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August 12, 2024

VIA ONLINE SUBMISSION

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

Subject: *Aaron Kameyer v. Kumar Management Corp II, Inc., et al.*

Dear PAGA Administrator:

This office represents Aaron Kameyer in connection with his claims under the California Labor Code. Mr. Kameyer was an employee of KUMAR MANAGEMENT CORP. II, INC.; KUMAR MAGAMENT, CORPORATION; KUMAR MANAGEMENT, CORPORATION CANTINA; and/or KUMAR MANAGEMENT, CORPORATION EXPRESS. For the purpose of this letter, Mr. Kameyer collectively refers to these entities as “KUMAR.”

The employers may be contacted directly at the addresses below:

KUMAR MANAGEMENT CORP, II, INC.
1118 CHESS DRIVE
FOSTER CITY, CA 94404

KUMAR MANAGEMENT, CORPORATION
1118 CHESS DRIVE
FOSTER CITY, CA 94404

KUMAR MANAGEMENT, CORPORATION
CANTINA
1118 CHESS DRIVE
FOSTER CITY, CA 94404

KUMAR MANAGEMENT, CORPORATION
EXPRESS
1118 CHESS DRIVE
FOSTER CITY, CA 94404

Mr. Kameyer 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. Kameyer seeks relief on behalf of himself, the State of California, and other persons who are or were employed by KUMAR as a non-exempt, hourly paid employee in California and who received at least one wage statement (“aggrieved employees”). This letter is sent in compliance with the notice and reporting requirements of California Labor Code section 2699.3.

KUMAR employed Mr. Kameyer as an hourly paid, non-exempt Team Member: Champion, Cook, and Shift Leader from approximately April 2023 to May 2024. Mr. Kameyer worked for KUMAR at its Taco Bell restaurant location in Woodland, California. During his employment, Mr. Kameyer

typically worked eight (8) or more hours per day and five (5) days per week. At the time his employment ended, Mr. Kameyer was compensated approximately \$20.00 per hour. His primary job duties included, without limitation, taking customer orders, preparing and serving food, maintaining cleanliness of the restaurant, stocking and managing inventory, balancing the cash registers, and addressing customer complaints.

KUMAR has committed each of the following Labor Code violations against Mr. Kameyer, the facts and theories of which follow, making him an “aggrieved employee” pursuant to California Labor Code section 2699(c)(1):¹

KUMAR’s Company-Wide and Uniform Payroll and HR Practices

KUMAR MANAGEMENT CORP. II, INC. and KUMAR MANAGEMENT, CORPORATION EXPRESS are Texas corporations; and KUMAR MAGAMENT, CORPORATION and KUMAR MANAGEMENT, CORPORATION CANTINA are California corporations. Together, they operate a chain of Taco Bell restaurants with at least 50 locations in California. Upon information and belief, KUMAR maintains a single, centralized Human Resources (HR) department at its corporate headquarters in Foster City, California, for all non-exempt, hourly paid employees working for KUMAR in California, including Mr. Kameyer and other aggrieved employees. At all relevant times, KUMAR issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Mr. Kameyer and other aggrieved employees, regardless of their location or position.

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

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

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

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

for employment paid to, or on behalf of, the employee, including nondiscretionary bonuses and incentive pay.

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

First, during the relevant time period, KUMAR had, and continues to have, a company-wide policy and/or practice of discouraging and impeding Mr. Kameyer 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. As stated in KUMAR's "Overtime" policy, "[t]o work overtime, you must obtain permission from your supervisor. If you work overtime without permission, you may be disciplined up to and possibly including termination." This policy of limiting overtime, coupled with KUMAR's use of labor budgets (*see infra*), led Mr. Kameyer and other aggrieved employees to work off-the-clock before and after their scheduled shift times.

Indeed, KUMAR implemented a timekeeping system that prevented employees from clocking in more than two (2) minutes before their scheduled shift start-time so that they were prohibited from recording all the time worked prior to the start of their scheduled shifts. Consequently, on information and belief, Mr. Kameyer and other aggrieved employees performed work prior to the start of their shift, but were unable to record this time. For example, when Mr. Kameyer arrived early for his shifts, KUMAR's management would sometimes require him to start working immediately, attending to customers, which could take up to 10 minutes, before he was able to clock in for the start of his shift, because the restaurant was busy. As another example, approximately once per week, for at least 30 minutes, KUMAR's managers required Mr. Kameyer to run errands, such as picking up supplies for the restaurant, prior to clocking in for the start of his shift.

Moreover, KUMAR's company-wide policy of limiting overtime also forced Mr. Kameyer and other aggrieved employees to work after clocking out at the end of their scheduled shifts. For example, when working a closing shift, Mr. Kameyer was required to perform closing duties after clocking out at his scheduled shift end time, including shutting all doors, turning off the lights, and setting the restaurant's alarm, which could take about 10 minutes. Additionally, KUMAR had, and continues to have, a company-wide policy and/or practice of requiring Mr. Kameyer and other aggrieved employees to complete mandatory training modules, but did not permit them to complete them during their shifts. For example, Mr. Kameyer was required to complete training modules while he was at home, which consisted of watching videos on KUMAR's company policies, which took a few hours total to complete. However, KUMAR did not pay Mr. Kameyer for the time spent completing the mandatory training modules and Mr. Kameyer received no compensation for this time.

Second, in conjunction with KUMAR's overtime policies, KUMAR also had a company-wide security policy and/or practice for closing shifts requiring employees to leave the restaurant premises together in a group. After clocking out at the end of their shifts, Mr. Kameyer and other aggrieved employees were required to wait for all other employees to complete their own duties before they were released by a managerial employee and could leave KUMAR's premises together. For example, when working as a Food Champion and scheduled for closing shifts, Mr. Kameyer would complete his own closing tasks, clock out, and then have to wait until his supervisor and/or other coworkers had completed their own respective closing duties, before being released. As a result, Mr.

Kameyer and other aggrieved employees were subject to KUMAR's control after they had clocked out for their shifts, but were not compensated for this time. As a result, when Mr. Kameyer was required to remain at work later than his usual shift end-time, he was not paid for all of his hours actually worked because KUMAR's managers did not accurately record all hours worked.

Third, as stated, KUMAR had, and continues to have, a company-wide policy of strictly staffing its restaurant locations based on the labor hours allocated by each location's labor or payroll budget set by the corporate office. On information and belief, KUMAR's uniform use of labor budgeting and understaffing resulted in a failure to provide Mr. Kameyer and other aggrieved employees with adequate meal period coverage, because there were too few employees on duty to handle the workload and attend to customers, which included meeting a 2-minute time target/goal for drive-thru orders while simultaneously preparing walk-in customers' orders. Because KUMAR did not employ or staff a sufficient number of employees to meet customer demand, there was no one available to relieve employees needing meal period coverage, and Mr. Kameyer and other aggrieved employees were not always afforded uninterrupted 30-minute meal periods during shifts when they were entitled to receive a meal period. Moreover, KUMAR has a practice of failing to schedule meal periods, which further caused Mr. Kameyer and other aggrieved employees to not be relieved of their duties for compliant meal periods. For example, Mr. Kameyer worked through his meal periods approximately twice per week due to lack of coverage and to keep up with the demands of work. As a further example, approximately two (2) times per week, KUMAR's management interrupted Mr. Kameyer's meal periods and required him to cut his meal period short and return to work to attend to customers, for the same reasons mentioned above.

Fourth, in conjunction with understaffing its restaurants, KUMAR had a requirement that a managerial employee be present on the floor at all times and prohibited managers, which included Shift Leaders, from leaving the premises unless another manager was also on duty, resulting in a lack of meal period coverage for managerial employees. At the same time, the labor budgets KUMAR implemented did not always allow for more than one manager to be on the schedule at all times. As a result, Mr. Kameyer and other aggrieved employees were sometimes the only managers on duty, and were expected to supervise the restaurant and respond to customer complaints at all times. Because managerial employees were effectively prohibited from leaving KUMAR's premises for unpaid meal periods without coverage, and because there were too few employees and other managers on duty to handle the workload and attend to customers, Mr. Kameyer and other aggrieved employees were denied uninterrupted 30-minute meal periods, and were required to work through and/or to return early from meal periods. For example, Mr. Kameyer was required to remain on premises for his meal periods when he was the only managerial employee on the schedule. Because Mr. Kameyer and other aggrieved employees were restricted from leaving the premises during meal periods, Mr. Kameyer and other aggrieved employees were denied the ability to use meal periods freely for their own purposes, such as running personal errands. Thus, KUMAR effectively maintained control over Mr. Kameyer and other aggrieved employees during unpaid meal periods.

Fifth, on information and belief, because KUMAR frowned upon employees accruing meal period penalties, KUMAR's management adjusted their time records to reflect compliant meal periods, regardless of whether they had received a compliant meal period or not. Additionally, KUMAR's timekeeping system prevented Mr. Kameyer and other aggrieved employees from recording all hours worked when their meal periods were shortened or interrupted, because the system locked out Mr. Kameyer and other aggrieved employees once they clocked out for a meal period, and would not permit them to clock back in from a meal period until 30 minutes had elapsed. Thus, KUMAR did

not record all hours worked during meal periods, and Mr. Kameyer and other aggrieved employees performed work during meal periods for which they were not paid.

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

KUMAR's failure to pay Mr. Kameyer 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. Kameyer and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f), and (k).

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)(K) (defining "Hours Worked").

First, as set forth above, as a result of KUMAR's policy of limiting the amount of overtime employees could accrue, pursuant to their labor budget practices, KUMAR required Mr. Kameyer and other aggrieved employees to perform work off-the-clock. As stated, due to KUMAR's implementation of a timekeeping system that prevented employees from clocking in more than two (2) minutes until their scheduled shift start-time, Mr. Kameyer and other aggrieved employees were prevented from recording all time worked prior to the start of their scheduled shifts, and thus were not paid for this time. Further, as stated, KUMAR required Mr. Kameyer and other aggrieved employees to perform work off-the-clock before and after their scheduled shift start and end times, attending to customers, picking up supplies for the restaurant, performing closing duties, completing mandatory training modules, and waiting to leave the premises in a group. As a result, KUMAR failed to track this time that Mr. Kameyer and other aggrieved employees spent working off-the-clock, and thus, Mr. Kameyer and other aggrieved employees received no compensation for this time.

Second, as set forth above, due to KUMAR's company-wide policies and/or practices of utilizing labor budgets, understaffing its locations, assigning heavy workloads, failing to schedule meal periods, and requiring managerial employees to stay on the restaurant premises during meal periods, Mr. Kameyer and other aggrieved employees were impeded from taking all uninterrupted meal periods to which they were entitled and were required to work off-the-clock. Further, to limit the meal penalties that KUMAR would otherwise owe, KUMAR adjusted employee time records to reflect compliant meal periods, but required them to continue working, time for which they were not

paid. Also, as set forth above, KUMAR's timekeeping system locked out Mr. Kameyer and other aggrieved employees for 30 minutes when they clocked out for a meal period and would not permit them to clock back in from a meal period until 30 minutes had elapsed. Thus, KUMAR systematically failed to pay Mr. Kameyer and other aggrieved employees for actual hours worked during unpaid meal periods because these hours were not always correctly recorded.

Accordingly, KUMAR regularly failed to pay at least minimum wages to Mr. Kameyer 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. Kameyer and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, pursuant to Labor Code sections 1197.1 and/or 2699(a), (f), and (k).

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

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

First, during the relevant time period, as stated above, KUMAR had, and continues to have, company-wide policies and/or practices of labor budgeting and/or limited payroll allocation, resultant understaffing, assigning heavy workloads, including pressuring employees to meet a 2-minute time target/goal for drive-thru orders while simultaneously preparing walk-in orders, and failing to schedule meal periods, which has resulted in a lack of meal period coverage and prevented Mr. Kameyer and other aggrieved employees from taking all timely, uninterrupted meal periods to which they were entitled. In conjunction with understaffing its restaurants, as stated above, KUMAR had a requirement that a managerial employee, including Shift Leaders, be present on the restaurant floor at all times, but KUMAR's labor budgets did not always allow for more than one manager to be on the schedule at all times. As a result, Mr. Kameyer was sometimes the only managerial employee on duty, and was required to remain on premises for meal periods when he was the only managerial employee on the schedule. Because Mr. Kameyer was restricted from leaving the premises during meal periods, he was denied the ability to use meal periods freely for his own purposes, such as running personal errands.

As a result, Mr. Kameyer 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, as stated, Mr. Kameyer missed his meal periods approximately

twice per week. As also stated, approximately two (2) times per week, KUMAR's management interrupted Mr. Kameyer's meal periods and required Mr. Kameyer to cut his meal periods short and return to work to attend to customers. Additionally, Mr. Kameyer was frequently required to take his meal periods late after having worked in excess of five (5) hours into his shift in order to meet customer demand. Thus, KUMAR failed to provide Mr. Kameyer and other aggrieved employees with compliant, 30-minute meal periods.

Second, as set forth above, on information and belief, because KUMAR frowned upon employees accruing meal period penalties, KUMAR's management adjusted employee time records, regardless of whether they had received a compliant meal period or not, in order to strictly limit meal penalties that would need to be paid by KUMAR. Also, as stated, KUMAR's company-wide timekeeping system prevented Mr. Kameyer and other aggrieved employees from recording all hours worked when their meal periods were shortened or interrupted, because the system locked out Mr. Kameyer and 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. Kameyer was unable to record when his meal periods were interrupted or shortened by KUMAR's management asking him to return to work. Mr. Kameyer and other aggrieved employees did not sign valid meal period waivers on days that they were entitled to meal periods and were not relieved of all duties.

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

Moreover, KUMAR engaged in a company-wide practice and/or policy of not paying all meal period premiums owed when compliant meal periods are not provided. Because of this practice and/or policy, Mr. Kameyer and other aggrieved employees have not received premium pay for all missed, late, and interrupted meal periods.

Accordingly, KUMAR failed to provide all meal periods in violation of California Labor Code sections 226.7, 512(a), 516, and 1198. Mr. Kameyer and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f), and (k).

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, KUMAR regularly failed to authorize and permit Mr. Kameyer 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, KUMAR’s company-wide practices of labor budgeting and/or limited payroll allocation, understaffing, and assigning heavy workloads resulted in a lack of rest period coverage and prevented Mr. Kameyer and other aggrieved employees from being relieved of all duty in order to take compliant rest periods. KUMAR also failed to schedule rest periods, which, coupled with KUMAR’s failure to provide adequate rest period coverage, further led to Mr. Kameyer and other aggrieved employees not being authorized and permitted to take rest periods.

Moreover, in conjunction with understaffing its restaurants, KUMAR had a requirement that a managerial employee, including Shift Leaders, be present on the restaurant floor at all times, but KUMAR’s labor budgets did not always allow for more than one manager to be on the schedule at all times. As a result, Mr. Kameyer was sometimes the only managerial employee on duty, and was required to remain on premises for rest periods when he was the only managerial employee on the schedule. Because Mr. Kameyer was restricted from leaving the premises during rest periods, he was denied the ability to use rest periods freely for his own purposes, such as running personal errands.

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

As a result of KUMAR’s practices and policies, Mr. Kameyer and other aggrieved employees worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without receiving all uninterrupted 10-minute rest periods to which they were entitled. For example, throughout his employment, Mr. Kameyer had to regularly forgo at least one of his rest periods each day because the restaurant was busy and did not have adequate coverage. When Mr. Kameyer was able to take his rest periods, they were sometimes interrupted by supervisors asking him to return to work to attend to customers.

KUMAR has also engaged in a company-wide practice and/or policy of not paying all rest period premiums owed when compliant rest periods are not authorized and permitted. Because of this practice and/or policy, Mr. Kameyer and other aggrieved employees have not received premium pay for all missed rest periods.

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

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. KUMAR has not provided Mr. Kameyer 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, KUMAR has knowingly and intentionally provided Mr. Kameyer and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. For example, KUMAR issued uniform wage statements to Mr. Kameyer and other aggrieved employees that fail to correctly list: gross wages earned; total hours worked; net wages earned; and all applicable hourly rates in effect during the pay period, including rates of pay for overtime wages, and the corresponding number of hours worked at each hourly rate. Specifically, KUMAR violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

Because KUMAR did not record the time Mr. Kameyer and other aggrieved employees spent working off-the-clock and deducted time from their records for meal periods that were interrupted and/or missed (and therefore time for which they should have been paid), KUMAR did not list the correct amount of gross wages and net wages earned by Mr. Kameyer and other aggrieved employees in compliance with section 226(a)(1) and section 226(a)(5), respectively. For the same reason, KUMAR failed to accurately list the total number of hours worked by Mr. Kameyer 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).

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

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

1174(d), KUMAR willfully failed to maintain accurate payroll records for Mr. Kameyer 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, KUMAR 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. Kameyer and other aggrieved employees, in violation of section 1198.

Mr. Kameyer and other aggrieved employees are entitled to recover civil penalties, attorneys’ fees, costs, and interest thereon pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f), and (k).

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

Mr. Kameyer 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), and (k).

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.

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

Mr. Kameyer 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), and (k).

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

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

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

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

KUMAR had a company-wide practice of sending Mr. Kameyer and other aggrieved employees home early from their shifts, including before they had worked at least half of their usual or scheduled shift, but would not pay Mr. Kameyer and other aggrieved employees for half of their usual or scheduled shift. For example, when scheduled to work a shift of eight (8) hours, KUMAR's managers sometimes sent Mr. Kameyer home within two (2) hours after the start of his shift because business was slow. Although Mr. Kameyer and other aggrieved employees reported to work based on the schedule that was provided to them, KUMAR would send them home before they worked at least half of their usual or scheduled shifts. When this occurred, KUMAR did not pay Mr. Kameyer and other aggrieved employees for at least half of their scheduled day's work or the minimum reporting time pay.

Accordingly, Mr. Kameyer and other aggrieved employees were not properly compensated with reporting time pay in violation of California Labor Code section 1198 and California Code of Regulations, Title 8, section 11050(5)(A).

Mr. Kameyer 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), and (k).

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." IWC Wage Order No. 5-2001 further provides that: "[w]hen uniforms are required by the employer to be worn by the employee as a condition of employment, such uniforms shall be provided and maintained by the employer."

First, during the relevant time period, KUMAR, on a company-wide basis, required that Mr. Kameyer and other aggrieved employees use their own personal mobile devices, including, but not limited to, cellular phones, and/or mobile data to carry out their job duties but failed to reimburse them for the costs of their work-related mobile device expenses. For example, Mr. Kameyer was required to use his personal cellular phone to respond to calls from KUMAR's managers to discuss work-related matters. Although KUMAR required Mr. Kameyer and other aggrieved employees to utilize their personal mobile devices and/or mobile data to carry out their work-related responsibilities, KUMAR failed to reimburse them for these costs

Second, during the relevant time period, KUMAR, on a company-wide basis, required that Mr. Kameyer and other aggrieved employees use their own personal vehicles to run company errands. For example, at least once per week, Mr. Kameyer was required to use his personal vehicle to drive about 10 minutes roundtrip to a local Home Depot store to pick up supplies for the restaurant, such as lightbulbs, paint, and nails. Although KUMAR required Mr. Kameyer and other aggrieved employees to utilize their personal vehicles to carry out their work-related responsibilities, KUMAR failed to reimburse them for their mileage or travel expenses.

Additionally, during the relevant time period, KUMAR required Mr. Kameyer and other aggrieved employees to report to work with "a clean and neat" appearance, including wearing "clean," "neat," and "wrinkle-free" uniforms bearing the Taco Bell company logo, such as uniform shirts and hats. However, KUMAR did not provide its employees with sufficient uniforms to wear for their shifts throughout the week. For example, KUMAR only provided Mr. Kameyer with two (2) shirts and one (1) hat at the time of hire. Because KUMAR failed to provide Mr. Kameyer and other aggrieved employees with an adequate number of uniform items in relation to their scheduled shifts and for the tasks they were required to perform, Mr. Kameyer and other aggrieved employees had to wash their uniforms more frequently than they otherwise do laundry, and incur expenses in doing so. Further, due to the nature of restaurant work, Mr. Kameyer's uniform shirts would become stained with grease, sweaty, soiled, and/or acquire an unpleasant odor such that he was required to wash his uniforms items more frequently, thus incurring additional laundry expenses for the upkeep of his uniform. Thus, KUMAR failed to maintain uniforms it required Mr. Kameyer and other aggrieved

employees to wear during their shifts and forced them to incur the cost of maintaining employee uniforms.

KUMAR could have provided Mr. Kameyer and other aggrieved employees with the actual tools for use on the job, such as company mobile devices, company vehicles, as well as an adequate number of uniform items or access to laundering services; or KUMAR could have reimbursed employees for the costs of their mobile device usage, mileage, travel expenses, and laundering expenses or provided a uniform maintenance allowance. Instead, KUMAR passed these operating costs off onto Mr. Kameyer and other aggrieved employees. At all relevant times, Mr. Kameyer did not earn at least two (2) times the minimum wage.

Thus, KUMAR 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. Kameyer 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), and (k).

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

Accordingly, Mr. Kameyer 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 2699(a), 2699.3(a) and 2699.3(c), 2699.5, and 558, Mr. Kameyer, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for himself, all other aggrieved employees, and the State of California against KUMAR for violations of California Labor Code sections 201, 202, 204, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, and 2802.

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

Pre-Litigation Demand

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

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

1. KUMAR shall pay Mr. Kameyer and all other aggrieved employees employed by KUMAR at any time during the past three years from the date of this notice unpaid wages and compensation for the above-referenced violations.
2. KUMAR 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, provided lawful meal and rest periods, and paid reporting time pay.
3. KUMAR shall conduct a survey or interview all current and former aggrieved employees in California who worked for KUMAR 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 and the number of rest periods which were not authorized and permitted, and the number of employees who were required to pay for mobile device expenses, mileage expenses, travel expenses, uniform maintenance expenses, or other expenditures in the discharge of their duties, with the investigation to be completed within 60 days.
4. KUMAR shall pay Mr. Kameyer and 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. KUMAR also shall pay Mr. Kameyer and 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. KUMAR shall pay accrued legal interest to Mr. Kameyer and all aggrieved employees at the rate of 10% per annum for said unpaid wages.
6. KUMAR shall provide Mr. Kameyer and all aggrieved employees employed by KUMAR 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).
7. KUMAR 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.
8. KUMAR shall provide aggrieved employees who are required to report for work and do report but are not put to work or are furnished less than half their usual or scheduled day's work, with pay for half the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours, at the aggrieved employee's regular rate of pay.
9. KUMAR shall reimburse those aggrieved employees who were required to pay for any business expenses incurred for KUMAR's benefit, including, but not limited to, costs of mobile device expenses, mileage, travel expenses, uniform maintenance expenses, or other expenditures, as required by Labor Code section 2802.
10. KUMAR 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', followed by a long horizontal flourish and three dots.

Alexander Lima

Copy: KUMAR MANAGEMENT CORP. II, INC. (via U.S. Certified Mail); KUMAR MAGAMENT, CORPORATION (via U.S. Certified Mail); KUMAR MANAGEMENT, CORPORATION CANTINA (via U.S. Certified Mail); KUMAR MANAGEMENT, CORPORATION EXPRESS (via U.S. Certified Mail)