050(14)(A) provides that “[a]ll working employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats.”

“The ‘nature of the work’ refers to an employee’s tasks performed at a given location for which a right to a suitable seat is claimed, rather than a ‘holistic’ consideration of the entire range of an employee’s duties anywhere on the jobsite during a complete shift. If the tasks being performed at a given location reasonably permit sitting, and provision of a seat would not interfere with performance of any other tasks that may require standing, a seat is called for.” *Kilby v. CVS Pharmacy, Inc.*, 368 P.3d 554, 558 (Cal. 2016). “Whether the nature of the work reasonably permits sitting is a question to be determined objectively based on the totality of the circumstances. An employer’s business judgment and the physical layout of the workplace are relevant but not dispositive factors. The inquiry focuses on the nature of the work, not an individual employee’s characteristics.” *Id.* The burden of proof to show suitable seating is not available is on the employer. *Id.* at 568. In other words, the employer must show that compliance is “infeasible because no suitable seating exists.” *See id.*

DOWNTOWN DINING’s California restaurants are generally similar in their layout and design and there was, and continues to be, space behind host stands to allow for the presence and use of a seat or stool by other aggrieved employees (with reasonable or no modification to these work areas) during the performance of their work duties. DOWNTOWN DINING could provide other aggrieved employees with a seat or stool at its host stands, but instead denies employees seating and forces other aggrieved employees to stand throughout the day.

Other aggrieved employees spent a substantial portion of their day behind or at these host stands. The nature of the work of an employee performing host duties at host stands can reasonably be accomplished from a seated position. However, as set forth herein, DOWNTOWN DINING systematically, and on a company-wide basis, does not provide seats or stools at or near the host stands, forcing other aggrieved employees to stand throughout their work shifts.

DOWNTOWN DINING violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11050(14)(A) because other aggrieved employees were not allowed to sit, even when the nature of the work would reasonably permit the use of seats, nor were they provided with suitable seats. DOWNTOWN DINING's management did not inform other aggrieved employees that they were allowed to sit down, provide any means for them to sit down, or mention any policy regarding sitting.

As a result of DOWNTOWN DINING's company-wide policy and/or practice of prohibiting employees from sitting during their shifts and company-wide failure to provide suitable seating, other aggrieved employees were forced to stand during shifts and denied seats. DOWNTOWN DINING's failure to provide suitable seating to other aggrieved employees violates California Labor Code section 1198 and IWC Wage Order 5-2001, subdivision 14(A).

Other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, and seek injunctive relief to bring DOWNTOWN DINING into compliance with California's seating requirements, pursuant to Labor Code sections 1194.5 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 1198 and California Code of Regulations Title 8, Section 11050 Subdivision 14(B) – Failure to Provide Suitable Seating

California Labor Code section 1198 makes it illegal to employ an employee under conditions of labor that are prohibited by the applicable wage order. California Labor Code section 1198 requires that "... the standard conditions of labor fixed by the commission shall be the ... standard conditions of labor for employees. The employment of any employee ... under conditions of labor prohibited by the order is unlawful." California Code of Regulations, Title 8, section 11050 subdivision (14)(A) provides that "[a]ll working employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats." California Code of Regulations, Title 8, section 11050(14)(B) provides that "[w]hen employees are not engaged in the active duties of their employment and the nature of the work requires standing, an adequate number of suitable seats shall be placed in reasonable proximity to the work area and employees shall be permitted to use such seats when it does not interfere with the performance of their duties."

The IWC states that subdivision 14(B) applies during "lulls in operation" when an employee, while still on the job, is not then actively engaged in any duties. *Kilby v. CVS Pharmacy, Inc.*, 368 P.3d 554, 565 (Cal. 2016), citing IWC, 1976 Wage Orders, Summary of Basic Provisions, Seats. When taken together, an employee is entitled to a seat under subdivision 14(A) if his or her actual tasks at a discrete location make seated work feasible, while working there. *Id.* However, if other job duties take the employee to a different location where he or she must perform tasks requiring standing, the employee would be entitled to a seat under subdivision 14(B) during "lulls in operation." *Id.*

DOWNTOWN DINING's California restaurants are generally similar in their layout and design and there was, and continues to be, space near their work areas (with reasonable or no modification to these work areas) to allow for the presence and use of a seat or stool by Mr. Lopez and other aggrieved employees during lulls in operation. DOWNTOWN DINING could have provided Mr. Lopez and other aggrieved employees with a seat or stool in its work areas, but instead denied, and continues to deny, employees seating, forcing them to stand throughout the day.

DOWNTOWN DINING did not provide Mr. Lopez and other aggrieved employees with seats or stools in reasonable proximity to their work areas to allow them to use seats when it would not interfere with the performance of their duties for times when they were not engaged in active duties that require standing. In other words, to the extent Mr. Lopez and other aggrieved employees engaged in duties in which the

nature of the work required standing, DOWNTOWN DINING denied them the use of seats nearby during lulls in their work duties. Moreover, DOWNTOWN DINING did not inform Mr. Lopez and other aggrieved employees of their rights to a seat or stool under California law.

As a result of DOWNTOWN DINING's company-wide policy and/or practice of prohibiting employees from sitting at any time, even when they were not engaged in active duties requiring standing, and company-wide failure to provide seats in reasonable proximity to their work areas, Mr. Lopez and other aggrieved employees were forced to stand during shifts and denied seats. DOWNTOWN DINING's failure to provide suitable seating to Mr. Lopez and other aggrieved employees violates California Labor Code section 1198 and IWC Wage Order No. 5-2001, subdivision 14(B).

Mr. Lopez and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, and seek injunctive relief to bring DOWNTOWN DINING into compliance with California's seating requirements, pursuant to Labor Code sections 1194.5 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 2802 – Unreimbursed Business Expenses

California Labor Code section 2802 requires employers to pay for all necessary expenditures and losses incurred by the employee in the performance of his or her job. The purpose of Labor Code section 2802 is to prevent employers from passing off their cost of doing business and operating expenses on to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144 (2014). The applicable wage order, IWC Wage Order No. 5-2001, provides that: "[w]hen tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft."

During the relevant time period, DOWNTOWN DINING, on a company-wide basis, required Mr. Lopez and other aggrieved employees to obtain and pay for certain certifications, such as a ServSafe certificate, which were required for their continued employment, as well as associated costs such as training and/or examination fees. For example, Mr. Lopez complied with this requirement and spent approximately \$12 to obtain a ServSafe certificate, but DOWNTOWN DINING did not reimburse him for the costs of obtaining the certification. Thus, DOWNTOWN DINING failed to reimburse Mr. Lopez and other aggrieved employees for the costs of obtaining these certifications, including training and/or examination fees.

DOWNTOWN DINING could have reimbursed employees for the costs of their certifications. Instead, DOWNTOWN DINING passed these operating costs off onto Mr. Lopez and other aggrieved employees. At all relevant times, Mr. Lopez did not earn at least two (2) times the minimum wage.

Thus, DOWNTOWN DINING had, and continues to have, a company-wide policy and/or practice of not reimbursing employees for expenses necessarily incurred in violation of California Labor Code section 2802. Mr. Lopez and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

Violation of California Labor Code § 2810.5(a)(1)(A)-(C) – Failure to Provide Notice of Material Terms of Employment

California's Wage Theft Prevention Act was enacted to ensure that employers provide employees with basic information material to their employment relationship at the time of hiring, and to ensure that employees are given written and timely notice of any changes to basic information material to their

employment. Codified at California Labor Code section 2810.5, the Wage Theft Prevention Act provides that at the time of hiring, an employer must provide written notice to employees of the rate(s) of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, the regular payday designated by the employer, and any allowances claims as part of the minimum wage, including meal or lodging allowances. Effective January 1, 2015, an employer's written notice pursuant to section 2810.5 must also include a statement that the employee may accrue and use sick leave; has a right to request and use accrued paid sick leave; may not be terminated or retaliated against for using or requesting the use of accrued paid sick leave; and has the right to file a complaint against an employer who retaliates.

DOWNTOWN DINING failed to provide Mr. Lopez and other aggrieved employees written notice that lists the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C). DOWNTOWN DINING's failure to provide Mr. Lopez and other aggrieved employees with written notice of basic information regarding their employment with DOWNTOWN DINING is in violation of Labor Code section 2810.5.

Mr. Lopez and other aggrieved employees are therefore entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code section 2699(a), (f)-(g).

California Labor Code § 558(a)

California Labor Code section 558(a) provides "[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid" Labor Code section 558(c) provides that "[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law." DOWNTOWN DINING, at all relevant times, was an employer or person acting on behalf of an employer(s) who violated Mr. Lopez's and other aggrieved employees' rights by violating various sections of the California Labor Code.

Accordingly, Mr. Lopez seeks the remedies set forth in Labor Code section 558 for himself, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 1194.5, 2699(a), 2699.3(a) and 2699.3(c), 2699.5, and 558, Mr. Lopez, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties and injunctive relief for himself, all other aggrieved employees, and the State of California against DOWNTOWN DINING for violations of California Labor Code sections 201, 202, 204, 226(a), 226.7, 246, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5.

Therefore, on behalf of all aggrieved employees, Mr. Lopez seeks all applicable civil penalties related to these violations of the California Labor Code pursuant to PAGA.

Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

Alexander Lima
Capstone Law APC
1875 Century Park East, Suite 1000
Los Angeles, CA 90067
(310) 556-4811

Best Regards,

A handwritten signature in black ink, appearing to read 'Alexander Lima', followed by three dots.

Alexander Lima

Copy: RIO GRILL, INC. (via U.S. Certified Mail); RIO RESTAURANTS CORPORATION (via U.S. Certified Mail); DOWNTOWN DINING, INC. (via U.S. Certified Mail); TARPY'S ROADHOUSE, LLC (via U.S. Certified Mail); MONTRIO, LLC (via U.S. Certified Mail); BOVH - MONTRIO BISTRO (via U.S. Certified Mail); BOVH - RIO GRILL (via U.S. Certified Mail); BOVH - TARPY'S ROADHOUSE (via U.S. Certified Mail)

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2999 MONTEREY SALINAS
HWY, STE 1
MONTEREY, CA 93940

7022 2410 0000 2264 9575

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com.

OFFICIAL USE

Certified Mail Fee

LOPEZ V, RIDS

Extra Services & Fees (check box, add fee as appropriate)
☒ Return Receipt (hardcopy) \$
☐ Return Receipt (electronic) \$
☐ Certified Mail Restricted Delivery \$

Postmark

RIO GRILL, INC.
2999 MONTEREY SALINAS
HWY, STE 1
MONTEREY, CA 93940

PS Form 3811, July 2020 PSN 7530-02-000-9055

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece.

RIO GRILL, INC.
2999 MONTEREY SALINAS
HWY, STE 1
MONTEREY, CA 93940

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent
☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

Service Type

- | | |
|--|---|
| ☐ Adult Signature | ☐ Registered Mail Express® |
| ☐ Adult Signature Restricted Delivery | ☐ Registered Mail™ |
| ☐ Certified Mail® | ☐ Registered Mail Restricted Delivery |
| ☐ Certified Mail Restricted Delivery | ☐ Signature Confirmation™ |
| ☐ Collect on Delivery | ☐ Signature Confirmation Restricted Delivery |
| ☐ Collect on Delivery Restricted Delivery | |
| ☐ Restricted Delivery | |

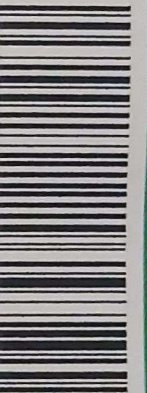
2. A PSN 7530-02-000-9055
7022 2410 0000 2264 9575

PS Form 3811, July 2020 PSN 7530-02-000-9055

Domestic Return Receipt

Capstone Law, APC
1875 Century Park, East, 1000
Los Angeles, CA. 90067

7022 2410 0000 2264 9568



CERTIFIED MAIL

RIO GRILL, INC.
316 MID VALLEY CENTER 206
CARMEL, CA 93923

7022 2410 0000 2264 9568

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee

LOPELV.
RHS

Extra Services & Fees (check box, add fee as appropriate)
☐ Premium Receipt (hardcopy) \$
☐ Return Receipt (electronic) \$

RIO GRILL, INC.
316 MID VALLEY CENTER 206
CARMEL, CA 93923

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece.

RIO GRILL, INC.
316 MID VALLEY CENTER 206
CARMEL, CA 93923



2. A. B. C. D. E. F. G. H. I. J. K. L. M. N. O. P. Q. R. S. T. U. V. W. X. Y. Z.

7022 2410 0000 2264 9568

PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes ☐ No
If YES, enter delivery address below:

Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Restricted Delivery

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

Capstone Law, APC
1875 Century Park East, 1000
Los Angeles, CA 90067



7022 2410 0000 2264 9544

CERTIFIED MAIL

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

OFFICIAL USE

LOPBLV

R105

RIO RESTAURANTS
CORPORATION
316 MID VALLEY CENTER 206
CARMEL, CA 93923

7022 2410 0000 2264 9544

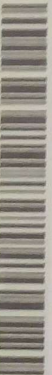
PS Form 3800, April 2015 PSN 7530-02-000-9053

See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece.

RIO RESTAURANTS
CORPORATION
316 MID VALLEY CENTER 206
CARMEL, CA 93923



7022 2410 0000 2264 9544

PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

- A. Signature ☒ Agent ☐ Addressee
- B. Received by (Printed Name) C. Date of Delivery

Is delivery address different from item 1? ☐ Yes ☐ No
If YES, enter delivery address below:

- Service Type
- | | |
|--|---|
| ☒ Certified Mail® | ☐ Registered Mail™ |
| ☐ Certified Mail Restricted Delivery | ☐ Registered Mail Restricted Delivery |
| ☐ Collect on Delivery | ☐ Signature Confirmation™ |
| ☐ Collect on Delivery Restricted Delivery | ☐ Signature Confirmation Restricted Delivery |
| ☐ Insured Mail | |

Domestic Return Receipt

CERTIFIED MAIL

Capstone Law, APC
1875 Century Park, East, 1000
Los Angeles, CA. 90067



7022 2410 0000 2264 9537

DOWNTOWN DINING, INC.
2999 MONTEREY SALINAS
HWY, STE 1
MONTEREY, CA 93940

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece.

DOWNTOWN DINING, INC.
2999 MONTEREY SALINAS
HWY, STE 1
MONTEREY, CA 93940



2. Article Number (Printed on the back of the mailpiece)

7022 2410 0000 2264 9537

PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

☐ Agent
☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Restricted Delivery

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com.

OFFICIAL USE

Certified Mail Fee

LOPEZ V, RIOS

Extra Services & Fees (check box, add fee as appropriate)
☒ Return Receipt (hardcopy) \$
☐ Return Receipt (electronic) \$

DOWNTOWN DINING, INC.
2999 MONTEREY SALINAS
HWY, STE 1
MONTEREY, CA 93940

7022 2410 0000 2264 9537

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions

Capstone Law, APC
1875 Century Park, East, 1000
Los Angeles, CA. 90067



7022 2410 0000 2264 9520

DOWNTOWN DINING, INC.
316 MID VALLEY CENTER 206
CARMEL, CA 93923

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece.

DOWNTOWN DINING, INC.
316 MID VALLEY CENTER 206
CARMEL, CA 93923

COMPLETE THIS SECTION ON DELIVERY

- A. Signature ☒ Agent ☐ Addressee
- B. Received by (Printed Name) C. Date of Delivery

Is delivery address different from item 1? ☐ Yes ☐ No
If YES, enter delivery address below:



2. Address of Recipient (See item 1 for details)

7022 2410 0000 2264 9520

Restricted Delivery

Service Type

- ☐ Adult Signature Restricted Delivery
☐ Certified Mail®
☐ Collect on Delivery Restricted Delivery
☐ Priority Mail Express®
☐ Registered Mail™
☐ Registered Mail Restricted Delivery
☐ Signature Confirmation™
☐ Signature Restricted Delivery

PS Form 3811, July 2020 PSN 7530-02-000-9053

Domestic Return Receipt

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee

LOPCL VI

Extra Services & Fees (check box, add fee as appropriate)

☒ Return Receipt (hardcopy) \$ 10.05

☐ Return Receipt (electronic) \$

Postmark

DOWNTOWN DINING, INC.
316 MID VALLEY CENTER 206
CARMEL, CA 93923

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions

Capstone Law, APC
1875 Century Park, East, 1000
Los Angeles, CA. 90067



7022 2410 0000 2264 9513

TARPY'S ROADHOUSE, LLC
2999 MONTEREY SALINAS
HWY, STE 1
MONTEREY, CA 93940

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece.

TARPY'S ROADHOUSE, LLC
2999 MONTEREY SALINAS
HWY, STE 1
MONTEREY, CA 93940



2. A 0580 0000 0000 2264 9513

PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X

B. Received by (Printed Name)

☐ Agent
☐ Addressee

1. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

Service Type
☐ Adult Signature
☐ Adult Signature Restricted Delivery
☐ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
☐ Mail
☐ Mail Restricted Delivery

☐ Priority Mail Express®
☐ Registered Mail™
☐ Registered Mail Restricted Delivery
☐ Signature Confirmation™
☐ Signature Restricted Delivery

Domestic Return Receipt

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee

LOPEL V.

Extra Services & Fees (check box, add fee as appropriate)
☒ Return Receipt (hardcopy) \$ 10.05
☐ Return Receipt (electronic) \$
☐ Restricted Mail Restricted Delivery \$

Postmark

7022 2410 0000 2264 9513

TARPY'S ROADHOUSE, LLC
2999 MONTEREY SALINAS
HWY, STE 1
MONTEREY, CA 93940

PS Form 3811, July 2020 PSN 7530-02-000-9053

Capstone Law, APC
1875 Century Park, East, 1000
Los Angeles, CA 90067

7022 2410 0000 2264 9506



TARPY'S ROADHOUSE, LLC
316 MID VALLEY CENTER 206
CARMEL, CA 93923

SENDER: COMPLETE THIS SECTION

- Complete Items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece.

TARPY'S ROADHOUSE, LLC
316 MID VALLEY CENTER 206
CARMEL, CA 93923

COMPLETE THIS SECTION ON DELIVERY

- A. Signature
X
- B. Received by (Printed Name)
- C. Date of Delivery

1. Is delivery address different from Item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☐ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Insured Mail Restricted Delivery
- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

PS Form 3811, July 2020 PSN 7530-02-000-9053

Domestic Return Receipt

7022 2410 0000 2264 9506

U.S. Postal Service®
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

OFFICIAL USE

Correct U.

RC105

Extra Services & Fees (check box, add fee as appropriate)
☐ Return Receipt (hardcopy) \$
☐ Return Receipt (electronic) \$

TARPY'S ROADHOUSE, LLC
316 MID VALLEY CENTER 206
CARMEL, CA 93923

PS Form 3811, April 2013 PSN 7530-02-000-9053

See Reverse for Instructions

Capstone Law, APC
1875 Century Park, East, 1000
Los Angeles, CA. 90067



7022 2410 0000 2264 9490

MONTRIO, LLC
2999 MONTEREY SALINAS
HWY, STE 1
MONTEREY, CA 93940

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece.

MONTRIO, LLC
2999 MONTEREY SALINAS
HWY, STE 1
MONTEREY, CA 93940



7022 2410 0000 2264 9490

COMPLETE THIS SECTION ON DELIVERY

- A. Signature ☐ Agent
- ☒ X B. Received by (Printed Name) ☐ Addressee
- C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

Service Type

- ☐ Adult Signature
☐ Adult Signature Restricted Delivery
☒ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
☐ Restricted Delivery
- ☐ Priority Mail Express®
☐ Registered Mail™
☐ Registered Mail Restricted Delivery
☐ Signature Confirmation™
☐ Signature Confirmation Restricted Delivery

PS Form 3811, July 2020 PSN 7530-02-000-9053

Domestic Return Receipt

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com.

OFFICIAL USE

Certified Mail Fee

LOPEZ ✓

Extra Services & Fees (check box, add fee as appropriate)

☒ Return Receipt (hardcopy) \$ 3.00

Postmark

☐ Return Receipt (electronic)

MONTRIO, LLC
2999 MONTEREY SALINAS
HWY, STE 1
MONTEREY, CA 93940

7022 2410 0000 2264 9490

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions

Capstone Law, APC
1875 Century Park, East, 1000
Los Angeles, CA. 90067



7022 2410 0000 2264 9483

MONTRIO, LLC
316 MID VALLEY CENTER 206
CARMEL, CA 93923

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece.

MONTRIO, LLC
316 MID VALLEY CENTER 206
CARMEL, CA 93923



2 45590 8660 2746 57 3346 54 67 7

7022 2410 0000 2264 9483

PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent
☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Mail
- ☐ Mail Restricted Delivery
- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee

LOPELV

Extra Services & Fees (check box, add fee as appropriate)

☒ Return Receipt (hardcopy) \$ 8.05

Postmark

Return Receipt (electronic) \$

MONTRIO, LLC
316 MID VALLEY CENTER 206
CARMEL, CA 93923

7022 2410 0000 2264 9483

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

7022 2410 0000 2264 9469

BOVH - MONTRIO BISTRO
2999 MONTEREY - SALINAS
HWY, STE 1
MONTEREY, CA 93940

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece.

BOVH - MONTRIO BISTRO
2999 MONTEREY - SALINAS
HWY, STE 1
MONTEREY, CA 93940

COMPLETE THIS SECTION ON DELIVERY

- A. Signature**
- X**

B. Received by (Printed Name)

☐ Agent
☐ Addressee

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

Service Type

- | | |
|--|---|
| ☐ Adult Signature | ☐ Registered Mail™ |
| ☐ Add Signature Restricted Delivery | ☐ Registered Mail Restricted Delivery |
| ☒ Certified Mail® | ☐ Signature Confirmation™ |
| ☐ Certified Mail Restricted Delivery | ☐ Signature Confirmation Restricted Delivery |
| ☐ Collect on Delivery | |
| ☐ Collect on Delivery Restricted Delivery | |
| ☐ Insured Mail | |

Restricted Delivery

PS Form 3811, July 2020 PSN 7530-02-000-9053

Domestic Return Receipt

7022 2410 0000 2264 9469

**U.S. Postal Service™
CERTIFIED MAIL® RECEIPT**
Domestic Mail Only

For delivery information, visit our website at www.usps.com

OFFICIAL USE

Certified Mail Fee

LOVELL

R103

☐ Extra Services & Fees (check box, add fee as appropriate)

☒ Return Receipt (hardcopy) \$

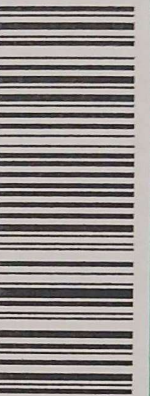
☐ Return Receipt (electronic) \$

Postnatal

BOVH - MONTRIO BISTRO
2999 MONTEREY - SALINAS
HWY, STE 1
MONTEREY, CA 93940

PS Form 3000, April 2013 PSN 7530-02-000-1047 See Reverse for Instructions

Capstone Law, APC
1875 Century Park, East, 1000
Los Angeles, CA, 90067



7022 2410 0000 2264 9476

BOVH - RIO GRILL
2999 MONTEREY - SALINAS
HWY, STE 1
MONTEREY, CA 93940

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece,

BOVH - RIO GRILL
2999 MONTEREY - SALINAS
HWY, STE 1
MONTEREY, CA 93940



2. 7022 2410 0000 2264 9476

COMPLETE THIS SECTION ON DELIVERY

- A. Signature ☒ Agent
☒ Addressee
B. Received by (Printed Name) C. Date of Delivery

Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

- Service Type
- | | |
|--|---|
| ☐ Adult Signature | ☐ Priority Mail Express® |
| ☐ Adult Signature Restricted Delivery | ☐ Registered Mail™ |
| ☒ Certified Mail® | ☐ Registered Mail Restricted Delivery |
| ☐ Certified Mail Restricted Delivery | ☐ Signature Confirmation™ |
| ☐ Collect on Delivery | ☐ Signature Confirmation Restricted Delivery |
| ☐ Collect on Delivery Restricted Delivery | |

PS Form 3811, July 2020 PSN 7530-02-000-9053

Domestic Return Receipt

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee

LOPEZ, R

Extra Services & Fees (check box, add fee as appropriate)
☒ Return Receipt (hardcopy) \$
☐ Return Receipt (electronic) \$
☐ Certified Mail
☐ Adult

Postmark

Postage \$

Total Price \$

Sent To BOVH - RIO GRILL
2999 MONTEREY - SALINAS
HWY, STE 1
MONTEREY, CA 93940

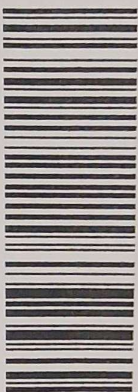
Street

City, St

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

Capstone Law, APC
1875 Century Park, East, 1000
Los Angeles, CA, 90067

7022 2410 0000 2264 9452



CERTIFIED MAIL

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com.

OFFICIAL USE

Certified Mail Fee

LOREL V.

Extra Services & Fees (check box, add fee as appropriate)

R105

☐ Return Receipt (hardcopy)

\$

Postmark

☐ Return Receipt (electronic)

\$

Postage

\$

Postage

\$

Postage

\$

Postage

\$

Postage

\$

Postage

\$

Postage

\$

Postage

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Postage

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Postage

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Postage

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Postage

\$

SENDER: COMPLETE THIS SECTION

■ Complete items 1, 2, and 3.

■ Print your name and address on the reverse so that we can return the card to you.

■ Attach this card to the back of the mailpiece.

MONTRIO, LLC

316 MID VALLEY CENTER 206

CARMEL, CA 93923

0590 9409 7706 2122 1547 57

7022 2410 0000 2264 9483

2. Article Number (Transferred from Service Label)

PS Form 3811, July 2020 PSN 7530-02-000-9053

Domestic Return Receipt

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

Agent

Addresssee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1?

If YES, enter delivery address below:

Yes

No

Service Type

Adult Signature

Adult Signature Restricted Delivery

Certified Mail®

Certified Mail Restricted Delivery

Collect on Delivery

Collect on Delivery Restricted Delivery

Insured Mail

Priority Mail Express®

Registered Mail™

Registered Mail Restricted Delivery

Signature Confirmation™

Signature Confirmation Restricted Delivery

SENDER: COMPLETE THIS SECTION

■ Complete items 1, 2, and 3.

■ Print your name and address on the reverse so that we can return the card to you.

■ Attach this card to the back of the mailpiece.

TARPY'S ROADHOUSE, LLC

316 MID VALLEY CENTER 206

CARMEL, CA 93923

0590 9409 7706 2122 1547 57

7022 2410 0000 2264 9506

2. Article Number (Transferred from Service Label)

PS Form 3811, July 2020 PSN 7530-02-000-9053

Domestic Return Receipt

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

Agent

Addresssee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1?

If YES, enter delivery address below:

Yes

No

Service Type

Adult Signature

Adult Signature Restricted Delivery

Certified Mail®

Certified Mail Restricted Delivery

Collect on Delivery

Collect on Delivery Restricted Delivery

Insured Mail

Priority Mail Express®

Registered Mail™

Registered Mail Restricted Delivery

Signature Confirmation™

Signature Confirmation Restricted Delivery

SENDER: COMPLETE THIS SECTION

■ Complete items 1, 2, and 3.

■ Print your name and address on the reverse so that we can return the card to you.

■ Attach this card to the back of the mailpiece.

DOWNTOWN DINING, INC.

2999 MONTEREY SALINAS

HWY, STE 1

MONTEREY, CA 93940

0590 9409 7706 2122 1547 02

7022 2410 0000 2264 9537

2. Article Number (Transferred from Service Label)

PS Form 3811, July 2020 PSN 7530-02-000-9053

Domestic Return Receipt

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

Agent

Addresssee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1?

If YES, enter delivery address below:

Yes

No

Service Type

Adult Signature

Adult Signature Restricted Delivery

Certified Mail®

Certified Mail Restricted Delivery

Collect on Delivery

Collect on Delivery Restricted Delivery

Insured Mail

Priority Mail Express®

Registered Mail™

Registered Mail Restricted Delivery

Signature Confirmation™

Signature Confirmation Restricted Delivery

SENDER: COMPLETE THIS SECTION

■ Complete items 1, 2, and 3.

■ Print your name and address on the reverse so that we can return the card to you.

■ Attach this card to the back of the mailpiece.

RIO GRILL, INC.

316 MID VALLEY CENTER 206

CARMEL, CA 93923

0590 9409 7706 2122 1546 72

7022 2410 0000 2264 9568

2. Article Number (Transferred from Service Label)

PS Form 3811, July 2020 PSN 7530-02-000-9053

Domestic Return Receipt

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

Agent

Addresssee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1?

If YES, enter delivery address below:

Yes

No

Service Type

Adult Signature

Adult Signature Restricted Delivery

Certified Mail®

Certified Mail Restricted Delivery

Collect on Delivery

Collect on Delivery Restricted Delivery

Insured Mail

Priority Mail Express®

Registered Mail™

Registered Mail Restricted Delivery

Signature Confirmation™

Signature Confirmation Restricted Delivery

SENDER: COMPLETE THIS SECTION

■ Complete items 1, 2, and 3.

■ Print your name and address on the reverse so that we can return the card to you.

■ Attach this card to the back of the mailpiece.

RIO RESTAURANTS CORPORATION

316 MID VALLEY CENTER 206

CARMEL, CA 93923

0590 9409 7706 2122 1546 96

7022 2410 0000 2264 9544

2. Article Number (Transferred from Service Label)

PS Form 3811, July 2020 PSN 7530-02-000-9053

Domestic Return Receipt

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

Agent

Addresssee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1?

If YES, enter delivery address below:

Yes

No

Service Type

Adult Signature

Adult Signature Restricted Delivery

Certified Mail®

Certified Mail Restricted Delivery

Collect on Delivery

Collect on Delivery Restricted Delivery

Insured Mail

Priority Mail Express®

Registered Mail™

Registered Mail Restricted Delivery

Signature Confirmation™

Signature Confirmation Restricted Delivery

SENDER: COMPLETE THIS SECTION

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■ Print your name and address on the reverse so that we can return the card to you.

■ Attach this card to the back of the mailpiece.

DOWNTOWN DINING, INC.

316 MID VALLEY CENTER 206

CARMEL, CA 93923

0590 9409 7706 2122 1547 19

7022 2410 0000 2264 9520

2. Article Number (Transferred from Service Label)

PS Form 3811, July 2020 PSN 7530-02-000-9053

Domestic Return Receipt

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

Agent

Addresssee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1?

If YES, enter delivery address below:

Yes

No

Service Type

Adult Signature

Adult Signature Restricted Delivery

Certified Mail®

Certified Mail Restricted Delivery

Collect on Delivery

Collect on Delivery Restricted Delivery

Insured Mail

Priority Mail Express®

Registered Mail™

Registered Mail Restricted Delivery

Signature Confirmation™

Signature Confirmation Restricted Delivery

SENDER: COMPLETE THIS SECTION

■ Complete items 1, 2, and 3.

■ Print your name and address on the reverse so that we can return the card to you.

■ Attach this card to the back of the mailpiece,

BOVH - TARPY'S ROADHOUSE

2999 MONTEREY - SALINAS

HWY, STE 1

MONTEREY, CA 93940

2. Article Number (Transit from Service Label)

7022 2410 0000 2264 9452

PS Form 3811, July 2020 PSN 7530-02-000-9053

Domestic Return Receipt

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

Agent

Addresssee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? If YES, enter delivery address below:

Yes

No

Service Type

Adult Signature

Adult Signature Restricted Delivery

Certified Mail®

Certified Mail Restricted Delivery

Collect on Delivery

Collect on Delivery Restricted Delivery

Priority Mail Express®

Registered Mail™

Registered Mail Restricted Delivery

Signature Confirmation™

Signature Confirmation Restricted Delivery

SENDER: COMPLETE THIS SECTION

■ Complete items 1, 2, and 3.

■ Print your name and address on the reverse so that we can return the card to you.

■ Attach this card to the back of the mailpiece,

BOVH - MONTRIO BISTRO

2999 MONTEREY - SALINAS

HWY, STE 1

MONTEREY, CA 93940

2. Article Number (Transit from Service Label)

7022 2410 0000 2264 9469

PS Form 3811, July 2020 PSN 7530-02-000-9053

Domestic Return Receipt

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

Agent

Addresssee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? If YES, enter delivery address below:

Yes

No

Service Type

Adult Signature

Adult Signature Restricted Delivery

Certified Mail®

Certified Mail Restricted Delivery

Collect on Delivery

Collect on Delivery Restricted Delivery

Insured Mail

Priority Mail Express®

Registered Mail™

Registered Mail Restricted Delivery

Signature Confirmation™

Signature Confirmation Restricted Delivery

SENDER: COMPLETE THIS SECTION

■ Complete items 1, 2, and 3.

■ Print your name and address on the reverse so that we can return the card to you.

■ Attach this card to the back of the mailpiece,

RIO GRILL, INC.

2999 MONTEREY SALINAS

HWY, STE 1

MONTEREY, CA 93940

2. Article Number (Transit from Service Label)

7022 2410 0000 2264 9575

PS Form 3811, July 2020 PSN 7530-02-000-9053

Domestic Return Receipt

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

Agent

Addresssee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? If YES, enter delivery address below:

Yes

No

Service Type

Adult Signature

Adult Signature Restricted Delivery

Certified Mail®

Certified Mail Restricted Delivery

Collect on Delivery

Collect on Delivery Restricted Delivery

Priority Mail Express®

Registered Mail™

Registered Mail Restricted Delivery

Signature Confirmation™

Signature Confirmation Restricted Delivery

SENDER: COMPLETE THIS SECTION

■ Complete items 1, 2, and 3.

■ Print your name and address on the reverse so that we can return the card to you.

■ Attach this card to the back of the mailpiece,

BOVH - RIO GRILL

2999 MONTEREY - SALINAS

HWY, STE 1

MONTEREY, CA 93940

2. Article Number (Transit from Service Label)

7022 2410 0000 2264 9476

PS Form 3811, July 2020 PSN 7530-02-000-9053

Domestic Return Receipt

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

Agent

Addresssee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? If YES, enter delivery address below:

Yes

No

Service Type

Adult Signature

Adult Signature Restricted Delivery

Certified Mail®

Certified Mail Restricted Delivery

Collect on Delivery

Collect on Delivery Restricted Delivery

Priority Mail Express®

Registered Mail™

Registered Mail Restricted Delivery

Signature Confirmation™

Signature Confirmation Restricted Delivery

SENDER: COMPLETE THIS SECTION

■ Complete items 1, 2, and 3.

■ Print your name and address on the reverse so that we can return the card to you.

■ Attach this card to the back of the mailpiece,

MONTRIO, LLC

2999 MONTEREY SALINAS

HWY, STE 1

MONTEREY, CA 93940

2. Article Number (Transit from Service Label)

7022 2410 0000 2264 9490

PS Form 3811, July 2020 PSN 7530-02-000-9053

Domestic Return Receipt

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

Agent

Addresssee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? If YES, enter delivery address below:

Yes

No

Service Type

Adult Signature

Adult Signature Restricted Delivery

Certified Mail®

Certified Mail Restricted Delivery

Collect on Delivery

Collect on Delivery Restricted Delivery

Priority Mail Express®

Registered Mail™

Registered Mail Restricted Delivery

Signature Confirmation™

Signature Confirmation Restricted Delivery

SENDER: COMPLETE THIS SECTION

■ Complete items 1, 2, and 3.

■ Print your name and address on the reverse so that we can return the card to you.

■ Attach this card to the back of the mailpiece,

TARPY'S ROADHOUSE, LLC

2999 MONTEREY SALINAS

HWY, STE 1

MONTEREY, CA 93940

2. Article Number (Transit from Service Label)

7022 2410 0000 2264 9513

PS Form 3811, July 2020 PSN 7530-02-000-9053

Domestic Return Receipt

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

Agent

Addresssee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? If YES, enter delivery address below:

Yes

No

Service Type

Adult Signature

Adult Signature Restricted Delivery

Certified Mail®

Certified Mail Restricted Delivery

Collect on Delivery

Collect on Delivery Restricted Delivery

Insured Mail

Priority Mail Express®

Registered Mail™

Registered Mail Restricted Delivery

Signature Confirmation™

Signature Confirmation Restricted Delivery

SENDER: COMPLETE THIS SECTION

■ Complete items 1, 2, and 3.

■ Print your name and address on the reverse so that we can return the card to you.

■ Attach this card to the back of the mailpiece,

RIO RESTAURANTS CORPORATION

2999 MONTEREY SALINAS

HWY, STE 1

MONTEREY, CA 93940

2. Article Number (Transit from Service Label)

7022 2410 0000 2264 9551

PS Form 3811, July 2020 PSN 7530-02-000-9053

Domestic Return Receipt

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

Agent

Addresssee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? If YES, enter delivery address below:

Yes

No

Service Type

Adult Signature

Adult Signature Restricted Delivery

Certified Mail®

Certified Mail Restricted Delivery

Collect on Delivery

Collect on Delivery Restricted Delivery

Priority Mail Express®

Registered Mail™

Registered Mail Restricted Delivery

Signature Confirmation™

Signature Confirmation Restricted Delivery

PROOF OF SERVICE

I am employed in the State of California, County of Los Angeles. I am over the age of 18 and not a party to the within suit; my business address is 1875 Century Park East, Suite 1000 Los Angeles, California 90067.

On **September 5, 2024**, I served the document described as: **FIRST AMENDED CLASS ACTION COMPLAINT & ENFORCEMENT ACTION UNDER THE PRIVATE ATTORNEYS GENERAL ACT, CALIFORNIA LABOR CODE §§ 2698, ET SEQ.** on the interested parties in this action by sending ☐ the original [or] ☒ a true copy thereof ☒ to interested parties as follows [or] ☐ as stated on the attached service list:

Gavin Kogan
gkogan@hudsonmartin.com
Jeannette Witten
jwitten@hudsonmartin.com
John Michael
jmichael@hudsonmartin.com
Maura Gallagher
mgallagher@hudsonmartin.com
Teresa Bejar-Hernandez
tbejarhernandez@hudsonmartin.com
Amanda Sgheiza
asgheiza@hudsonmartin.com
HUDSON MARTIN
800 W 6th Street, Suite 1220
Los Angeles, CA 90017
Telephone: 831-375-3151

Attorneys for Defendant:
RIO GRILL, INC.
RIO RESTAURANTS CORPORATION
DOWNTOWN DINING, INC.
TARPY'S ROADHOUSE, LLC
MONTRIO, LLC
BOVH - MONTRIO BISTRO
BOVH - RIO GRILL
BOVH - TARPY'S ROADHOUSE

☐ **BY MAIL (ENCLOSED IN A SEALED ENVELOPE):** I deposited the envelope(s) for mailing in the ordinary course of business at Los Angeles, California. I am "readily familiar" with this firm's practice of collection and processing correspondence for mailing. Under that practice, sealed envelopes are deposited with the U.S. Postal Service that same day in the ordinary course of business with postage thereon fully prepaid at Los Angeles, California.

☐ **BY E-MAIL:** I hereby certify that this document was served from Los Angeles, California, by e-mail delivery on the parties listed herein at their most recent known e-mail address or e-mail of record in this action.

☐ **BY PERSONAL SERVICE:** I delivered the document, enclosed in a sealed envelope, by hand to the counsel for Defendant.

☒ **BY ELECTRONIC SERVICE:** I caused the document(s) to be transmitted electronically via One Legal eService to the individuals listed above, as they exist on that database. This will constitute service of the document(s).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on **September 5, 2024**, at Los Angeles, California.

Riley McIntire
Type/Print Name

Signature