

10/14/2024

By: M. Pipe Deputy

1 Orlando Villalba (SBN 232165)
Orlando.Villalba@capstonelawyers.com
2 Helga Hakimi (SBN 257381)
Helga.Hakimi@capstonelawyers.com
3 Joseph D. Parsons (SBN 340074)
Joey.Parsons@capstonelawyers.com
4 Capstone Law APC
1875 Century Park East, Suite 1000
5 Los Angeles, California 90067
Telephone: (310) 556-4811
6 Facsimile: (310) 943-0396

7 Attorneys for Plaintiff Mercedes Marin

8
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 FOR THE COUNTY OF SACRAMENTO
11

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

15
16 Plaintiff,

17 vs.

18 NAKC, INC., a California corporation;
19 and DOES 1 through 10, inclusive,

20 Defendants.
21
22
23
24
25
26
27
28

Case No.: **24CV020766**

**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 Mercedes Marin, 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 9, 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 principal place of
4 business in Sacramento, County of Sacramento, in accordance with California Corporations
5 Code section 2105(a)(3). Cal. Code Civ. P. § 395.5. Venue is also proper in this Court
6 because Defendants employ persons in this county, and thus a substantial portion of the
7 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 Mercedes Marin is a resident of West Sacramento, in Yolo County,
14 California. Defendants employed Plaintiff as an hourly paid, non-exempt employee from
15 approximately July 2022 to April 2024. Plaintiff worked for Defendants as a Crew Member at
16 their McDonald’s restaurant location in West Sacramento, California. During her
17 employment, Plaintiff typically worked eight (8) or more hours per day and four (4) days or
18 more per week. At the time her employment ended, Plaintiff was compensated approximately
19 \$20.00 per hour. Her job duties included, without limitation, taking customer orders;
20 preparing and cooking food; and cleaning the restaurant, dining area, and kitchen.

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

1 Acknowledgement of Receipt of Uniform Crew, and Confirmation of Receipt of Employee
2 Handbook, among other documents. Also, employees did not have a meaningful opportunity
3 to negotiate the terms of the Arbitration Agreement. Rather, it was provided to Defendants'
4 employees for them to sign on a take-it or leave-it basis at the time they were hired, along
5 with all of the other on-boarding documents. Further, Defendants did not set forth in the
6 agreements or otherwise provide employees with the rules which will govern the arbitration,
7 instead forcing employees to seek this information out on their own ("The arbitrator shall
8 conduct the arbitration in accordance with the procedures set forth in the most recent version
9 of the American Arbitration Association's Employment Arbitration Rules and Mediation
10 Procedures...[a] copy of the rules may be found at" (omission in original)).

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

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

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

20 11. Plaintiff is informed and believes, and thereon alleges, that each and all of the
21 acts and omissions alleged herein was performed by, or is attributable to, NAKC, INC. and/or
22 DOES 1 through 10 (collectively, "Defendants" or "NAKC"), each acting as the agent,
23 employee, alter ego, and/or joint venturer of, or working in concert with, each of the other co-
24 Defendants and was acting within the course and scope of such agency, employment, joint
25 venture, or concerted activity with legal authority to act on the others' behalf. The acts of any
26 and all Defendants were in accordance with, and represent, the official policy of Defendants.

27 12. At all relevant times, Defendants, and each of them, ratified each and every act
28 or omission complained of herein. At all relevant times, Defendants, and each of them, aided

1 and abetted the acts and omissions of each and all the other Defendants in proximately causing
2 the damages herein alleged.

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

6 **PAGA REPRESENTATIVE ALLEGATIONS**

7 14. Defendants operate at least eight (8) McDonald's restaurant franchise locations
8 in California. Upon information and belief, Defendants maintain a single, centralized Human
9 Resources (HR) department at their corporate headquarters in Sacramento, California, for all
10 non-exempt, hourly paid employees working for Defendants in California, which is
11 responsible for the recruiting and hiring of new employees, and communicating and
12 implementing Defendants' company-wide policies, including timekeeping policies and meal
13 and rest period policies, to employees throughout California.

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

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

1 employment ends.

2 17. Defendants continue to employ non-exempt or hourly paid employees in
3 California.

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

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

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

15 21. 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 receive at least minimum wages for compensation and that they were not receiving at least
18 minimum wages for work that was required to be done off-the-clock. In violation of the
19 California Labor Code, Plaintiff and other non-party Aggrieved Employees were not paid at
20 least minimum wages for work done off-the-clock.

21 22. 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 meal periods in accordance with the California Labor Code and applicable IWC Wage Order
24 or payment of one (1) additional hour of pay at their regular rates of pay when they were not
25 provided with timely, uninterrupted, thirty (30) minute meal periods and that Plaintiff and
26 other non-party Aggrieved Employees were not provided with all meal periods or payment of
27 one (1) additional hour of pay at their regular rates of pay when they did not receive a timely,
28 uninterrupted, thirty (30) minute meal period.

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

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

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

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

24 27. 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 timely payment of all wages earned upon termination of employment. In violation of the
27 California Labor Code, Plaintiff and other non-party Aggrieved Employees did not receive
28 payment of all wages due, including, but not limited to, overtime wages, minimum wages,

1 meal and rest period premiums, and/or reporting time pay, within permissible time periods.

2 28. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
3 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
4 be paid reporting time pay when they reported to work for their usual or scheduled shift but
5 were put to work for less than half of the usual or scheduled shift. In violation of the
6 California Labor Code, Defendants did not pay Plaintiff and other non-party Aggrieved
7 Employees all reporting time pay due.

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

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

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

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

28 33. Plaintiff and other current and former employees of Defendants are "aggrieved

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

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

- (a) The aggrieved employee shall give written notice by online filing (hereinafter “Employee’s Notice”) to the LWDA and by certified mail to the employer of the specific provisions of the California Labor Code alleged to have been violated, including the facts and theories to support the alleged violations.
- (b) An aggrieved employee’s notice filed with the LWDA pursuant to 2699.3(a) and any employer response to that notice shall be accompanied by a filing fee of seventy-five dollars (\$75).
- (c) The LWDA shall provide notice (hereinafter “LWDA Notice”) to the employer and the aggrieved employee by certified mail that it does not intend to investigate the alleged violation within sixty (60) calendar days of the postmark date of the Employee’s Notice. Upon receipt of the LWDA Notice, or if the LWDA Notice is not provided within sixty-five (65) calendar days of the postmark date of the Employee’s Notice, the aggrieved employee may commence a civil action pursuant to California Labor Code section 2699 to recover civil penalties in addition to any other penalties to which the employee may be entitled.

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

- (a) The aggrieved employee or representative shall give written notice by online filing to the LWDA and by certified mail to the employer of the

specific provisions of the California Labor Code alleged to have been violated (other than those listed in Section 2699.5), including the facts and theories to support the alleged violation.

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

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

36. On August 9, 2024, Plaintiff provided written notice by online filing to the LWDA and by certified mail to Defendants of the specific provisions of the California Labor Code alleged to have been violated, including facts and theories to support the alleged violations, in accordance with California Labor Code section 2699.3. Plaintiff's written notice was accompanied with the applicable filing fee of seventy-five dollars (\$75). The LWDA PAGA Administrator has confirmed receipt of Plaintiff's written notice and assigned Plaintiff PAGA Case Number LWDA-CM-1044678-24. A true and correct copy of Plaintiff's written notice to the LWDA and Defendants dated August 9, 2024, is attached hereto as "Exhibit 1."

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

38. Thus, Plaintiff has satisfied the administrative prerequisites under California Labor Code sections 2699.3(a) and 2699.3(c) to recover civil penalties against Defendants for

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

39. 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 “[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law.” Plaintiff, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties under Labor Code section 558 for herself, all other non-party Aggrieved Employees, and the State of California against Defendants for violations of Labor Code sections 510, 512(a), 516, and 1198, and the applicable IWC Wage Order. Plaintiff, acting in the public interest as a private attorney general, does not seek the recovery of unpaid wages under Labor Code section 558 from Defendants for violations of Labor Code sections 510, 512(a), 516, and 1198, and the applicable IWC Wage Order.

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

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

42. Pursuant to PAGA, and in particular, California Labor Code sections 1194.5, 2699(a), 2699(k), 2699.3(a), 2699.3(c), 2699.5, and section 558, Plaintiff, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties and

injunctive relief for herself, all other non-party Aggrieved Employees, and the State of California against Defendants for violations of California Labor Code sections 201, 202, 204, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1198, and 2802.

FIRST CAUSE OF ACTION

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

(Against all Defendants)

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

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

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

- (a) Violation of Labor Code sections 510 and 1198, and the applicable IWC Wage Order for Defendants’ failure to compensate Plaintiff and other non-party Aggrieved Employees with all required overtime pay, as set forth below;
- (b) Violation of Labor Code sections 1182.12, 1194, 1197, and 1198, and the applicable IWC Wage Order for Defendants’ failure to compensate Plaintiff and other non-party Aggrieved Employees with at least minimum wages for all hours worked, as set forth below;
- (c) Violation of Labor Code sections 226.7, 512(a), 516, and 1198, and the applicable IWC Wage Order for Defendants’ failure to provide Plaintiff and other non-party Aggrieved Employees with meal periods, as set forth below;

- 1 (d) Violation of Labor Code sections 226.7, 516, and 1198, and the
2 applicable IWC Wage Order for Defendants' failure to authorize and
3 permit Plaintiff and other non-party Aggrieved Employees to take rest
4 periods, as set forth below;
- 5 (e) Violation of Labor Code sections 226(a) and 1198, and the applicable
6 IWC Wage Order for failure to provide accurate and complete wage
7 statements to Plaintiff and other non-party Aggrieved Employees, as set
8 forth below;
- 9 (f) Violation of Labor Code sections 1174(d) and 1198, and the applicable
10 IWC Wage Order for failure to maintain payroll records, as set forth
11 below;
- 12 (g) Violation of Labor Code sections 204 for failure to pay all earned wages
13 during employment, as set forth below;
- 14 (h) Violation of Labor Code sections 201 and 202 for failure to pay all
15 earned wages upon termination, as set forth below;
- 16 (i) Violation of Labor Code section 1198 and the applicable IWC Wage
17 Order for failure to pay reporting time pay when Plaintiff and other non-
18 party Aggrieved Employees were put to work for less than half of their
19 regular scheduled shifts, as set forth below; and
- 20 (j) Violation of Labor Code sections 2802 for failure to reimburse Plaintiff
21 and other non-party Aggrieved Employees for all business expenses
22 necessarily incurred, as set forth below.

23 **FAILURE TO PAY OVERTIME**

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

25 46. Labor Code section 1198 makes it illegal to employ an employee under
26 conditions of labor that are prohibited by the applicable IWC Wage Order. California Labor
27 Code section 1198 requires that “. . . the standard conditions of labor fixed by the commission
28 shall be the . . . standard conditions of labor for employees. The employment of any employee

1 . . . under conditions of labor prohibited by the order is unlawful.”

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

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

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

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

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

28 52. First, during the relevant time period, Defendants had, and continue to have, a

1 company-wide policy and/or practice of discouraging and impeding Plaintiff and other non-
2 party Aggrieved Employees from recording hours worked that were outside of their scheduled
3 shifts, which caused Plaintiff and other non-party Aggrieved Employees to perform work-
4 related tasks while off-the-clock, before their scheduled shift times. For example, Defendants
5 implemented a timekeeping system that prevented employees from clocking in about 10
6 minutes before or after their scheduled shift start-times. As a result, Plaintiff and other non-
7 party Aggrieved Employee were sometimes forced to wait off-the-clock for a manager to
8 authorize them to clock in. For instance, Plaintiff was required to wait up to five (5) minutes,
9 four (4) times a month under Defendants' control while she waited for a manager to authorize
10 her to clock in, time for which she was not paid.

11 53. Second, during the relevant time period, Defendants had, and continue to have,
12 a company-wide policy and/or practice of discouraging and impeding Plaintiff and other non-
13 party Aggrieved Employees from recording hours worked that were outside of their scheduled
14 shifts, in order to limit the amount of overtime employees could accrue. On information and
15 belief, this policy of limiting overtime, coupled with Defendants' practices of understaffing and
16 assigning heavy workloads (*see infra*), led Plaintiff and other non-party Aggrieved Employees
17 to work off-the-clock after their scheduled shift times. For example, three (3) times per week,
18 Plaintiff was required to clock out at her scheduled shift end-time and continue working,
19 washing dishes, cleaning kitchen equipment, and restocking inventory.

20 54. Moreover, Plaintiff and other non-party Aggrieved Employees were required to
21 complete mandatory online training sessions, but Defendants did not permit them to complete
22 the training during their shifts. For example, Plaintiff was required to complete training
23 sessions off the clock, watching videos on food preparation, sanitation, and company policies, at
24 least twice for about one (1) hour each time. Additionally, approximately once per week,
25 Defendants' managers called Plaintiff on her personal cellular phone, on her off-days, to discuss
26 kitchen equipment and recipes. Thus, Defendants failed to track the time employees spent
27 working off the clock, and Plaintiff and other non-party Aggrieved Employees received no
28 compensation for this time.

1 55. Third, during the relevant time period, Defendants had, and continue to have, a
2 company-wide policy and/or practice of strictly staffing their restaurant locations based on the
3 labor hours allocated by each location's labor or payroll budget set by the corporate office. On
4 information and belief, Defendants' uniform use of labor budgeting and understaffing resulted
5 in a failure to provide Plaintiff and other non-party Aggrieved Employees with adequate meal
6 period coverage, because there were too few employees on duty to handle the workload.
7 Defendants also had a practice of failing to adhere to a schedule for meal periods, which further
8 caused Plaintiff and other non-party Aggrieved Employees to not be relieved of their duties for
9 compliant meal periods. For example, Plaintiff would work through part of her meal periods to
10 assist coworkers with kitchen equipment and prepare McCafé frappes, McFlurries, and other
11 specialty menu items. Thus, Plaintiff and other non-party Aggrieved Employees worked
12 through meal periods and/or had their meal periods interrupted or cut short, and Defendants did
13 not pay Plaintiff and other non-party Aggrieved Employees for the time they continued to
14 perform tasks during meal periods.

15 56. Fourth, Defendants had, and continues to have, a policy and/or practice of
16 requiring that Plaintiff and other non-party Aggrieved Employees carry and respond to
17 company-issued headsets. As a result, Defendants' management contacted Plaintiff and other
18 non-party Aggrieved Employees on their company-issued headsets during unpaid meal periods.
19 Plaintiff would also respond to customer requests during her meal periods, due to the lack of
20 coverage. Defendants knew or should have known that Plaintiff and other non-party Aggrieved
21 Employees were performing work while off-the-clock in order to meet Defendants'
22 expectations, but failed to compensate them for this time.

23 57. Fifth, on information and belief, because Defendants frowned upon employees
24 accruing meal period premiums, Defendants' management adjusted Plaintiff and other non-party
25 Aggrieved Employees time records to reflect compliant meal periods, even when they did not
26 receive a compliant meal period, in order to strictly limit meal period premiums that Defendants
27 would otherwise owe. Consequently, Plaintiff and other non-party Aggrieved Employees
28 performed work during meal periods for which they were not paid.

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

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

14 **FAILURE TO PAY MINIMUM WAGES**

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

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

23 61. First, as stated, Defendants required Plaintiff and other non-party Aggrieved
24 Employees to perform work off-the-clock, such as waiting to clock in for their shifts. Also as
25 stated above, as a result of Defendants' company-wide policies and/or practices of restricting
26 overtime accrual, Plaintiff and other non-party Aggrieved Employees were required to perform
27 work after their scheduled shift times, while off-the-clock, including, but not limited to, washing
28 dishes, cleaning kitchen equipment, and restocking inventory. Additionally, as stated,

1 Defendants required Plaintiff and other non-party Aggrieved Employees to complete mandatory
2 training sessions and communicate with management on their personal mobile devices outside
3 of their scheduled shifts. Defendants failed to track this time Plaintiff and other non-party
4 Aggrieved Employees spent working off-the-clock, and Plaintiff and other non-party Aggrieved
5 Employees received no compensation for this time.

6 62. Second, as also stated above, due to Defendants' uniform practices of utilizing
7 labor budgets, understaffing their restaurant locations, assigning heavy workloads, and failing
8 to adhere to a schedule for meal periods, Plaintiff and other non-party Aggrieved Employees
9 were impeded from taking all uninterrupted meal periods to which they were entitled and were
10 required to work off-the-clock. Moreover, as stated, Defendants required employees to carry
11 and use their company-issued headsets to communicate with management during unpaid meal
12 periods. Additionally, as stated, on information and belief, because Defendants frowned upon
13 employees accruing meal period premiums, Defendants' managers adjusted Plaintiff's and other
14 non-party Aggrieved Employees' time records to reflect compliant meal periods, even when
15 they did not receive a compliant meal period. Thus, Defendants systematically failed to pay
16 Plaintiff and other non-party Aggrieved Employees for actual hours worked during unpaid
17 meal periods because these hours were not always correctly recorded.

18 63. Defendants did not pay minimum wages for all hours worked by Plaintiff and
19 other non-party Aggrieved Employees. To the extent that these off-the-clock hours did not
20 qualify for overtime premium payment, Defendants did not pay at least minimum wages for
21 those hours worked off-the-clock in violation of California Labor Code sections 1182.12,
22 1194, 1197, and 1198.

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

27 //

28 //

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

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

66. At all relevant times herein set forth, California Labor Code section 512(a) provides that 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 a 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).

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

68. At all relevant times herein set forth, Labor Code sections 226.7, 512(a), 1198, 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.

69. First, as stated above, Defendants had, and continue to have, company-wide policies and/or practices of understaffing their restaurant locations while utilizing labor budgets, which, combined with assignment of heavy workloads and failure to adhere to a schedule for meal periods, resulted in a lack of meal period coverage and prevented Plaintiff and other non-party Aggrieved Employees from taking all timely, uninterrupted meal periods to which they were entitled. As a result, Plaintiff and other non-party Aggrieved Employees

1 had to work through all or part of their meal periods, had their meal periods interrupted, and/or
2 had to wait extended periods of time before taking meal periods. For example, Plaintiff had her
3 meal periods interrupted or cut short three (3) times per month due to the restaurant being busy
4 and coworkers needing assistance to prepare orders. Thus, Defendants failed to provide
5 Plaintiff and other non-party Aggrieved Employees with compliant 30-minute meal periods.

6 70. Second, as stated, Defendants had, and continue to have, a company-wide policy
7 and/or practice of requiring that Plaintiff and other non-party Aggrieved Employees carry a
8 company-issued headsets to respond to requests including during meal periods. As a result,
9 Defendants' management contacted Plaintiff and other non-party Aggrieved Employees on their
10 company-issued headsets during unpaid meal periods and Plaintiff would also respond to
11 customer requests during her meal periods, due to the lack of coverage.

12 71. Third, as stated, on information and belief, because Defendants frowned upon
13 employees accruing meal period premiums, Defendants' managers adjusted Plaintiff's and other
14 non-party Aggrieved Employees' time records to reflect compliant meal periods, even when
15 they did not receive a compliant meal period. As a result, Defendants falsified and deducted
16 meal periods from Plaintiff's and other non-party Aggrieved Employees' time records even
17 when meal periods were missed, short, interrupted, and/or late and thus systematically failed to
18 correctly record meal periods. Plaintiff and other non-party Aggrieved Employees did not sign
19 valid meal period waivers on days that they were entitled to meal periods and were not relieved
20 of all duties.

21 72. At all times herein mentioned, Defendants knew or should have known that, as a
22 result of these policies, Plaintiff and other non-party Aggrieved Employees were prevented from
23 being relieved of all duties and required to perform some of their assigned duties during meal
24 periods. Defendants further knew or should have known that Defendants did not pay Plaintiff
25 and other non-party Aggrieved Employees meal period premiums when meal periods were late,
26 interrupted, shortened, or missed.

27 73. Moreover, Defendants engaged in a company-wide practice and/or policy of
28 not paying all meal period premiums owed when compliant meal periods are not provided.

1 Because of this practice and/or policy, Plaintiff and other non-party Aggrieved Employees
2 have not received premium pay for all missed, late, and interrupted meal periods.

3 74. Defendants' conduct violates the applicable IWC Wage Order, and California
4 Labor Code sections 226.7, 512(a), 516, and 1198. Plaintiff and other non-party Aggrieved
5 Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections
6 558 and/or 2699(a), (f), and (k).

7 **FAILURE TO AUTHORIZE AND PERMIT REST PERIODS**
8 **VIOLATION OF LABOR CODE SECTIONS 226.7, 516, AND 1198**

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

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

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

26 78. Pursuant to the applicable IWC Wage Order and California Labor Code section
27 226.7(c), Plaintiff and other non-party Aggrieved Employees are entitled to recover from
28 Defendants one (1) additional hour of pay at their regular rates of pay for each work day that a

1 required rest period was not authorized and permitted.

2 79. During the relevant time period, Defendants regularly failed to authorize and
3 permit Plaintiff and other non-party Aggrieved Employees to take a ten (10) minute rest
4 period per each four (4) hour period worked or major fraction thereof. As with meal periods,
5 Defendants' company-wide policies and/or practices of understaffing and assigning heavy
6 workloads prevented Plaintiff and other non-party Aggrieved Employees from being relieved
7 of all duty to take their rest periods. Defendants also failed to adhere to a schedule for rest
8 periods, which, coupled with Defendants' failure to provide adequate rest period coverage,
9 further led to Plaintiff and other non-party Aggrieved Employees not being authorized and
10 permitted to take compliant rest periods.

11 80. Furthermore, upon information and belief, Defendants maintained a company-
12 wide on-premises rest period policy, which effectively required that Plaintiff and/or other non-
13 party Aggrieved Employees remain on the work premises during their rest periods. Because
14 Plaintiff and/or other non-party Aggrieved Employees were restricted from leaving the
15 premises during rest periods, they were denied the ability to use their rest periods freely for
16 their own purposes, such as running personal errands. Thus, Defendants effectively
17 maintained control over Plaintiff and/or other non-party Aggrieved Employees during rest
18 periods.

19 81. As a result of Defendants' practices and policies, Plaintiff and other non-party
20 Aggrieved Employees worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in
21 excess of 10 hours without receiving all uninterrupted 10-minute rest periods to which they
22 were entitled. For example, Plaintiff's rest periods were interrupted three (3) times a week to
23 deliver curbside orders or assist in the kitchen.

24 82. Moreover, Defendants had a company-wide policy of requiring all newly hired
25 employees to sign blanket meal period waivers at or near their time of hire. Defendants took
26 the position that non-exempt, hourly paid employees had waived their rights to first meal
27 periods for the entirety of their employment and, on that basis, did not provide them with all
28 meal periods to which they were entitled. Furthermore, Defendants' "Meal Period Waiver"

1 form requires employees to provide written notice should they wish to revoke the waiver.
2 Defendants' presumption that meal periods would not be provided for shifts in excess of five
3 (5) hours but less than six (6) hours, due to blanket meal period waivers signed at or near the
4 time of hire, and imposition on employees to revoke the waivers in writing, discouraged and
5 impeded Plaintiff and other non-party Aggrieved Employees from taking all meal periods to
6 which they were entitled.

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

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

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

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

25 85. Defendants' conduct violates the applicable IWC Wage Order and California
26 Labor Code sections 226.7, 516, and 1198. Plaintiff and other non-party Aggrieved
27 Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections
28 558 and/or 2699(a), (f), and (k).

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

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

87. During the relevant time period, Defendants have knowingly and intentionally provided Plaintiff and other non-party Aggrieved Employees with uniform, incomplete, and inaccurate wage statements. For example, Defendants issued uniform wage statements to Plaintiff and other non-party Aggrieved Employees that fail to correctly list: gross wages earned; total hours worked; net wages earned; and all applicable hourly rates in effect during the pay period, including rates of pay for overtime wages, and the corresponding number of hours worked at each hourly rate. Specifically, Defendants violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

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

89. 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

1 other than a social security number; failing to list the name and address of the legal entity that
2 is the employer; and/or failing to state all hours worked as a result of not recording or stating
3 hours worked off-the-clock.

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

16 91. California Labor Code section 1198 provides that the maximum hours of work
17 and the standard conditions of labor shall be those fixed by the Labor Commissioner and as
18 set forth in the applicable IWC Wage Order. Section 1198 further provides that “[t]he
19 employment of any employees for longer hours than those fixed by the order or under
20 conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC
21 Wage Order, employers are required to keep accurate time records showing when the
22 employee begins and ends each work period and meal period. During the relevant time
23 period, Defendants engaged in company-wide practices and/or policies of failing to record
24 actual hours worked (including falsifying time records by recording that compliant meal periods
25 were taken regardless of if or when meal periods were actually taken), and thereby failed, on a
26 company-wide basis, to keep accurate records of work period and meal period start and end
27 times for Plaintiff and other non-party Aggrieved Employees, in violation of section 1198.

28 92. Defendants’ conduct violates California Labor Code sections 226(a), 1174(d),

1 and 1198. Plaintiff and other non-party Aggrieved Employees are therefore entitled to recover
2 civil penalties pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f), and (k).

3 **FAILURE TO PAY WAGES DURING EMPLOYMENT**

4 **VIOLATION OF LABOR CODE SECTION 204**

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

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

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

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

25 **FAILURE TO PAY WAGES UPON TERMINATION**

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

27 97. At all times relevant herein set forth, Labor Code sections 201 and 202 provide
28 that if an employer discharges an employee, the wages earned and unpaid at the time of

1 discharge are due and payable immediately, and that if an employee voluntarily leaves his or
2 her employment, his or her wages shall become due and payable not later than seventy-two
3 (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of
4 his or her intention to quit, in which case the employee is entitled to his or her wages at the
5 time of quitting.

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

11 99. Defendants' failure to pay Plaintiff and those non-party Aggrieved Employees
12 who are no longer employed by Defendants their wages earned and unpaid at the time of
13 discharge, or within seventy-two (72) hours of their leaving Defendants' employ, violates
14 Labor Code sections 201 and 202. Plaintiff and other non-party Aggrieved Employees are
15 therefore entitled to recover civil penalties pursuant to Labor Code sections 256 and/or
16 2699(a), (f), and (k).

17 **FAILURE TO PAY REPORTING TIME PAY**

18 **VIOLATION OF LABOR CODE SECTION 1198 AND CALIFORNIA CODE OF** 19 **REGULATIONS TITLE 8, SECTION 11050 SUBDIVISION 5(A)**

20 101. California Labor Code section 1198 makes it illegal to employ an employee
21 under conditions of labor that are prohibited by the applicable IWC Wage Order. California
22 Labor Code section 1198 requires that ". . . the standard conditions of labor fixed by the
23 commission shall be the . . . standard conditions of labor for employees. The employment of
24 any employee . . . under conditions of labor prohibited by the order is unlawful."

25 102. California Code of Regulations, Title 8, section 11050(5)(A) provides that
26 "[e]ach workday an employee is required to report for work and does report, but is not put to
27 work or is furnished less than half said employee's usual or scheduled day's work, the
28 employee shall be paid for half the usual or scheduled day's work, but in no event for less

1 than two (2) hours nor more than four (4) hours, at the employee's regular rate of pay, which
2 shall not be less than the minimum wage." The "primary purpose of the reporting time
3 regulation" is "to guarantee at least partial compensation for employees who report to work
4 expecting to work a specified number of hours, and who are deprived of that amount because
5 of inadequate scheduling or lack of proper notice by the employer." *Aleman v. AirTouch*
6 *Cellular*, 209 Cal. App. 4th 556 (2012).

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

12 104. Defendants had a company-wide practice of sending Plaintiff and other non-
13 party Aggrieved Employees home early from their shifts, including before they had worked at
14 least half of their usual or scheduled shift, but would not pay Plaintiff and other non-party
15 Aggrieved Employees for half of their usual or scheduled shift. For example, during her
16 employment, Defendants' managers sent Plaintiff home before she had an opportunity to work
17 at least half of her scheduled shift because business was slow, but on information and belief,
18 Plaintiff was only paid for the time she had worked. Although Plaintiff and other non-party
19 Aggrieved Employees would report to work based on the schedule that Defendants provided
20 to them, Defendants would send them home before they worked at least half of their usual or
21 scheduled shifts. When this occurred, Defendants did not pay Plaintiff and other non-party
22 Aggrieved Employees for at least half of their scheduled day's work or the minimum
23 reporting time pay.

24 105. Accordingly, Plaintiff and other non-party Aggrieved Employees were not
25 properly compensated with reporting time pay in violation of California Labor Code section
26 1198 and California Code of Regulations, Title 8, section 11050(5)(A). Plaintiff and other
27 non-party Aggrieved Employees are therefore entitled to recover civil penalties pursuant to
28 Labor Code sections 2699(a), (f), and (g).

1 **FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES**

2 **VIOLATION OF LABOR CODE SECTION 2802**

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

16 107. First, during the relevant time period, Defendants, on a company-wide basis,
17 required that Plaintiff and other non-party Aggrieved Employees use their own personal
18 mobile devices, including, but not limited to, cellular phones, and/or mobile data to carry out
19 their job duties, but failed to reimburse them for the costs of their work-related mobile device
20 expenses. For example, Plaintiff used her personal cellular phone to communicate with
21 managers regarding kitchen equipment, scheduling, and other work-related tasks. Although
22 Defendants required Plaintiff and other non-party Aggrieved Employees to utilize their personal
23 mobile devices and/or mobile data to carry out their work-related responsibilities Defendants
24 failed to reimburse them for this cost.

25 108. Second, during the relevant time period, Defendants expected Plaintiff and other
26 non-party Aggrieved Employees to report to work in clean and presentable uniforms bearing the
27 McDonald’s logo, including a uniform shirt and hat. Due to the nature of restaurant work,
28 Plaintiff’s and other non-party Aggrieved Employees’ uniform items would become stained

1 with grease, oil, soiled, and/or acquire an unpleasant odor such that they were unable to mix
2 these clothes in with other laundry. As a result, Plaintiff had to wash her uniform items
3 separately from her regular clothing, thus incurring additional utility and laundry expenses for
4 the upkeep of her uniforms. Thus, Defendants failed to maintain the uniforms it required
5 Plaintiff and other non-party Aggrieved Employees to wear during their shifts and forced them
6 to incur the costs of maintaining employee uniforms.

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

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

19 **REQUEST FOR JURY TRIAL**

20 Plaintiff requests a trial by jury.

21 **PRAYER FOR RELIEF**

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

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

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

28 2. That the Court declare, adjudge and decree that Defendants violated the

1 following California Labor Code provisions as to Plaintiff and other non-party Aggrieved
2 Employees: 510 and 1198 (by failing to pay all overtime compensation); 1182.12, 1194, 1197,
3 and 1198 (by failing to pay at least minimum wages for all hours worked); 226.7, 512(a), 516,
4 1198 (by failing to provide all meal periods); 226.7, 516, and 1198 (by failing to authorize and
5 permit all rest periods); 226(a), 1174(d), and 1198 (by failing to provide accurate wage
6 statements and maintain accurate payroll records); 204 (by failing to timely pay all earned
7 wages during employment); 201 and 202 (by failing to timely pay all earned wages upon
8 termination); 1198 and the applicable IWC Wage Order (by failing to provide reporting time
9 pay); and 2802 (by failing to reimburse business expenses);

10 3. For civil penalties, pursuant to California Labor Code sections 210, 226.3, 256,
11 558, 1174.5, 2699(a), (f), and (k), for violations of California Labor Code sections 201, 202,
12 204, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1198, and 2802;

13 4. For injunctive relief pursuant to California Labor Code sections 1194.5 and/or
14 2699(k) to bring Defendants into compliance with the requirements of California Labor Code
15 sections 201, 202, 204, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1198,
16 and 2802;

17 5. For attorneys' fees and costs pursuant to California Labor Code section
18 2699(k)(1), and any and all other relevant statutes, for Defendants' violations of California
19 Labor Code sections 201, 202, 204, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194,
20 1197, 1198, and 2802;

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

22 //

23 //

24 //

25 //

26 //

27 //

28 //

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

Dated: October 14, 2024

Respectfully submitted,
Capstone Law APC

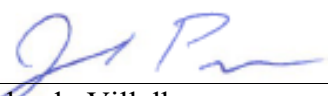
By: 
Orlando Villalba
Helga Hakimi
Joseph D. Parsons
Attorneys for Plaintiff Mercedes Marin

EXHIBIT “1”

MAO SHIOKURA
310.712.8030 Direct
Mao.Shiokura@capstonelawyers.com

August 9, 2024

VIA ONLINE SUBMISSION

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

Subject: *Mercedes Marin v. NAKC, Inc.*

Dear PAGA Administrator:

This office represents Mercedes Marin in connection with her claims under the California Labor Code. Ms. Marin was an employee of NAKC, INC. (“NAKC”).

The employer may be contacted directly at the address below:

NAKC, INC.
5120 MONETTA LANE
SACRAMENTO, CA 95835

Ms. Marin intends to seek civil penalties, attorneys’ 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”). Ms. Marin seeks relief on behalf of herself, the State of California, and other persons who are or were employed by NAKC 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.

NAKC employed Ms. Marin as an hourly paid, non-exempt employee from approximately July 2022 to April 2024. Ms. Marin worked as a Crew Member at NAKC’s McDonald’s restaurant located in West Sacramento, California. Ms. Marin typically worked eight (8) hours or more per day, and four (4) days or more per week. At the time Ms. Marin’s employment ended with NAKC, she was compensated approximately \$20.00 per hour. Ms. Marin’s primary job duties as a Crew Member included, without limitation, taking customer orders; preparing and cooking food; and cleaning the restaurant, dining area, and kitchen.

NAKC committed each of the following Labor Code violations against Ms. Marin, the facts and theories of which follow, making her an “aggrieved employee” pursuant to California Labor Code section 2699(c)(1):¹

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

NAKC, INC. is a California corporation operating at least eight (8) McDonald’s restaurant franchise locations in California. Upon information and belief, NAKC maintains a single, centralized Human Resources (HR) department at its corporate headquarters in Sacramento, California, for all non-exempt, hourly paid employees working for NAKC in California, including Ms. Marin and other aggrieved employees. At all relevant times, NAKC issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Ms. Marin and other aggrieved employees, regardless of their location or position.

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

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

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

NAKC willfully failed to pay all overtime wages owed to Ms. Marin and other aggrieved employees. During the relevant time period, Ms. Marin 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.

¹ These facts, theories, and claims are based on Ms. Marin’s experience and counsel’s review of those records currently available relating to Ms. Marin’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, Ms. Marin reserves the right to supplement this letter with additional facts, theories, and claims if she becomes aware of them subsequent to the submission of this letter.

First, NAKC had, and continues to have, a company-wide policy and/or practice of discouraging and impeding Ms. Marin and other aggrieved employees from recording hours worked that were outside their scheduled shifts, which caused Ms. Marin and other aggrieved employees to perform work-related tasks while off-the-clock, before their scheduled shift times. For example, because NAKC's timekeeping system was integrated with the company's point-of-sale ("POS") system, Ms. Marin and other aggrieved employees had to spend time waiting to clock in for the start of their shifts, because other employees were using the POS system to handle customer transactions and take orders. For instance, Ms. Marin was required to wait up to five (5) minutes, four (4) times a month under NAKC's control until a POS machine was available for clocking-in, time for which she was not paid.

Second, NAKC had, and continues to have, a company-wide policy and/or practice of discouraging and impeding Ms. Marin and other aggrieved employees from recording hours worked that were outside their scheduled shifts, in order to limit the amount of overtime employees could accrue. On information and belief, this policy of limiting overtime, coupled with NAKC's practices of understaffing and assigning heavy workloads (*see infra*), led Ms. Marin and other aggrieved employees to work off-the-clock after their scheduled shift times. For example, three (3) times per week, Ms. Marin was required to clock out at her scheduled shift end-time and continue working, washing dishes, cleaning kitchen equipment, and restocking inventory.

Moreover, Ms. Marin and other aggrieved employees were required to complete mandatory online training sessions, but NAKC did not permit them to complete the training during their shifts. For example, Ms. Marin was required to complete training sessions off the clock, watching videos on food preparation, sanitation, and company policies, at least twice for about one (1) hour each time. Additionally, approximately once per week, NAKC's managers called Ms. Marin on her personal cellular phone, on her off-days, to discuss kitchen equipment and recipes. Thus, NAKC failed to track the time employees spent working off the clock, and Ms. Marin and other aggrieved employees received no compensation for this time.

Third, NAKC had, and continues to have, a company-wide policy and/or practice 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, NAKC's uniform use of labor budgeting and understaffing resulted in a failure to provide Ms. Marin and other aggrieved employees with adequate meal period coverage, because there were too few employees on duty to handle the workload. NAKC also had a practice of failing to adhere to a schedule for meal periods, which further caused Ms. Marin and other aggrieved employees to not be relieved of their duties for compliant meal periods. For example, Ms. Marin would work through part of her meal periods to assist coworkers with kitchen equipment and prepare McCafé frappes, McFlurries, and other specialty menu items. Thus, Ms. Marin and other aggrieved employees worked through meal periods and/or had their meal periods interrupted or cut short, and NAKC did not pay Ms. Marin and other aggrieved employees for the time they continued to perform tasks during meal periods.

Fourth, NAKC had, and continues to have, a policy and/or practice of requiring that Ms. Marin and other aggrieved employees carry and respond to company-issued headsets. As a result, NAKC's management contacted Ms. Marin and other aggrieved employees on their company-issued headsets during unpaid meal periods. Ms. Marin would also respond to customer requests during her meal periods, due to the lack of coverage. NAKC knew or should have known that Ms. Marin and other aggrieved employees were performing work while off-the-clock in order to meet NAKC's expectations, but failed to compensate them for this time.

Furthermore, on information and belief, because NAKC frowned upon employees accruing meal period penalties, NAKC's management adjusted Ms. Marin and other aggrieved employees time records to reflect compliant meal periods, even when they did not receive a compliant meal period, in order to strictly limit meal penalties that NAKC would otherwise owe. Consequently, Ms. Marin and other aggrieved employees performed work during meal periods for which they were not paid.

NAKC knew or should have known that, as a result of these company-wide practices and/or policies, Ms. Marin 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 Ms. Marin and other aggrieved employees 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, Ms. Marin and other aggrieved employees were not paid overtime wages for all of the overtime hours they actually worked.

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

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

NAKC's failure to pay Ms. Marin 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. Ms. Marin 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)(L) (defining “Hours Worked”).

First, as set forth above, NAKC required Ms. Marin and other aggrieved employees to perform work off-the-clock, such as waiting to clock in for their shifts. Also as stated above, as a result of NAKC’s company-wide policies and/or practices of restricting overtime accrual, Ms. Marin and other aggrieved employees were required to perform work after their scheduled shift times, while off-the-clock, including, but not limited to, washing dishes, cleaning kitchen equipment, and restocking inventory. Additionally, as stated, NAKC required Ms. Marin and other aggrieved employees to complete mandatory training sessions and communicate with management on their personal mobile devices. NAKC failed to track this time Ms. Marin and other aggrieved employees spent working off-the-clock, and Ms. Marin and other aggrieved employees received no compensation for this time.

Second, as set forth above, due to NAKC’s uniform practices of utilizing labor budgets, understaffing its restaurant locations, assignment of heavy workloads, and failure to adhere to a schedule for meal periods, Ms. Marin 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. Moreover, as stated, NAKC required employees to carry and use their company-issued headsets to communicate with management during unpaid meal periods. Additionally, as stated, on information and belief, because NAKC frowned upon employees accruing meal penalties, NAKC’s managers adjusted Ms. Marin’s and other aggrieved employees’ time records to reflect compliant meal periods, even when they did not receive a compliant meal period. Thus, NAKC systematically failed to pay Ms. Marin and other aggrieved employees for actual hours worked during unpaid meal periods because these hours were not always correctly recorded.

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

Accordingly, NAKC regularly failed to pay at least minimum wages to Ms. Marin 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. Ms. Marin 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, as stated above, NAKC had, and continues to have, company-wide policies and/or practices of understaffing its restaurant locations while utilizing labor budgets, which, combined with assignment of heavy workloads and failure to adhere to a schedule for meal periods, resulted in a lack of meal period coverage and prevented Ms. Marin and other aggrieved employees from taking all compliant meal periods. As a result, Ms. Marin 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, Ms. Marin had her meal periods interrupted or cut short three (3) times per month due to the restaurant being busy and coworkers needing assistance to prepare orders. Thus, NAKC failed to provide Ms. Marin and other aggrieved employees with compliant, 30-minute meal periods.

Second, as stated, NAKC had, and continues to have, a company-wide policy and/or practice of requiring that Ms. Marin and other aggrieved employees carry a company-issued headsets to respond to requests including during meal periods. As a result, NAKC's management contacted Ms. Marin and other aggrieved employees on their company-issued headsets during unpaid meal periods and Ms. Marin would also respond to customer requests during her meal periods, due to the lack of coverage. Furthermore, as stated, on information and belief, because NAKC frowned upon employees accruing meal period penalties, NAKC's managers adjusted Ms. Marin's and other aggrieved employees' time records to reflect compliant meal periods, even when they did not receive a compliant meal period. As a result, NAKC falsified and deducted meal periods from Ms. Marin's and other aggrieved employees' time records even when meal periods were missed, short, interrupted, and/or late and thus systematically failed to correctly record meal periods. Ms. Marin 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 mentioned herein, NAKC knew or should have known that as a result of its policies, Ms. Marin and other aggrieved employees were not actually relieved of all duties to take timely, uninterrupted meal periods. NAKC further knew or should have known that it did not pay Ms. Marin and other aggrieved employees meal period premiums when meal periods were late, interrupted, shortened, and/or missed.

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

Accordingly, NAKC failed to provide all meal periods in violation of California Labor Code sections 226.7, 512(a), 516, and 1198. Ms. Marin 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, NAKC regularly failed to authorize and permit Ms. Marin 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, NAKC's company-wide policies of understaffing and assigning heavy workloads prevented Ms. Marin and other aggrieved employees from being relieved of all duty in order to take compliant rest periods. NAKC also failed to adhere to a schedule for rest periods, which, coupled with NAKC's failure to provide adequate rest period coverage, further led to Ms. Marin and other aggrieved employees not being authorized and permitted to take rest periods.

Furthermore, on information and belief, NAKC maintained a company-wide on-premises rest period policy, which effectively required that Ms. Marin and/or other aggrieved employees remain on the work premises during their rest periods. Because Ms. Marin 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, NAKC effectively maintained control over Ms. Marin and/or other aggrieved employees during rest periods.

As a result of NAKC's practices and policies, Ms. Marin 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, Ms. Marin's rest periods were interrupted three (3) times a week to deliver curbside orders or assist in the kitchen.

NAKC 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, Ms. Marin and other aggrieved employees have not received premium pay for all missed rest periods. Alternatively, to the extent that NAKC did pay Ms. Marin and/or other aggrieved employees one (1) additional hour of premium pay for missed rest periods, NAKC did not pay Ms. Marin and/or other aggrieved employees at the correct rate of pay for premiums because

NAKC failed to include all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

Accordingly, NAKC failed to authorize and permit all rest periods in violation of California Labor Code sections 226.7, 516, and 1198. Ms. Marin 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. NAKC has not provided Ms. Marin 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, NAKC has knowingly and intentionally provided Ms. Marin and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. For example, NAKC issued uniform wage statements to Ms. Marin and other aggrieved employees that fail to correctly list: gross wages earned; total hours worked; net wages earned; all applicable hourly rates in effect during the pay period, including rates of pay for overtime wages and/or meal and rest period premiums, and the corresponding number of hours worked at each hourly rate. Specifically, NAKC violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

Because NAKC did not record the time Ms. Marin 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), NAKC did not list the correct amount of gross wages and net wages earned by Ms. Marin and other aggrieved employees in compliance with section 226(a)(1) and section 226(a)(5), respectively. For the same reason, NAKC failed to accurately list the total number of hours worked by Ms. Marin 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).

Furthermore, because NAKC did not calculate Ms. Marin's and/or other aggrieved employees' regular rate of pay correctly for purposes of paying overtime wages and/or meal and rest period premiums, NAKC did not list the correct amount of gross wages in compliance with section 226(a)(1) and did not list the correct amount of net wages in violation of section 226(a)(5). NAKC also failed to correctly list all applicable hourly rates in effect during the pay period, namely, correct rates of pay for overtime wages and/or meal and rest period premiums, in violation of section 226(a)(9).

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 the 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” At all relevant times, and in violation of Labor Code section 1174(d), NAKC willfully failed to maintain accurate payroll records for Ms. Marin 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, NAKC engaged in company-wide practices and/or policies of failing to record actual hours worked (including falsifying time records by recording that compliant meal periods were taken regardless of if or when meal periods were actually taken), and thereby failed to keep accurate records of work period and meal period start and end times for Ms. Marin and other aggrieved employees, in violation of section 1198.

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

Ms. Marin 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, NAKC willfully failed to pay Ms. Marin 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.

Ms. Marin and other aggrieved employees are entitled to recover civil penalties, attorneys' 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.

On information and belief, NAKC has a company-wide practice and/or policy of paying departing employees their final wages on the next regular pay cycle, instead of adhering to the time requirements set forth in Labor Code sections 201 and 202. For example, Ms. Marin voluntarily resigned from her employment with NAKC on April 17, 2024. However, on information and belief, NAKC did not provide Ms. Marin with her final wages until on or about April 24, 2024. Thus, NAKC failed to pay Ms. Marin her final wages within seventy-two (72) hours of her leaving NAKC's employ, in violation of California Labor Code section 202.

Additionally, during the relevant time period, NAKC willfully failed to pay Ms. Marin and other aggrieved employees who are no longer employed by NAKC 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 NAKC's employ.

Ms. Marin and other aggrieved employees are entitled to recover civil penalties, attorneys' 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, NAKC violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11050(5)(A), because NAKC failed to pay Ms. Marin 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.

On information and belief, NAKC had a company-wide practice of sending Ms. Marin 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 Ms. Marin and other aggrieved employees for half of their usual or scheduled shift. For example, during her employment, NAKC’s managers sent Ms. Marin home before she had an opportunity to work at least half of her scheduled shift because business was slow, but on information and belief, Ms. Marin was only paid for the time he had worked. Although Ms. Marin and other aggrieved employees would report to work based on the schedule that NAKC provided to them, NAKC would send them home before they had worked at least half of their scheduled shifts without giving them reporting time pay.

Accordingly, Ms. Marin 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).

Ms. Marin and other aggrieved employees are entitled to recover civil penalties, attorneys’ 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, NAKC, on a company-wide basis, required that Ms. Marin 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, Ms. Marin used her personal cellular phone to communicate with managers regarding kitchen equipment, scheduling, and other work-related tasks. Although NAKC required Ms. Marin and other aggrieved employees to utilize their personal mobile devices and/or mobile data to carry out their work-related responsibilities NAKC failed to reimburse them for this cost.

Second, during the relevant time period, NAKC expected Ms. Marin and other aggrieved employees to report to work in clean and presentable uniforms bearing the McDonald's logo, including a uniform shirt and hat. Due to the nature of restaurant work, Ms. Marin's and other aggrieved employees' uniform items would become stained with grease, oil, soiled, and/or acquire an unpleasant odor such that they were unable to mix these clothes in with other laundry. As a result, Ms. Marin had to wash her uniform items separately from her regular clothing, thus incurring additional utility and laundry expenses for the upkeep of her uniforms. Thus, NAKC failed to maintain the uniforms it required Ms. Marin and other aggrieved employees to wear during their shifts and forced them to incur the costs of maintaining employee uniforms.

Third, during the relevant time period, NAKC, on a company-wide basis, required Ms. Marin and/or other aggrieved employees to obtain and pay for certain certifications, which were required for their continued employment, as well as associated costs such as training. For example, Ms. Marin complied with this requirement and obtained a food handler certification but, on information and belief, NAKC did not reimburse them for the costs of obtaining the certification. Thus, NAKC failed to reimburse Ms. Marin and/or other aggrieved employees for the costs of obtaining these certifications, including training fees.

NAKC could have provided Ms. Marin and other aggrieved employees with the actual equipment for use on the job, such as company mobile devices and access to laundering services. Or, NAKC could have reimbursed employees for the costs of their mobile device usage, certification fees, and laundering expenses or provided a uniform maintenance allowance. Instead, NAKC passed these operating costs off onto Ms. Marin and other aggrieved employees. At all relevant times, Ms. Marin and other aggrieved employees did not earn at least two (2) times the minimum wage.

Thus, NAKC had, and continues to have, a company-wide policy and/or practice of not reimbursing employees for expenses necessarily incurred and on their operating costs to Ms. Marin and other aggrieved employees in violation of California Labor Code section 2802. Ms. Marin and other aggrieved employees are entitled to recover civil penalties, attorneys' 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.” NAKC, at all relevant times, was an employer or person acting on behalf of an employer(s) who violated Ms. Marin’s and other aggrieved employees’ rights by violating various sections of the California Labor Code.

Accordingly, Ms. Marin seeks the remedies set forth in Labor Code section 558 for herself, 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, Ms. Marin, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for herself, all other aggrieved employees, and the State of California against NAKC 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, Ms. Marin 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 Ms. Marin’s reasonable attempt to settle her dispute with NAKC prior to litigation. Pursuant to *Graham v. DaimlerChrysler Corp.*, 34 Cal. 4th 553 (2004), this notice serves to inform NAKC of Ms. Marin’s aforementioned grievances and the proposed remedies as detailed below, while affording NAKC a reasonable opportunity to satisfy Ms. Marin’s demands.

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

1. NAKC shall pay Ms. Marin and all other aggrieved employees employed by NAKC at any time during the past three years from the date of this notice unpaid wages and compensation for the above-referenced violations.
2. NAKC 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. NAKC shall conduct a survey or interview all current and former aggrieved employees in California who worked for NAKC in the past three years to obtain information from them regarding the above-referenced violations, including, but not limited to: the number of meal periods which were not provided; the number of rest periods which were not authorized and permitted; and the number of employees who were required to pay for mobile device expenses; certification fees; laundry expenses, or other expenditures in the discharge of their duties, with the investigation to be completed within 60 days.
4. NAKC shall pay each aggrieved employee one hour of pay at his or her regular rate of pay for each work day he or she was not provided one or more meal periods, as required by Labor Code sections 226.7, 512(a), 516, and 1198. NAKC also shall pay each aggrieved employee one hour of pay at his or her regular rate of pay for each work day he or she was not authorized and permitted one or more rest periods, as required by Labor Code sections 226.7, 516, and 1198.

5. NAKC shall provide all 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.
6. NAKC shall reimburse those aggrieved employees who were required to pay for any business expenses incurred for NAKC's benefit, including, but not limited to, mobile device expenses; certification fees; laundry expenses; or other expenditures, as required by Labor Code section 2802.
7. NAKC shall pay accrued legal interest to Ms. Marin and all aggrieved employees at the rate of 10% per annum for said unpaid wages.
8. NAKC shall provide Ms. Marin and all aggrieved employees employed by NAKC 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).
9. NAKC shall pay waiting time penalties, equal to 30 days of pay, to Ms. Marin and each former aggrieved employee who was not paid all wages due as described herein.
10. NAKC 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, 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:

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

Best Regards,



Mao Shiokura

Copy: NAKC, INC. (via U.S. Certified Mail)

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



7022 2410 0000 2264 8813

NAKC, INC.
5120 MONETTA LANE
SACRAMENTO, CA 95835

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,

NAKC, INC.
5120 MONETTA LANE
SACRAMENTO, CA 95835



2. Address and ZIP+4®

7022 2410 0000 2264 8813

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

COMPLETE THIS SECTION ON DELIVERY

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

2. 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® ☐ Certified Mail Restricted Delivery ☐ Signature Confirmation™
Collect on Delivery ☐ Collect on Delivery Restricted Delivery ☐ Signature Confirmation Restricted Delivery

1 Mail
Mail Restricted Delivery

Domestic Return Receipt

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

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

OFFICIAL USE

Certified Mail Fee

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

MAZIN V.

NAKC

Postmark

NAKC, INC.
5120 MONETTA LANE
SACRAMENTO, CA 95835

PS Form 3800, April 2013 PSN 7530-02-000-9047 See reverse for instructions