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Superior Court of California,
County of San Diego

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Clerk of the Superior Court
By J. Renteria ,Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO

JAMES DEMBO, as an aggrieved
employee pursuant to the Private
Attorneys General Act ("PAGA"), on
behalf of the State of California and
other non-party Aggrieved
Employees,

Plaintiff,

vs.

REH SERVICES, LLC f/k/a REH
SERVICES COMPANY, a Wyoming
limited liability company; REH
COMPANY, LLC f/k/a REH
Company, a Wyoming limited liability
company; WESTGATE HOTEL, LLC
f/k/a WESTGATE HOTEL
COMPANY, a Wyoming limited
liability company; GRAND
AMERICA HOTELS & RESORTS,
LLC a/k/a GRAND AMERICA
HOTELS & RESORTS, INC., a
Wyoming limited liability company;
and DOES 1 through 10, inclusive,

Defendants.

Case No.: 24CU009115C

**COMPLAINT – PAGA ENFORCEMENT
ACTION**

(1) Claim for Civil Penalties for Violations of
California Labor Code, Pursuant to PAGA,
§§ 2698, *et seq.*

Jury Trial Demanded

1 Plaintiff James Dembo, as an aggrieved employee and on behalf of the State of
2 California and all other non-party Aggrieved Employees, alleges as follows:

3 JURISDICTION AND VENUE

4 1. This is an enforcement action under the Labor Code Private Attorneys General
5 Act of 2004, California Labor Code sections 2698, *et seq.* (“PAGA”) to recover civil penalties
6 and any other available relief on behalf of Plaintiff, the State of California, and other current
7 and former employees who worked for Defendants in California as a non-exempt, hourly paid
8 employee and received at least one wage statement and against whom one or more violations
9 of any provision in Division 2 Part 2 Chapter 1 of the Labor Code or any provision regulating
10 hours and days of work in the applicable Industrial Welfare Commission (“IWC”) Wage
11 Order were committed, as set forth in this complaint, at any time between one year prior to the
12 filing of the pre-filing written notice to the Labor and Workforce Development Agency
13 (“LWDA”) in this case on June 28, 2024, until judgment (“non-party Aggrieved Employees”).
14 Plaintiff’s share of civil penalties sought in this action does not exceed \$75,000.

15 2. This Court has jurisdiction over this action pursuant to the California
16 Constitution, Article VI, section 10. The statute under which this action is brought does not
17 specify any other basis for jurisdiction.

18 3. This Court has jurisdiction over all Defendants because, on information and
19 belief, Defendants are either citizens of California, have sufficient minimum contacts in
20 California, or otherwise intentionally avail themselves of the California market so as to render
21 the exercise of jurisdiction over them by the California courts consistent with traditional
22 notions of fair play and substantial justice. There is no basis for federal diversity jurisdiction
23 in this action given that the State of California, as the real party in interest in this action, is not
24 a “citizen” for purposes of satisfying diversity jurisdiction. *Urbino v. Orkin Servs. of Cal.*,
25 726 F.3d 1118, 1123 (9th Cir. Cal. 2013). *Urbino* also holds that civil penalties cannot be
26 aggregated to satisfy the amount in controversy requirement for federal diversity jurisdiction
27 in this action, and that diversity jurisdiction cannot be established when Plaintiff’s share of the
28 civil penalties attributable to violations personally suffered are less than \$75,000. *Id.* at 1122.

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

5. California Labor Code sections 2698, *et seq.*, the “Labor Code Private Attorneys General Act of 2004” (“PAGA”), authorize aggrieved employees to sue as private attorneys general their current or former employers for various civil penalties for violations of various provisions in the California Labor Code.

THE PARTIES

6. Plaintiff James Dembo is a resident of San Diego, in San Diego County, California. Defendants employed Plaintiff as an hourly paid, non-exempt employee from approximately June 2022 to December 2023. Plaintiff worked for Defendants as a Dishwasher/Steward and Steward I at their hotel location in San Diego, California. During his employment, Plaintiff typically worked eight (8) or more hours per day and five (5) days per week. At the time his employment ended, Plaintiff was compensated approximately \$18.54 per hour. His job duties included, without limitation, washing dishes and maintaining the cleanliness of the kitchen.

7. On information and belief, Defendants required some employees, including Plaintiff, to execute an arbitration agreement at the time of their hire or during their employment. On further information and belief, Defendants' arbitration agreement was and is both procedurally and substantively unconscionable. Specifically, Defendants presented employees with an "Arbitration Agreement" during the onboarding process, which had to be reviewed and acknowledged immediately. Specifically, the Arbitration Agreement was one of several documents presented to new employees for signature during the orientation process, including the At Will Employment and Handbook Acknowledgment, Acceptable Use and Information Security Policies Overview, CA Meal Period Waiver Agreement, Grand America Hotels & Resorts Health-Sanitation Guidelines, and Paperless Pay Acknowledgment, among other documents. Also, employees did not have a meaningful opportunity to negotiate the terms of the Arbitration Agreement. Rather, it was provided to Defendants' employees for

1 them to sign on a take-it or leave-it basis at the time they were hired, along with all of the
2 other on-boarding documents. Further, Defendants did not set forth in the agreements or
3 otherwise provide employees with the rules which will govern the arbitration, instead forcing
4 employees to seek this information out on their own (“A copy of the AAA Rules is available
5 from any office of the American Arbitration Association, at <http://www.adr.org>, or from
6 Employer, upon request. A copy of the JAMS Rules is available from any office of JAMS, at
7 <http://www.jamsadr.com>, or from Employer, upon request.”).

8 8. REH SERVICES, LLC f/k/a REH SERVICES COMPANY was and is, upon
9 information and belief, a Wyoming limited liability company, and at all times hereinafter
10 mentioned, an employer whose employees are engaged throughout this county and the State of
11 California.

12 9. REH COMPANY, LLC f/k/a as REH COMPANY was and is, upon
13 information and belief, a Wyoming limited liability company, and at all times hereinafter
14 mentioned, an employer whose employees are engaged throughout this county and the State of
15 California.

16 10. WESTGATE HOTEL, LLC f/k/a WESTGATE HOTEL COMPANY was and
17 is, upon information and belief, a Wyoming limited liability company, and at all times
18 hereinafter mentioned, an employer whose employees are engaged throughout this county and
19 the State of California.

20 11. GRAND AMERICA HOTELS & RESORTS, LLC a/k/a GRAND AMERICA
21 HOTELS & RESORTS, INC. was and is, upon information and belief, a Wyoming limited
22 liability company, and at all times hereinafter mentioned, an employer whose employees are
23 engaged throughout this county and the State of California.

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

28 13. Plaintiff is informed and believes, and thereon alleges, that DOES 1 through 10

1 were the partners, agents, owners, or managers of REH SERVICES, LLC f/k/a REH
2 SERVICES COMPANY; REH COMPANY, LLC f/k/a as REH COMPANY; WESTGATE
3 HOTEL, LLC f/k/a WESTGATE HOTEL COMPANY; and GRAND AMERICA HOTELS &
4 RESORTS, LLC a/k/a GRAND AMERICA HOTELS & RESORTS, INC. at all relevant times.

5 14. Plaintiff is informed and believes, and thereon alleges, that each and all of the
6 acts and omissions alleged herein was performed by, or is attributable to, REH SERVICES,
7 LLC f/k/a REH SERVICES COMPANY; REH COMPANY, LLC f/k/a as REH COMPANY;
8 WESTGATE HOTEL, LLC f/k/a WESTGATE HOTEL COMPANY; GRAND AMERICA
9 HOTELS & RESORTS, LLC a/k/a GRAND AMERICA HOTELS & RESORTS, INC., and/or
10 DOES 1 through 10 (collectively, “Defendants” or “WESTGATE”), each acting as the agent,
11 employee, alter ego, and/or joint venturer of, or working in concert with, each of the other co-
12 Defendants and was acting within the course and scope of such agency, employment, joint
13 venture, or concerted activity with legal authority to act on the others’ behalf. The acts of any
14 and all Defendants were in accordance with, and represent, the official policy of Defendants.

15 15. At all relevant times, Defendants, and each of them, ratified each and every act
16 or omission complained of herein. At all relevant times, Defendants, and each of them, aided
17 and abetted the acts and omissions of each and all the other Defendants in proximately causing
18 the damages herein alleged.

19 16. Plaintiff is informed and believes, and thereon alleges, that each of said
20 Defendants is in some manner intentionally, negligently, or otherwise responsible for the acts,
21 omissions, occurrences, and transactions alleged herein.

22 17. Under California law, Defendants are jointly and severally liable as employers
23 for the violations alleged herein because they have each exercised sufficient control over the
24 wages, hours, working conditions, and employment status of Plaintiff and other non-party
25 Aggrieved Employees. Each Defendant had the power to hire and fire Plaintiff and other non-
26 party Aggrieved Employees, supervised and controlled their work schedule and/or conditions
27 of employment, determined their rate of pay, and maintained their employment records.
28 Defendants suffered or permitted Plaintiff and other non-party Aggrieved Employees to work

1 and/or “engaged” Plaintiff and other non-party Aggrieved Employees so as to create a
2 common-law employment relationship. As joint employers of Plaintiff and other non-party
3 Aggrieved Employees, Defendants are jointly and severally liable for the civil penalties
4 available to Plaintiff and other non-party Aggrieved Employees under the law.

5 18. Plaintiff is informed and believes, and thereon alleges, that at all relevant times,
6 Defendants, and each of them, have acted as joint employers with respect to Plaintiff and other
7 non-party Aggrieved Employees because Defendants have:

- 8 (a) jointly exercised meaningful control over the work performed by
9 Plaintiff and other non-party Aggrieved Employees;
- 10 (b) jointly exercised meaningful control over Plaintiff’s and other non-party
11 Aggrieved Employees’ wages, hours, and working conditions, including
12 the quantity, quality standards, speed, scheduling, and operative details
13 of the tasks performed by Plaintiff and other non-party Aggrieved
14 Employees;
- 15 (c) jointly required that Plaintiff and other non-party Aggrieved Employees
16 perform work which is an integral part of Defendants’ businesses; and
- 17 (d) jointly exercised control over Plaintiff and other non-party Aggrieved
18 Employees as a matter of economic reality in that Plaintiff and other
19 non-party Aggrieved Employees were dependent on Defendants, who
20 shared the power to set the wages of Plaintiff and other non-party
21 Aggrieved Employees and determined their working conditions, and
22 who jointly reaped the benefits from the underpayment of their wages
23 and noncompliance with other statutory provisions governing their
24 employment.

25 19. Plaintiff is informed and believes, and thereon alleges, that at all relevant times
26 there has existed a unity of interest and ownership between Defendants such that any
27 individuality and separateness between the entities has ceased.

28 20. REH SERVICES, LLC f/k/a REH SERVICES COMPANY; REH COMPANY,

1 LLC f/k/a as REH COMPANY; WESTGATE HOTEL, LLC f/k/a WESTGATE HOTEL
2 COMPANY; GRAND AMERICA HOTELS & RESORTS, LLC a/k/a GRAND AMERICA
3 HOTELS & RESORTS, INC.; and/or DOES 1 through 10 are therefore alter egos of each
4 other.

5 21. Adherence to the fiction of the separate existence of Defendants would permit
6 an abuse of the corporate privilege, and would promote injustice by protecting Defendants
7 from liability for the wrongful acts committed by them under the name WESTGATE.

8 22. Plaintiff further alleges, upon information and belief, that the Defendants REH
9 SERVICES, LLC f/k/a REH SERVICES COMPANY; REH COMPANY, LLC f/k/a as REH
10 COMPANY; WESTGATE HOTEL, LLC f/k/a WESTGATE HOTEL COMPANY; and
11 GRAND AMERICA HOTELS & RESORTS, LLC a/k/a GRAND AMERICA HOTELS &
12 RESORTS, INC. are alter egos of each other for the following reasons:

- 13 (a) On the California Secretary of State’s website
14 (<https://bizfileonline.sos.ca.gov/>), REH SERVICES, LLC f/k/a REH
15 SERVICES COMPANY and WESTGATE HOTEL, LLC f/k/a
16 WESTGATE HOTEL COMPANY have the same principal and mailing
17 address, “550 E[.] SOUTH TEMPLE, [PO BOX 30825] SALT LAKE
18 CITY, UT”;
- 19 (b) On the Wyoming Secretary of State’s website
20 (<https://wyobiz.wyo.gov/Business/>), REH SERVICES, LLC f/k/a REH
21 SERVICES COMPANY; REH COMPANY, LLC f/k/a as REH
22 COMPANY; WESTGATE HOTEL, LLC f/k/a WESTGATE HOTEL
23 COMPANY; and GRAND AMERICA HOTELS & RESORTS, LLC
24 a/k/a GRAND AMERICA HOTELS & RESORTS, INC. have the same
25 principal and mailing address, “2800 West Lincolnway, Cheyenne, WY
26 82009”;
- 27 (c) According to their most recent “Statement of Information” forms filed
28 with the California Secretary of State, REH SERVICES, LLC f/k/a REH

SERVICES COMPANY; WESTGATE HOTEL, LLC f/k/a WESTGATE HOTEL COMPANY; and GRAND AMERICA HOTELS & RESORTS, LLC a/k/a GRAND AMERICA HOTELS & RESORTS, INC. share the same officers and/or managers or members, including, but not limited to:

(i) Scott [K] Mayeda, who serves as Chief Executive officer and Manager or Member for REH SERVICES, LLC f/k/a REH SERVICES COMPANY and Assistant Secretary for GRAND AMERICA HOTELS & RESORTS, LLC a/k/a GRAND AMERICA HOTELS & RESORTS, INC.; and

(ii) Bruce [T] Fery, who serves as Chief Executive Officer for WESTGATE HOTEL, LLC f/k/a WESTGATE HOTEL COMPANY and Chief Executive Officer and Chief Financial Officer for GRAND AMERICA HOTELS & RESORTS, LLC a/k/a GRAND AMERICA HOTELS & RESORTS, INC.;

(d) On the California Secretary of State's website, REH SERVICES, LLC f/k/a REH SERVICES COMPANY; REH COMPANY, LLC f/k/a as REH COMPANY; WESTGATE HOTEL, LLC f/k/a WESTGATE HOTEL COMPANY; and GRAND AMERICA HOTELS & RESORTS, LLC a/k/a GRAND AMERICA HOTELS & RESORTS, INC. share the same agent for service of process, CORPORATION SERVICE COMPANY WHICH WILL DO BUSINESS IN CALIFORNIA AS CSC - LAWYERS INCORPORATING SERVICE;

(e) On information and belief, REH SERVICES, LLC f/k/a REH SERVICES COMPANY; REH COMPANY, LLC f/k/a as REH COMPANY; WESTGATE HOTEL, LLC f/k/a WESTGATE HOTEL COMPANY; and GRAND AMERICA HOTELS & RESORTS, LLC a/k/a GRAND AMERICA HOTELS & RESORTS, INC. utilize the

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

3 **PAGA REPRESENTATIVE ALLEGATIONS**

4 23. Defendants own and/or operate the Westgate Hotel, a luxury hotel located in
5 San Diego, California that is part of the Grand America Hotel & Resorts collection of
6 properties. Upon information and belief, Defendants maintain a single, centralized Human
7 Resources (HR) department at their corporate headquarters in Cheyenne, Wyoming, or Salt
8 Lake City, Utah, for all non-exempt, hourly paid employees working for Defendants in
9 California, which is responsible for the recruiting and hiring of new employees, and
10 communicating and implementing Defendants' company-wide policies, including timekeeping
11 policies and meal and rest period policies, to employees throughout California.

12 24. In particular, Plaintiff and other non-party Aggrieved Employees, on
13 information and belief, received the same standardized documents and/or written policies.
14 Upon information and belief, the usage of standardized documents and/or written policies,
15 including new-hire documents, indicate that Defendants dictated policies at the corporate level
16 and implemented them company-wide, regardless of their employees' assigned locations or
17 positions. Upon information and belief, Defendants set forth uniform policies and procedures
18 in several documents provided at an employee's time of hire.

19 25. Upon information and belief, Defendants maintain a centralized Payroll
20 department at their corporate headquarters in Cheyenne, Wyoming, or Salt Lake City, Utah,
21 which processes payroll for all non-exempt, hourly paid employees working for Defendants at
22 their various locations in California, including Plaintiff and other non-party Aggrieved
23 Employees. Based upon information and belief, Defendants issue the same formatted wage
24 statements to all non-exempt, hourly paid employees in California, irrespective of their work
25 locations. Upon information and belief, Defendants process payroll for departing employees
26 in the same manner throughout the State of California, regardless of the manner in which each
27 employee's employment ends.

28 26. Defendants continue to employ non-exempt or hourly paid employees in

1 California.

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

6 28. Plaintiff is informed and believes, and thereon alleges, that Plaintiff and other
7 non-party Aggrieved Employees were not paid for all hours worked because all hours worked
8 were not recorded.

9 29. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
10 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
11 receive certain wages for overtime compensation and that they were not receiving certain
12 wages for overtime compensation.

13 30. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
14 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
15 be paid at a regular rate of pay, and corresponding rates of pay for overtime wages and/or
16 meal and rest period premiums, that included as eligible income all remuneration required by
17 law, including but not limited to, all income derived from incentive pay, nondiscretionary
18 bonuses, and/or other forms of compensation, but failed to include all forms of remuneration
19 in calculating the regular rate of pay for Plaintiff and other non-party Aggrieved Employees.

20 31. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
21 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
22 receive at least minimum wages for compensation and that they were not receiving at least
23 minimum wages for work that was required to be done off-the-clock. In violation of the
24 California Labor Code, Plaintiff and other non-party Aggrieved Employees were not paid at
25 least minimum wages for work done off-the-clock.

26 32. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
27 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
28 meal periods in accordance with the California Labor Code and applicable IWC Wage Order

1 or payment of one (1) additional hour of pay at their regular rates of pay when they were not
2 provided with timely, uninterrupted, thirty (30) minute meal periods and that Plaintiff and
3 other non-party Aggrieved Employees were not provided with all meal periods or payment of
4 one (1) additional hour of pay at their regular rates of pay when they did not receive a timely,
5 uninterrupted, thirty (30) minute meal period.

6 33. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
7 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
8 rest periods in accordance with the California Labor Code and applicable IWC Wage Order or
9 payment of one (1) additional hour of pay at their regular rates of pay when they were not
10 authorized and permitted to take a compliant rest period and that Plaintiff and other non-party
11 Aggrieved Employees were not authorized and permitted to take compliant rest periods or
12 provided with payment of one (1) additional hour of pay at their regular rates of pay when
13 they were not authorized and permitted to take a compliant rest period.

14 34. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
15 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
16 receive complete and accurate wage statements in accordance with California law. In
17 violation of the California Labor Code, Plaintiff and other non-party Aggrieved Employees
18 were not provided complete and accurate wage statements.

19 35. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
20 should have known that they had a duty to maintain accurate and complete payroll records in
21 accordance with the Labor Code and applicable IWC Wage Order, but willfully, knowingly,
22 and intentionally failed to do so.

23 36. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
24 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
25 timely payment of wages during their employment. In violation of the California Labor Code,
26 Plaintiff and other non-party Aggrieved Employees did not receive payment of all wages,
27 including, but not limited to, overtime wages, minimum wages, and/or meal and rest period
28 premiums, within permissible time periods.

1 37. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
2 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
3 timely payment of all wages earned upon termination of employment. In violation of the
4 California Labor Code, Plaintiff and other non-party Aggrieved Employees did not receive
5 payment of all wages due, including, but not limited to, overtime wages, minimum wages,
6 and/or meal and rest period premiums, within permissible time periods.

7 38. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
8 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
9 receive reimbursement for all business-related expenses and costs they incurred during the
10 course and scope of their employment and that they did not receive reimbursement of
11 applicable business-related expenses and costs incurred.

12 39. Plaintiff is informed and believes, and thereon alleges, that at all times herein
13 mentioned, Defendants knew or should have known that they had a duty to compensate
14 Plaintiff and other non-party Aggrieved Employees for all hours worked, and that Defendants
15 had the financial ability to pay such compensation, but willfully, knowingly, and intentionally
16 failed to do so, and falsely represented to Plaintiff and other non-party Aggrieved Employees
17 that they were properly denied wages, all in order to increase Defendants' profits.

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

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

27 42. Plaintiff and other current and former employees of Defendants are "aggrieved
28 employees" as defined by Labor Code section 2699(c)(1) in that they are all Defendants'

1 current or former employees and each of the alleged violations were committed against them.

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

5 (a) The aggrieved employee shall give written notice by online filing
6 (hereinafter "Employee's Notice") to the LWDA and by certified mail
7 to the employer of the specific provisions of the California Labor Code
8 alleged to have been violated, including the facts and theories to support
9 the alleged violations.

10 (b) An aggrieved employee's notice filed with the LWDA pursuant to
11 2699.3(a) and any employer response to that notice shall be
12 accompanied by a filing fee of seventy-five dollars (\$75).

13 (c) The LWDA shall provide notice (hereinafter "LWDA Notice") to the
14 employer and the aggrieved employee by certified mail that it does not
15 intend to investigate the alleged violation within sixty (60) calendar
16 days of the postmark date of the Employee's Notice. Upon receipt of
17 the LWDA Notice, or if the LWDA Notice is not provided within sixty-
18 five (65) calendar days of the postmark date of the Employee's Notice,
19 the aggrieved employee may commence a civil action pursuant to
20 California Labor Code section 2699 to recover civil penalties in addition
21 to any other penalties to which the employee may be entitled.

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

26 (a) The aggrieved employee or representative shall give written notice by
27 online filing to the LWDA and by certified mail to the employer of the
28 specific provisions of the California Labor Code alleged to have been

violated (other than those listed in Section 2699.5), including the facts and theories to support the alleged violation.

(b) An aggrieved employee's notice filed with the LWDA pursuant to 2699.3(c) and any employer response to that notice shall be accompanied by a filing fee of seventy-five dollars (\$75).

(c) The employer may cure the alleged violation within thirty-three (33) calendar days of the postmark date of the notice. The employer shall give written notice by certified mail within that period of time to the aggrieved employee or representative and the agency if the alleged violation is cured, including a description of actions taken, and no civil action pursuant to Section 2699 may commence. If the alleged violation is not cured within the 33-day period, the employee may commence a civil action pursuant to Section 2699.

45. On June 28, 2024, Plaintiff provided written notice by online filing to the LWDA and by certified mail to Defendants of the specific provisions of the California Labor Code alleged to have been violated, including facts and theories to support the alleged violations, in accordance with California Labor Code section 2699.3. Plaintiff's written notice was accompanied with the applicable filing fee of seventy-five dollars (\$75). The LWDA PAGA Administrator has confirmed receipt of Plaintiff's written notice and assigned Plaintiff PAGA Case Number LWDA-CM-1037096-24. A true and correct copy of Plaintiff's written notice to the LWDA and Defendants dated June 28, 2024, is attached hereto as "Exhibit 1."

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

47. Thus, Plaintiff has satisfied the administrative prerequisites under California Labor Code sections 2699.3(a) and 2699.3(c) to recover civil penalties against Defendants for violations of California Labor Code sections 201, 202, 204, 226(a), 226.7, 510, 512(a), 516,

1 1174(d), 1182.12, 1194, 1197, 1198, and 2802.

2 48. Labor Code section 558(a) provides “[a]ny employer or other person acting on
3 behalf of an employer who violates, or causes to be violated, a section of this chapter or any
4 provision regulating hours and days of work in any order of the Industrial Welfare
5 Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty
6 dollars (\$50) for each underpaid employee for each pay period for which the employee was
7 underpaid (2) For each subsequent violation, one hundred dollars (\$100) for each
8 underpaid employee for each pay period for which the employee was underpaid” Labor
9 Code section 558(c) provides “[t]he civil penalties provided for in this section are in addition
10 to any other civil or criminal penalty provided by law.” Plaintiff, acting in the public interest
11 as a private attorney general, seeks assessment and collection of civil penalties under Labor
12 Code section 558 for himself, all other non-party Aggrieved Employees, and the State of
13 California against Defendants for violations of Labor Code sections 510, 512(a), 516, and
14 1198, and the applicable IWC Wage Order. Plaintiff, acting in the public interest as a private
15 attorney general, does not seek the recovery of unpaid wages under Labor Code section 558
16 from Defendants for violations of Labor Code sections 510, 512(a), 516, and 1198, and the
17 applicable IWC Wage Order.

18 49. Defendants, at all times relevant to this complaint, were employers or persons
19 acting on behalf of an employer(s) who violated Plaintiff’s and other non-party Aggrieved
20 Employees’ rights by violating various sections of the California Labor Code as set forth
21 above.

22 50. As set forth below, Defendants have violated numerous provisions of both the
23 Labor Code sections regulating hours and days of work as well as the applicable IWC Wage
24 Order.

25 51. Pursuant to PAGA, and in particular, California Labor Code sections 1194.5,
26 2699(a), 2699(k), 2699.3(a), 2699.3(c), 2699.5, and section 558, Plaintiff, acting in the public
27 interest as a private attorney general, seeks assessment and collection of civil penalties and
28 injunctive relief for himself, all other non-party Aggrieved Employees, and the State of

California against Defendants for violations of California Labor Code sections 201, 202, 204, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1198, and 2802.

FIRST CAUSE OF ACTION

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

(Against all Defendants)

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

53. 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, and 2802.

54. 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 non-party Aggrieved Employees with all required overtime pay, as set forth below;
- (b) Violation 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 non-party Aggrieved Employees, as set forth below;
- (c) Violation of Labor Code sections 1182.12, 1194, 1197, and 1198, and the applicable IWC Wage Order for Defendants’ failure to compensate Plaintiff and other non-party Aggrieved Employees with at least

1 minimum wages for all hours worked, as set forth below;

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 non-party Aggrieved Employees with meal periods, as set
5 forth below;

6 (e) Violation of Labor Code sections 226.7, 516, and 1198, and the
7 applicable IWC Wage Order for Defendants' failure to authorize and
8 permit Plaintiff and other non-party Aggrieved Employees to take rest
9 periods, as set forth below;

10 (f) Violation of Labor Code sections 226(a) and 1198, and the applicable
11 IWC Wage Order for failure to provide accurate and complete wage
12 statements to Plaintiff and other non-party Aggrieved Employees, as set
13 forth below;

14 (g) Violation of Labor Code sections 1174(d) and 1198, and the applicable
15 IWC Wage Order for failure to maintain payroll records, as set forth
16 below;

17 (h) Violation of Labor Code sections 204 for failure to pay all earned wages
18 during employment, as set forth below;

19 (i) Violation of Labor Code sections 201 and 202 for failure to pay all
20 earned wages upon termination, as set forth below; and

21 (j) Violation of Labor Code sections 2802 for failure to reimburse Plaintiff
22 and other non-party Aggrieved Employees for all business expenses
23 necessarily incurred, as set forth below.

24 **FAILURE TO PAY OVERTIME**

25 **VIOLATION OF LABOR CODE SECTIONS 510 AND 1198**

26 55. Labor Code section 1198 makes it illegal to employ an employee under
27 conditions of labor that are prohibited by the applicable IWC Wage Order. California Labor
28 Code section 1198 requires that “. . . the standard conditions of labor fixed by the commission

1 shall be the . . . standard conditions of labor for employees. The employment of any employee
2 . . . under conditions of labor prohibited by the order is unlawful.”

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

7 57. Specifically, the applicable IWC Wage Order provides that Defendants are and
8 were required to pay Plaintiff and other non-party Aggrieved Employees working more than
9 eight (8) hours in a day or more than forty (40) hours in a workweek, at the rate of time and
10 one-half (1 ½) for all hours worked in excess of eight (8) hours in a day or more than forty
11 (40) hours in a workweek.

12 58. The applicable IWC Wage Order further provides that Defendants are and were
13 required to pay Plaintiff and other non-party Aggrieved Employees working more than twelve
14 (12) hours in a day, overtime compensation at a rate of two (2) times their regular rate of pay.
15 An employee’s regular rate of pay includes all remuneration for employment paid to, or on
16 behalf of, the employee, including nondiscretionary bonuses and incentive pay.

17 59. California Labor Code section 510 codifies the right to overtime compensation
18 at one and one-half (1 ½) times the regular rate of pay for hours worked in excess of eight (8)
19 hours in a day or forty (40) hours in a week or for the first eight (8) hours worked on the
20 seventh (7th) day of work, and to overtime compensation at twice the employee’s regular rate
21 of pay for hours worked in excess of twelve (12) hours in a day or in excess of eight (8) hours
22 in a day on the seventh (7th) day of work.

23 60. During the relevant time period, Defendants willfully failed to pay all overtime
24 wages owed to Plaintiff and other non-party Aggrieved Employees. During the relevant time
25 period, Plaintiff and other non-party Aggrieved Employees were not paid overtime premiums
26 for all of the hours they worked in excess of eight (8) hours in a day, in excess of twelve (12)
27 hours in a day, and/or in excess of forty (40) hours in a week, because all hours worked were
28 not recorded.

1 61. First, on information and belief, during the relevant time period, Defendants
2 had, and continue to have, a company-wide policy and/or practice of discouraging and
3 impeding Plaintiff and other non-party Aggrieved Employees from recording hours worked
4 that were outside of their scheduled shifts in order to limit the amount of overtime employees
5 could accrue. On information and belief, this policy of limiting overtime, coupled with
6 Defendants' practices of understaffing and/or single-staffing (*see infra*), led Plaintiff and other
7 non-party Aggrieved Employees to work off-the-clock before their scheduled shift times. For
8 example, Plaintiff was often required to arrive at work early in order to prepare and clean the
9 kitchen area, which could take up to one (1) hour, but was instructed by Defendants'
10 management to not to clock in before his scheduled shift start-time. Moreover, on information
11 and belief, Defendants implemented a timekeeping system that prevented employees from
12 clocking in more than 10 minutes before their scheduled shift start-time so that they were
13 prohibited from recording the time worked prior to the start of their scheduled shifts. This
14 off-the-clock work could have been recorded by Defendants, but they refused to do so to
15 avoid payment of additional wages to Plaintiff and other non-party Aggrieved Employees.

16 62. Second, during the relevant time period, Defendants had, and continue to have,
17 a company-wide policy and/or practice of understaffing, which has resulted in a lack of meal
18 period coverage and prevented Plaintiff and other non-party Aggrieved Employees from taking
19 all uninterrupted meal periods to which they were entitled. Also, Defendants has systematically,
20 and on a company-wide basis, understaffed their locations by adopting a single-staffing model
21 for some positions, such as Dishwashers, whereby only one (1) employee was scheduled to
22 work at certain times, thereby failing to provide adequate meal period coverage to permit those
23 employees to take compliant meal periods. Plaintiff had to keep up with dishwashing duties for
24 all in-room dining, sit-down restaurants, and large-scale banquet events, often on his own, and
25 thus had a heavy workload. Defendants also had a practice of failing to schedule meal periods,
26 which further caused Plaintiff and other non-party Aggrieved Employees to not be relieved of
27 their duties for compliant meal periods. However, Defendants did not compensate Plaintiff
28 and/or other non-party Aggrieved Employees for the time they spent working off the clock

1 during unpaid meal periods.

2 63. Additionally, Defendants' company-wide timekeeping system prevented
3 Plaintiff and/or other non-party Aggrieved Employees from recording all hours worked when
4 their meal periods were shortened or interrupted, because the system locked out employees
5 once they clocked out for a meal period, and would not permit them to clock back in from a
6 meal period before 30 minutes had elapsed. Thus, Defendants did not record all hours worked
7 during meal periods, and Plaintiff and/or other non-party Aggrieved Employees performed
8 work during meal periods for which they were not paid.

9 64. Defendants knew or should have known that as a result of these company-wide
10 practices and/or policies, Plaintiff and other non-party Aggrieved Employees were performing
11 their assigned duties off-the-clock before and after their shifts and during meal periods, and
12 were suffered or permitted to perform work for which they were not paid. Because Plaintiff
13 and other non-party Aggrieved Employees worked shifts of eight (8) hours or more a day or
14 forty (40) hours a week or more, some of this off-the-clock work qualified for overtime
15 premium pay. Therefore, Plaintiff and other non-party Aggrieved Employees were not paid
16 overtime wages for all of the overtime hours they actually worked.

17 65. Moreover, Defendants did not pay Plaintiff and other non-party Aggrieved
18 Employees the correct overtime rate for the recorded overtime hours that they generated. In
19 addition to an hourly wage, Defendants paid Plaintiff and other non-party Aggrieved
20 Employees incentive pay, nondiscretionary bonuses, and/or other forms of remuneration.
21 However, in violation of the California Labor Code, on information and belief, Defendants
22 failed to incorporate all compensation, including incentive pay, nondiscretionary bonuses,
23 and/or other forms of remuneration, into the calculation of the regular rate of pay for purposes
24 of calculating the overtime wage rate. Therefore, during times when Plaintiff and other non-
25 party Aggrieved Employees worked overtime and received these other forms of pay,
26 Defendants failed to pay all overtime wages by paying a lower overtime rate than required.

27 66. For example, Defendants paid Plaintiff and other non-party Aggrieved
28 Employees incentive pay and/or nondiscretionary bonuses which were listed on Plaintiff's and

1 other non-party Aggrieved Employees’ wage statements as “Bonus Disc.” During pay periods
2 that Plaintiff and other non-party Aggrieved Employees were paid overtime wages,
3 Defendants did not incorporate the incentive pay and/or bonuses into Plaintiff’s and other non-
4 party Aggrieved Employees’ regular rate of pay and, as a result, paid them at incorrect and
5 lower rates of pay for overtime hours worked. Specifically, Defendants paid Plaintiff and
6 other non-party Aggrieved Employees 1.5 times their hourly rate of pay instead of 1.5 times
7 their regular rate of pay. Defendants’ failure to properly calculate the overtime rates of pay
8 based on all remuneration paid has resulted in an underpayment of overtime wages to Plaintiff
9 and other non-party Aggrieved Employees on a company-wide basis.

10 67. Defendants’ failure to pay Plaintiff and other non-party Aggrieved Employees
11 the balance of overtime compensation as required by California law, violates the provisions of
12 California Labor Code sections 510 and 1198. Plaintiff and other non-party Aggrieved
13 Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections
14 558 and/or 2699(a), (f), and (k).

15 **FAILURE TO PAY MINIMUM WAGES**

16 **VIOLATION OF LABOR CODE SECTIONS 1182.12, 1194, 1197, AND 1198**

17 68. At all relevant times, California Labor Code sections 1182.12, 1194, 1197, and
18 1198 require employers to pay employees the minimum wage fixed by the IWC. The payment
19 of a lesser wage than the minimum so fixed is unlawful. Compensable work time is defined in
20 IWC Wage Order No. 5-2001 as “the time during which an employee is subject to the control
21 of an employer, and includes all the time the employee is suffered or permitted to work,
22 whether or not required to do so.” Cal. Code Regs. tit. 8, § 11050(2)(L) (defining “Hours
23 Worked”).

24 69. First, as stated, a result of Defendants’ policy of limiting the amount of
25 overtime employees could accrue, Defendants required Plaintiff and other non-party
26 Aggrieved Employees to perform work off-the-clock outside of their scheduled shifts, such as
27 preparing and cleaning the kitchen. Moreover, on information and belief, due to Defendants’
28 implementation of a timekeeping system that prevented employees from clocking in more than

1 10 minutes before their scheduled shifts, Plaintiff and other non-party Aggrieved Employees
2 were prevented from recording the entire time worked before their scheduled shifts, and thus
3 were not compensated for this time.

4 70. Second, as also stated above, due to Defendants' uniform practices and/or
5 policies of understaffing and/or single-staffing certain positions while assigning heavy
6 workloads, and failing to schedule meal periods, Plaintiff and/or other non-party Aggrieved
7 Employees were impeded from taking all uninterrupted meal periods to which they were
8 entitled and were required to work off-the-clock during meal periods, had their meal periods
9 interrupted, and/or were otherwise not relieved of all duties during unpaid meal periods.
10 Additionally, as stated, Defendants' company-wide timekeeping system prevented Plaintiff
11 and/or other non-party Aggrieved Employees from entering time worked during meal periods
12 because the system locked out employees for a full 30 minutes. Thus, Defendants
13 systematically failed to pay Plaintiff and/or other non-party Aggrieved Employees for actual
14 hours worked during unpaid meal periods because these hours were not always correctly
15 recorded.

16 71. Thus, Defendants did not pay minimum wages for all hours worked by Plaintiff
17 and other non-party Aggrieved Employees. To the extent that these off-the-clock hours did
18 not qualify for overtime premium payment, Defendants did not pay at least minimum wages
19 for those hours worked off-the-clock in violation of California Labor Code sections 1182.12,
20 1194, 1197, and 1198.

21 72. Defendants' failure to pay Plaintiff and other non-party Aggrieved Employees
22 minimum wages violates California Labor Code sections 1182.12, 1194, 1197, and 1198.
23 Plaintiff and other non-party Aggrieved Employees are therefore entitled to recover civil
24 penalties pursuant to Labor Code sections 2699(a), (f), and (k).

25 **FAILURE TO PROVIDE AND RECORD MEAL PERIODS**
26 **VIOLATION OF LABOR CODE SECTIONS 226.7, 512(a), 516, AND 1198**

27 73. At all relevant times herein set forth, the applicable IWC Wage Order and
28 California Labor Code sections 226.7, 512(a), 516, and 1198 were applicable to Plaintiff's and

1 non-party Aggrieved Employees' employment by Defendants.

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

9 75. At all relevant times herein set forth, California Labor Code sections 226.7,
10 512(a), 516, and 1198 provide that no employer shall require an employee to work during any
11 meal period mandated by an applicable order of the IWC.

12 76. At all relevant times herein set forth, Labor Code sections 226.7, 512(a), 1198,
13 and the applicable IWC Wage Order also require employers to provide a second meal period
14 of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay
15 an employee one (1) additional hour of pay at the employee's regular rate, except that if the
16 total hours worked is no more than twelve (12) hours, the second meal period may be waived
17 by mutual consent of the employer and the employee only if the first meal period was not
18 waived.

19 77. During the relevant time period, as stated, Defendants had, and continue to
20 have, company-wide policies and/or practices of understaffing and/or single-staffing certain
21 positions while assigning heavy workloads, which has resulted in a lack of meal period
22 coverage and prevented Plaintiff and other non-party Aggrieved Employees from taking all
23 timely, uninterrupted meal periods to which they were entitled. Additionally, as stated,
24 Defendants maintained and implemented a company-wide practice of failing to schedule meal
25 periods, which further caused Plaintiff and other non-party Aggrieved Employees to not be
26 relieved of their duties for compliant meal periods.

27 78. As a result, Plaintiff and other non-party Aggrieved Employees had to work
28 through all or part of their meal periods, had their meal periods interrupted, and/or had to wait

1 extended periods of time before taking meal periods. For example, approximately twice a
2 month, Plaintiff missed his meal periods because he was the sole dishwasher scheduled during
3 his shifts. Consequently, Plaintiff lacked coverage to take his meal breaks while also being
4 required to manage the dishwashing duties for all in-room dining, sit-down restaurants, and
5 large-scale banquet events at the hotel. Indeed, according to Plaintiff's time records, on
6 October 15, 2023, he clocked in at the start of his shift at 6:21 a.m. and clocked out at the end
7 of his shift at 2:38 p.m., working a total of eight (8) hours and 17 minutes (or 8.28 hours),
8 without clocking out for a meal period. On October 16, 2023, he clocked in at the start of his
9 shift at 6:44 a.m. and clocked out at the end of his shift at 2:59 p.m., working a total of eight
10 (8) hours and 15 minutes (or 8.25 hours), without clocking out for a meal period. On October
11 17, 2023, he clocked in at the start of his shift at 8:00 a.m. and clocked out at the end of his
12 shift at 3:00 p.m., working a total of seven (7) hours, without clocking out for a meal period.
13 On October 18, 2023, he clocked in at the start of his shift at 6:35 a.m. and clocked out at the
14 end of his shift at 3:02 p.m., working a total of eight (8) hours and 27 minutes (or 8.45 hours),
15 without clocking out for a meal period. Additionally, Plaintiff sometimes took his meal
16 periods late, after the fifth hour of work, due to the lack of coverage. According to Plaintiff's
17 time records, on October 11, 2023, he clocked in at the start of his shift at 6:54 a.m. and
18 clocked out for his meal period at 2:00 p.m., working a total of seven (7) hours and 6 minutes
19 (or 7.10 hours), before he was able to take his meal period. Plaintiff did not receive any meal
20 period premiums for these violations.

21 79. In addition, as stated, Defendants' company-wide timekeeping system
22 prevented Plaintiff and/or other non-party Aggrieved Employees from recording when their
23 meal periods were shortened or interrupted, because the system locked out employees once
24 they clocked out for a meal period, and would not permit them to clock back in from a meal
25 period before 30 minutes had elapsed. For example, Plaintiff and/or other non-party
26 Aggrieved Employees were unable to record when their meal periods were interrupted or cut
27 short. Plaintiff and other non-party Aggrieved Employees did not sign valid meal period
28 waivers on days that they were entitled to meal periods and were not relieved of all duties.

1 80. Moreover, Defendants had a company-wide policy of requiring all newly hired
2 employees to sign blanket meal period waivers at or near their time of hire. Defendants took
3 the position that non-exempt, hourly paid employees had waived their rights to first and/or
4 second meal periods for the entirety of their employment and, on that basis, did not provide
5 them with all meal periods to which they were entitled. Furthermore, Defendants’ “Meal
6 Break Waiver Agreement” requires employees to provide written notice should they wish to
7 revoke the waiver. Defendants’ presumption that meal periods would not be provided for
8 shifts in excess of five (5) hours but less than six (6) hours and for shifts in excess of ten (10)
9 hours but less than twelve (12) hours, due to blanket meal period waivers signed at or near the
10 time of hire, and imposition on employees to revoke the waivers in writing, discouraged and
11 impeded Plaintiff and other non-party Aggrieved Employees from taking all meal periods to
12 which they were entitled.

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

17 [A]fter the meal break obligation is triggered . . . an employer is put to a
18 choice: it must (1) afford an off-duty meal period; (2) consent to a mutually
19 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.

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

26 82. At all times herein mentioned, Defendants knew or should have known that, as
27 a result of these policies, Plaintiff and other non-party Aggrieved Employees were prevented
28 from being relieved of all duties and required to perform some of their assigned duties during

1 meal periods. Defendants further knew or should have known that Defendants did not pay
2 Plaintiff and other non-party Aggrieved Employees meal period premiums when meal periods
3 were late, interrupted, shortened, or missed.

4 83. Moreover, Defendants engaged in a company-wide practice and/or policy of
5 not paying all meal period premiums owed when compliant meal periods are not provided.
6 Because of this practice and/or policy, Plaintiff and other non-party Aggrieved Employees
7 have not received premium pay for all missed, late, and interrupted meal periods.
8 Alternatively, to the extent that Defendants did pay Plaintiff and other non-party Aggrieved
9 Employees premium pay for missed, late, and interrupted meal periods, Defendants did not
10 pay Plaintiff and other non-party Aggrieved Employees the correct rate of pay for premiums
11 because Defendant systematically failed to include all forms of compensation, such as
12 incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular
13 rate of pay. Therefore, during times when Plaintiff and other non-party Aggrieved Employees
14 received meal period premiums and these other forms of pay, Defendants failed to pay full
15 meal period premiums by paying a lower rate than required. Thus, Defendants failed to
16 provide Plaintiff and other non-party Aggrieved Employees compliant meal periods and failed
17 to pay the full meal period premiums due.

18 84. Defendants' conduct violates the applicable IWC Wage Order, and California
19 Labor Code sections 226.7, 512(a), 516, and 1198. Plaintiff and other non-party Aggrieved
20 Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections
21 558 and/or 2699(a), (f), and (k).

22 **FAILURE TO AUTHORIZE AND PERMIT REST PERIODS**

23 **VIOLATION OF LABOR CODE SECTIONS 226.7, 516, AND 1198**

24 85. At all relevant times herein set forth, the applicable IWC Wage Order and
25 California Labor Code sections 226.7, 516, and 1198 were applicable to Plaintiff's and other
26 non-party Aggrieved Employees' employment by Defendants.

27 86. At all relevant times, the applicable IWC Wage Order provides that "[e]very
28 employer shall authorize and permit all employees to take rest periods, which insofar as

1 practicable shall be in the middle of each work period” and that the “rest period time shall be
2 based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4)
3 hours or major fraction thereof” unless the total daily work time is less than three and one-half
4 (3 ½) hours.

5 87. At all relevant times, California Labor Code section 226.7 provides that no
6 employer shall require an employee to work during any rest period mandated by an applicable
7 order of the California IWC. To comply with its obligation to authorize and permit rest
8 periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an
9 employer must “relinquish any control over how employees spend their break time, and
10 relieve their employees of all duties—including the obligation that an employee remain on
11 call. A rest period, in short, must be a period of rest.” *Augustus v. ABM Security Services,*
12 *Inc.*, 2 Cal. 5th 257, 273 (2016).

13 88. Pursuant to the applicable IWC Wage Order and California Labor Code section
14 226.7(c), Plaintiff and other non-party Aggrieved Employees are entitled to recover from
15 Defendants one (1) additional hour of pay at their regular rates of pay for each work day that a
16 required rest period was not authorized and permitted.

17 89. During the relevant time period, Defendants regularly failed to authorize and
18 permit Plaintiff and other non-party Aggrieved Employees to take a ten (10) minute rest
19 period per each four (4) hour period worked or major fraction thereof. As with meal periods,
20 Defendants’ company-wide policies and/or practices of understaffing and assigning heavy
21 workloads, prevented Plaintiff and other non-party Aggrieved Employees from being relieved
22 of all duty to take their rest periods. Defendants also failed to schedule rest periods, which,
23 coupled with Defendants’ failure to provide adequate rest period coverage, further led to
24 Plaintiff and other non-party Aggrieved Employees not being authorized and permitted to take
25 compliant rest periods.

26 90. Furthermore, upon information and belief, Defendants maintained a company-
27 wide on-premises rest period policy, which effectively required that Plaintiff and/or other non-
28 party Aggrieved Employees remain on the work premises during their rest periods. Because

1 Plaintiff and/or other non-party Aggrieved Employees were restricted from leaving the
2 premises during rest periods, they were denied the ability to use their rest periods freely for
3 their own purposes, such as running personal errands. Thus, Defendants effectively
4 maintained control over Plaintiff and/or other non-party Aggrieved Employees during rest
5 periods.

6 91. As a result of Defendants' practices and policies, Plaintiff and other non-party
7 Aggrieved Employees worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in
8 excess of 10 hours without receiving all uninterrupted 10-minute rest periods to which they
9 were entitled. For example, Plaintiff had to forgo all his rest periods because of the heavy
10 workload, lack of coverage, and Defendants' failure to schedule rest periods for employees.

11 92. Defendants have also engaged in a company-wide practice and/or policy of not
12 paying all rest period premiums owed when compliant rest periods are not authorized and
13 permitted. Because of this practice and/or policy, Plaintiff and other non-party Aggrieved
14 Employees have not received premium pay for all missed rest periods. Alternatively, to the
15 extent that Defendants did pay Plaintiff and other non-party Aggrieved Employees one (1)
16 additional hour of premium pay for missed rest periods, Defendants did not pay Plaintiff and
17 other non-party Aggrieved Employees at the correct rate of pay for premiums because
18 Defendants failed to include all forms of compensation, such as incentive pay,
19 nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.
20 Accordingly, Defendants failed to authorize and permit all compliant rest periods and failed to
21 pay the full rest period premiums due.

22 93. Defendants' conduct violates the applicable IWC Wage Order and California
23 Labor Code sections 226.7, 516, and 1198. Plaintiff and other non-party Aggrieved
24 Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections
25 558 and/or 2699(a), (f), and (k).

26 **FAILURE TO PROVIDE AND MAINTAIN COMPLIANT WAGE STATEMENTS**
27 **VIOLATION OF LABOR CODE SECTIONS 226(a), 1174(d), AND 1198**

28 94. At all relevant times herein, 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.

95. During the relevant time period, Defendants have knowingly and intentionally provided Plaintiff and other non-party Aggrieved Employees with uniform, incomplete, and inaccurate wage statements. For example, Defendants issued uniform wage statements to Plaintiff and other non-party 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 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).

96. First, because Defendants did not record the time Plaintiff and other non-party Aggrieved Employees spent working off-the-clock, Defendants did not list the correct amount of gross wages and net wages earned by Plaintiff and other non-party Aggrieved Employees in compliance with section 226(a)(1) and section 226(a)(5), respectively. For the same reason, Defendants failed to accurately list the total number of hours worked by Plaintiff and other non-party 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).

97. Second, because Defendants did not calculate Plaintiff's and other non-party Aggrieved Employees' 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) and did not 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).

98. The wage statement deficiencies also include, among other things, failing to list

1 the number of piece-rate units earned and any applicable piece rate if the employee is paid on
2 a piece-rate basis; failing to list all deductions; failing to list the inclusive dates of the period
3 for which aggrieved employees were paid; failing to list the name of the employee and only
4 the last four digits of his or her social security number or an employee identification number
5 other than a social security number; failing to list the name and address of the legal entity that
6 is the employer; and/or failing to state all hours worked as a result of not recording or stating
7 hours worked off-the-clock.

8 99. California Labor Code section 1174(d) provides that “[e]very person employing
9 labor in this state shall . . . [k]eep a record showing the names and addresses of all employees
10 employed and the ages of all minors” and “[k]eep, at a central location in the state or at the
11 plants or establishments at which employees are employed, payroll records showing the hours
12 worked daily by and the wages paid to, and the number of piece-rate units earned by and any
13 applicable piece rate paid to, employees employed at the respective plants or
14 establishments” Labor Code section 1174.5 provides that employers are subject to a
15 \$500 civil penalty if they fail to maintain accurate and complete records as required by section
16 1174(d). At all relevant times, and in violation of Labor Code section 1174(d), Defendants
17 willfully failed to maintain accurate payroll records for Plaintiff and other non-party
18 Aggrieved Employees showing the daily hours they worked and the wages paid thereto as a
19 result of failing to record the off-the-clock hours that they worked.

20 100. California Labor Code section 1198 provides that the maximum hours of work
21 and the standard conditions of labor shall be those fixed by the Labor Commissioner and as
22 set forth in the applicable IWC Wage Order. Section 1198 further provides that “[t]he
23 employment of any employees for longer hours than those fixed by the order or under
24 conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC
25 Wage Order, employers are required to keep accurate time records showing when the
26 employee begins and ends each work period and meal period. During the relevant time
27 period, Defendants engaged in company-wide practices and/or policies of failing to record
28 actual hours worked, and thereby failed, on a company-wide basis, to keep accurate records of

1 work period and meal period start and end times for Plaintiff and other non-party Aggrieved
2 Employees, in violation of section 1198.

3 101. Defendants' conduct violates California Labor Code sections 226(a), 1174(d),
4 and 1198. Plaintiff and other non-party Aggrieved Employees are therefore entitled to recover
5 civil penalties pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f), and (k).

6 **FAILURE TO PAY WAGES DURING EMPLOYMENT**

7 **VIOLATION OF LABOR CODE SECTION 204**

8 102. At all relevant times herein set forth, California Labor Code section 204
9 requires that all wages earned by any person in any employment between the 1st and the 15th
10 days, inclusive, of any calendar month, other than those wages due upon termination of an
11 employee, are due and payable between the 16th and the 26th day of the month during which
12 the labor was performed. Labor Code section 204 further provides that all wages earned by
13 any person in any employment between the 16th and the last day, inclusive, of any calendar
14 month, other than those wages due upon termination of an employee, are due and payable
15 between the 1st and the 10th day of the following month.

16 103. At all relevant times herein, California Labor Code section 204 also requires
17 that all wages earned for labor in excess of the normal work period shall be paid no later than
18 the payday for the next regular payroll period. Alternatively, at all relevant times herein,
19 Labor Code section 204 provides that the requirements of this section are deemed satisfied by
20 the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not
21 more than seven (7) calendar days following the close of the payroll period.

22 104. During the relevant time period, Defendants willfully failed to pay Plaintiff and
23 other non-party Aggrieved Employees all wages due to them within any time period specified
24 by California Labor Code sections 204 including, but not limited to, overtime wages,
25 minimum wages, and/or meal and rest period premiums.

26 105. Plaintiff and other non-party Aggrieved Employees are therefore entitled to
27 recover civil penalties pursuant to Labor Code sections 210 and/or 2699(a), (f), and (k).

28 ///

1 **FAILURE TO PAY WAGES UPON TERMINATION**

2 **VIOLATION OF LABOR CODE SECTIONS 201 AND 202**

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

10 107. Defendants had a company-wide practice and/or policy of paying departing
11 employees their final wages late, instead of adhering to the time requirements set forth in
12 Labor Code sections 201 and 202. For example, Defendants terminated Plaintiff on or about
13 December 22, 2023; however, Defendants did not provide Plaintiff with his final wages until
14 January 5, 2024. Specifically, Defendants did not provide Plaintiff with his vested vacation
15 wages until January 5, 2024. Thus, Defendants failed to pay Plaintiff his final wages
16 immediately, in violations of California Labor code section 201.

17 108. Additionally, Defendants willfully failed to pay Plaintiff and other non-party
18 Aggrieved Employees who are no longer employed by Defendants the earned and unpaid
19 wages set forth above, including but not limited to, overtime wages, minimum wages, meal
20 and rest period premiums, either at the time of discharge, or within seventy-two (72) hours of
21 their leaving Defendants' employ.

22 109. Defendants' failure to pay Plaintiff and those non-party Aggrieved Employees
23 who are no longer employed by Defendants their wages earned and unpaid at the time of
24 discharge, or within seventy-two (72) hours of their leaving Defendants' employ, violates
25 Labor Code sections 201 and 202. Plaintiff and other non-party Aggrieved Employees are
26 therefore entitled to recover civil penalties pursuant to Labor Code sections 256 and/or
27 2699(a), (f), and (k).

28 ///

1 **FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES**

2 **VIOLATION OF LABOR CODE SECTION 2802**

3 110. At all times herein set forth, California Labor Code section 2802 provides that
4 an employer must reimburse employees for all necessary expenditures and losses incurred by
5 the employee in the performance of his or her job. The purpose of Labor Code section 2802 is
6 to prevent employers from passing off their cost of doing business and operating expenses on
7 to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144
8 (2014). The applicable wage order, IWC Wage Order No. 5-2001 provides that: “[w]hen tools
9 or equipment are required by the employer or are necessary to the performance of a job, such
10 tools and equipment shall be provided and maintained by the employer, except that an
11 employee whose wages are at least two (2) times the minimum wage provided herein may be
12 required to provide and maintain hand tools and equipment customarily required by the trade
13 or craft.”

14 111. During the relevant time period, Defendants, on a company-wide basis,
15 required that Plaintiff and other non-party Aggrieved Employees to obtain and pay for certain
16 certifications, which were required for their continued employment, as well as associated costs
17 such as training. For example, Plaintiff complied with this requirement and obtained a food
18 handler certification, spending approximately \$8.95 but, on information and belief,
19 Defendants did not reimburse him for the costs of obtaining the certification. Thus,
20 Defendants failed to reimburse Plaintiff and other non-party Aggrieved Employees for the
21 costs of obtaining these certifications, including training fees.

22 112. Defendants could have reimbursed employees for the costs of their certification
23 fees. Instead, Defendants passed these operating costs off onto Plaintiff and other non-party
24 Aggrieved Employees. At all relevant times, Plaintiff did not earn at least two (2) times the
25 minimum wage.

26 113. Defendants’ company-wide policy and/or practice of not reimbursing
27 employees for expenses necessarily incurred and passing on their operating costs to Plaintiff
28 and other non-party Aggrieved Employees violates California Labor Code section 2802.

1 Plaintiff and other non-party Aggrieved Employees are therefore entitled to recover civil
2 penalties pursuant to Labor Code sections 2699(a), (f), and (k).

3 **REQUEST FOR JURY TRIAL**

4 Plaintiff requests a trial by jury.

5 **PRAYER FOR RELIEF**

6 Plaintiff, on behalf of all other non-party Aggrieved Employees, prays for relief and
7 judgment against Defendants, jointly and severally, as follows:

8 1. For civil penalties and attorneys' fees in excess of twenty-five thousand dollars
9 (\$25,000). Plaintiff reserves the right to amend his prayer for relief to seek a different
10 amount.

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

12 2. That the Court declare, adjudge and decree that Defendants violated the
13 following California Labor Code provisions as to Plaintiff and other non-party Aggrieved
14 Employees: 510 and 1198 (by failing to pay all overtime compensation); 226.7, 510, and 1198
15 (by failing to include all forms of remuneration in the regular rate of pay for purposes of
16 paying overtime wages and/or meal and rest period premiums); 1182.12, 1194, 1197, and
17 1198 (by failing to pay at least minimum wages for all hours worked); 226.7, 512(a), 516,
18 1198 (by failing to provide all meal periods); 226.7, 516, and 1198 (by failing to authorize and
19 permit all rest periods); 226(a), 1174(d), and 1198 (by failing to provide accurate wage
20 statements and maintain accurate payroll records); 204 (by failing to timely pay all earned
21 wages during employment); 201 and 202 (by failing to timely pay all earned wages upon
22 termination); and 2802 (by failing to reimburse business expenses);

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

26 4. For injunctive relief pursuant to California Labor Code sections 1194.5 and/or
27 2699(k) to bring Defendants into compliance with the requirements of California Labor Code
28 sections 201, 202, 204, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1198,

1 and 2802;

2 5. For attorneys' fees and costs pursuant to California Labor Code section
3 2699(k)(1), and any and all other relevant statutes, for Defendants' violations of California
4 Labor Code sections 201, 202, 204, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194,
5 1197, 1198, and 2802;

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

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

9

10 Dated: September 3, 2024

Respectfully submitted,

11

Capstone Law APC

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By: 

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Roxanna Tabatabaee

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Ryan Tish

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Alexander Wallin

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Attorneys for Plaintiff James Dembo

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EXHIBIT “1”



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ALEXANDER LIMA
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June 28, 2024

VIA ONLINE SUBMISSION

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

Subject: *James Dembo v. REH Services Company, et al.*

Dear PAGA Administrator:

This office represents James Dembo in connection with his claims under the California Labor Code. Mr. Dembo was an employee of REH SERVICES COMPANY; REH COMPANY; WESTGATE HOTEL COMPANY; GRAND AMERICA HOTELS & RESORTS, INC.; and/or SINCLAIR SERVICES COMPANY. For the purpose of this letter, Mr. Dembo collectively refers to these entities as "WESTGATE."

The employers may be contacted directly at the addresses below:

REH SERVICES COMPANY
2800 WEST LINCOLNWAY
CHEYENNE, WY 82009

REH SERVICES COMPANY
550 E SOUTH TEMPLE
PO BOX 30825
SALT LAKE CITY, UT 84130-0825

REH COMPANY
2800 WEST LINCOLNWAY
CHEYENNE, WY 82009

REH COMPANY
550 E. SOUTH TEMPLE
SALT LAKE CITY, UT 84102

WESTGATE HOTEL COMPANY
550 E SOUTH TEMPLE
SALT LAKE CITY, UT 84102

WESTGATE HOTEL COMPANY
PO BOX 30825
550 E SOUTH TEMPLE
SALT LAKE CITY, UT 84130-0825

GRAND AMERICA HOTELS & RESORTS, INC.
555 SOUTH MAIN ST.
SALT LAKE CITY, UT 84111

SINCLAIR SERVICES COMPANY
550 E SOUTH TEMPLE
SALT LAKE CITY, UT 84102

SINCLAIR SERVICES COMPANY
P.O. BOX 30825
550 E SOUTH TEMPLE
SALT LAKE CITY, UT 84130

Mr. Dembo 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. Dembo seeks relief on behalf of himself, the State of California, and other persons who are or were employed by WESTGATE in California as a non-exempt, hourly paid employee 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.

WESTGATE employed Mr. Dembo as a non-exempt employee from approximately June 2022 to December 2023. Mr. Dembo worked for WESTGATE as a Dishwasher/Steward and Steward I at its hotel location in San Diego, California. During his employment, Mr. Dembo typically worked eight (8) hours or more per day and five (5) days per week. By the end of his employment, Mr. Dembo was compensated approximately \$18.54 per hour. Mr. Dembo's job duties included, without limitation, and washing dishes and maintaining the cleanliness of the kitchen area.

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

WESTGATE's Company-Wide and Uniform Payroll and HR Practices

REH SERVICES COMPANY; REH COMPANY; WESTGATE HOTEL COMPANY; GRAND AMERICA HOTELS & RESORTS, INC. are Wyoming corporations; and SINCLAIR SERVICES COMPANY is an entity of unknown origin. Together, they own and/or operate the Westgate Hotel, a luxury hotel located in San Diego, California that is part of the Grand America Hotel & Resorts, Inc. collection of properties. Upon information and belief, WESTGATE maintains a single, centralized Human Resources (HR) department at its corporate headquarters in Cheyenne, Wyoming, or Salt Lake City, Utah, for all non-exempt, hourly paid employees working for WESTGATE in California, including Mr. Dembo and other aggrieved employees. At all relevant times, WESTGATE issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Mr. Dembo and other aggrieved employees, regardless of their location or position.

Upon information and belief, WESTGATE maintains a centralized Payroll department at its corporate headquarters in Cheyenne, Wyoming, or Salt Lake City, Utah, which processes payroll for all non-exempt, hourly paid employees working for WESTGATE in California, including Mr. Dembo and other aggrieved employees. Further, WESTGATE issues the same formatted wage statements in the same manner for all non-exempt, hourly paid employees working in California, including Mr. Dembo and other aggrieved employees, irrespective of their location, position, or manner in which each employee's employment ended. In other words, WESTGATE utilized the same methods and formulas when calculating wages due to Mr. Dembo and other aggrieved employees in California.

¹ These facts, theories, and claims are based on Mr. Dembo's experience and counsel's review of those records currently available relating to Mr. Dembo'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. Dembo 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.

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.

WESTGATE willfully failed to pay all overtime wages owed to Mr. Dembo and other aggrieved employees. During the relevant time period, Mr. Dembo 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, on information and belief, during the relevant time period, WESTGATE had, and continues to have, a company-wide policy and/or practice of discouraging and impeding Mr. Dembo 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. On information and belief, this policy of limiting overtime, coupled with WESTGATE’s practices of understaffing and/or single-staffing (*see infra*), led Mr. Dembo and other aggrieved employees to work off-the-clock before their scheduled shift times. For example, Mr. Dembo was often required to arrive at work early in order to prepare and clean the kitchen area, which could take up to one (1) hour, but was instructed by WESTGATE’s management to not to clock in before his scheduled shift start-time. Moreover, on information and belief, WESTGATE implemented a timekeeping system that prevented employees from clocking in more than 10 minutes before their scheduled shift start-time so that they were prohibited from recording the time worked prior to the start of their scheduled shifts. This off-the-clock work could have been recorded by WESTGATE, but it refused to do so to avoid payment of additional wages to Mr. Dembo and other aggrieved employees.

Second, during the relevant time period, WESTGATE had, and continues to have, a company-wide policy and/or practice of understaffing, which has resulted in a lack of meal period coverage and prevented Mr. Dembo and other aggrieved employees from taking all uninterrupted meal periods to which they were entitled. Also, WESTGATE has systematically, and on a company-wide basis, understaffed its locations by adopting a single-staffing model for some positions, such as Dishwashers, whereby only one (1) employee was scheduled to work at certain times, thereby failing to provide adequate meal period coverage to permit those employees to take compliant meal periods. Mr. Dembo had to keep up with dishwashing duties for all in-room dining, sit-down restaurants, and large-scale banquet events, often on his own, and thus had a heavy workload. WESTGATE also had a practice of failing to schedule meal periods, which further caused Mr. Dembo and other aggrieved employees to not be relieved of their duties for compliant meal periods. However, WESTGATE did not compensate Mr. Dembo and/or other aggrieved employees for the time they spent working off the clock during unpaid meal periods.

Additionally, WESTGATE’s company-wide timekeeping system prevented Mr. Dembo and/or other aggrieved employees from recording all hours worked when their meal periods were shortened or interrupted, because the system locked out Mr. Dembo and/or other aggrieved employees once they clocked out for a meal period, and would not permit them to clock back in from a meal period before 30 minutes had elapsed. Thus, WESTGATE did not record all hours worked during meal periods, and Mr. Dembo and/or other aggrieved employees performed work during meal periods for which they were not paid.

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

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

For example, WESTGATE paid Mr. Dembo and other aggrieved employees incentive pay and/or bonuses which were listed on Mr. Dembo's and other aggrieved employees' wage statements as "Bonus Disc." During pay periods that Mr. Dembo and other aggrieved employees were paid overtime wages, WESTGATE did not incorporate the incentive pay and/or bonuses into Mr. Dembo'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, WESTGATE paid Mr. Dembo and other aggrieved employees 1.5 times their hourly rate of pay instead of 1.5 times their regular rate of pay. WESTGATE'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. Dembo and other aggrieved employees on a company-wide basis.

WESTGATE's failure to pay Mr. Dembo 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. Dembo 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 stated, a result of WESTGATE's policy of limiting the amount of overtime employees could accrue, WESTGATE required Mr. Dembo and other aggrieved employees to perform work off-the-clock outside of their scheduled shifts, such as preparing and cleaning the kitchen. Moreover, on information and belief, due to WESTGATE's implementation of a timekeeping system that prevented employees from clocking in more than 10 minutes before their scheduled shifts, Mr. Dembo and other aggrieved employees were prevented from recording the entire time worked before their scheduled shifts, and thus were not compensated for this time. WESTGATE failed to track this time that Mr. Dembo and other aggrieved employees spent working off-the-clock, and Mr. Dembo and other aggrieved employees received no compensation for this time.

Second, as also stated above, due to WESTGATE's uniform practices and/or policies of understaffing and/or single-staffing certain positions while assigning heavy workloads, and failing to schedule meal periods, Mr. Dembo and/or other aggrieved employees were impeded from taking all uninterrupted meal periods to which they were entitled and were required to work off-the-clock during meal periods, had their meal periods interrupted, and/or were otherwise not relieved of all duties during unpaid meal periods. Additionally, as stated, WESTGATE's company-wide timekeeping system prevented Mr. Dembo and/or other aggrieved employees from entering time worked during meal periods because the system locked out Mr. Dembo and/or other aggrieved employees for a full 30 minutes. Thus, WESTGATE systematically failed to pay Mr. Dembo and/or other aggrieved employees for actual hours worked during unpaid meal periods because these hours were not always correctly recorded.

Thus, WESTGATE did not pay minimum wages for all hours worked by Mr. Dembo and other aggrieved employees. To the extent that these off-the-clock hours did not qualify for overtime premium payment, WESTGATE 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, WESTGATE regularly failed to pay at least minimum wages to Mr. Dembo 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. Dembo 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.

During the relevant period, as stated, WESTGATE had, and continues to have, company-wide policies and/or practices of understaffing and/or single-staffing certain positions while assigning heavy workloads, which has resulted in a lack of meal period coverage and prevented Mr. Dembo and other aggrieved employees from taking all timely, uninterrupted meal periods to which they were entitled. Additionally, as stated, WESTGATE maintained and implemented a company-wide practice of failing to schedule meal periods, which further caused Mr. Dembo and other aggrieved employees to not be relieved of their duties for compliant meal periods.

As a result, Mr. Dembo 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 a month, Mr. Dembo missed his meal periods because

he was the sole dishwasher scheduled during his shifts. Consequently, Mr. Dembo lacked coverage to take his meal breaks while also being required to manage the dishwashing duties for all in-room dining, sit-down restaurants, and large-scale banquet events at the hotel. Indeed, according to Mr. Dembo's time records, on October 15, 2023, he clocked in at the start of his shift at 6:21 a.m. and clocked out at the end of his shift at 2:38 p.m., working a total of eight (8) hours and 17 minutes (or 8.28 hours), without clocking out for a meal period. On October 16, 2023, he clocked in at the start of his shift at 6:44 a.m. and clocked out at the end of his shift at 2:59 p.m., working a total of eight (8) hours and 15 minutes (or 8.25 hours), without clocking out for a meal period. On October 17, 2023, he clocked in at the start of his shift at 8:00 a.m. and clocked out at the end of his shift at 3:00 p.m., working a total of seven (7) hours, without clocking out for a meal period. On October 18, 2023, he clocked in at the start of his shift at 6:35 a.m. and clocked out at the end of his shift at 3:02 p.m., working a total of eight (8) hours and 27 minutes (or 8.45 hours), without clocking out for a meal period. Additionally, Mr. Dembo sometimes took his meal periods late, after the fifth hour of work, due to the lack of coverage. According to Mr. Dembo's time records, on October 11, 2023, he clocked in at the start of his shift at 6:54 a.m. and clocked out for his meal period at 2:00 p.m., working a total of seven (7) hours and 6 minutes (or 7.10 hours), before he was able to take his meal period. Mr. Dembo did not receive any meal period premiums for these violations.

In addition, as stated, WESTGATE's company-wide timekeeping system prevented Mr. Dembo and/or other aggrieved employees from recording when their meal periods were shortened or interrupted, because the system locked out Mr. Dembo and/or other aggrieved employees once they clocked out for a meal period, and would not permit them to clock back in from a meal period before 30 minutes had elapsed. For example, Mr. Dembo and/or other aggrieved employees were unable to record when their meal periods were interrupted or cut short.

Additionally, Mr. Dembo and/or other aggrieved employees worked shifts in excess of ten (10) hours without receiving an uninterrupted second 30-minute meal period. Mr. Dembo and/or 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, WESTGATE had a company-wide policy of requiring all newly hired employees to sign blanket meal period waivers at or near their time of hire. WESTGATE 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. Further, WESTGATE's "Meal Break Waiver Agreement" form requires employees to provide written notice should they wish to revoke the waiver. WESTGATE's presumption that meal periods would not be provided for shifts in excess of five (5) hours but less than six (6) hours and 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, and imposition on employees to revoke the waivers in writing, discouraged and impeded Mr. Dembo 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 WESTGATE required Mr. Dembo and other aggrieved employees to sign meal period waivers simultaneously at and/or near their time of hire (as opposed to on a specific work day) renders them invalid and unenforceable, because WESTGATE's obligation to provide Mr. Dembo and other aggrieved employees with meal periods did not arise until it had employed them for a full five (5) hours.

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

Furthermore, WESTGATE engaged in a company-wide practice and/or policy of not paying meal period premiums owed when compliant meal periods are not provided. Because of this practice and/or policy, Mr. Dembo and other aggrieved employees have not received premium pay for all missed, late, and interrupted meal periods. Alternatively, to the extent that WESTGATE did pay Mr. Dembo and other aggrieved employees premium pay for missed, late, and interrupted meal periods, WESTGATE did not pay Mr. Dembo and other aggrieved employees at the correct rate of pay for premiums because WESTGATE 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, WESTGATE failed to provide all meal periods in violation of California Labor Code sections 226.7, 512(a), 516, and 1198. Mr. Dembo 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, WESTGATE regularly failed to authorize and permit Mr. Dembo 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, WESTGATE's company-wide policies and/or practices of understaffing and assigning heavy workloads, prevented Mr. Dembo and other aggrieved employees from being relieved of all duty to take their rest periods. WESTGATE also failed to schedule rest periods, which, coupled with WESTGATE's failure to provide adequate rest period coverage, further led to Mr. Dembo and other aggrieved employees not being authorized and permitted to take compliant rest periods.

Furthermore, upon information and belief, during the relevant time period, WESTGATE maintained a company-wide on-premises rest period policy, which effectively required that Mr. Dembo and/or other aggrieved employees remain on WESTGATE's premises during their rest periods. Because Mr. Dembo and/or 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, WESTGATE effectively maintained control over Mr. Dembo and/or other aggrieved employees during rest periods.

As a result of WESTGATE's practices and policies, Mr. Dembo 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 rest periods to which they were entitled. For example, Mr. Dembo had to forego all his rest periods because of the heavy workload, lack of coverage, and WESTGATE's failure to schedule rest periods for employees.

WESTGATE has also engaged in a systematic, company-wide practice and/or policy of not paying rest period premiums owed when rest periods are not authorized and permitted. Because of this practice and/or policy, Mr. Dembo and other aggrieved employees have not received premium pay for all missed rest periods. Alternatively, to the extent that WESTGATE did pay Mr. Dembo and other aggrieved employees one (1) additional hour of premium pay for missed rest periods, WESTGATE did not pay Mr. Dembo and other aggrieved employees at the correct rate of pay for premiums because WESTGATE 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, WESTGATE failed to authorize and permit all rest periods in violation of California Labor Code sections 226.7, 516, and 1198. Mr. Dembo 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. WESTGATE has not provided Mr. Dembo 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, WESTGATE has knowingly and intentionally provided Mr. Dembo and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. For example, WESTGATE issued uniform wage statements to Mr. Dembo and other aggrieved employees that fail to correctly list: gross wages earned; total hours worked; net wages earned; the address of the legal entity that is the employer; and all applicable hourly rates in effect during the pay period, including rates of pay for overtime wages, meal and rest period premiums, and/or paid sick leave, and the corresponding number of hours worked at each hourly rate. Specifically, WESTGATE violated sections 226(a)(1), 226(a)(2), 226(a)(5), 226(a)(8), and 226(a)(9).

First, because WESTGATE did not accurately record the time Mr. Dembo and other aggrieved employees spent working off-the-clock, WESTGATE did not list the correct amount of gross wages and net wages earned by Mr. Dembo and other aggrieved employees, in compliance with section 226(a)(1) and section 226(a)(5), respectively. For the same reason, WESTGATE failed to accurately list the total number of the hours worked by Mr. Dembo 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).

Second, because WESTGATE did not calculate Mr. Dembo and other aggrieved employees' regular rate of pay correctly for purposes of paying overtime wages, meal and rest period premiums, and/or paid sick leave, WESTGATE did not list the correct amount of gross wages in compliance with section 226(a)(1) and did not list the correct amount of net wages in violation of section 226(a)(5). WESTGATE 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, and/or paid sick leave in violation of section 226(a)(9).

Third, and separate from these violations, WESTGATE issued uniform wage statements to Mr. Dembo and other aggrieved employees that failed to correctly list the address of the legal entity of the actual employer in violation of 226(a)(8). The purpose of section 226(a)(8) is to provide California employees with transparency as to the true identity of their employer, to allow the employee to contact their employer during employment or in the future for various reasons, including filing an administrative claim, judicial claim, or other action to seek relief against their employer, to obtain unemployment benefits, etc. During the relevant time period, WESTGATE systematically, and on a company-wide basis, issued wage statements to Mr. Dembo and other aggrieved employees that incorrectly list the employer's address as "550 E South Temple Salt Lake City UT 84102", but according to the California Secretary of State's website, WESTGATE's address should be "2800 LINCOLNWAY CHEYENNE, WY 82009." See *example paystub below*.



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 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 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), WESTGATE willfully failed to maintain accurate payroll records for Mr. Dembo 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, WESTGATE 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. Dembo and other aggrieved employees, in violation of section 1198. Furthermore, in light of WESTGATE’s failure to provide Mr. Dembo and/or other aggrieved employees with second 30-minute meal periods to which they were entitled, WESTGATE kept no records of meal start and end times for second meal periods.

Because WESTGATE failed to provide the correct net and gross wages earned, applicable rates of pay, and number of total hours worked on wage statements, Mr. Dembo and other aggrieved employees have been prevented from verifying, solely from information on the wage statements themselves, that they were paid correctly and in full. Instead, Mr. Dembo and other aggrieved employees have had to look to sources outside of the wage statements themselves and reconstruct time records to determine whether in fact they were paid correctly and the extent of underpayment, thereby causing them injury.

Mr. Dembo 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, WESTGATE failed to pay Mr. Dembo and other aggrieved employees all wages due to them, including, but not limited to, overtime wages, minimum wages, meal and rest period premiums, and/or sick leave pay, within any time period specified by California Labor Code section 204.

Mr. Dembo 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.

On information and belief, WESTGATE had a company-wide practice and/or policy of paying departing employees their final wages late, instead of adhering to the time requirements set forth in Labor Code sections 201 and 202. For example, WESTGATE terminated Mr. Dembo on or about December 22, 2023; however, WESTGATE did not provide Mr. Dembo with his final wages until January 5, 2024. Specifically, WESTGATE did not provide Mr. Dembo with his vested vacation wages until January 5, 2024. Thus, WESTGATE failed to pay Mr. Dembo his final wages immediately, in violations of California Labor code section 201.

Additionally, WESTGATE willfully failed to pay Mr. Dembo and other aggrieved employees who are no longer employed by WESTGATE the earned and unpaid wages set forth above, including but not limited to, overtime wages, minimum wages, meal and rest period premiums, vested vacation wages, and/or sick leave pay, either at the time of discharge, or within seventy-two (72) hours of their leaving WESTGATE's employ.

Mr. Dembo 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 § 227.3 – Failure to Pay Vested Vacation Wages

California Labor Code section 227.3 provides that if a contract of employment or employer policy provides for paid vacations and an employer terminates an employee, all vested vacation shall be paid to the employee at the employee's final rate of pay, in accordance with such contract of employment or employer policy respecting eligibility or time served. Vacation time vests on a pro-rata basis and, upon termination, an employee is entitled to a pro rata share of vested vacation pay. An employer may not require an employee to forfeit earned but unused vacation pay.

During the relevant time period, WESTGATE had a company-wide policy and practice of failing to pay Mr. Dembo and other aggrieved employees vested vacation wages that were owed to them at the end of their employment, in violation of California Labor Code section 227.3. For example, Mr. Dembo had earned vested vacation pay until his employment with WESTGATE ended on or about December 22, 2023. However, WESTGATE did not pay Mr. Dembo the balance of his accrued and unused vacation wages at the end of his employment. Instead, WESTGATE delayed providing Mr. Dembo with the balance of his vested vacation wages until January 5, 2024.

WESTGATE's failure to pay Mr. Dembo and other aggrieved employees all vested vacation wages at the end of their employment has caused a forfeiture of vested vacation wages in violation of California Labor Code section 227.3. Mr. Dembo 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 § 246 – Failure to Properly Calculate Paid Sick Leave and Provide Written Notice of 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. Labor Code section 246(i) provides that an employer must provide an employee with written notice that sets forth the amount of paid sick leave available, or paid time off that

an employer provides in lieu of sick leave, for use on either the employee's itemized wage statement or in a separate written statement provided on the designated pay date with the employee's wages. 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, on information and belief, WESTGATE did not pay Mr. Dembo and/or other aggrieved employees the correct sick leave rates of pay. WESTGATE failed to correctly use either method of calculation under Labor Code section 246(l) to determine Mr. Dembo's and other aggrieved employees' sick leave rates of pay. As stated, in addition to an hourly wage, WESTGATE paid Mr. Dembo and/or other aggrieved employees incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, WESTGATE 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 Mr. Dembo and/or other aggrieved employees took sick leave and received these other forms of pay, WESTGATE failed to pay all sick leave benefits by paying a lower sick leave pay rate than required. Specifically, WESTGATE paid Mr. Dembo and/or other aggrieved employees sick leave based on their hourly rate of pay instead of their regular rate of pay.

Moreover, during the relevant time period, WESTGATE failed, on a company-wide basis, to provide Mr. Dembo and other aggrieved employees written notice on wage statements and/or other separate written statements that listed the amount of paid sick leave (or equivalent paid leave or paid time off) available to them.

WESTGATE'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 Mr. Dembo and/or other aggrieved employees on a company-wide basis in violation of Labor Code section 246(l). WESTGATE's systematic failure to provide written notice of sick leave benefits to Mr. Dembo and other aggrieved employees is in violation of California Labor Code section 246(i).

Mr. Dembo and 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 11090 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 IWC 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.*

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

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

WESTGATE violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11050(14)(A) because Mr. Dembo and/or 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. WESTGATE’s management did not inform Mr. Dembo and/or 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 WESTGATE’s company-wide policy and/or practice of prohibiting employees from sitting during their shifts and company-wide failure to provide suitable seating, Mr. Dembo and/or other aggrieved employees were forced to stand during shifts and denied seats. WESTGATE’s failure to provide suitable seating to Mr. Dembo and/or other aggrieved employees violates California Labor Code section 1198 and IWC Wage Order No. 5-2001, subdivision 14(A).

Mr. Dembo and/or other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon, and seek injunctive relief to bring WESTGATE 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 11090 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 IWC 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)(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.*

WESTGATE’s California hotels and 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. Dembo and/or other aggrieved employees during lulls in operation. WESTGATE could have provided Mr. Dembo and/or 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.

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

As a result of WESTGATE’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. Dembo and/or other aggrieved employees were forced to stand during shifts and denied seats. WESTGATE’s failure to provide suitable seating to Mr. Dembo and/or other aggrieved employees violates California Labor Code section 1198 and IWC Wage Order No. 5-2001, subdivision 14(B).

Mr. Dembo and/or other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon, and seek injunctive relief to bring WESTGATE 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, WESTGATE, on a company-wide basis, required Mr. Dembo and other aggrieved employees to obtain and pay for certain certifications, which were required for their continued employment, as well as associated costs such as training. For example, Mr. Dembo complied with this requirement and obtained a food handler certification, spending approximately \$8.95 but, on information and belief, WESTGATE did not reimburse him for the costs of obtaining the certification. Thus,

WESTGATE failed to reimburse Mr. Dembo and other aggrieved employees for the costs of obtaining these certifications, including training fees.

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

Thus, WESTGATE 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. Dembo 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).

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." WESTGATE, at all relevant times, was an employer or person acting on behalf of an employer(s) who violated Mr. Dembo's and other aggrieved employees' rights by violating various sections of the California Labor Code.

Accordingly, Mr. Dembo 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. Dembo, 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 WESTGATE for violations of California Labor Code sections 201, 202, 204, 226(a), 226.7, 227.3, 246, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, and 2802.

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

Pre-Litigation Demand

This notice shall further serve as Mr. Dembo's reasonable attempt to settle his dispute with WESTGATE prior to litigation. Pursuant to *Graham v. Daimler Chrysler Corp.*, 34 Cal. 4th 553 (2004), this notice serves to inform WESTGATE of Mr. Dembo's aforementioned grievances and the proposed remedies as detailed below, while affording WESTGATE a reasonable opportunity to satisfy Mr. Dembo's demands.

Demand is hereby made that WESTGATE shall, within 30 calendar days of this notice, agree, in writing to the following corrective actions:

1. WESTGATE shall pay Mr. Dembo and all other aggrieved employees employed by WESTGATE at any time during the past three years from the date of this notice unpaid wages and compensation for the above-referenced violations.

2. WESTGATE shall comply with all California labor laws and ensure that its non-exempt employees are paid overtime wages and minimum wages for all hours worked and provided lawful meal and rest periods.
3. WESTGATE shall conduct a survey or interview all current and former aggrieved employees in California who worked for WESTGATE in the past three years to obtain information from them regarding the above-referenced violations, including, but not limited to: the number of meal periods which were not provided; the number of rest periods which were not authorized and permitted; and the number of employees who were required to pay for certification fees or other expenditures in the discharge of their duties, with the investigation to be completed within 60 days.
4. WESTGATE shall pay each aggrieved employee one hour of pay at his or her regular rate of pay for each work day he or she was not provided one or more meal periods, as required by Labor Code sections 226.7, 512(a), 516, and 1198. WESTGATE also shall pay each aggrieved employee one hour of pay at his or her regular rate of pay for each work day he or she was not authorized and permitted one or more rest periods, as required by Labor Code sections 226.7, 516, and 1198.
5. WESTGATE shall properly calculate aggrieved employees' rates of pay for overtime, meal and rest period premiums, and/or paid sick leave based on all remuneration paid, pursuant to Labor Code sections 226.7, 510, 246(l), and 1198. Additionally, WESTGATE shall provide aggrieved employees with written notice on wage statements and/or other separate written statements that list the amount of paid sick leave available to them, as required by Labor Code section 246(i).
6. WESTGATE shall pay former aggrieved employees their vested vacation wages at their final rate of pay, in accordance with such contract of employment or employer policy respecting eligibility or time served, as required by Labor Code section 227.3.
7. WESTGATE shall implement and provide suitable seating to all aggrieved employees.
8. WESTGATE shall reimburse Mr. Dembo and all aggrieved employees who were required to pay for any business expenses incurred for WESTGATE's benefit, including, but not limited to, costs of certification fees, as required by Labor Code section 2802.
9. WESTGATE shall pay accrued legal interest to Mr. Dembo and all aggrieved employees at the rate of 10% per annum for said unpaid wages.
10. WESTGATE shall provide Mr. Dembo and all aggrieved employees employed by WESTGATE at any time during the past three years from the date of this notice corrected wage statements that include the requisite information set forth in Labor Code section 226(a).
11. WESTGATE shall pay waiting time penalties, equal to 30 days of pay, to each former aggrieved employee who was not paid all wages due as described herein.
12. WESTGATE shall pay all penalties arising from the violations of the Labor Code and IWC Wage Order sections referenced above and pursuant to PAGA, Labor Code sections 2698, *et seq.*, including, but not limited to, penalties under Labor Code sections 210, 226.3, 248.5, 256, 558, 1174.5, 1197.1, and 2699, and IWC Wage Order No. 5-2001, section 20.

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', with a stylized flourish extending to the right.

Alexander Lima

Copy: REH SERVICES COMPANY (via U.S. Certified Mail); REH COMPANY (via U.S. Certified Mail); WESTGATE HOTEL COMPANY (via U.S. Certified Mail); GRAND AMERICA HOTELS & RESORTS, INC. (via U.S. Certified Mail); SINCLAIR SERVICES COMPANY (via U.S. Certified Mail)

CAPSTONE LAW, APC
1875 Century Park East
Suite #1000
Los Angeles, CA 90067



**REH SERVICES
COMPANY**
2800 West Lincoln Way
Cheyenne, WY 82009

7022 2410 0000 2264 8400

**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
\$ 4.40

Extra Services & Fees (check box, add fee if applicable)
☒ Return Receipt (hardcopy) \$ 3.05
☐ Return Receipt (electronic) \$
☐ Certified Mail Restricted Delivery \$
☐ Adult Signature Required \$
☐ Adult Signature Restricted Delivery \$

Postage
\$ 2.11

Total Postage and Fees
\$ 10.10

Postmark
Here

Sent To
REH SERVICES COMPANY
Street and Apt. No., or PO Box No.
2800 W. LINCOLN WAY
City, State ZIP+4®
CHEYENNE, WY 82009

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, or on the front if space permits.

1. Article Addressed to:

REH SERVICES COMPANY
2800 W. LINCOLN WAY
CHEYENNE, WY 82009



2. Article Number (transcribed from label)
7022 2410 0000 2264 8400

COMPLETE THIS SECTION ON DELIVERY

A. Signature ☐ Agent
X ☐ 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

3. 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 (over \$500)
- ☐ Priority Mail Express®
☐ Registered Mail™
☐ Registered Mail Restricted Delivery
☐ Signature Confirmation™
☐ Signature Confirmation Restricted Delivery

RETURN RECEIPT
Domestic Return Receipt

PRIMEY BOWES
US POSTAGE
\$10.16
FIRST-CLASS
02B000002311248
2009080312
JUN 28 2024



CAPSTONE LAW APC
1875 Century Park East
Suite #1000
Los Angeles, CA 90067

CERTIFIED MAIL®



7022 2410 0000 2264 8462

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
\$ 4.40

Extra Services & Fees (check box, add fee)
☒ Return Receipt (hardcopy) \$ 3.05
☐ Return Receipt (electronic) \$
☐ Certified Mail Restricted Delivery \$
☐ Adult Signature Required \$
☐ Adult Signature Restricted Delivery \$

Postmark
Here

Postage
\$ 2.11

Total Postage and
Sent To \$ 10.16

**REH SERVICES
COMPANY**

550 E. SOUTH TEMPLE

PO BOX 30825

SALT LAKE CITY, UT 84130

City, State, Zip+4®
PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

**REH SERVICES
COMPANY**

550 E. SOUTH TEMPLE

PO BOX 30825

SALT LAKE CITY, UT 84130

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,

**REH SERVICES
COMPANY**
550 E. SOUTH TEMPLE
PO BOX 30825
SALT LAKE CITY, UT 84130



2. Article Number (Transit and Service Only)
7022 2410 0000 2264 8462

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
☐ Insured Mail
☐ Insured Mail Restricted Delivery (over \$500)

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

PRIMEY BOWES
US POSTAGE®
FIRST-CLASS
028W00002311242
2000388312
ZIP 90067
JUN 28 2024



CAPSTONE LAW, APC
1875 Century Park East
Suite #1000
Los Angeles, CA 90067



7022 2410 0000 2264 8479

REH COMPANY
2800 West Lincoln Way
Cheyenne, WY 82009

PITNEY BOWES
\$10.160
US POSTAGESM
FIRST-CLASSSM
028W0002310839
2000388312
ZIP 90067
JUN 28 2024



7022 2410 0000 2264 8479

U.S. Postal ServiceTM
CERTIFIED MAIL[®] RECEIPT
Domestic Mail Only

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

OFFICIAL USE

Certified Mail Fee

\$ **4.40**

Extra Services & Fees (check box, add fee if any)

☒ Return Receipt (hardcopy)

\$ **3.05**

☐ Return Receipt (electronic)

\$

☐ Certified Mail Restricted Delivery

\$

☐ Adult Signature Required

\$

☐ Adult Signature Restricted Delivery

\$

Postage

\$ **7.11**

Total Postage and Fees

\$ **11.51**

Street and Apt. No.

REH COMPANY

City, State, ZIP+4[®]

2800 West Lincoln Way

Cheyenne, WY 82009

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.

REH COMPANY
2800 West Lincoln Way
Cheyenne, WY 82009



2. Article Number (transmit to addressee)
7022 2410 0000 2264 8479

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

3. 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

(over \$500)

☐ Priority Mail Express[®]

☐ Registered MailTM

☐ Registered Mail Restricted Delivery

☐ Signature ConfirmationTM

☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

CAPSTONE LAW, APC
1875 Century Park East
Suite #1000
Los Angeles, CA 90067



7022 2410 0000 2264 8486

CERTIFIED MAIL®

REH COMPANY
550 E. SOUTH TEMPLE
SALT LAKE CITY, UT 84130

PITNEY BOWES
US POSTAGE
FIRST-CLASS
028W0002311067
2025050102
ZIP 90067
JUN 28 2024



7022 2410 0000 2264 8486

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 \$4.40
Extra Services & Fees (check box, add fee)
☒ Return Receipt (hardcopy) \$3.15
☐ Return Receipt (electronic) \$0.00
☐ Certified Mail Restricted Delivery \$0.00
☐ Adult Signature Required \$0.00
☐ Adult Signature Restricted Delivery \$0.00
Postage \$2.11
Total Postage and Fees \$10.16

Postmark
Here

REH COMPANY

Street and Apt. 550 E. SOUTH TEMPLE
City, State, Zip SALT LAKE CITY, UT 84130

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.

REH COMPANY
550 E. SOUTH TEMPLE
SALT LAKE CITY, UT 84130



2. Article Number Transmitted to Service Center
7022 2410 0000 2264 8486

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

COMPLETE THIS SECTION ON DELIVERY

A. Signature ☐ Agent
X ☐ 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
☐ Insured Mail
☐ Insured Mail Restricted Delivery (over \$500)
☐ 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
 Suite #1000
 Los Angeles, CA 90067



**WESTGATE HOTEL
 COMPANY**
 550 E. SOUTH TEMPLE
 SALT LAKE CITY, UT 84130

PTNEY BOWES
 \$10.16
 US POSTAGE
 FIRST-CLASS
 028W00002310909
 2000348312
 ZIP 90067
 JUN 28 2024



7022 2410 0000 2264 8493

**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 \$ 4.40
 Extra Services & Fees (check box, and fee)
☒ Return Receipt (hardcopy) \$ 3.05
☐ Return Receipt (electronic) \$ _____
☐ Certified Mail Restricted Delivery \$ _____
☐ Adult Signature Required \$ _____
☐ Adult Signature Restricted Delivery \$ _____

Postmark
 Here

Postage \$ 2.11

Total Postage and
 Sent To \$ 10.16

**WESTGATE HOTEL
 COMPANY**
 550 E. SOUTH TEMPLE
 SALT LAKE CITY, UT 84130

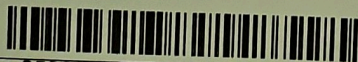
PS Form 3800, April 2015 PSN 7530-02-000-9047

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.

**WESTGATE HOTEL
 COMPANY**
 550 E. SOUTH TEMPLE
 SALT LAKE CITY, UT 84130



2. Address and ZIP+4®
 7022 2410 0000 2264 8493

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

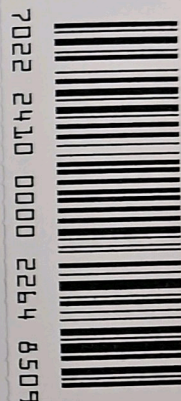
COMPLETE THIS SECTION ON DELIVERY

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
☐ Insured Mail
☐ Insured Mail Restricted Delivery (over \$500)
☐ 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
 Suite #1000
 Los Angeles, CA 90067



**WESTGATE HOTEL
 COMPANY**
 PO BOX 30825
 550 E. SOUTH TEMPLE
 SALT LAKE CITY, UT 84130

7022 2410 0000 2264 8509

**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 \$ 4.40

Extra Services & Fees (check box, add fee if any)

☒ Return Receipt (hardcopy) \$ 3.05

☐ Return Receipt (electronic) \$ _____

☐ Certified Mail Restricted Delivery \$ _____

☐ Adult Signature Required \$ _____

☐ Adult Signature Restricted Delivery \$ _____

Postage \$ 2.11

Total Postage and Fees \$ 10.16

Sent to **WESTGATE HOTEL
 COMPANY**
 PO BOX 30825
 550 E. SOUTH TEMPLE
 SALT LAKE CITY, UT 84130

City, State, ZIP+4®
 Salt Lake City, UT 84130

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.

**WESTGATE HOTEL
 COMPANY**
 PO BOX 30825
 550 E. SOUTH TEMPLE
 SALT LAKE CITY, UT 84130



2. Article Number (printed from service label)
 7022 2410 0000 2264 8509

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

COMPLETE THIS SECTION ON DELIVERY

A. Signature ☒ Agent ☐ Addressee

X

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

☐ Insured Mail

☐ Insured Mail Restricted Delivery (over \$500)

☐ Priority Mail Express®

☐ Registered Mail™

☐ Registered Mail Restricted Delivery

☐ Signature Confirmation™

☐ Signature Confirmation Restricted Delivery

PITNEY BOWES
\$10.160
 U.S. POSTAGE
 FIRST CLASS
 PERMIT NO. 2106
 ZIP 90067
 JUN 28 2024



Domestic Return Receipt

CAPSTONE LAW, APC
1875 Century Park East
Suite #1000
Los Angeles, CA 90067

CERTIFIED MAIL®



7022 2410 0000 2264 8516

PTNEY BOWES
\$10.16
US POSTAGE
FIRST-CLASS
028W0002204942
028W0002204942
ZIP 90067
JUN 28 2024



GRAND AMERICA
HOTELS & RESORTS,
INC.
555 S. Main Street
Salt Lake City, UT 84111

7022 2410 0000 2264 8516

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
\$ 4.40
Extra Services & Fees (check box, add fee)
☒ Return Receipt (hardcopy) \$ 3.65
☐ Return Receipt (electronic) \$
☐ Certified Mail Restricted Delivery \$
☐ Adult Signature Required \$
☐ Adult Signature Restricted Delivery \$

Postmark
Here

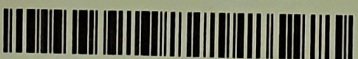
Postage
\$ 2.11
Total Postage and Fee
\$ 10.16
GRAND AMERICA
HOTELS & RESORTS,
INC.
Sent To
Street and Apt. No., or
City, State, ZIP+4®
555 S. Main Street
Salt Lake City, UT 84111

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.

GRAND AMERICA
HOTELS & RESORTS,
INC.
555 S. Main Street
Salt Lake City, UT 84111



2. Article number and barcode
7022 2410 0000 2264 8516

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
☐ Insured Mail
☐ Insured Mail Restricted Delivery (over \$500)
☐ 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

CAPSTONE LAW, APC
 1875 Century Park East
 Suite #1000
 Los Angeles, CA 90067

CERTIFIED MAIL
 7022 2410 0000 2264 8431

**SINCLAIR SERVICES
 COMPANY**
 550 E. South Temple
 Salt Lake City, UT 84102

PTNEY BOWES
\$10.16
 US POSTAGE™
 FIRST-CLASS
 028V0002311094
 2000388312
 ZIP 50067
 JUN 28 2024



7022 2410 0000 2264 8431

**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	\$ 4.40
Extra Services & Fees (check box, add fee to Certified Mail Fee)	\$ 3.65
☒ Return Receipt (hardcopy)	\$ 3.65
☐ Return Receipt (electronic)	\$
☐ Certified Mail Restricted Delivery	\$
☐ Adult Signature Required	\$
☐ Adult Signature Restricted Delivery	\$
Postage	\$ 2.11
Total Postage and Fees	\$ 10.16

Postmark
 Here

Sent To
SINCLAIR SERVICES COMPANY
 Street and Apt. No., or PO Box No.
550 E. South Temple
 City, State, ZIP+4®
SALT LAKE CITY, UT 84102

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, or on the front if space permits.

1. Article Addressed to:
Sinclair Services Company
550 E. South Temple
Salt Lake City, UT
84102



2. Article Number (Printed)
7022 2410 0000 2264 8431

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		

3. Service Type	☐ Priority Mail Express®
☐ Adult Signature	☐ Registered Mail™
☐ Adult 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	
☐ Insured Mail Restricted Delivery (over \$500)	

Return Receipt

Domestic Return Receipt

CAPSTONE LAW, APC
 1875 Century Park East
 Suite #1000
 Los Angeles, CA 90067



7022 2410 0000 2264 8448

CERTIFIED MAIL®

PITNEY BOWES
 \$10.16
 US POSTAGE
 FIRST-CLASS
 028W0002317246
 JUN 28 2024
 ZIP 90067



**SINCLAIR SERVICES
 COMPANY**
 P.O. BOX 30825
 Salt Lake City, UT 84130
 550 E SOUTH TEMPLE

7022 2410 0000 2264 8448

**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	\$ 4.40
Extra Services & Fees (check box, and include signature)	
☐ Return Receipt (hardcopy)	\$ 2.65
☐ Return Receipt (electronic)	
☐ Certified Mail Restricted Delivery	
☐ Adult Signature Required	
☐ Adult Signature Restricted Delivery	
Postage	\$ 7.11
Total Postage and Fees	\$ 10.16

Postmark
 Here

Sent To: **SINCLAIR SERVICES COMPANY**
 Street and Apt. No., or PO Box No.: **P.O. BOX 30825/550 E SOUTH TEMPLE**
 City, State, ZIP+4®: **SALT LAKE CITY, UT 84130**
 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, or on the front if space permits.

1. Article Addressed to:

Sinclair Services Company
P.O. Box 30825/550 E. SOUTH TEMPLE
Salt Lake City, UT
84130



2. Article Number (Transfer from back of Mailpiece)

7022 2410 0000 2264 8448

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?

If YES, enter delivery address below:

☐ Yes

☐ No

3. 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 (over \$500)

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

Return Receipt

Domestic Return Receipt