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Electronically
FILED
by Superior Court of California, County of San Mateo
ON 10/17/2024
By /s/ Kimberly Claussen
Deputy Clerk

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

AARON KAMEYER, 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.

KUMAR MANAGEMENT CORP. II,
INC., a Texas corporation; KUMAR
MANAGEMENT, CORPORATION, a
California corporation; KUMAR
MANAGEMENT, CORPORATION
CANTINA, a California corporation;
KUMAR MANAGEMENT,
CORPORATION EXPRESS, a Texas
corporation; and DOES 1 through 10,
inclusive,

Defendants.

Case No.: 24-CIV-06578

**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 Aaron Kameyer, 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 August 12, 2024, until judgment (“non-party Aggrieved
14 Employees”). Plaintiff’s share of civil penalties sought in this action does not exceed
15 \$75,000.

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

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

1 civil penalties attributable to violations personally suffered are less than \$75,000. *Id.* at 1122.

2 4. Venue is proper in this Court, because Defendants filed Statement of
3 Information forms with the California Secretary of State designating a California principal
4 place of business in Foster City, County of San Mateo, in accordance with California
5 Corporations Code section 2105(a)(3). Cal. Code Civ. P. § 395.5. Venue is also proper in
6 this Court because Defendants employ persons in this county, and thus a substantial portion of
7 the transactions and occurrences related to this action occurred in this county.

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

12 THE PARTIES

13 6. Plaintiff Aaron Kameyer is a resident of Woodland, in Yolo County, California.
14 Defendants employed Plaintiff as an hourly paid, non-exempt employee from approximately
15 April 2023 to May 2024. Plaintiff worked for Defendants as a Team Member: Champion,
16 Cook, and Shift Leader at their Taco Bell restaurant location in Woodland Hills, California.
17 During his employment, Plaintiff typically worked eight (8) or more hours per day and five
18 (5) days per week. At the time his employment ended, Plaintiff was compensated
19 approximately \$20.00 per hour. His job duties included, without limitation, taking customer
20 orders, preparing and serving food, maintaining cleanliness of the restaurant, stocking and
21 managing inventory, balancing the cash registers, and addressing customer complaints.

22 7. On information and belief, Defendants required some employees, including
23 Plaintiff, to execute an arbitration agreement at the time of their hire or during their
24 employment. On further information and belief, Defendants’ arbitration agreement was and is
25 both procedurally and substantively unconscionable. Specifically, Defendants presented
26 employees with an “Arbitration Agreement” during the onboarding process, which had to be
27 reviewed and acknowledged immediately. Specifically, the Arbitration Agreement was one of
28 several documents presented to new employees for signature during the orientation process,

1 including the Acknowledgment of At-Will Employment, Acknowledgment of Receipt of CA
2 Required Notices, Acknowledgment of Receipt of Meal and Rest Period Policy, Employee
3 Acknowledgment of Video Surveillance Policy, and COVID-19 Prevention Procedures,
4 among other documents. Also, employees did not have a meaningful opportunity to negotiate
5 the terms of the Arbitration Agreement. Rather, it was provided to Defendants' employees for
6 them to sign on a take-it or leave-it basis at the time they were hired, along with all of the
7 other on-boarding documents.

8 8. KUMAR MANAGEMENT CORP. II, INC. was and is, upon information and
9 belief, a Texas corporation, and at all times hereinafter mentioned, an employer whose
10 employees are engaged throughout this county and the State of California.

11 9. KUMAR MANAGEMENT, CORPORATION was and is, upon information
12 and belief, a California corporation, and at all times hereinafter mentioned, an employer
13 whose employees are engaged throughout this county and the State of California.

14 10. KUMAR MANAGEMENT, CORPORATION CANTINA was and is, upon
15 information and belief, a California corporation, and at all times hereinafter mentioned, an
16 employer whose employees are engaged throughout this county and the State of California.

17 11. KUMAR MANAGEMENT, CORPORATION EXPRESS was and is, upon
18 information and belief, a Texas corporation, and at all times hereinafter mentioned, an
19 employer whose employees are engaged throughout this county and the State of California.

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

24 13. Plaintiff is informed and believes, and thereon alleges, that DOES 1 through 10
25 were the partners, agents, owners, or managers of KUMAR MANAGEMENT CORP. II, INC.;
26 KUMAR MANAGEMENT, CORPORATION; KUMAR MANAGEMENT, CORPORATION
27 CANTINA; and KUMAR MANAGEMENT, CORPORATION EXPRESS at all relevant times.

28 14. Plaintiff is informed and believes, and thereon alleges, that each and all of the

1 acts and omissions alleged herein was performed by, or is attributable to, KUMAR
2 MANAGEMENT CORP. II, INC.; KUMAR MANAGEMENT, CORPORATION; KUMAR
3 MANAGEMENT, CORPORATION CANTINA; KUMAR MANAGEMENT,
4 CORPORATION EXPRESS; and/or DOES 1 through 10 (collectively, “Defendants” or
5 “KMC”), each acting as the agent, employee, alter ego, and/or joint venturer of, or working in
6 concert with, each of the other co-Defendants and was acting within the course and scope of
7 such agency, employment, joint venture, or concerted activity with legal authority to act on
8 the others’ behalf. The acts of any and all Defendants were in accordance with, and represent,
9 the official policy of Defendants.

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

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

17 17. Under California law, Defendants are jointly and severally liable as employers
18 for the violations alleged herein because they have each exercised sufficient control over the
19 wages, hours, working conditions, and employment status of Plaintiff and other non-party
20 Aggrieved Employees. Each Defendant had the power to hire and fire Plaintiff and other non-
21 party Aggrieved Employees, supervised and controlled their work schedule and/or conditions
22 of employment, determined their rate of pay, and maintained their employment records.
23 Defendants suffered or permitted Plaintiff and other non-party Aggrieved Employees to work
24 and/or “engaged” Plaintiff and other non-party Aggrieved Employees so as to create a
25 common-law employment relationship. As joint employers of Plaintiff and other non-party
26 Aggrieved Employees, Defendants are jointly and severally liable for the civil penalties
27 available to Plaintiff and other non-party Aggrieved Employees under the law.

28 18. Plaintiff is informed and believes, and thereon alleges, that at all relevant times,

Defendants, and each of them, have acted as joint employers with respect to Plaintiff and other non-party Aggrieved Employees because Defendants have:

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

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

20. KUMAR MANAGEMENT CORP. II, INC.; KUMAR MANAGEMENT, CORPORATION; KUMAR MANAGEMENT, CORPORATION CANTINA; and KUMAR MANAGEMENT, CORPORATION EXPRESS; and/or DOES 1 through 10 are therefore alter egos of each other.

21. Adherence to the fiction of the separate existence of Defendants would permit an abuse of the corporate privilege, and would promote injustice by protecting Defendants

1 from liability for the wrongful acts committed by them under the name KMC.

2 22. Plaintiff further alleges, upon information and belief, that the Defendants
3 KUMAR MANAGEMENT CORP. II, INC.; KUMAR MANAGEMENT, CORPORATION;
4 KUMAR MANAGEMENT, CORPORATION CANTINA; and KUMAR MANAGEMENT,
5 CORPORATION EXPRESS are alter egos of each other for the following reasons:

6 (a) On the California Secretary of State's website
7 (<https://bizfileonline.sos.ca.gov/>), KUMAR MANAGEMENT CORP. II,
8 INC.; KUMAR MANAGEMENT, CORPORATION; KUMAR
9 MANAGEMENT, CORPORATION CANTINA; and KUMAR
10 MANAGEMENT, CORPORATION EXPRESS have the same principal
11 and mailing address, "1118 CHESS DRIVE FOSTER CITY, CA
12 94404[-1103]";

13 (b) According to their most recent "Statement of Information" forms filed
14 with the California Secretary of State, KUMAR MANAGEMENT
15 CORP. II, INC.; KUMAR MANAGEMENT, CORPORATION;
16 KUMAR MANAGEMENT, CORPORATION CANTINA; and
17 KUMAR MANAGEMENT, CORPORATION EXPRESS share the
18 same officers and/or directors, including, but not limited to:

19 (i) Rakesh Kumar, who serves as Chief Executive Officer of
20 KUMAR MANAGEMENT CORP. II, INC.; KUMAR
21 MANAGEMENT, CORPORATION; KUMAR
22 MANAGEMENT, CORPORATION CANTINA; and
23 KUMAR MANAGEMENT, CORPORATION EXPRESS;
24 and as Chief Financial Officer of KUMAR
25 MANAGEMENT, CORPORATION CANTINA and
26 KUMAR MANAGEMENT, CORPORATION EXPRESS;

27 (ii) Premila Kumar, who serves as Chief Financial Officer of
28 KUMAR MANAGEMENT CORP. II, INC. and KUMAR

MANAGEMENT, CORPORATION; and

(iii) Kishan [S.] Kumar, who serves as Secretary for KUMAR MANAGEMENT CORP. II, INC. and KUMAR MANAGEMENT, CORPORATION; KUMAR MANAGEMENT, CORPORATION CANTINA; and KUMAR MANAGEMENT, CORPORATION EXPRESS;

(c) On the California Secretary of State's website, KUMAR MANAGEMENT CORP. II, INC.; KUMAR MANAGEMENT, CORPORATION; KUMAR MANAGEMENT, CORPORATION CANTINA; and KUMAR MANAGEMENT, CORPORATION EXPRESS share the same agent for service of process, Michael J[ohn]. Noland; and

(d) On information and belief, KUMAR MANAGEMENT CORP. II, INC.; KUMAR MANAGEMENT, CORPORATION; KUMAR MANAGEMENT, CORPORATION CANTINA; and KUMAR MANAGEMENT, CORPORATION EXPRESS utilize the same standardized employment forms and issue the same employment policies.

PAGA REPRESENTATIVE ALLEGATIONS

23. Defendants operate a chain of Taco Bell franchise restaurants, with at least 50 locations in California. Upon information and belief, Defendants maintain a single, centralized Human Resources (HR) department at their corporate headquarters in Foster City, California, for all non-exempt, hourly paid employees working for Defendants in California, which is responsible for the recruiting and hiring of new employees, and communicating and implementing Defendants' company-wide policies, including timekeeping policies and meal and rest period policies, to employees throughout California.

24. In particular, Plaintiff and other non-party Aggrieved Employees, on information and belief, received the same standardized documents and/or written policies.

1 Upon information and belief, the usage of standardized documents and/or written policies,
2 including new-hire documents, indicate that Defendants dictated policies at the corporate level
3 and implemented them company-wide, regardless of their employees' assigned locations or
4 positions. Upon information and belief, Defendants set forth uniform policies and procedures
5 in several documents provided at an employee's time of hire.

6 25. Upon information and belief, Defendants maintain a centralized Payroll
7 department at their corporate headquarters in Foster City, California, which processes payroll
8 for all non-exempt, hourly paid employees working for Defendants at their various locations
9 in California, including Plaintiff and other non-party Aggrieved Employees. Based upon
10 information and belief, Defendants issue the same formatted wage statements to all non-
11 exempt, hourly paid employees in California, irrespective of their work locations. Upon
12 information and belief, Defendants process payroll for departing employees in the same
13 manner throughout the State of California, regardless of the manner in which each employee's
14 employment ends.

15 26. Defendants continue to employ non-exempt or hourly paid employees in
16 California.

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

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

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

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

1 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
2 receive at least minimum wages for compensation and that they were not receiving at least
3 minimum wages for work that was required to be done off-the-clock. In violation of the
4 California Labor Code, Plaintiff and other non-party Aggrieved Employees were not paid at
5 least minimum wages for work done off-the-clock.

6 31. 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 meal periods in accordance with the California Labor Code and applicable IWC Wage Order
9 or payment of one (1) additional hour of pay at their regular rates of pay when they were not
10 provided with timely, uninterrupted, thirty (30) minute meal periods and that Plaintiff and
11 other non-party Aggrieved Employees were not provided with all meal periods or payment of
12 one (1) additional hour of pay at their regular rates of pay when they did not receive a timely,
13 uninterrupted, thirty (30) minute meal period.

14 32. 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 rest periods in accordance with the California Labor Code and applicable IWC Wage Order or
17 payment of one (1) additional hour of pay at their regular rates of pay when they were not
18 authorized and permitted to take a compliant rest period and that Plaintiff and other non-party
19 Aggrieved Employees were not authorized and permitted to take compliant rest periods or
20 provided with payment of one (1) additional hour of pay at their regular rates of pay when
21 they were not authorized and permitted to take a compliant rest period.

22 33. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
23 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
24 receive complete and accurate wage statements in accordance with California law. In
25 violation of the California Labor Code, Plaintiff and other non-party Aggrieved Employees
26 were not provided complete and accurate wage statements.

27 34. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
28 should have known that they had a duty to maintain accurate and complete payroll records in

1 accordance with the Labor Code and applicable IWC Wage Order, but willfully, knowingly,
2 and intentionally failed to do so.

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

9 36. 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 timely payment of all wages earned upon termination of employment. In violation of the
12 California Labor Code, Plaintiff and other non-party Aggrieved Employees did not receive
13 payment of all wages due, including, but not limited to, overtime wages, minimum wages,
14 meal and rest period premiums, and/or reporting time pay, within permissible time periods.

15 37. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
16 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
17 be paid reporting time pay when they reported to work for their usual or scheduled shift but
18 were put to work for less than half of the usual or scheduled shift. In violation of the
19 California Labor Code, Defendants did not pay Plaintiff and other non-party Aggrieved
20 Employees all reporting time pay due.

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

26 39. Plaintiff is informed and believes, and thereon alleges, that at all times herein
27 mentioned, Defendants knew or should have known that they had a duty to compensate
28 Plaintiff and other non-party Aggrieved Employees for all hours worked, and that Defendants

1 had the financial ability to pay such compensation, but willfully, knowingly, and intentionally
2 failed to do so, and falsely represented to Plaintiff and other non-party Aggrieved Employees
3 that they were properly denied wages, all in order to increase Defendants' profits.

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

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

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

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

- 19 (a) The aggrieved employee shall give written notice by online filing
20 (hereinafter "Employee's Notice") to the LWDA and by certified mail
21 to the employer of the specific provisions of the California Labor Code
22 alleged to have been violated, including the facts and theories to support
23 the alleged violations.
- 24 (b) An aggrieved employee's notice filed with the LWDA pursuant to
25 2699.3(a) and any employer response to that notice shall be
26 accompanied by a filing fee of seventy-five dollars (\$75).
- 27 (c) The LWDA shall provide notice (hereinafter "LWDA Notice") to the
28 employer and the aggrieved employee by certified mail that it does not

1 intend to investigate the alleged violation within sixty (60) calendar
2 days of the postmark date of the Employee's Notice. Upon receipt of
3 the LWDA Notice, or if the LWDA Notice is not provided within sixty-
4 five (65) calendar days of the postmark date of the Employee's Notice,
5 the aggrieved employee may commence a civil action pursuant to
6 California Labor Code section 2699 to recover civil penalties in addition
7 to any other penalties to which the employee may be entitled.

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

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

28 45. On August 12, 2024, Plaintiff provided written notice by online filing to the

1 LWDA and by certified mail to Defendants of the specific provisions of the California Labor
2 Code alleged to have been violated, including facts and theories to support the alleged
3 violations, in accordance with California Labor Code section 2699.3. Plaintiff's written
4 notice was accompanied with the applicable filing fee of seventy-five dollars (\$75). The
5 LWDA PAGA Administrator has confirmed receipt of Plaintiff's written notice and assigned
6 Plaintiff PAGA Case Number LWDA-CM-1045076-24. A true and correct copy of Plaintiff's
7 written notice to the LWDA and Defendants dated August 12, 2024, is attached hereto as
8 "Exhibit 1."

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

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

16 48. Labor Code section 558(a) provides "[a]ny employer or other person acting on
17 behalf of an employer who violates, or causes to be violated, a section of this chapter or any
18 provision regulating hours and days of work in any order of the Industrial Welfare
19 Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty
20 dollars (\$50) for each underpaid employee for each pay period for which the employee was
21 underpaid (2) For each subsequent violation, one hundred dollars (\$100) for each
22 underpaid employee for each pay period for which the employee was underpaid" Labor
23 Code section 558(c) provides "[t]he civil penalties provided for in this section are in addition
24 to any other civil or criminal penalty provided by law." Plaintiff, acting in the public interest
25 as a private attorney general, seeks assessment and collection of civil penalties under Labor
26 Code section 558 for himself, all other non-party Aggrieved Employees, and the State of
27 California against Defendants for violations of Labor Code sections 510, 512(a), 516, and
28 1198, and the applicable IWC Wage Order. Plaintiff, acting in the public interest as a private

1 attorney general, does not seek the recovery of unpaid wages under Labor Code section 558
2 from Defendants for violations of Labor Code sections 510, 512(a), 516, and 1198, and the
3 applicable IWC Wage Order.

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

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

11 51. Pursuant to PAGA, and in particular, California Labor Code sections 1194.5,
12 2699(a), 2699(k), 2699.3(a), 2699.3(c), 2699.5, and section 558, Plaintiff, acting in the public
13 interest as a private attorney general, seeks assessment and collection of civil penalties and
14 injunctive relief for himself, all other non-party Aggrieved Employees, and the State of
15 California against Defendants for violations of California Labor Code sections 201, 202, 204,
16 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1198, and 2802.

17 **FIRST CAUSE OF ACTION**

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

19 **(Against all Defendants)**

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

22 53. California Labor Code §§ 2698, *et seq.* ("PAGA") permits Plaintiff to recover
23 civil penalties for the violation(s) of the Labor Code sections enumerated in Labor Code
24 section 2699.5. Section 2699.5 enumerates Labor Code sections 201, 202, 204, 1174(d), and
25 1198. Labor Code section 2699.3(c) permits aggrieved employees, including Plaintiff, to
26 recover civil penalties for violations of those Labor Code sections not found in section 2699.5,
27 including sections 226(a), 226.7, 510, 512(a), 516, 1182.12, 1194, 1197, and 2802.

28 54. Defendants' conduct, as alleged herein, violates numerous sections of the

1 California Labor Code, including, but not limited to, the following:

- 2 (a) Violation of Labor Code sections 510 and 1198, and the applicable IWC
3 Wage Order for Defendants' failure to compensate Plaintiff and other
4 non-party Aggrieved Employees with all required overtime pay, as set
5 forth below;
- 6 (b) Violation of Labor Code sections 1182.12, 1194, 1197, and 1198, and
7 the applicable IWC Wage Order for Defendants' failure to compensate
8 Plaintiff and other non-party Aggrieved Employees with at least
9 minimum wages for all hours worked, as set forth below;
- 10 (c) Violation of Labor Code sections 226.7, 512(a), 516, and 1198, and the
11 applicable IWC Wage Order for Defendants' failure to provide Plaintiff
12 and other non-party Aggrieved Employees with meal periods, as set
13 forth below;
- 14 (d) Violation of Labor Code sections 226.7, 516, and 1198, and the
15 applicable IWC Wage Order for Defendants' failure to authorize and
16 permit Plaintiff and other non-party Aggrieved Employees to take rest
17 periods, as set forth below;
- 18 (e) Violation of Labor Code sections 226(a) and 1198, and the applicable
19 IWC Wage Order for failure to provide accurate and complete wage
20 statements to Plaintiff and other non-party Aggrieved Employees, as set
21 forth below;
- 22 (f) Violation of Labor Code sections 1174(d) and 1198, and the applicable
23 IWC Wage Order for failure to maintain payroll records, as set forth
24 below;
- 25 (g) Violation of Labor Code sections 204 for failure to pay all earned wages
26 during employment, as set forth below;
- 27 (h) Violation of Labor Code sections 201 and 202 for failure to pay all
28 earned wages upon termination, as set forth below;

- 1 (i) Violation of Labor Code section 1198 and the applicable IWC Wage
2 Order for failure to pay reporting time pay when Plaintiff and other non-
3 party Aggrieved Employees were put to work for less than half of their
4 usual or scheduled shifts, as set forth below; and
- 5 (j) Violation of Labor Code sections 2802 for failure to reimburse Plaintiff
6 and other non-party Aggrieved Employees for all business expenses
7 necessarily incurred, as set forth below.

8 **FAILURE TO PAY OVERTIME**

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

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

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

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

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

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

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

13 61. First, during the relevant time period, Defendants had, and continue to have, a
14 company-wide policy and/or practice of discouraging and impeding Plaintiff and other non-
15 party Aggrieved Employees from recording hours worked that were outside of their scheduled
16 shifts in order to limit the amount of overtime employees could accrue. As stated in
17 Defendants' "Overtime" policy, "[t]o work overtime, you must obtain permission from your
18 supervisor. If you work overtime without permission, you may be disciplined up to and
19 possibly including termination." This policy of limiting overtime, coupled with Defendants'
20 use of labor budgets (*see infra*), led Plaintiff and other non-party Aggrieved Employees to
21 work off-the-clock before and after their scheduled shift times.

22 62. Indeed, Defendants implemented a timekeeping system that prevented
23 employees from clocking in more than two (2) minutes before their scheduled shift start-time
24 so that they were prohibited from recording all the time worked prior to the start of their
25 scheduled shifts. Consequently, on information and belief, Plaintiff and other non-party
26 Aggrieved Employees performed work prior to the starts of their shifts, but were unable to
27 record this time. For example, when Plaintiff arrived early for his shifts, Defendants'
28 management would sometimes require him to start working immediately, such as attending to

1 customers, which could take up to 10 minutes, before he was able to clock in for the start of
2 his shift, because the restaurant was busy. As another example, approximately once per week,
3 for at least 30 minutes, Defendants' managers required Plaintiff to run errands, such as
4 picking up supplies for the restaurant, prior to clocking in for the start of his shift.

5 63. Moreover, Defendants' company-wide policy of limiting overtime also forced
6 Plaintiff and other non-party Aggrieved Employees to work after clocking out at the end of
7 their scheduled shifts. For example, when working a closing shift, Plaintiff was required to
8 perform closing duties after clocking out at his scheduled shift end time, including shutting all
9 doors, turning off the lights, and setting the restaurant's alarm, which could take about 10
10 minutes. Additionally, Defendants had, and continue to have, a company-wide policy and/or
11 practice of requiring Plaintiff and other non-party Aggrieved Employees to complete
12 mandatory training modules, but did not permit them to complete them during their shifts. For
13 example, Plaintiff was required to complete training modules while he was at home, which
14 consisted of watching videos on Defendants' company policies, which took a few hours total
15 to complete. However, Defendants did not pay Plaintiff for the time spent completing the
16 mandatory training modules and Plaintiff received no compensation for this time.

17 64. Second, in conjunction with Defendants' overtime policies, Defendants also
18 had a company-wide security policy and/or practice for closing shifts requiring employees to
19 leave the restaurant premises together in a group. After clocking out at the end of their shifts,
20 Plaintiff and other non-party Aggrieved Employees were required to wait for all other
21 employees to complete their own duties before they were released by a managerial employee
22 and could leave Defendants' premises together. For example, when working as a Food
23 Champion and scheduled for closing shifts, Plaintiff would complete his own closing tasks,
24 clock out, and then have to wait until his supervisor and/or other coworkers had completed
25 their own respective closing duties, before being released. As a result, Plaintiff and other non-
26 party Aggrieved Employees were subject to Defendants' control after they had clocked out for
27 their shifts, but were not compensated for this time.

28 65. Third, as stated, Defendants had, and continue to have, a company-wide policy

1 of strictly staffing their restaurant locations based on the labor hours allocated by each
2 location's labor or payroll budget set by the corporate office. On information and belief,
3 Defendants' uniform use of labor budgeting resulted in chronic understaffing, such that there
4 were too few employees on duty to handle the workload and attend to customers, which
5 included meeting a 2-minute time target/goal for drive-thru orders while simultaneously
6 preparing walk-in customers' orders. Because Defendants did not employ or staff a sufficient
7 number of employees to meet customer demand, there was no one available to relieve
8 employees needing meal period coverage, and Plaintiff and other non-party Aggrieved
9 Employees were not always afforded uninterrupted 30-minute meal periods during shifts when
10 they were entitled to receive a meal period. Moreover, Defendants had a practice of failing to
11 schedule meal periods, which further caused Plaintiff and other non-party Aggrieved
12 Employees to not be relieved of their duties for compliant meal periods. For example,
13 Plaintiff worked through his meal periods approximately twice per week due to lack of
14 coverage and to keep up with the demands of work. As a further example, approximately two
15 (2) times per week, Defendants' management interrupted Plaintiff's meal periods and required
16 him to cut his meal period short and return to work to attend to customers, for the same
17 reasons mentioned above.

18 66. Fourth, in conjunction with understaffing their restaurants, Defendants had a
19 requirement that a managerial employee be present on the floor at all times and prohibited
20 managers, which included Shift Leaders, from leaving the premises unless another manager
21 was also on duty, resulting in a lack of meal period coverage for managerial employees. At
22 the same time, the labor budgets Defendants implemented did not always allow for more than
23 one manager to be on the schedule at all times. As a result, Plaintiff and other non-party
24 Aggrieved Employees were sometimes the only managers on duty, and were expected to
25 supervise the restaurant and respond to customer complaints at all times. Because managerial
26 employees were effectively prohibited from leaving Defendants' premises for unpaid meal
27 periods without coverage, and because there were too few employees and other managers on
28 duty to handle the workload and attend to customers, Plaintiff and other non-party Aggrieved

1 Employees were denied uninterrupted 30-minute meal periods, and were required to work
2 through and/or to return early from meal periods. For example, Plaintiff was required to
3 remain on premises for his meal periods when he was the only managerial employee on the
4 schedule. Because Plaintiff and other non-party Aggrieved Employees were restricted from
5 leaving the premises during meal periods, Plaintiff and other non-party Aggrieved Employees
6 were denied the ability to use meal periods freely for their own purposes, such as running
7 personal errands. Thus, Defendants effectively maintained control over Plaintiff and other
8 non-party Aggrieved Employees during unpaid meal periods.

9 67. Fifth, on information and belief, because Defendants frowned upon employees
10 accruing meal period premiums, Defendants' management adjusted their time records to
11 reflect compliant meal periods, regardless of whether they had received a compliant meal
12 period or not. Additionally, Defendants' timekeeping system prevented Plaintiff and other
13 non-party Aggrieved Employees from recording all hours worked when their meal periods
14 were shortened or interrupted, because the system locked out Plaintiff and other non-party
15 Aggrieved Employees once they clocked out for a meal period, and would not permit them to
16 clock back in from a meal period until 30 minutes had elapsed. Thus, Defendants did not
17 record all hours worked during meal periods, and Plaintiff and other non-party Aggrieved
18 Employees performed work during meal periods for which they were not paid.

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

27 69. Defendants' failure to pay Plaintiff and other non-party Aggrieved Employees
28 the balance of overtime compensation as required by California law, violates the provisions of

1 California Labor Code sections 510 and 1198. Plaintiff and other non-party Aggrieved
2 Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections
3 558 and/or 2699(a), (f), and (k).

4 **FAILURE TO PAY MINIMUM WAGES**

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

6 70. At all relevant times, California Labor Code sections 1182.12, 1194, 1197, and
7 1198 require employers to pay employees the minimum wage fixed by the IWC. The payment
8 of a lesser wage than the minimum so fixed is unlawful. Compensable work time is defined in
9 IWC Wage Order No. 5-2001 as “the time during which an employee is subject to the control
10 of an employer, and includes all the time the employee is suffered or permitted to work,
11 whether or not required to do so.” Cal. Code Regs. tit. 8, § 11050(2)(L) (defining “Hours
12 Worked”).

13 71. First, as set forth above, as a result of Defendants’ policy of limiting the
14 amount of overtime employees could accrue, pursuant to their labor budget practices,
15 Defendants required Plaintiff and other non-party Aggrieved Employees to perform work off-
16 the-clock. As stated, due to Defendants’ implementation of a timekeeping system that
17 prevented employees from clocking in more than two (2) minutes until their scheduled shift
18 start-time, Plaintiff and other non-party Aggrieved Employees were prevented from recording
19 all time worked prior to the start of their scheduled shifts, and thus were not paid for this time.
20 Further, as stated, Defendants required Plaintiff and other non-party Aggrieved Employees to
21 perform work off-the-clock before and after their scheduled shift start and end times, such as
22 attending to customers, picking up supplies for the restaurant, performing closing duties,
23 completing mandatory training modules, and waiting to leave the premises in a group. As a
24 result, Defendants failed to track this time that Plaintiff and other non-party Aggrieved
25 Employees spent working off-the-clock, and thus, Plaintiff and other non-party Aggrieved
26 Employees received no compensation for this time.

27 72. Second, as set forth above, due to Defendants’ company-wide policies and/or
28 practices of utilizing labor budgets, understaffing their locations, assigning heavy workloads,

1 failing to schedule meal periods, and requiring managerial employees to stay on the restaurant
2 premises during meal periods, Plaintiff and other non-party Aggrieved Employees were
3 impeded from taking all uninterrupted meal periods to which they were entitled and were
4 required to work off-the-clock. Further, to limit the meal period premiums that Defendants
5 would otherwise owe, Defendants adjusted employee time records to reflect compliant meal
6 periods, but required them to continue working, time for which they were not paid. Also, as
7 set forth above, Defendants' timekeeping system locked out Plaintiff and other non-party
8 Aggrieved Employees for 30 minutes when they clocked out for a meal period and would not
9 permit them to clock back in from a meal period until 30 minutes had elapsed. Thus,
10 Defendants systematically failed to pay Plaintiff and other non-party Aggrieved Employees
11 for actual hours worked during unpaid meal periods because these hours were not always
12 correctly recorded.

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

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

22 **FAILURE TO PROVIDE AND RECORD MEAL PERIODS**

23 **VIOLATION OF LABOR CODE SECTIONS 226.7, 512(a), 516, AND 1198**

24 75. At all relevant times herein set forth, the applicable IWC Wage Order and
25 California Labor Code sections 226.7, 512(a), 516, and 1198 were applicable to Plaintiff's and
26 non-party Aggrieved Employees' employment by Defendants.

27 76. At all relevant times herein set forth, California Labor Code section 512(a)
28 provides that an employer may not require, cause, or permit an employee to work for a period

1 of more than five (5) hours per day without providing the employee with a meal period of not
2 less than thirty (30) minutes, except that if the total work period per day of the employee is
3 not more than six (6) hours, the meal period may be waived by mutual consent of both the
4 employer and the employee. Under California law, first meal periods must start after no more
5 than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (2012).

6 77. At all relevant times herein set forth, California Labor Code sections 226.7,
7 512(a), 516, and 1198 provide that no employer shall require an employee to work during any
8 meal period mandated by an applicable order of the IWC.

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

16 79. First, during the relevant time period, as stated above, Defendants had, and
17 continue to have, company-wide policies and/or practices of labor budgeting and/or limiting
18 payroll allocation, resultant understaffing, assigning heavy workloads, including pressuring
19 employees to meet a 2-minute time target/goal for drive-thru orders while simultaneously
20 preparing walk-in orders, and failing to schedule meal periods, which has resulted in a lack of
21 meal period coverage and prevented Plaintiff and other non-party Aggrieved Employees from
22 taking all timely, uninterrupted meal periods to which they were entitled. In conjunction with
23 understaffing their restaurants, as stated above, Defendants had a requirement that a
24 managerial employee, including Shift Leaders, be present on the restaurant floor at all times,
25 but Defendants' labor budgets did not always allow for more than one manager to be on the
26 schedule at all times. As a result, Plaintiff was sometimes the only managerial employee on
27 duty, and was required to remain on premises for meal periods when he was the only
28 managerial employee on the schedule. Because Plaintiff was restricted from leaving the

1 premises during meal periods, he was denied the ability to use meal periods freely for his own
2 purposes, such as running personal errands.

3 80. As a result, Plaintiff and other non-party Aggrieved Employees had to work
4 through all or part of their meal periods, had their meal periods interrupted, and/or had to wait
5 extended periods of time before taking meal periods. For example, as stated, Plaintiff missed
6 his meal periods approximately twice per week. As also stated, approximately two (2) times
7 per week, Defendants' management interrupted Plaintiff's meal periods and required Plaintiff
8 to cut his meal periods short and return to work to attend to customers. Additionally, Plaintiff
9 was frequently required to take his meal periods late after having worked in excess of five (5)
10 hours into his shift in order to meet customer demand. Thus, Defendants failed to provide
11 Plaintiff and other non-party Aggrieved Employees with compliant, 30-minute meal periods.

12 81. Second, as set forth above, on information and belief, because Defendants
13 frowned upon employees accruing meal period premiums, Defendants' management adjusted
14 employee time records, regardless of whether they had received a compliant meal period or
15 not, in order to strictly limit meal period premiums that would need to be paid by Defendants.
16 Also, as stated, Defendants' company-wide timekeeping system prevented Plaintiff and other
17 non-party Aggrieved Employees from recording when their meal periods were shortened or
18 interrupted, because the system locked out Plaintiff and other non-party Aggrieved Employees
19 once they clocked out for a meal period, and would not permit them to clock back in from a
20 meal period before 30 minutes had elapsed. For example, Plaintiff was unable to record when
21 his meal periods were interrupted or shortened by Defendants' management asking him to
22 return to work. Plaintiff and other non-party Aggrieved Employees did not sign valid meal
23 period waivers on days that they were entitled to meal periods and were not relieved of all
24 duties.

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

1 Plaintiff and other non-party Aggrieved Employees meal period premiums when meal periods
2 were late, interrupted, shortened, or missed.

3 83. Moreover, Defendants engaged in a company-wide practice and/or policy of
4 not paying all meal period premiums owed when compliant meal periods are not provided.
5 Because of this practice and/or policy, Plaintiff and other non-party Aggrieved Employees
6 have not received premium pay for all missed, late, and interrupted meal periods.

7 84. Defendants' conduct violates the applicable IWC Wage Order, and California
8 Labor Code sections 226.7, 512(a), 516, and 1198. Plaintiff and other non-party Aggrieved
9 Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections
10 558 and/or 2699(a), (f), and (k).

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

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

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

16 86. At all relevant times, the applicable IWC Wage Order provides that "[e]very
17 employer shall authorize and permit all employees to take rest periods, which insofar as
18 practicable shall be in the middle of each work period" and that the "rest period time shall be
19 based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4)
20 hours or major fraction thereof" unless the total daily work time is less than three and one-half
21 (3 ½) hours.

22 87. At all relevant times, California Labor Code section 226.7 provides that no
23 employer shall require an employee to work during any rest period mandated by an applicable
24 order of the California IWC. To comply with its obligation to authorize and permit rest
25 periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an
26 employer must "relinquish any control over how employees spend their break time, and
27 relieve their employees of all duties—including the obligation that an employee remain on
28 call. A rest period, in short, must be a period of rest." *Augustus v. ABM Security Services*,

1 *Inc.*, 2 Cal. 5th 257, 273 (2016).

2 88. Pursuant to the applicable IWC Wage Order and California Labor Code section
3 226.7(c), Plaintiff and other non-party Aggrieved Employees are entitled to recover from
4 Defendants one (1) additional hour of pay at their regular rates of pay for each work day that a
5 required rest period was not authorized and permitted.

6 89. During the relevant time period, Defendants regularly failed to authorize and
7 permit Plaintiff and other non-party Aggrieved Employees to take a ten (10) minute rest
8 period per each four (4) hour period worked or major fraction thereof. As with meal periods,
9 Defendants' company-wide practices of utilizing labor budgeting and/or limited payroll
10 allocation, understaffing, and assigning heavy workloads resulted in a lack of rest period
11 coverage and prevented Plaintiff and other non-party Aggrieved Employees from being
12 relieved of all duty in order to take compliant rest periods. Defendants also failed to schedule
13 rest periods, which, coupled with Defendants' failure to provide adequate rest period
14 coverage, further led to Plaintiff and other non-party Aggrieved Employees not being
15 authorized and permitted to take rest periods.

16 90. Moreover, in conjunction with understaffing their restaurants, Defendants had a
17 requirement that a managerial employee, including Shift Leaders, be present on the restaurant
18 floor at all times, but Defendants' labor budgets did not always allow for more than one
19 manager to be on the schedule at all times. As a result, Plaintiff was sometimes the only
20 managerial employee on duty, and was required to remain on premises for rest periods when
21 he was the only managerial employee on the schedule. Because Plaintiff was restricted from
22 leaving the premises during rest periods, he was denied the ability to use rest periods freely
23 for his own purposes, such as running personal errands.

24 91. Furthermore, upon information and belief, Defendants maintained a company-
25 wide on-premises rest period policy, which effectively required that Plaintiff and/or other non-
26 party Aggrieved Employees remain on the work premises during their rest periods. Because
27 Plaintiff and/or other non-party Aggrieved Employees were restricted from leaving the
28 premises during rest periods, they were denied the ability to use their rest periods freely for

1 their own purposes, such as running personal errands. Thus, Defendants effectively
2 maintained control over Plaintiff and/or other non-party Aggrieved Employees during rest
3 periods.

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

9 93. Defendants have also engaged in a company-wide practice and/or policy of not
10 paying all rest period premiums owed when compliant rest periods are not authorized and
11 permitted. Because of this practice and/or policy, Plaintiff and other non-party Aggrieved
12 Employees have not received premium pay for all missed rest periods.

13 94. Defendants' conduct violates the applicable IWC Wage Order and California
14 Labor Code sections 226.7, 516, and 1198. Plaintiff and other non-party Aggrieved
15 Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections
16 558 and/or 2699(a), (f), and (k).

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

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

24 96. During the relevant time period, Defendants have knowingly and intentionally
25 provided Plaintiff and other non-party Aggrieved Employees with uniform, incomplete, and
26 inaccurate wage statements. For example, Defendants issued uniform wage statements to
27 Plaintiff and other non-party Aggrieved Employees that fail to correctly list: gross wages
28 earned; total hours worked; net wages earned; and all applicable hourly rates in effect during

1 the pay period, including rates of pay for overtime wages, and the corresponding number of
2 hours worked at each hourly rate. Specifically, Defendants violated sections 226(a)(1),
3 226(a)(2), 226(a)(5), and 226(a)(9).

4 97. Because Defendants did not record the time Plaintiff and other non-party
5 Aggrieved Employees spent working off-the-clock and deducted time from their records for
6 meal periods that were interrupted and/or missed (and therefore time for which they should
7 have been paid), Defendants did not list the correct amount of gross wages and net wages
8 earned by Plaintiff and other non-party Aggrieved Employees in compliance with section
9 226(a)(1) and section 226(a)(5), respectively. For the same reason, Defendants failed to
10 accurately list the total number of hours worked by Plaintiff and other non-party Aggrieved
11 Employees, in violation of section 226(a)(2), and failed to list the applicable hourly rates of
12 pay in effect during the pay period and the corresponding accurate number of hours worked at
13 each hourly rate, in violation of section 226(a)(9).

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

22 99. California Labor Code section 1174(d) provides that “[e]very person employing
23 labor in this state shall . . . [k]eep a record showing the names and addresses of all employees
24 employed and the ages of all minors” and “[k]eep, at a central location in the state or at the
25 plants or establishments at which employees are employed, payroll records showing the hours
26 worked daily by and the wages paid to, and the number of piece-rate units earned by and any
27 applicable piece rate paid to, employees employed at the respective plants or
28 establishments” Labor Code section 1174.5 provides that employers are subject to a

1 \$500 civil penalty if they fail to maintain accurate and complete records as required by section
2 1174(d). At all relevant times, and in violation of Labor Code section 1174(d), Defendants
3 willfully failed to maintain accurate payroll records for Plaintiff and other non-party
4 Aggrieved Employees showing the daily hours they worked and the wages paid thereto as a
5 result of failing to record the off-the-clock hours that they worked.

6 100. California Labor Code section 1198 provides that the maximum hours of work
7 and the standard conditions of labor shall be those fixed by the Labor Commissioner and as
8 set forth in the applicable IWC Wage Order. Section 1198 further provides that “[t]he
9 employment of any employees for longer hours than those fixed by the order or under
10 conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC
11 Wage Order, employers are required to keep accurate time records showing when the
12 employee begins and ends each work period and meal period. During the relevant time
13 period, Defendants engaged in company-wide practices and/or policies of failing to record
14 actual hours worked, and thereby failed, on a company-wide basis, to keep accurate records of
15 work period and meal period start and end times for Plaintiff and other non-party Aggrieved
16 Employees, in violation of section 1198.

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

20 **FAILURE TO PAY WAGES DURING EMPLOYMENT**

21 **VIOLATION OF LABOR CODE SECTION 204**

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

1 between the 1st and the 10th day of the following month.

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

8 104. During the relevant time period, Defendants willfully failed to pay Plaintiff and
9 other non-party Aggrieved Employees all wages due to them within any time period specified
10 by California Labor Code sections 204 including, but not limited to, overtime wages,
11 minimum wages, meal and rest period premiums, and/or reporting time pay, within the time
12 periods specified by California Labor Code section 204.

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

15 **FAILURE TO PAY WAGES UPON TERMINATION**

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

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

24 107. Defendants willfully failed to pay Plaintiff and other non-party Aggrieved
25 Employees who are no longer employed by Defendants the earned and unpaid wages set forth
26 above, including but not limited to, overtime wages, minimum wages, meal and rest period
27 premiums, and/or reporting time pay, either at the time of discharge, or within seventy-two
28 (72) hours of their leaving Defendants' employ.

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

**FAILURE TO PAY REPORTING TIME PAY
VIOLATION OF LABOR CODE SECTION 1198**

109. 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.”

110. 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).

111. During the relevant time period, Defendants violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11050(5)(A), because Defendants failed to pay Plaintiff and other non-party 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.

112. Defendants had a company-wide practice of sending Plaintiff and other non-party 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 Plaintiff and other non-party Aggrieved Employees for half of their usual or scheduled shift. For example, when scheduled to work a shift of eight (8) hours, Defendants' managers sometimes sent Plaintiff home within two (2) hours after the start of his shift because business was slow. Although Plaintiff and other non-party Aggrieved Employees would report to work based on the schedule that Defendants provided to them, Defendants would send them home before they worked at least half of their usual or scheduled shifts. When this occurred, Defendants did not pay Plaintiff and other non-party Aggrieved Employees for at least half of their scheduled day's work or the minimum reporting time pay.

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

FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES

VIOLATION OF LABOR CODE SECTION 2802

114. At all times herein set forth, California Labor Code section 2802 provides that an employer must reimburse employees 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

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

4 115. First, during the relevant time period, Defendants, on a company-wide basis,
5 required that Plaintiff and other non-party Aggrieved Employees use their own personal
6 mobile devices, including, but not limited to, cellular phones, and/or mobile data to carry out
7 their job duties but failed to reimburse them for the costs of their work-related mobile device
8 expenses. For example, Plaintiff was required to use his personal cellular phone to respond to
9 calls from Defendants’ managers to discuss work-related matters. Although Defendants
10 required Plaintiff and other non-party Aggrieved Employees to utilize their personal mobile
11 devices and/or mobile data to carry out their work-related responsibilities, Defendants failed
12 to reimburse them for these costs.

13 116. Second, during the relevant time period, Defendants, on a company-wide basis,
14 required that Plaintiff and other non-party Aggrieved Employees use their own personal
15 vehicles to run company errands. For example, at least once per week, Plaintiff was required
16 to use his personal vehicle to drive about 10 minutes roundtrip to a local Home Depot store to
17 pick up supplies for the restaurant, such as lightbulbs, paint, and nails. Although Defendants
18 required Plaintiff and other non-party Aggrieved Employees to utilize their personal vehicles
19 to carry out their work-related responsibilities, Defendants failed to reimburse them for their
20 mileage or travel expenses.

21 117. Third, during the relevant time period, Defendants required Plaintiff and other
22 non-party Aggrieved Employees to report to work with “a clean and neat” appearance,
23 including wearing “clean,” “neat,” and “wrinkle-free” uniforms bearing the Taco Bell
24 company logo, such as uniform shirts and hats. However, Defendants did not provide their
25 employees with sufficient uniforms to wear for their shifts throughout the week. For example,
26 Defendants only provided Plaintiff with two (2) shirts and one (1) hat at the time of hire.
27 Because Defendants failed to provide Plaintiff and other non-party Aggrieved Employees with
28 an adequate number of uniform items in relation to their scheduled shifts and for the tasks

1 they were required to perform, Plaintiff and other non-party Aggrieved Employees had to
2 wash their uniforms more frequently than they otherwise do laundry, and incur expenses in
3 doing so. Further, due to the nature of restaurant work, Plaintiff's uniform shirts would
4 become stained with grease, sweaty, soiled, and/or acquire an unpleasant odor such that he
5 was required to wash his uniforms items more frequently, thus incurring additional laundry
6 expenses for the upkeep of his uniform. Thus, Defendants failed to maintain uniforms they
7 required Plaintiff and other non-party Aggrieved Employees to wear during their shifts and
8 forced them to incur the cost of maintaining employee uniforms.

9 118. Defendants could have provided Plaintiff and other non-party Aggrieved
10 Employees with the actual equipment for use on the job, such as company mobile devices,
11 company vehicles, as well as an adequate number of uniform items or access to laundering
12 services; or Defendants could have reimbursed employees for the costs of their mobile device
13 usage, mileage, travel expenses, and laundering expenses or provided a uniform maintenance
14 allowance. Instead, Defendants passed these operating costs onto Plaintiff and other non-
15 party Aggrieved Employees. At all relevant times, Plaintiff did not earn at least two (2) times
16 the minimum wage.

17 119. Defendants' company-wide policy and/or practice of not reimbursing
18 employees for expenses necessarily incurred and passing on their operating costs to Plaintiff
19 and other non-party Aggrieved Employees violates California Labor Code section 2802.
20 Plaintiff and other non-party Aggrieved Employees are therefore entitled to recover civil
21 penalties pursuant to Labor Code sections 2699(a), (f), and (k).

22 **REQUEST FOR JURY TRIAL**

23 Plaintiff requests a trial by jury.

24 **PRAYER FOR RELIEF**

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

27 1. For civil penalties and attorneys' fees in excess of twenty-five thousand dollars
28 (\$25,000). Plaintiff reserves the right to amend his prayer for relief to seek a different

amount.

As to the First Cause of Action

2. That the Court declare, adjudge and decree that Defendants violated the following California Labor Code provisions as to Plaintiff and other non-party Aggrieved Employees: 510 and 1198 (by failing to pay all overtime compensation); 1182.12, 1194, 1197, and 1198 (by failing to pay at least minimum wages for all hours worked); 226.7, 512(a), 516, 1198 (by failing to provide all meal periods); 226.7, 516, and 1198 (by failing to authorize and permit all rest periods); 226(a), 1174(d), and 1198 (by failing to provide accurate wage statements and maintain accurate payroll records); 204 (by failing to timely pay all earned wages during employment); 201 and 202 (by failing to timely pay all earned wages upon termination); 1198 and the applicable IWC Wage Order (by failing to provide reporting time pay); and 2802 (by failing to reimburse business expenses);

3. For civil penalties, pursuant to California Labor Code sections 210, 226.3, 256, 558, 1174.5, 2699(a), (f), and (k), 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;

4. For injunctive relief pursuant to California Labor Code sections 1194.5 and/or 2699(k) to bring Defendants into compliance with the requirements 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;

5. For attorneys' fees and costs pursuant to California Labor Code section 2699(k)(1), and any and all other relevant statutes, for Defendants' 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;

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

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

Dated: October 17, 2024

Respectfully submitted,
Capstone Law APC

By: 
Orlando Villalba
Helga Hakimi
Joseph D. Parsons

Attorneys for Plaintiff Aaron Kameyer

EXHIBIT “1”

ALEXANDER LIMA
310.712.8154 Direct
Alexander.Lima@capstonelawyers.com

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)

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

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

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KUMAR MANAGEMENT,
CORPORATION
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PS Form 3800, April 2013 PSN 7530-02-000-9053

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2. Addressed to Transmittal

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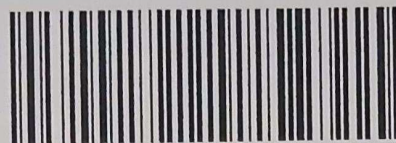
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PS Form 3800, April 2015 PSN 7530-02-000-9047

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.

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



2. 9500 0409 7706 0400 1506 07

7022 2410 0000 2406 2341

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

☐ Priority Mail Express®

☐ Registered Mail™

☐ Registered Mail Restricted Delivery

☐ Signature Confirmation™

☐ Signature Confirmation Restricted Delivery

Restricted Delivery

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



7022 2410 0000 2406 2358

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

\$

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

☒ Return Receipt (hardcopy)

\$

☐ Return Receipt (electronic)

\$

Postmark

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

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

See Reverse for Instructions

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

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, **face up**.

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



2. Article Number (Transit and Return Service Only)

7022 2410 0000 2406 2358

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

☐ Priority Mail Express®

☐ Registered Mail™

☐ Registered Mail Restricted Delivery

☐ Signature Confirmation™

☐ Signature Confirmation Restricted Delivery

Restricted Delivery

Domestic Return Receipt

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.

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



2. Article Number (Transit from Service Label) 9590 9407 7406 0122 1586 06

7022 2410 0000 2406 2358

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

Charan

☐ 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

1 Restricted Delivery

☐ Priority Mail Express®

☐ Registered Mail™

☐ Registered Mail Restricted Delivery

☐ Signature Confirmation™

☐ Signature Confirmation Restricted Delivery

SENDER: COMPLETE THIS SECTION

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

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



2. Amount Due: \$5.00 (over \$500)

7022 2410 0000 2406 2334

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

☐ Restricted Delivery

☐ Priority Mail Express®

☐ Registered Mail™

☐ Registered Mail Restricted Delivery

☐ Signature Confirmation™

☐ Signature Confirmation Restricted Delivery

Domestic Return Rec

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

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



2. Amount Due: \$5.00 (over \$500)

7022 2410 0000 2406 2341

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

☐ Restricted Delivery

☐ Priority Mail Express®

☐ Registered Mail™

☐ Registered Mail Restricted Delivery

☐ Signature Confirmation™

☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

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,

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



2. Article Number (Transferred from service label)

7022 2410 0000 2406 2365

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

[Handwritten Signature]

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

Restricted Delivery