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ELECTRONICALLY

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SAN LUIS OBISPO SUPERIOR COURT
BY 
Julie Sierra, Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN LUIS OBISPO

ELIAS SALIBA, Individually and On Behalf
of All Others Similarly Situated,

Plaintiffs,

v.

GAUCHO PR, INC., a California corp.;
and DOES 1 through 20, inclusive,

Defendants.

) Case No. 24CVP-0254

)

) **FIRST AMENDED COMPLAINT FOR**
) **DAMAGES, PENALTIES, INJUNCTIVE**
) **RELIEF AND RESTITUTION**

)

) **CLASS ACTION**

)

-) **1. Failure to Provide Meal Periods, Or**
) **Compensation in Lieu Thereof, in**
) **Violation of Labor Code §§ 226.7 and**
) **512;**
) **2. Failure to Authorize and Permit Rest**
) **Periods, Or Compensation in Lieu**
) **Thereof, in Violation of Labor Code §**
) **226;**
) **3. Failure to Provide Accurate Itemized**
) **Wage Statements in Violation of Labor**
) **Code § 226;**

)

1 Plaintiff and other similarly situated employees, and the willful failure to pay all wages due and
2 owing to such employees at the time of separation of employment.

3 4. Defendants' unlawful, unfair and deceptive employment and wage practices cheat
4 Plaintiff and other members of the proposed Class out of their lawful compensation due, as required
5 by California law. Plaintiff therefore seeks an injunction enjoining such conduct by Defendants in
6 the future, restitution for all members of the proposed Class, and all other appropriate equitable relief
7 available under Bus. & Prof. Code section 17200 *et al.*

8 5. Individually, Plaintiff was subjected to unlawful retaliation and a wrongful
9 termination in explicit violation of California law and public policy. On or about May 19, 2024,
10 Defendants terminated Plaintiff's employment for no reason other than Plaintiff's requesting and
11 taking protected sick leave.

12 **IDENTIFICATION OF THE PARTIES**

13 6. Plaintiff ELIAS SALIBA is a competent adult who resides in the City and County of
14 San Luis Obispo, California. From his date of hire during June 2023 to the date of his termination,
15 on or about May 19, 2024, Plaintiff was employed by Defendants as an hourly, non-exempt employee
16 who received a base hourly rate of pay plus gratuities paid to him by Defendants' restaurant patrons.
17 During his employment for Defendants, Plaintiff worked at two dining establishments in Paso
18 Robles, California that are owned and operated by Defendants: *Fish Gaucho* and *Cane Tiki Room*.

19 7. Plaintiff is informed and believes, and thereon alleges, that Defendant GAUCHO PR,
20 INC. is a California corporation with its principal place of business in Paso Robles, California.
21 Plaintiff is informed and believes that at all relevant times GAUCHO PR, INC. has been doing
22 business in the State of California as the corporate owner and operator of at least two restaurants in
23 the City of Paso Robles and County of San Luis Obispo, California, named *Fish Gaucho* and *Cane*
24 *Tiki Room*.

25 8. Plaintiff is informed and believes, and thereon alleges, that at all relevant times
26 Defendant GAUCHO PR, INC. has employed Plaintiff and the members of the proposed Class, and
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1 exercised control over Plaintiff and the proposed Class members' wages, hours and working
2 conditions.

3 9. Plaintiff does not know the true names and capacities of Defendants sued herein as
4 DOES 1 through 20, inclusive, and will amend this Complaint to set forth the true names and
5 capacities of said Defendants, along with the appropriate charging allegations when the same have
6 been ascertained.

7 10. Plaintiff is informed and believes, and on that basis alleges, that each of the
8 fictitiously named Defendants was in some manner legally responsible for the actionable and
9 unlawful actions, policies and practices as alleged herein. Plaintiff will amend this Complaint to set
10 forth the true names and capacities of said Defendant, along with the appropriate charging
11 allegations, when the same have been ascertained.

12 11. Plaintiff is informed and believes, and thereon alleges, that at all times mentioned
13 herein, all Defendants, and each of them, were acting as the agent and/or employee of each remaining
14 co-defendant, and were acting with permission and consent of each other, and within the course and
15 scope of said agency and/or employment. Plaintiff is further informed and believe that each co-
16 defendant, by and through its officers, directors or managing agents, ratified, authorized and
17 approved, expressly or implicitly, all of the conduct alleged herein.

18 12. When in this Complaint reference is made to any act of the "Defendants," such shall
19 be deemed to mean that officers, directors, agents, employees, or representatives of the Defendants
20 named in this lawsuit committed or authorized such acts, or failed and omitted to adequately
21 supervise or properly control or direct their employees while engaged in the management, direction,
22 operation or control of the affairs of the Defendants and did so while acting within the scope of their
23 employment or agency.

24 **JURISDICTION AND VENUE**

25 13. Plaintiff realleges by reference, as if fully set forth herein, all of the above Paragraphs.

26 14. This Court has jurisdiction over all causes of action asserted herein pursuant to
27 California Constitution, Article VI, Sec. 10, because this case is a cause not given by statute to other
28

1 trial courts.

2 15. This Court has jurisdiction over Defendants because each co-defendant is a
3 corporation authorized to do business in the State of California and registered with the California
4 Secretary of State to do sufficient business with sufficient minimum contacts in California, and/or
5 otherwise intentionally avail itself of the California market through the ownership and management
6 of the *Fish Gaucho* and *Cane Tiki Room* restaurants in Paso Robles, California, to render the exercise
7 of jurisdiction by the California courts consistent with traditional notions of fair play and substantial
8 justice

9 16. Venue as to each Defendant is proper in this judicial district, pursuant to Code of
10 Civil Procedure § 395. Defendant's actionable and unlawful employment practices as to Plaintiff
11 and numerous other employees occurred at the *Fish Gaucho* and *Cane Tiki Room* restaurants in the
12 City of Paso Robles and County of San Luis Obispo, State of California.

13 **CLASS ACTION ALLEGATIONS**

14 17. Plaintiff realleges by reference, as if fully set forth herein, all of the above Paragraphs.

15 18. Plaintiff brings this suit as a class action pursuant to California Code of Civil
16 Procedure § 382 on behalf of himself and all individuals who are or previously were employed by
17 Defendants in the State of California and who have been classified by Defendants as non-exempt,
18 hourly employees. The class period applicable to the Class is defined as the period beginning four
19 years prior to the filing of this Complaint and ending on the date as determined by the Court. As a
20 matter of company policy and practice, Defendants have failed to provide state-mandated meal
21 periods and rest periods to such employees and have otherwise failed to comply with all labor laws
22 and regulations with respect to such employees.

23 19. The putative class and subclass Plaintiff will seek to certify is currently composed of
24 and defined as follows:

- 25 **a. All current and former California-based, hourly, non-exempt**
26 **employees who were employed by Defendants between July 30, 2020**
27 **and the present (hereinafter, the "CLASS").**

b. All former California-based, hourly, non-exempt employees of Defendants who separated their employment with Defendants between July 24, 2021 and the present (hereinafter, the “FORMER EMPLOYEE SUBCLASS”).

20. Numerosity: The potential number of members of the CLASS and FORMER EMPLOYEE SUBCLASS as defined is so numerous that joinder of all members would be unfeasible and impractical. The disposition of their claims through this class action will benefit both the parties and this Court. The quantity of members of the CLASSES and SUBCLASS is currently unknown to Plaintiff; however, it is estimated that there are at least 200 members in the CLASS, and at least 100 members in the FORMER EMPLOYEE SUBCLASS. The quantity and identity of such membership is readily ascertainable via inspection of Defendants’ employment records, which Defendants are required to maintain under California law.

21. Typicality: The claims of Plaintiff are typical of the claims of all members of the CLASS mentioned herein because all members of the CLASS and SUBCLASS sustained injuries and damages arising out of Defendants’ common course of conduct in violation of California wage and hour law, and the injuries and damages of all members of the CLASS and SUBCLASS were caused by Defendants’ wrongful conduct in violation of California statutory and regulatory law, as alleged herein.

22. Adequacy: Plaintiff is an adequate representative of the CLASS and SUBCLASS and will fairly protect the interests of the members of the CLASS and SUBCLASS, and has no interests antagonistic to the members of the CLASS and SUBCLASS, and will vigorously pursue this suit via attorneys who are competent, skilled and experienced in litigating matters of this type.

23. Superiority. The nature of this action and the nature of the laws available to Plaintiff make the use of the class action format a particularly effective and appropriate procedure to afford relief to Plaintiff for the wrongs alleged herein:

This case involves corporate Defendants and a large number of individual class members with common issues of law and fact.

- 1 b. If each individual member of the CLASS was required to file an individual
2 lawsuit, the large corporate Defendants would necessarily gain an
3 unconscionable advantage because Defendants would be able to exploit and
4 overwhelm the limited resources of each member of the CLASS with
5 Defendants' vastly superior financial and legal resources.
- 6 c. Requiring each individual member of the CLASS to pursue an individual
7 remedy would also discourage the assertion of lawful claims by the members
8 of the CLASS who would be disinclined to pursue an action against
9 Defendants because of an appreciable and justifiable fear of retaliation and
10 permanent damage to their lives, careers and well-being;
- 11 d. Proof of a common business practice or factual pattern, of which the members
12 of the CLASS and SUBCLASS experienced, is representative of the CLASS
13 and SUBCLASS herein and will establish the right of each of the members of
14 CLASS and SUBCLASS to recover on the causes of action alleged herein;
15 and
- 16 e. The prosecution of separate actions by the individual members of the
17 CLASS, even if possible, would create a substantial risk of inconsistent and
18 varying verdicts or adjudications with respect to the individual members of
19 the CLASS against Defendants, which would establish potentially
20 incompatible standards of conduct for Defendants and/or legal
21 determinations with respect to individual members of the CLASS.

22 Existence and Predominance of Common Questions of Fact and Law:

23 24. There are common questions of fact and law as to the members of the CLASS, which
24 predominate over questions affecting only individual members of the CLASS including, without
25 limitation:

- 26 a. Whether the members of the CLASS were provided with uninterrupted 30-minute
27 meal periods within the first five hours of daily work periods lasting longer than
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1 five hours;

2 b. Whether the members of the CLASS were provided with a second uninterrupted 30-
3 minute meal period within the first ten hours of daily work periods lasting longer
4 than ten hours;

5 c. Whether Defendant has failed to keep accurate time records showing when
6 members of the CLASS begin and end each meal periods;

7 d. Whether the members of the CLASS were provided with 10-minute rest periods
8 during every four hour period, or major fraction thereof;

9 e. Whether Defendant has provided wage compensation to the members of the CLASS
10 for work shifts in which meal periods and/or rest periods were not provided;

11 f. Whether Defendant required members of the CLASS to work through their meal
12 periods and rest periods;

13 g. Whether Defendant paid all wages due and owing to members of the FORMER
14 EMPLOYEE SUBCLASS at the time of separation of employment, in accordance
15 with Labor Code §§ 201-203;

16 h. Whether Defendants' conduct constituted unfair or unlawful business practices
17 within the meaning of Business & Professions Code § 17200 *et seq.*;

18 i. Whether the members of the CLASS are entitled to compensatory damages, and if
19 so, the means of measuring such damages;

20 j. Whether the members of the CLASS are entitled to injunctive relief;

21 k. Whether the members of the CLASS are entitled to restitution;

22 l. Whether the members of the CLASS are entitled to disgorgement of profits;

23 m. Whether the members of the FORMER EMPLOYEE SUBCLASS are entitled to
24 “waiting time penalties;”

25 n. Whether Defendant is liable for pre-judgment interest; and

26 o. Whether Defendant is liable for attorneys’ fees and costs.

FIRST CAUSE OF ACTION

(Failure to Provide 30-Minute Employee Meal Period)
(On Behalf of Plaintiff and the CLASS)

25. Plaintiff realleges by reference, as if fully set forth herein, all of the above Paragraphs.

26. Plaintiff alleges, on the basis of information and belief, that within each of the four years prior to the commencement of this action, Defendants have promulgated and enforced policies under which members of the CLASS including Plaintiff, regularly worked more than five hours in a daily work period lasting longer than five hours without being provided with an uninterrupted, thirty-minute meal period during which members of the CLASS, including Plaintiff, were relieved of all of their respective work duties, or under which members of the CLASS, including Plaintiff, were not provided with a thirty-minute meal period during the first five hours of their work shifts. Defendants have also promulgated and enforced policies under which members of the CLASS including Plaintiff, regularly worked more than ten hours in a daily work period lasting longer than ten hours without being provided with a second uninterrupted, thirty-minute meal period during which members of the CLASS including Plaintiff, were relieved of all of their respective work duties, or under which members of the CLASS, including Plaintiff, were not provided with a second thirty-minute meal period during the first ten hours of their work shifts. Defendants have also otherwise failed to provide CLASS members with state-mandated meal periods, including requiring CLASS members to take unlawful "on duty" meal periods.

27. All members of the CLASS, including Plaintiff, are entitled to additional wages pursuant to California Labor Code Section 226.7 for each daily work period lasting more than five hours during which members of the CLASS, including Plaintiff, were not provided with an uninterrupted, thirty minute meal period, or during which members of the CLASS were not provided with an uninterrupted thirty-minute meal period during the first five hours of their work shifts. Members of the CLASS, including Plaintiff, are also entitled to additional wages pursuant to California Labor Code Section 226.7 for each daily work period lasting more than ten hours during which members of the CLASS, including Plaintiff, were not provided with a second uninterrupted, thirty minute meal period, or during which members of the CLASS were not provided with a second

1 uninterrupted thirty-minute meal period during the first ten hours of their work shifts.

2 28. As a result of Defendants' conduct as alleged herein, members of the CLASS,
3 including Plaintiff, have suffered harm and monetary damages, in an amount to be ascertained at
4 trial.

5 **SECOND CAUSE OF ACTION**

6 (Failure to Authorize and Permit 10-Minute Employee Rest Periods)
7 (On Behalf of Plaintiff and the CLASS)

8 29. Plaintiffs realleges by reference, as if fully set forth herein, all of the above
9 Paragraphs.

10 30. Plaintiff alleges, on the basis of information and belief, that during all relevant times,
11 Defendants have promulgated and enforced policies under which members of the CLASS, including
12 Plaintiff, have regularly worked more than four hours per day without being authorized and permitted
13 to take one or more paid rest periods of at least ten minutes for each four hours of work time, or
14 major fraction thereof, during which the members of the CLASS, including Plaintiff, were relieved
15 of all of their respective work duties.

16 31. Defendants have adopted and maintained uniform corporate rest period policies and
17 procedures that violate California law, including the applicable Industrial Welfare Commission
18 Wage Order. Defendants have failed to authorize and permit members of the CLASS, including
19 Plaintiff, to take ten-minute rest periods every four hours or major fraction thereof. Defendants have
20 failed to authorize and permit Plaintiff and the other members of the CLASS to take 10 minutes' rest
21 during shifts lasting more than three and one-half hours to six hours in length, 20 minutes' rest during
22 shifts lasting more than six hours up to 10 hours in length, and 30 minutes' rest during shifts lasting
23 more than 10 hours up to 14 hours in length.

24 32. Plaintiff alleges, on the basis of information and belief, that members of the CLASS,
25 including Plaintiff, have suffered harm and monetary damages, in an amount to be ascertained at
26 trial. Plaintiff and the other members of the CLASS are entitled to additional wages pursuant to
27 California Labor Code Section 226.7 for each four hour work period, or major fraction thereof,
28 during which members of the CLASS were not permitted and authorized to take one or more ten

1 minute rest periods.

2 **THIRD CAUSE OF ACTION**

3 (Failure to Provide Accurate Itemized Wage Statements in Violation of
4 Labor Code §§ 226 and 226.3; Cal. Code Regs., Title 8 § 11040 section 7)

5 (On Behalf of Plaintiff and the CLASS)

6 33. Plaintiff realleges by reference, as if fully set forth herein, all of the above Paragraphs.

7 34. Labor Code Section 226 requires an employer to keep accurate, itemized pay
8 statements. Under California law, gross wages earned, the precise, actual number of hours and
9 minutes worked by a non-exempt employee, all deductions, net wages earned, inclusive dates of the
10 pay period, the name of the employee, the name and address of the legal entity that is the employer,
11 and all applicable hourly rates in effect during the pay period must be accurately itemized on each
12 pay statement.

13 35. During the applicable statutory period, Defendants routinely failed to provide the
14 members of the CLASS, including Plaintiff, at the time of each payment of wages, an accurate
15 itemized statement in writing showing the requirements of Labor Code § 226 and section 7 of Title
16 8 CCR § 11040. Defendants' failure to provide accurate itemized wage statements to the members
17 of the CLASS, including Plaintiff, has been the intentional result of Defendants' refusal to institute
18 a policy and/or practice that provided Plaintiffs and members of the CLASS with state-mandated
19 meal and rest periods. Defendants' failure to provide accurate itemized wage statements to members
20 of the CLASS, including Plaintiff, has repeatedly been brought to the attention of Defendants, has
21 been ignored by Defendants, has been knowing and intentional, and was in clear violation of Labor
22 Code § 226(a).

23 36. The members of the CLASS, including Plaintiff, have suffered injuries as a result of
24 the knowing and intentional failure of Defendants to comply with Labor Code § 226(a) and Title 8
25 CCR § 11040(7), in that Defendants' failure to provide Plaintiff and CLASS Members with accurate
26 itemized wage statements made it impossible for Plaintiff and the members of the CLASS to be
27 aware that they were not being paid all wages earned.

28 37. Plaintiff is informed and believes, and thereon alleges, that Defendants' knowing and
intentional failure to furnish the members of the CLASS with accurate itemized wage statements, as

1 alleged above, violated Labor Code § 226(a), as well as Title 8 CCR § 11040(7). Labor Code §
2 226(e) entitles Plaintiff and the members of the CLASS to recover the greater of their actual damages
3 caused by Defendants' violations, or \$50 per employee for the initial pay period in which the
4 violation occurred, and \$100 per employee for each violation in subsequent pay periods, not
5 exceeding an aggregate penalty of \$4,000 per employee.

6 **FOURTH CAUSE OF ACTION**

7 (Failure to Pay Compensation When Due at Time of Separation of Employment
8 in Violation of Labor Code §§ 201-203)

9 (On Behalf of Plaintiff and the FORMER EMPLOYEE SUBCLASS)

10 38. Plaintiff realleges by reference, as if fully set forth herein, all of the above Paragraphs.

11 39. California Labor Code Section 201 requires an employer who discharges an employee
12 to pay compensation due and owing said employee immediately upon discharge. California Labor
13 Code Section 202 requires an employer to promptly pay compensation due and owing an employee
14 within 72 hours of that employee's separation of employment by resignation. California Labor Code
15 Section 203 provides that if an employer willfully fails to pay compensation promptly upon discharge
16 or resignation as required pursuant to California Labor Code Sections 201 and 202, said employer is
17 liable to said employee for waiting time penalties.

18 40. Plaintiff alleges, on the basis of information and belief, that Defendants have willfully
19 failed and have refused to pay all compensation and wages due and owing, including premium
20 payments for failure to provide meal periods and failure to authorize and permit rest periods, to
21 members of the FORMER EMPLOYEE SUBCLASS, including Plaintiff, upon their separation of
22 employment.

23 41. Defendants' failure to timely pay compensation and wages to members of the
24 FORMER EMPLOYEE SUBCLASS at the time of their separation of employment has been willful.
25 As a result, Defendant is liable to members of the FORMER EMPLOYEE SUBCLASS for "waiting
26 time penalties" under California Labor Code Section 203, in an amount to be ascertained at trial.
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FIFTH CAUSE OF ACTION

(Unlawful and Unfair Business Practices: Business & Professions Code §§ 17200 *et seq.*)

(On behalf of Plaintiff and the CLASS)

42. Plaintiff realleges by reference, as if fully set forth herein, all of the above Paragraphs.

43. Within each of the four years prior to the commencement of this action, Plaintiff is informed and believe, and thereon allege, that Defendants and their agents have unlawfully failed to provide meal periods, or compensation in lieu thereof, to members of the CLASS, including Plaintiff, in violation of Labor Code §§ 226.7 and 512; and unlawfully failed to authorize and permit rest periods, or compensation in lieu thereof, to the members of the CLASS, including Plaintiff, in violation of Labor Code § 226.7.

44. By committing the alleged acts and/or omissions as described in this Complaint, Defendants have engaged, and continue to engage, in unlawful and/or unfair business practices within the meaning of California Business & Professions Code § 17200 *et seq.*

45. Plaintiff alleges, on the basis of information and belief, that by and through Defendants' alleged acts and/or omissions as described in this Complaint, Defendants have obtained valuable property, money, and services from Plaintiff and members of the CLASS and have deprived Plaintiffs and members of the CLASS of valuable rights and benefits guaranteed by law and contract, all to Plaintiffs' and CLASS members' detriment and to the benefit of Defendants.

46. A request for injunctive relief, restitution and for the disgorgement of unlawfully earned profits is specifically authorized by California Business & Professions Code § 17200 *et seq.* Thus, on behalf of Plaintiff and members of the CLASS, and on behalf of the general public, Plaintiff seeks injunctive relief, restitution, and the disgorgement of all unlawfully earned profits obtained by Defendants as a result of Defendants' unlawful and unfair acts and/or omissions, as alleged in this Complaint.

47. Plaintiff is informed and believes, and thereon alleges, that unless enjoined and restrained, and ordered to pay restitution and disgorge profits derived from these unlawful and unfair employment practices, Defendants will continue to engage in the unlawful and unfair acts and/or omissions described in this Complaint.

SIXTH CAUSE OF ACTION

(Labor Code Private Attorneys General Act of 2004: Labor Code § 2698 *et seq.*)

(On Behalf of Plaintiff, All Aggrieved Employees and the State of California)

48. Plaintiff is informed and believes, and thereon alleges, that at all relevant times, Defendants have violated, and continue to violate, several provisions of the California Labor Code, including but not limited to:

- i. Section 98.6 (Retaliation Re Exercising Rights Under the Labor Code);
- ii. Sections 201-203 (Failure to Pay All Wages Owed at Time of Separation of Employment);
- iii. Section 226 (Failure to Provide Accurate Itemized Wage Statements);
- iv. Section 226.7 (Failure to Pay Premium for Late, Missed and/or Short Meal and Rest Periods);
- v. Section 512 (Failure to Provide Timely, Uninterrupted, 30-Minute Meal Periods);
- vi. Section 1102.5 (Retaliation Re Violation of State Statute); and
- vii. Section 1174 (Failure to Maintain Accurate Time Records)

49. Pursuant to Labor Code § 2699, Plaintiff brings this cause of action on behalf of himself and all other current or former employees of Defendants against whom one or more of the alleged violations was committed and/or is being committed (“aggrieved employees,” as defined by Section 2699(c)).

50. Pursuant to Labor Code Section 2699, Plaintiff seeks to recover from Defendants civil penalties for *each* Labor Code violation. The civil penalties are to be calculated at the rate at which the civil penalty is to be assessed and collected by the Labor and Workforce Development Agency or any of its departments, divisions, commissions, boards, agencies, or employees.

51. Pursuant to Labor Code Section 2699, for all provisions of the California Labor Code that do not specifically provide for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency or any of its departments, divisions, commissions, boards, agencies, or employees, Plaintiff seeks to recover from Defendants civil penalties for *each* Labor Code violation at the following rate: one hundred dollar (\$100) for each aggrieved employee per pay

1 period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay
2 period for each subsequent violation.

3 52. Pursuant to Labor Code Section 2699, Plaintiff seeks an award of reasonable
4 attorney's fees and costs for bringing this cause of action on behalf of himself, the State of California
5 and Defendants' other current and former aggrieved employees against whom one or more of the
6 alleged violations was committed.

7 53. In compliance with Labor Code Section 2699.3, on July 30, 2024, Plaintiff provided
8 Defendants and the California Labor & Workforce Development Agency ("LWDA") with written
9 notice, via online filing and via certified mail, of the specific provisions of the Labor Code alleged
10 to have been violated by Defendants, and the facts and theories to support the allegations. The
11 LWDA assigned this matter Case No. LWDA-CM-1042645-24.

12 54. More than 65 days have elapsed since Plaintiff notified the LWDA of the specific
13 provisions of the Labor Code alleged to have been violated by Defendants. To date, the LWDA has
14 not notified Plaintiff nor Defendants that it intends to investigate the alleged violations contained in
15 Plaintiff's July 30, 2024 notice.

16 55. Pursuant to California Labor Code § 2699.3, Plaintiffs may commence a civil action
17 against Defendants for civil penalties on behalf of himself, the State of California and Defendants'
18 other current and former aggrieved employees.

19 56. Plaintiff may maintain this cause of action against Defendants for civil penalties
20 under Labor Code Section 2698 *et seq.* regardless of whether Plaintiffs' allegations contained herein
21 are certified for class treatment.

22 57. Plaintiff has not alleged any violation of Division 5 (commencing with Section 6300)
23 of the Labor Code.

24 58. In compliance with Labor Code Section 2699.3, Plaintiff's July 30, 2024 notice also
25 provided Defendants and the LWDA, with written notice, via online filing and via certified mail, of
26 the specific provisions of the Labor Code—not specified in Labor Code Section 2699.5—alleged to
27 have been violated by Defendants, including Labor Code Sections 226.3 and 558, as well as the facts
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1 and theories to support the allegations.

2 59. To date, Defendants have not cured any of the alleged violations, and Defendants
3 have not abated any of the violations alleged by Plaintiff in his July 30, 2024 notice. At all relevant
4 times, Defendants have not been in compliance with the underlying statutes as specified in Plaintiff's
5 July 30, 2024 notice. At all relevant times, no aggrieved employee has been made whole for the
6 Labor Code violations described in Plaintiff's July 30, 2024 notice.

7 60. To date, Defendants have not given written notice to Plaintiff nor the LWDA that any
8 Labor Code violation alleged by Plaintiff in his July 30, 2024 notice has been cured.

9 61. Pursuant to California Labor Code § 2699.3(c)(2)(A), Plaintiff may commence a civil
10 action against Defendant for civil penalties on behalf of themselves, the State of California and
11 Defendant's other current and former aggrieved employees with respect to the specific provisions of
12 the Labor Code—not specified in Labor Code Section 2699.5—alleged to have been violated by
13 Defendant, including Labor Code Sections 226.3 and 558.

14 **PRAYER FOR RELIEF**

15 WHEREFORE, Plaintiff, on his own behalf, and on behalf of all others similarly situated,
16 prays for judgment as follows:

17 1. That the Court issue an Order certifying the CLASS, appointing the named Plaintiff
18 as representative of all others similarly situated and appointing the law firms representing the named
19 Plaintiff, Blanchard, Krasner & French and the Law Office of David A. Huch, as counsel for
20 members of the CLASS;

21 2. For an Order requiring Defendants to identify each of the members of the CLASS,
22 and SUBCLASS by name, last known home address and last known home telephone number;

23 3. For compensatory damages in the form of additional wages equal to one hour's
24 regular pay for each member of the CLASS for each daily work period in which such CLASS
25 member worked more than five hours without being provided with an uninterrupted, thirty-minute
26 meal period, or in which members of the CLASS were not provided with an uninterrupted thirty-
27 minute meal period during the first five hours of their work shifts;

1 5. For compensatory damages in the form of additional wages equal to one hour's
2 regular pay for each member of the CLASS for each daily work period in which such CLASS
3 member worked more than ten hours without being provided with a second uninterrupted, thirty-
4 minute meal period, or in which members of the CLASS were not provided with a second
5 uninterrupted thirty-minute meal period during the first ten hours of their work shifts;

6 6. For compensatory damages in the form of additional wages equal to one hour's
7 regular pay for each member of the CLASS for each four hour work period, or major fraction thereof,
8 in which such CLASS member worked without being authorize and permitted to take a paid rest
9 period;

10 7. For statutory penalties pursuant to Labor Code Section 203 for each member of the
11 FORMER EMPLOYEE CLASS;

12 8. For an Order compelling Defendants to restore unpaid wages, expenditures, losses,
13 income and other related benefits (in the form of restitution) to each of the members of the CLASS
14 who have suffered as a result of Defendants' unlawful and unfair employment practices alleged
15 herein;

16 9. For an order compelling Defendants to disgorge and pay over to each of the members
17 of the CLASS all profits and savings resulting from Defendants' unlawful and unfair employment
18 practices alleged herein;

19 10. For issuance of a permanent injunction enjoining Defendants from continuing to
20 engage in the unlawful and unfair employment practices alleged herein;

21 11. For civil penalties pursuant to the Labor Code Private Attorneys General Act of 2004
22 (Cal. Labor Code § 2698 et seq.);

23 12. For interest at the legal rate pursuant to Civil Code Section 3289 and Labor Code
24 Section 204.6;

25 13. For attorneys' fees and costs pursuant to Labor Code Sections 218.5, 248.5, 2699 and
26 Code of Civil Procedure Section 1021.5 and as otherwise permitted by statute; and

1 14. For such other and further relief as the court deems just and proper.
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3 DATED: April 16, 2025

BLANCHARD, KRASNER & FRENCH

4 *David Hawkes*

5 _____
DAVID C. HAWKES

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