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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN JOAQUIN

YVETTE MUNGER, individually, and on
behalf of other members of the general
public similarly situated, and as an
aggrieved employee pursuant to the Private
Attorneys General Act ("PAGA"),

Plaintiff,

vs.

YUBA CITY HOTEL,LP, a California
limited partnership; LOTUS
MANAGEMENT GROUP LLC, a
California limited liability company;
LOTUS MANAGEMENT, INC., a
California corporation; CHICO HOTEL LP,
a California limited partnership;
HOLLISTER GATEWAY HOTEL, LP, a
California limited partnership; LATHROP
HOTEL, LP, a California limited
partnership; ORO HOTEL, L.P., a
California limited partnership; and DOES 1
through 10, inclusive,

Defendants.

Case No.: STK-CV-UOE-2024-0008218

**FIRST AMENDED CLASS ACTION
COMPLAINT & ENFORCEMENT
ACTION UNDER THE PRIVATE
ATTORNEYS GENERAL ACT,
CALIFORNIA LABOR CODE §§ 2698, ET
SEQ.**

- (1) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime);
- (2) Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 (Unpaid Minimum Wages);
- (3) Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 (Failure to Provide Meal Periods);
- (4) Violation of California Labor Code §§ 226.7, 516, and 1198 (Failure to Authorize and Permit Rest Periods);
- (5) Violation of California Labor Code §§ 226(a), 1174(d), and 1198 (Non-Compliant Wage Statements and Failure to Maintain Payroll Records);
- (6) Violation of California Labor Code §§ 201 and 202 (Wages Not Timely Paid Upon Termination);
- (7) Violation of California Labor Code § 204 (Failure to Timely Pay Wages During Employment);
- (8) Violation of California Labor Code § 2802 (Unreimbursed Business Expenses);
- (9) Civil Penalties for Violations of California Labor Code, Pursuant to PAGA, §§ 2698, et seq.;

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- (10) Violation of California Business & Professions Code §§ 17200, *et seq.* (Unlawful Business Practices); and
- (11) Violation of California Business & Professions Code §§ 17200, *et seq.* (Unfair Business Practices)

Jury Trial Demanded

1 Plaintiff Yvette Munger, individually and on behalf of all other members of the public
2 similarly situated, and as an aggrieved employee and on behalf of all aggrieved employees,
3 alleges as follows:

4 JURISDICTION AND VENUE

5 1. This class action is brought pursuant to California Code of Civil Procedure
6 section 382 and California Labor Code sections 2698, *et seq.* (“PAGA”) to recover civil
7 penalties and any other available relief on behalf of Plaintiff, the State of California, and other
8 current and former employees who worked for Defendants in California as non-exempt,
9 hourly paid employees and received at least one wage statement and against whom one or
10 more violations of any provision in Division 2 Part 2 Chapter 1 of the Labor Code or any
11 provision regulating hours and days of work in the applicable Industrial Welfare Commission
12 (“IWC”) Wage Order were committed, as set forth in this complaint. The monetary damages,
13 penalties, and restitution sought by Plaintiff exceed the minimal jurisdiction limits of the
14 Superior Court and will be established according to proof at trial. This Court has jurisdiction
15 over this action pursuant to the California Constitution, Article VI, section 10. The statutes
16 under which this action is brought do not specify any other basis for jurisdiction. Plaintiff’s
17 share of damages, penalties, and other relief sought in this action does not exceed \$75,000.

18 2. This Court has jurisdiction over Defendants because Defendants are either
19 citizens of California, have sufficient minimum contacts in California, or otherwise
20 intentionally avail themselves of the California market so as to render the exercise of
21 jurisdiction over them by the California courts consistent with traditional notions of fair play
22 and substantial justice. There is no basis for federal diversity jurisdiction in this action
23 because there is no complete diversity, and this case falls within the statutory exceptions to
24 “minimal diversity” jurisdiction under the Class Action Fairness Act, 28 U.S.C. § 1332(d)(4).
25 Upon information and belief, two-thirds or more of the class members and Defendants are
26 citizens of California and/or (a) two-thirds of the class members and Defendants are citizens
27 of California; (b) the alleged wage and hour violations occurred in California; (c) significant
28 relief is being sought against Defendants whose violations of California wage and hour laws

form a significant basis for Plaintiff's claims; and (d) no other class action has been filed within the past three (3) years on behalf of the same proposed class against Defendants asserting the same or similar factual allegations.

3. Venue is proper in this Court, because Defendants employ persons within the County of San Joaquin, and have violated the requirements of the California Labor Code and applicable IWC Wage Order in this county which give rise to the penalties sought in this action. Cal. Code Civ. P. § 393. Specifically, Defendants have violated the requirements of the California Labor Code and applicable IWC Wage Order in at least one location within the County of San Joaquin, including Defendants' location in Lathrop (15688 S. Harlan Road, Lathrop, California 95330). Pursuant to California Civil Code of Procedure section 393, venue is proper for the recovery of a penalty or forfeiture imposed by statute in the county in which the cause, or some part of the cause, arose. Because Defendants have employees in San Joaquin County and Plaintiff could bring this action to recover penalties in San Joaquin County, venue is proper.

THE PARTIES

4. Plaintiff Yvette Munger is a resident of Yuba City, in Sutter County, California. Defendants employed Plaintiff as an hourly paid, non-exempt employee from approximately September 2023 to December 2023. Plaintiff worked for Defendants as a Housekeeper at their Holiday Inn Express & Suites Yuba City hotel location in Yuba City, California. During her employment, Plaintiff typically worked seven (7) hours or more per day and five (5) days or more per week. Plaintiff's primary job duties included, without limitation, cleaning and vacuuming hotel rooms, throwing out trash, changing linens, and replenishing towels and toiletries.

5. YUBA CITY HOTEL,LP was and is, upon information and belief, a California limited partnership, and at all times hereinafter mentioned, an employer whose employees are engaged throughout this county and the State of California.

6. LOTUS MANAGEMENT GROUP LLC was and is, upon information and belief, a California limited liability company, and at all times hereinafter mentioned, an

1 employer whose employees are engaged throughout this county and the State of California.

2 7. LOTUS MANAGEMENT, INC. was and is, upon information and belief, a
3 California corporation, and at all times hereinafter mentioned, an employer whose employees
4 are engaged throughout this county and the State of California.

5 8. CHICO HOTEL LP was and is, upon information and belief, a California
6 limited partnership, and at all times hereinafter mentioned, an employer whose employees are
7 engaged throughout this county and the State of California.

8 9. HOLLISTER GATEWAY HOTEL, LP was and is, upon information and
9 belief, a California limited partnership, and at all times hereinafter mentioned, an employer
10 whose employees are engaged throughout this county and the State of California.

11 10. LATHROP HOTEL , LP was and is, upon information and belief, a California
12 limited partnership, and at all times hereinafter mentioned, an employer whose employees are
13 engaged throughout this county and the State of California.

14 11. ORO HOTEL, L.P. was and is, upon information and belief, a California
15 limited partnership, and at all times hereinafter mentioned, an employer whose employees are
16 engaged throughout this county and the State of California.

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

21 13. Plaintiff is informed and believes, and thereon alleges, that DOES 1 through 10
22 were the partners, agents, owners, or managers of YUBA CITY HOTEL,LP; LOTUS
23 MANAGEMENT GROUP LLC; LOTUS MANAGEMENT, INC.; CHICO HOTEL LP;
24 HOLLISTER GATEWAY HOTEL, LP; LATHROP HOTEL , LP; and ORO HOTEL, L.P. at
25 all relevant times.

26 14. Plaintiff is informed and believes, and thereon alleges, that each and all of the
27 acts and omissions alleged herein was performed by, or is attributable to, YUBA CITY
28 HOTEL,LP; LOTUS MANAGEMENT GROUP LLC; LOTUS MANAGEMENT, INC.;

1 CHICO HOTEL LP; HOLLISTER GATEWAY HOTEL, LP; LATHROP HOTEL , LP; ORO
2 HOTEL, L.P.; and/or DOES 1 through 10 (collectively, “Defendants” or “LMG”), each acting
3 as the agent, employee, alter ego, and/or joint venturer of, or working in concert with, each of
4 the other co-Defendants and was acting within the course and scope of such agency,
5 employment, joint venture, or concerted activity with legal authority to act on the others’
6 behalf. The acts of any and all Defendants were in accordance with, and represent, the official
7 policy of Defendants.

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

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

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

25 18. Plaintiff is informed and believes, and thereon alleges, that at all relevant times,
26 Defendants, and each of them, have acted as joint employers with respect to Plaintiff and class
27 members because Defendants have:

28 (a) jointly exercised meaningful control over the work performed by

1 Plaintiff and class members;

- 2 (b) jointly exercised meaningful control over Plaintiff's and class members'
3 wages, hours, and working conditions, including the quantity, quality
4 standards, speed, scheduling, and operative details of the tasks
5 performed by Plaintiff and class members;
- 6 (c) jointly required that Plaintiff and class members perform work which is
7 an integral part of Defendants' businesses; and
- 8 (d) jointly exercised control over Plaintiff and class members as a matter of
9 economic reality in that Plaintiff and class members were dependent on
10 Defendants, who shared the power to set the wages of Plaintiff and class
11 members and determined their working conditions, and who jointly
12 reaped the benefits from the underpayment of their wages and
13 noncompliance with other statutory provisions governing their
14 employment.

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

18 20. YUBA CITY HOTEL,LP; LOTUS MANAGEMENT GROUP LLC; LOTUS
19 MANAGEMENT, INC.; CHICO HOTEL LP; HOLLISTER GATEWAY HOTEL, LP;
20 LATHROP HOTEL , LP; ORO HOTEL, L.P.; and DOES 1 through 10 are therefore alter
21 egos of each other.

22 21. Adherence to the fiction of the separate existence of Defendants would permit
23 an abuse of the corporate privilege, and would promote injustice by protecting Defendants
24 from liability for the wrongful acts committed by them under the name LMG.

25 22. Plaintiff further alleges, upon information and belief, that Defendants YUBA
26 CITY HOTEL,LP; LOTUS MANAGEMENT GROUP LLC; LOTUS MANAGEMENT,
27 INC.; CHICO HOTEL LP; HOLLISTER GATEWAY HOTEL, LP; LATHROP HOTEL , LP;
28 and ORO HOTEL, L.P. are alter egos of each other for the following reasons:

- (a) On the California Secretary of State’s website
(<https://bizfileonline.sos.ca.gov/>), YUBA CITY HOTEL,LP; LOTUS
MANAGEMENT, INC.; CHICO HOTEL LP; HOLLISTER
GATEWAY HOTEL, LP; LATHROP HOTEL , LP; and ORO HOTEL,
L.P. share the same principal address and mailing address, “6030
Hellyer Ave Ste [#] 150, San Jose, CA 95138”;
- (b) According to their most recent “Statement of Information” forms filed
with the California Secretary of State, LOTUS MANAGEMENT, INC.;;
and LOTUS MANAGEMENT GROUP LLC share the same officers
and managers/members, including, but not limited to, Prakash Patel;
- (c) According to their “Certificate of Limited Partnership” forms filed with
the California Secretary of State, CHICO HOTEL LP; HOLLISTER
GATEWAY HOTEL, LP; LATHROP HOTEL , LP; and ORO HOTEL,
L.P. share the same General Partner, including, but not limited to,
LOTUS MANAGEMENT, INC.;;
- (d) According to their “Certificate of Limited Partnership” form filed with
the California Secretary of State, LOTUS MANAGEMENT GROUP
LLC is a General Partner of YUBA CITY HOTEL,LP;
- (e) On the California Secretary of State’s website, CHICO HOTEL LP;
LATHROP HOTEL , LP; HOLLISTER GATEWAY HOTEL, LP; and
LOTUS MANAGEMENT, INC. ; and ORO HOTEL, L.P. share the
same agent for service of process, Prakash [J] Patel; and
- (f) On information and belief, YUBA CITY HOTEL,LP; LOTUS
MANAGEMENT GROUP LLC; LOTUS MANAGEMENT, INC.;;
CHICO HOTEL LP; HOLLISTER GATEWAY HOTEL, LP;
LATHROP HOTEL , LP; and ORO HOTEL, L.P. utilize the same
standardized employment forms and issue the same employment
policies.

1 **GENERAL ALLEGATIONS**

2 23. Defendants operate hotels, rooming houses, and other lodging places.
3 Defendants operate at least six (6) hotels in California. Upon information and belief,
4 Defendants maintain a single, centralized Human Resources (“HR”) department at their
5 company headquarters in San Jose, California or Danville, California which is responsible for
6 the recruiting and hiring of new employees, and communicating and implementing
7 Defendants’ company-wide policies, including timekeeping policies and meal and rest period
8 policies, to employees throughout California.

9 24. In particular, Plaintiff and class members, on information and belief, received
10 the same standardized documents and/or written policies. Upon information and belief, the
11 usage of standardized documents and/or written policies, including new-hire documents,
12 indicate that Defendants dictated policies at the corporate level and implemented them
13 company-wide, regardless of their employees’ assigned locations or positions. Upon
14 information and belief, Defendants set forth uniform policies and procedures in several
15 documents provided at an employee’s time of hire.

16 25. Upon information and belief, Defendants maintain a centralized Payroll
17 department at their company headquarters in San Jose, California or Danville, California
18 which processes payroll for all non-exempt, hourly paid employees working for Defendants at
19 their various locations in California, including Plaintiff and class members. Based upon
20 information and belief, Defendants issue the same formatted wage statements to all non-
21 exempt, hourly paid employees in California, irrespective of their work locations. Upon
22 information and belief, Defendants process payroll for departing employees in the same
23 manner throughout the State of California, regardless of the manner in which each employee’s
24 employment ends.

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

27 27. Plaintiff is informed and believes, and thereon alleges, that at all times herein
28 mentioned, Defendants were advised by skilled lawyers and other professionals, employees

1 and advisors knowledgeable about California labor and wage law, employment and personnel
2 practices, and about the requirements of California law.

3 28. Plaintiff is informed and believes, and thereon alleges, that Plaintiff and class
4 members were not paid for all hours worked because all hours worked were not recorded.

5 29. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
6 should have known that Plaintiff and class members were entitled to receive certain wages for
7 overtime compensation and that they were not receiving certain wages for overtime
8 compensation.

9 30. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
10 should have known that Plaintiff and class members were entitled to receive at least minimum
11 wages for compensation and that they were not receiving at least minimum wages for work
12 that was required to be done off-the-clock. In violation of the California Labor Code, Plaintiff
13 and class members were not paid at least minimum wages for work done off-the-clock.

14 31. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
15 should have known that Plaintiff and class members were entitled to meal periods in
16 accordance with the California Labor Code and applicable IWC Wage Order or payment of
17 one (1) additional hour of pay at their regular rates of pay when they were not provided with
18 timely, uninterrupted, thirty (30) minute meal periods and that Plaintiff and class members
19 were not provided with all meal periods or payment of one (1) additional hour of pay at their
20 regular rates of pay when they did not receive a timely, uninterrupted, thirty (30) minute meal
21 period.

22 32. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
23 should have known that Plaintiff and class members were entitled to rest periods in
24 accordance with the California Labor Code and applicable IWC Wage Order or payment of
25 one (1) additional hour of pay at their regular rates of pay when they were not authorized and
26 permitted to take a compliant rest period and that Plaintiff and class members were not
27 authorized and permitted to take compliant rest periods or provided with payment of one (1)
28 additional hour of pay at their regular rates of pay when they were not authorized and

1 permitted to take a compliant rest period.

2 33. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
3 should have known that Plaintiff and class members were entitled to receive complete and
4 accurate wage statements in accordance with California law. In violation of the California
5 Labor Code, Plaintiff and class members were not provided complete and accurate wage
6 statements.

7 34. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
8 should have known that they had a duty to maintain accurate and complete payroll records in
9 accordance with the California Labor Code and applicable IWC Wage Order, but willfully,
10 knowingly, and intentionally failed to do so.

11 35. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
12 should have known that Plaintiff and class members were entitled to timely payment of all
13 wages earned upon termination of employment. In violation of the California Labor Code,
14 Plaintiff and class members did not receive payment of all wages due, including, but not
15 limited to, overtime wages, minimum wages, and/or meal and rest period premiums, within
16 permissible time periods.

17 36. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
18 should have known that Plaintiff and class members were entitled to timely payment of wages
19 during their employment. In violation of the California Labor Code, Plaintiff and class
20 members did not receive payment of all wages, including, but not limited to, overtime wages,
21 minimum wages, and/or meal and rest period premiums, within permissible time periods.

22 37. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
23 should have known that Plaintiff and class members were entitled to receive full
24 reimbursement for all business-related expenses and costs they incurred during the course and
25 scope of their employment and that they did not receive full reimbursement of applicable
26 business-related expenses and costs incurred.

27 38. Plaintiff is informed and believes, and thereon alleges, that at all times herein
28 mentioned, Defendants knew or should have known that Defendants had a duty to provide

1 Plaintiff and class members with written notice of the material terms of their employment with
2 Defendants as required by the California Wage Theft Prevention Act, but failed to do so.

3 39. Plaintiff is informed and believes, and thereon alleges, that at all times herein
4 mentioned, Defendants knew or should have known that they had a duty to compensate
5 Plaintiff and class members for all hours worked, and that Defendants had the financial ability
6 to pay such compensation, but willfully, knowingly, and intentionally failed to do so, and
7 falsely represented to Plaintiff and class members that they were properly denied wages, all in
8 order to increase Defendants' profits.

9 **PAGA REPRESENTATIVE ALLEGATIONS**

10 40. At all times herein set forth, PAGA provides that any provision of law under
11 the Labor Code and applicable IWC Wage Order that provides for a civil penalty to be
12 assessed and collected by the Labor and Workforce Development Agency ("LWDA") for
13 violations of the California Labor Code and applicable IWC Wage Order may, as an
14 alternative, be recovered by aggrieved employees in a civil action brought on behalf of
15 themselves and other current or former employees pursuant to procedures outlined in
16 California Labor Code section 2699.3.

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

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

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

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

1 been violated, including the facts and theories to support the alleged
2 violation.

3 (b) An aggrieved employee's notice filed with the LWDA pursuant to
4 2699.3(a) and any employer response to that notice shall be
5 accompanied by a filing fee of seventy-five dollars (\$75).

6 (c) The LWDA shall notify the employer and the aggrieved employee or
7 representative by certified mail that it does not intend to investigate the
8 alleged violation ("LWDA Notice") within sixty (60) calendar days of
9 the postmark date of the aggrieved employee's notice. Upon receipt of
10 the LWDA Notice, or if no LWDA Notice is provided within sixty-five
11 (65) calendar days of the postmark date of the aggrieved employee's
12 notice, the aggrieved employee may commence a civil action pursuant
13 to California Labor Code section 2699 to recover civil penalties.

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

18 (a) The aggrieved employee or representative shall give written notice by
19 online filing with the LWDA and by certified mail to the employer of
20 the specific provisions of the California Labor Code alleged to have
21 been violated (other than those listed in Section 2699.5), including the
22 facts and theories to support the alleged violation.

23 (b) An aggrieved employee's notice filed with the LWDA pursuant to
24 2699.3(c) and any employer response to that notice shall be
25 accompanied by a filing fee of seventy-five dollars (\$75).

26 (c) The employer may cure the alleged violation within thirty-three (33)
27 calendar days of the postmark date of the notice sent by the aggrieved
28 employee or representative. The employer shall give written notice

1 within that period of time by certified mail to the aggrieved employee or
2 representative and by online filing with the LWDA if the alleged
3 violation is cured, including a description of actions taken, and no civil
4 action pursuant to Section 2699 may commence. If the alleged violation
5 is not cured within the 33-day period, the aggrieved employee may
6 commence a civil action pursuant to Section 2699.

7 45. On August 8, 2024, Plaintiff provided written notice by online filing to the
8 LWDA and by Certified Mail to Defendants of the specific provisions of the California Labor
9 Code alleged to have been violated, including facts and theories to support the alleged
10 violations, in accordance with California Labor Code section 2699.3. Plaintiff's written
11 notice was accompanied with the applicable filing fee of seventy-five dollars (\$75). The
12 LWDA PAGA Administrator confirmed receipt of Plaintiff's written notice and assigned
13 Plaintiff PAGA Case Number LWDA-CM-1044500-24. A true and correct copy of Plaintiff's
14 written notice to the LWDA and Defendants is attached hereto as "Exhibit 1."

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

18 47. Thus, Plaintiff has satisfied the administrative prerequisites under California
19 Labor Code sections 2699.3(a) and 2699.3(c) to recover civil penalties against Defendants for
20 violations of California Labor Code sections 201, 202, 204, 226(a), 226.7, 510, 512(a), 516,
21 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5.

22 48. Labor Code section 558(a) provides "[a]ny employer or other person acting on
23 behalf of an employer who violates, or causes to be violated, a section of this chapter or any
24 provision regulating hours and days of work in any order of the Industrial Welfare
25 Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty
26 dollars (\$50) for each underpaid employee for each pay period for which the employee was
27 underpaid (2) For each subsequent violation, one hundred dollars (\$100) for each
28 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.”

49. 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 aggrieved employees’ rights by violating various sections of the California Labor Code as set forth above.

50. 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.

51. Pursuant to PAGA, and in particular, California Labor Code sections 1194.5, 2699(a), 2699(k), 2699.3(a), 2699.3(c), and 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 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, 1197.1, 1198, 2802, and 2810.5.

CLASS ACTION ALLEGATIONS

52. Plaintiff brings this action on her own behalf, as well as on behalf of each and all other persons similarly situated, and thus seeks class certification under California Code of Civil Procedure section 382.

53. All claims alleged herein arise under California law for which Plaintiff seeks relief authorized by California law.

54. Plaintiff’s proposed class consists of and is defined as follows:

All persons who worked for Defendants as non-exempt, hourly paid employees in California, within four years prior to the filing of the initial complaint until the date of trial (“Class”).

55. Plaintiff’s proposed subclass consists of and is defined as follows:

All persons who worked for Defendants as non-exempt, hourly paid employees in California and who received at least one wage statement within one (1) year prior to the filing of the initial complaint until the date of trial (“Subclass”).

56. Members of the Class and Subclass are referred to herein as “class members.”

1 57. Plaintiff reserves the right to redefine the Class and Subclass and to add
2 additional subclasses as appropriate based on further investigation, discovery, and specific
3 theories of liability.

4 58. There are common questions of law and fact as to class members that
5 predominate over questions affecting only individual members, including, but not limited to:

- 6 (a) Whether Defendants required Plaintiff and class members to work over
7 eight (8) hours per day, over twelve (12) hours per day, or over forty
8 (40) hours per week and failed to pay all legally required overtime
9 compensation to Plaintiff and class members;
- 10 (b) Whether Defendants failed to pay Plaintiff and class members at least
11 minimum wages for all hours worked;
- 12 (c) Whether Defendants failed to provide Plaintiff and class members with
13 meal periods;
- 14 (d) Whether Defendants failed to authorize and permit Plaintiff and class
15 members to take rest periods;
- 16 (e) Whether Defendants provided Plaintiff and class members with
17 complete and accurate wage statements as required by California Labor
18 Code section 226(a);
- 19 (f) Whether Defendants maintained accurate payroll records as required by
20 California Labor Code section 1174(d);
- 21 (g) Whether Defendants failed to pay earned overtime wages, minimum
22 wages, and/or meal and rest period premiums due to Plaintiff and class
23 members upon their discharge;
- 24 (h) Whether Defendants failed timely to pay overtime wages, minimum
25 wages, and/or meal and rest period premiums due to Plaintiff and class
26 members during their employment;
- 27 (i) Whether Defendants failed to reimburse Plaintiff and class members for
28 necessary and required business-related expenditures and/or losses

incurred by them in the scope of their employment;

- (j) Whether Defendants failed to provide written notice of information material to Plaintiff's and class members' employment with Defendants;
- (k) Whether Defendants engaged in unlawful and unfair business practices in violation of California Business & Professions Code sections 17200, *et seq.*; and
- (l) The appropriate amount of damages, restitution, or monetary penalties resulting from Defendants' violations of California law.

59. There is a well-defined community of interest in the litigation and the class members are readily ascertainable:

- (a) Numerosity: The class members are so numerous that joinder of all members would be unfeasible and impractical. The membership of the entire class is unknown to Plaintiff at this time; however, the class is estimated to be greater than one hundred (100) individuals and the identity of such membership is readily ascertainable by inspection of Defendants' employment records.
- (b) Typicality: Plaintiff is qualified to, and will, fairly and adequately protect the interests of each class member with whom she has a well-defined community of interest, and Plaintiff's claims (or defenses, if any) are typical of all class members as demonstrated herein.
- (c) Adequacy: Plaintiff is qualified to, and will, fairly and adequately protect the interests of each class member with whom she has a well-defined community of interest and typicality of claims, as demonstrated herein. Plaintiff acknowledges that she has an obligation to make known to the Court any relationship, conflicts or differences with any class member. Plaintiff's attorneys, the proposed class counsel, are versed in the rules governing class action discovery, certification, and settlement. Plaintiff has incurred, and throughout the duration of this

1 action, will continue to incur costs and attorneys' fees that have been,
2 are, and will be necessarily expended for the prosecution of this action
3 for the substantial benefit of each class member.

4 (d) Superiority: The nature of this action makes the use of class action
5 adjudication superior to other methods. A class action will achieve
6 economies of time, effort, and expense as compared with separate
7 lawsuits, and will avoid inconsistent outcomes because the same issues
8 can be adjudicated in the same manner and at the same time for the
9 entire class.

10 (e) Public Policy Considerations: Employers in the State of California
11 violate employment and labor laws every day. Current employees are
12 often afraid to assert their rights out of fear of direct or indirect
13 retaliation. Former employees are fearful of bringing actions because
14 they believe their former employers might damage their future
15 endeavors through negative references and/or other means. Class
16 actions provide the class members who are not named in the complaint
17 with a type of anonymity that allows for the vindication of their rights
18 while simultaneously protecting their privacy.

19 **FIRST CAUSE OF ACTION**

20 **Violation of California Labor Code §§ 510 and 1198—Unpaid Overtime** 21 **(Against all Defendants)**

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

24 61. Labor Code section 1198 makes it illegal to employ an employee under
25 conditions of labor that are prohibited by the applicable wage order. California Labor Code
26 section 1198 requires that “. . . the standard conditions of labor fixed by the commission shall
27 be the . . . standard conditions of labor for employees. The employment of any employee . . .
28 under conditions of labor prohibited by the order is unlawful.”

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

63. Specifically, the applicable IWC Wage Order provides that Defendants are and were required to pay Plaintiff and class members 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) for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek.

64. The applicable IWC Wage Order further provides that Defendants are and were required to pay Plaintiff and class members 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.

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

66. During the relevant time period, Defendants willfully failed to pay all overtime wages owed to Plaintiff and class members. During the relevant time period, Plaintiff and class members 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 worked were not recorded.

67. First, Defendants had a company-wide policy and/or practice of improperly rounding employee clock-in and clock-out duration times to the nearest quarter-hour in their timekeeping system. Defendants' rounding policy resulted in the failure to compensate

1 Plaintiff and class members fully for all hours worked, causing Plaintiff and class members to
2 not be paid overtime wages for all of the overtime hours they actually worked. Upon
3 information and belief, Defendants' rounding policy was, and continues to be, unfair and has,
4 over time, resulted in the underpayment of wages to Plaintiff and class members. To the
5 extent Defendants' rounding policy took away time worked that was eligible for overtime,
6 Plaintiff and class members were denied overtime pay for all hours worked.

7 68. Second, during the relevant period, Defendants had, and continue to have, a
8 company-wide policy and/or practice of discouraging and impeding Plaintiff and class
9 members from recording hours worked that were outside of their scheduled shifts in order to
10 limit the amount of overtime employees could accrue. On information and belief, this
11 limitation on overtime accrual was based on a company-wide policy of staffing locations
12 strictly based on the labor hours or labor budget set by corporate. This policy of limiting
13 overtime, coupled with Defendants' practices and/or policies of understaffing and assigning
14 heavy workloads (*see infra*), led Plaintiff and class members to work off-the-clock before and
15 after their scheduled shift times in order to complete assigned tasks. Specifically, Defendants'
16 management required Plaintiff and class members to record only the scheduled shift start-
17 times and shift end-times instead of their actual hours worked, upon threat of discipline, to
18 limit overtime hours employees were eligible to be compensated for. For example, Plaintiff
19 would report to work approximately 45 minutes to one (1) hour before her scheduled shift
20 start-time about two (2) times per week in order to complete her assigned duties, such as
21 laundering, folding, and replenishing linens; refilling cleaning products; and preparing her
22 cleaning cart for the day, but she was not permitted to clock in before her scheduled shift start-
23 time. Similarly, Plaintiff was required to clock out at her scheduled shift end-time and
24 continue working, for approximately one (1) hour at least one (1) time per week, in order to
25 complete her assigned duties, such as cleaning hotel rooms, assisting other housekeepers, and
26 replenishing linens. This off-the-clock work could have been recorded by Defendants, but
27 they refused to do so to avoid payment of additional wages to Plaintiff and class members.

28 69. Third, as stated, on information and belief, Defendants had, and continue to

1 have, a company-wide policy and/or practice of staffing their locations strictly based on the
2 labor hours or labor budget set by corporate. On information and belief, Defendants' use of a
3 labor budget resulted in chronic understaffing, such that there were too few employees on duty
4 to handle the workload and provide meal period coverage. Moreover, Defendants have a
5 practice of failing to schedule meal periods, which further caused Plaintiff and class members
6 to not be relieved of their duties for compliant meal periods. As a result, Plaintiff and class
7 members were not afforded uninterrupted thirty (30) minute meal periods during shifts in
8 which they were entitled to receive meal periods. For example, Plaintiff often had her meal
9 periods interrupted due to the lack of coverage and to complete her assignment of cleaning 10-
10 11 hotel rooms per day, in addition to assisting with laundry and kitchen duties.
11 Consequently, Plaintiff and class members performed work during meal periods for which
12 they were not paid.

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

20 71. Defendants' failure to pay Plaintiff and class members the balance of overtime
21 compensation as required by California law, violates the provisions of California Labor Code
22 sections 510 and 1198. Pursuant to California Labor Code section 1194, Plaintiff and class
23 members are entitled to recover from Defendants their unpaid overtime compensation, as well
24 as interest, costs, and attorneys' fees.

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SECOND CAUSE OF ACTION
Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198—Unpaid
Minimum Wages
(Against all Defendants)

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

73. At all relevant times, California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 provide that the minimum wage for employees fixed by the IWC is the minimum wage to be paid to employees, and the payment of a wage less 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”).

74. First, as stated above, during the relevant time period, Defendants had a policy of rounding Plaintiff’s and class members’ hourly clock-in and clock-out duration times to the quarter-hour in their timekeeping system, resulting in the failure to compensate Plaintiff and class members fully for all hours worked.

75. Second, as set forth above, as a result of Defendants’ company-wide policies and/or practices of limiting overtime accrual, pursuant to their labor budget practices, and pressuring employees to record only their scheduled hours on timesheets rather than hours actually worked, Defendants required Plaintiff and class members to perform work off-the-clock. For example, Defendants required Plaintiff to work off the clock before and after her shifts to complete tasks such as laundering and replenishing linens, refilling cleaning products, preparing her cleaning cart for the day, cleaning hotel rooms, and assisting other housekeepers. However, Defendants failed to track all of this time Plaintiff and class members spent working off-the-clock, and thus, Plaintiff and class members received no compensation for this time.

76. Third, as set forth above, due to Defendants’ policies and/or practices of

utilizing labor budgets, resultant understaffing, assigning heavy workloads, failing to schedule meal periods, and subsequent lack of meal period coverage, Plaintiff and class members were impeded from taking all uninterrupted meal periods to which they were entitled and were required to work off-the-clock during meal periods.

77. Thus, Defendants did not pay minimum wages for all hours worked by Plaintiff and class members. To the extent that these off-the-clock hours did not qualify for overtime premium payment, Defendants 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.

78. Defendants' failure to pay Plaintiff and class members minimum wages violates California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Pursuant to California Labor Code section 1194.2, Plaintiff and class members are entitled to recover from Defendants liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

THIRD CAUSE OF ACTION

Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198—Meal Period Violations (Against all Defendants)

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

80. 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).

81. At all relevant times herein set forth, California Labor Code sections 226.7,

1 512(a), 516, and 1198 provide that no employer shall require an employee to work during any
2 meal period mandated by an applicable order of the IWC.

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

10 83. Under California law, an employer cannot evade meal period requirements via
11 the use of "on-duty" meal agreements because it understaffs its locations. *Abdullah v. U.S.*
12 *Sec. Assocs.*, 731 F.3d 952, 963 (9th Cir. Cal. 2013). In addition, an employee must be
13 provided with the opportunity to eat his or her meal while performing the duties required and
14 any on-duty meal period must, like any off-duty meal period, be at least 30 minutes long.
15 *L'Chaim House, Inc., et al. v. Division of Labor Standards Enforcement*, 38 Cal. App. 5th 141
16 (2019).

17 84. During the relevant period, as stated, Defendants had, and continue to have, on
18 information and belief, a company-wide policy and/or practice of understaffing their locations
19 due to labor budgeting and/or limited payroll allocation, which, combined with the assignment
20 of heavy workloads, and failure to schedule meal periods, has resulted in a lack of meal period
21 coverage and prevented Plaintiff and class members from taking all timely meal periods to
22 which they were entitled. As a result, Plaintiff and class members were forced to work in
23 excess of five (5) hours before taking a meal period, had their meal periods interrupted, and/or
24 had to forgo their meal periods altogether. For example, Plaintiff regularly had to cut her
25 meal periods short and/or took her meal periods late, after having worked in excess of five (5)
26 hours into her shift, in order to complete cleaning 10 or more assigned hotel rooms by the end
27 of the day. Plaintiff and class members did not sign valid meal period waivers on days that
28 they were entitled to meal periods and were not relieved of all duties.

1 85. Moreover, Defendants had a company-wide policy of requiring all newly hired
2 employees to sign blanket meal period waivers at or near their time of hire. Defendants took
3 the position that non-exempt, hourly paid employees had waived their rights to first meal
4 periods for the entirety of their employment and, on that basis, did not provide them with all
5 meal periods to which they were entitled. Defendants' meal period waivers are unlawful
6 insofar as they fail to correctly inform employees of the requirements for waiving first meal
7 periods. Defendants' "Meal Period Waiver Agreement" forms state in relevant part: **"I am**
8 **entitled to a meal period if I work more than six hours per shift, and I may voluntarily**
9 **elect to forego [sic] my meal break if my shift is to end in less than eight hours**
10 Therefore, the hotel and I agree that I will be allowed to remain on duty during my meal
11 period and I will be compensated an additional hour at my normal rate of pay for that time that
12 would normally be a meal period" (emphasis added). However, under California Law,
13 employees are able to waive their meal periods when they work shifts of more than five (5)
14 hours, only when they do not work more than six (6) hours in a day, and Defendants' written
15 policy is therefore facially invalid.

16 86. Moreover, Defendants' blanket meal period waivers require employees to
17 provide written notice should they wish to revoke the waiver. Defendants' presumption that
18 meal periods would not be provided for shifts in excess of six (6) hours but less than eight (8)
19 hours, due to blanket meal period waivers signed at or near the time of hire, and imposition on
20 employees to revoke the waivers in writing, discouraged and impeded Plaintiff and class
21 members from taking all meal periods to which they were entitled.

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

26 [A]fter the meal break obligation is triggered . . . an employer is put to a
27 choice: it must (1) afford an off-duty meal period; (2) consent to a mutually
28 agreed-upon waiver if one hour or less will end the shift; or (3) obtain
written agreement to an on-duty meal period if circumstances permit.

1 Failure to do one of these will render the employer liable for premium pay.

2 *Id.* (citing Cal. Labor Code § 226.7; Wage Order No. 5, subd. 11(A), (B)). That Defendants
3 required Plaintiff and class members to sign meal period waivers simultaneously at or near
4 their time of hire (as opposed to on a specific work day) renders them invalid and
5 unenforceable, because Defendants' obligation to provide Plaintiff and class members with
6 meal periods did not arise until they had employed them for a full five (5) hours.

7 88. Moreover, to the extent that Defendants' "Meal Period Waiver Agreement"
8 functioned as an on-duty meal period agreement, it is improper and unlawful as it treats
9 missed or interrupted off-duty meal periods as on-duty meal periods. Under California law,
10 an on-duty meal period agreement does not absolve employers of the duty to provide timely,
11 30-minute meal periods.¹ Defendants' on-duty meal policy failed to inform Plaintiff and class
12 members that they are entitled to a 30-minute on-duty meal period and that on-duty meal
13 periods must be timely, and therefore is facially invalid. Moreover, under California law, "on-
14 duty" meal periods are a limited alternative to the requirement to provide off-duty meal
15 periods and can only be utilized under certain circumstances. IWC Wage Order 5-2001,
16 subdivision 11(A) provides that an "on duty" meal period "shall be permitted only when the
17 nature of the work prevents an employee from being relieved of all duty and when by written
18 agreement between the parties an on-the-job paid meal period is agreed to."

19 89. Defendants' "on-duty" meal period policy results from the company's own
20 staffing and business decisions, not because the nature of the work required on-duty meal
21 periods. The work of Defendants' employees is not of the kind that could be said to meet the
22 "nature of the work" exception. Plaintiff and class members worked at hotels, cleaning hotel
23

24 ¹ Employers must provide employees a timely 30-minute meal period even though that
25 meal period may be on-duty instead of off-duty. See *L'Chaim*, 38 Cal. App. 5th at 149 ("If an
26 employee is entitled to an off-duty meal period of 30 minutes, yet work obligations intrude on
27 a portion of that time, the off-duty period is converted to an on-duty period—no matter how
28 small the portion of the period that work intruded upon—and the employee is paid for the
entire period. There is no suggestion that once work interrupts an employee's meal period, the
period simply ends even if 30 minutes have not yet passed.") and 147 ("[A]n on-duty meal
period is not the functional equivalent of no meal period at all. On-duty meal periods are an
intermediate category requiring more of employees than off-duty meal periods but less of
employees than their normal work.").

rooms, laundering linens, and attending to guests. None of these tasks is akin to the kind that the California Division of Labor Standards Enforcement (“DLSE”) has found warrant an “on-duty” meal period, such as transporting hazardous materials via vehicles that must be monitored at all times pursuant to federal regulation.

90. At all times mentioned herein, Defendants knew or should have known that as a result of their policies, Plaintiff and class members were prevented from being relieved of all duties and required to perform some of their assigned duties during meal periods. Defendants further knew or should have known that they did not pay Plaintiff and class members all meal period premiums when meal periods were late, interrupted, shortened, and/or missed. Further, to the extent that Defendants’ rounding policy reported that Plaintiff and class members were provided with timely, full 30-minute meal periods when, in fact, the meal periods were taken after the fifth hour of work or were less than 30 minutes, Plaintiff and class members did not receive meal period penalties for these improperly rounded meal periods.

91. Furthermore, Defendants engaged in a company-wide practice and/or policy of not paying meal period premiums owed when compliant meal periods are not provided. Because of this practice and/or policy, Plaintiff and class members have not received premium pay for all missed, late, and interrupted meal periods. As a result, Defendants failed to provide Plaintiff and class members compliant meal periods in violation of California Labor Code sections 226.7, 512(a), and 516 and failed to pay the full meal period premiums due.

92. Defendants’ conduct violates the applicable IWC Wage Order, and California Labor Code sections 226.7, 512(a), 516, and 1198. Plaintiff and class members are therefore entitled to recover from Defendants one (1) additional hour of pay at the employee’s regular rate of compensation for each work day that the meal period was not provided.

FOURTH CAUSE OF ACTION

Violation of California Labor Code §§ 226.7, 516, and 1198—Rest Period Violations (Against all Defendants)

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

1 94. At all relevant times herein set forth, the applicable IWC Wage Order and
2 California Labor Code sections 226.7, 516, and 1198 were applicable to Plaintiff's and class
3 members' employment by Defendants.

4 95. At all relevant times, the applicable IWC Wage Order provides that "[e]very
5 employer shall authorize and permit all employees to take rest periods, which insofar as
6 practicable shall be in the middle of each work period" and that the "rest period time shall be
7 based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4)
8 hours or major fraction thereof" unless the total daily work time is less than three and one-half
9 (3 ½) hours.

10 96. At all relevant times, California Labor Code section 226.7 provides that no
11 employer shall require an employee to work during any rest period mandated by an applicable
12 order of the California IWC. To comply with its obligation to authorize and permit rest
13 periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an
14 employer must "relinquish any control over how employees spend their break time, and
15 relieve their employees of all duties—including the obligation that an employee remain on
16 call. A rest period, in short, must be a period of rest." *Augustus v. ABM Security Services,*
17 *Inc.*, 2 Cal. 5th 257, 273 (2016). Pursuant to the applicable IWC Wage Order and California
18 Labor Code section 226.7(c), Plaintiff and class members are entitled to recover from
19 Defendants one (1) additional hour of pay at their regular rates of pay for each work day that a
20 required rest period was not authorized and permitted.

21 97. During the relevant time period, Defendants regularly failed to authorize and
22 permit Plaintiff and class members to take a ten (10) minute rest period per each four (4) hour
23 period worked or major fraction thereof. As with meal periods, Defendants' company-wide
24 use of labor budgeting and/or limited payroll allocation, understaffing, and assigning heavy
25 workloads resulted in a lack of rest period coverage and prevented Plaintiff and class members
26 from being relieved of all duty in order to take their rest periods. Defendants also failed to
27 schedule rest periods, which, coupled with Defendants' failure to provide adequate rest period
28 coverage, further led to Plaintiff and class members not being authorized and permitted to take

1 compliant rest periods.

2 98. Moreover, Defendants had a company-wide practice and/or policy of requiring
3 that Plaintiff and class members carry and respond to company-issued walkie-talkies during
4 rest periods. For example, Plaintiff would often have her rest periods interrupted because she
5 was required to answer calls from her supervisor on her company-issued walkie-talkie and
6 return to work to complete work tasks.

7 99. Furthermore, Defendants maintained and implemented a company-wide on-
8 premises rest period policy, which mandated that Plaintiff and/or class members remain on the
9 premises during their rest periods. Because Plaintiff and/or class members were restricted
10 from leaving Defendants' premises during rest periods, they were denied the ability to use
11 their rest periods freely for their own purposes, such as completing personal errands. Thus,
12 Defendants maintained control over Plaintiff and/or class members during rest periods.

13 100. As a result of Defendants' practices and policies, Plaintiff and class members
14 worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without
15 receiving all uninterrupted rest periods to which they were entitled. For example, Plaintiff had
16 to forgo her rest periods four (4) times per week due to the heavy workload and lack of
17 coverage.

18 101. Defendants have also engaged in a systematic, company-wide practice and/or
19 policy of not paying rest period premiums owed when rest periods are not authorized and
20 permitted. Because of this practice and/or policy, Plaintiff and class members have not
21 received premium pay for all missed rest periods.

22 102. Defendants' conduct violates the applicable IWC Wage Order and California
23 Labor Code sections 226.7, 516, and 1198. Plaintiff and class members are therefore entitled
24 to recover from Defendants one (1) additional hour of pay at the employee's regular rate of
25 compensation for each work day that a compliant rest period was not authorized and
26 permitted.

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1 **FIFTH CAUSE OF ACTION**

2 **Violation of California Labor Code §§ 226(a), 1174(d), and 1198—Non-Compliant Wage**
3 **Statements and Failure to Maintain Accurate Payroll Records**
4 **(Against all Defendants)**

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

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

12 105. At all relevant times, Defendants have knowingly and intentionally provided
13 Plaintiff and Subclass members with uniform, incomplete, and inaccurate wage statements.
14 For example, Defendants issued uniform wage statements to Plaintiff and Subclass members
15 that fail to correctly list: gross wages earned; total hours worked; net wages earned; the
16 address of the legal entity that is the employer; and all applicable hourly rates in effect during
17 the pay period, including rates of pay for overtime wages, and the corresponding number of
18 hours worked at each hourly rate. Specifically, Defendants violated sections 226(a)(1),
19 226(a)(2), 226(a)(5), 226(a)(8), and 226(a)(9).

20 106. First, because Defendants did not accurately record the time Plaintiff and
21 Subclass members spent working off-the-clock, improperly rounded their total hours worked,
22 and deducted time from their records for meal periods that were interrupted and/or missed
23 (and therefore time for which they should have been paid), Defendants did not list the correct
24 amount of gross wages and net wages earned by Plaintiff and Subclass members in
25 compliance with sections 226(a)(1) and 226(a)(5). For the same reason, Defendants failed to
26 accurately list the total number of hours worked by Plaintiff and Subclass members in
27 violation of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect
28 during the pay period and corresponding accurate number of work hours worked at each

1 hourly rate in violation of section 226(a)(9). Defendants also failed to correctly list all
2 applicable hourly rates in effect during the pay period, namely, correct rates of pay for
3 overtime wages, in violation of section 226(a)(9).

4 107. Second, and separate from these violations, Defendants issued uniform wage
5 statements to Plaintiff and Subclass members that fail to list the correct address of the legal
6 entity of the actual employer in violation of Labor Code section 226(a)(8). The purpose of
7 section 226(a)(8) is to provide California employees with transparency as to the true identity
8 of their employer, to allow the employee to contact their employer during employment or in
9 the future for various reasons, including filing an administrative claim, judicial claim, or other
10 action to seek relief against their employer, obtain unemployment benefits, etc. Plaintiff's and
11 class members' wage statements incorrectly list the employer's address as "2605 Camino
12 Tassajara, Unit 1836, Danville, CA 94526-9998" but, according to the California Secretary of
13 State's website, Defendant YUBA CITY HOTEL,LP's address is "6030 HELLYER AVE STE
14 150, SAN JOSE, CA 95138."

15 108. The wage statement deficiencies also include, without limitation, failing to list
16 the number of piece-rate units earned and any applicable piece rate if the employee is paid on
17 a piece-rate basis; failing to list all deductions; failing to list the inclusive dates of the period
18 for which employees were paid; failing to list the name of the employee and only the last four
19 digits of his or her social security number or an employee identification number other than a
20 social security number; failing to list the name of the legal entity that is the employer; and/or
21 failing to state all hours worked as a result of not recording or stating hours worked off-the-
22 clock.

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

1 establishments” At all relevant times, and in violation of Labor Code section 1174(d),
2 Defendants willfully failed to maintain accurate payroll records for Plaintiff and Subclass
3 members showing the daily hours they worked and the wages paid thereto as a result of failing
4 to record the off-the-clock hours that they worked and improperly rounding Plaintiff’s and
5 Subclass members’ total hours worked.

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

16 111. Plaintiff and Subclass members are entitled to recover from Defendants the
17 greater of their actual damages caused by Defendants’ failure to comply with California Labor
18 Code section 226(a), or an aggregate penalty not exceeding four thousand dollars (\$4,000) per
19 employee.

20 **SIXTH CAUSE OF ACTION**

21 **Violation of California Labor Code §§ 201 and 202—Wages Not Timely Paid Upon** 22 **Termination** 23 **(Against all Defendants)**

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

26 113. This cause of action is dependent upon, and wholly derivative of, the overtime
27 wages, minimum wages, and/or meal and rest period premiums that were not timely paid to
28 Plaintiff and those class members no longer employed by Defendants upon their termination.

114. At all times relevant herein set forth, 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.

115. Defendants willfully failed to pay Plaintiff and class members who are no longer employed by Defendants the earned and unpaid wages set forth above, including but not limited to, overtime wages, minimum wages, and/or meal and rest period premiums, either at the time of discharge, or within seventy-two (72) hours of their leaving Defendants' employ.

116. Defendants' failure to pay Plaintiff and class members who are no longer employed by Defendants their wages earned and unpaid at the time of discharge, or within seventy-two (72) hours of their leaving Defendants' employ, violates Labor Code sections 201 and 202. Plaintiff and class members are therefore entitled to recover from Defendants the statutory penalty wages for each day they were not paid, at their regular rate of pay, up to a thirty (30) day maximum pursuant to California Labor Code section 203.

SEVENTH CAUSE OF ACTION

Violation of California Labor Code § 204—Failure to Timely Pay Wages During Employment (Against all Defendants)

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

118. This cause of action is dependent upon, and wholly derivative of, the overtime wages, minimum wages, and/or meal and rest period premiums that were not timely paid to Plaintiff and class members during their employment.

119. At all times relevant herein set forth, Labor Code section 204 provides that all

1 wages earned by any person in any employment between the first (1st) and the fifteenth (15th)
2 days, inclusive, of any calendar month, other than those wages due upon termination of an
3 employee, are due and payable between the sixteenth (16th) and the twenty-sixth (26th) day of
4 the month during which the labor was performed.

5 120. At all times relevant herein, Labor Code section 204 provides that all wages
6 earned by any person in any employment between the sixteenth (16th) and the last day,
7 inclusive, of any calendar month, other than those wages due upon termination of an
8 employee, are due and payable between the first (1st) and the tenth (10th) day of the following
9 month.

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

16 122. During the relevant time period, Defendants willfully failed to pay Plaintiff and
17 class members all wages due including, but not limited to, overtime wages, minimum wages,
18 and/or meal and rest period premiums, within the time periods specified by California Labor
19 Code section 204.

20 123. Defendants' failure to pay Plaintiff and class members all wages due violates
21 Labor Code section 204. Plaintiff and class members are therefore entitled to recover from
22 Defendants the statutory penalty wages pursuant to California Labor Code section 210.

23 **EIGHTH CAUSE OF ACTION**

24 **Violation of California Labor Code § 2802—Unpaid Business-Related Expenses** 25 **(Against all Defendants)**

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

28 125. At all times herein set forth, California Labor Code section 2802 provides that

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

10 126. First, during the relevant time period, Defendants, on a company-wide basis,
11 required that Plaintiff and class members use their own personal mobile devices, including,
12 but not limited to, cellular phones, and/or mobile data to carry out their job duties but failed to
13 reimburse them for the costs of their work-related mobile device expenses. For example,
14 Plaintiff was required to download and use a mobile timekeeping application, ADP, onto her
15 personal mobile device for clocking in and out on a daily basis. As a further example,
16 Plaintiff and class members would be contacted on their personal mobile devices by their
17 managers and co-workers to discuss work-related matters, such as areas of the hotel that
18 required cleaning. Although Defendants required Plaintiff and class members to utilize their
19 personal mobile devices to carry out their work-related responsibilities, Defendants failed to
20 reimburse them for this cost.

21 127. Defendants could have provided Plaintiff and class members with the actual
22 equipment for use on the job, such as company mobile devices, or Defendants could have
23 reimbursed employees for the costs of their mobile device usage. Instead, Defendants passed
24 these operating costs off onto Plaintiff and class members. At all relevant times, Plaintiff did
25 not earn at least two (2) times the minimum wage.

26 128. Defendants' company-wide policy and/or practice of not reimbursing
27 employees for expenses necessarily incurred and passing on their operating costs to Plaintiff
28 and class members violates California Labor Code section 2802. Defendants have

intentionally and willfully failed to reimburse Plaintiff and class members for necessary business-related expenses and costs.

129. Plaintiff and class members are entitled to recover from Defendants their business-related expenses incurred during the course and scope of their employment, plus interest.

NINTH CAUSE OF ACTION

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

(Against all Defendants)

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

131. 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, 1197.1, 2802, and 2810.5.

132. 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 aggrieved employees with all required overtime pay, as alleged herein;
- (b) Violation of Labor Code sections 226.7, 510, and 1198, and the applicable IWC Wage Order for Defendants’ failure to include all forms of remuneration in the regular rate of pay as required by law for purposes of paying overtime wages and/or meal and rest period premiums to Plaintiff and other aggrieved employees, as alleged herein;
- (c) Violation of Labor Code sections 1182.12, 1194, 1197, 1197.1, and

1 1198, and the applicable IWC Wage Order for Defendants' failure to
2 compensate Plaintiff and other aggrieved employees with at least
3 minimum wages for all hours worked, as alleged herein;

4 (d) Violation of Labor Code sections 226.7, 512(a), 516, and 1198, and the
5 applicable IWC Wage Order for Defendants' failure to provide Plaintiff
6 and other aggrieved employees with meal periods, as alleged herein;

7 (e) Violation of Labor Code sections 226.7, 516, and 1198, and the
8 applicable IWC Wage Order for Defendants' failure to authorize and
9 permit Plaintiff and other aggrieved employees to take rest periods, as
10 alleged herein;

11 (f) Violation of Labor Code sections 226(a) and 1198, and the applicable
12 IWC Wage Order for failure to provide accurate and complete wage
13 statements to Plaintiff and other aggrieved employees, as alleged herein;

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

17 (h) Violation of Labor Code sections 201 and 202 for failure to pay all
18 earned wages upon termination, as alleged herein;

19 (i) Violation of Labor Code section 204 for failure to pay all earned wages
20 during employment, as alleged herein;

21 (j) Violation of Labor Code section 2802 for failure to reimburse Plaintiff
22 and other aggrieved employees for all business expenses necessarily
23 incurred, as alleged herein; and

24 (k) Violation of Labor Code section 2810.5 for failure to provide written
25 notice of information material to Plaintiff's and other aggrieved
26 employees' employment with Defendants, as set forth below.

27 133. At all relevant times herein, California's Wage Theft Prevention Act was
28 enacted to ensure that employers provide employees with basic information material to their

1 employment relationship at the time of hiring, and to ensure that employees are given written
2 and timely notice of any changes to basic information material to their employment. Codified
3 at California Labor Code section 2810.5, the Wage Theft Prevention Act provides that at the
4 time of hiring, an employer must provide written notice to employees containing basic and
5 material payroll information, including, among other things, the rate(s) of pay and basis
6 thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise,
7 including any rates for overtime, the regular payday designated by the employer, and any
8 allowances claims as part of the minimum wage, including meal or lodging allowances. Labor
9 Code § 2810.5(a)(1)(A)-(C).

10 134. At all relevant times, on information and belief, Defendants failed, on a
11 company-wide basis, to provide written notice to Plaintiff and other aggrieved employees that
12 lists the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C).
13 Defendants' failure to provide Plaintiff and other aggrieved employees with written notice of
14 basic information regarding their employment with Defendants is in violation of Labor Code
15 section 2810.5. Plaintiff and other aggrieved employees are therefore entitled to recover civil
16 penalties pursuant to Labor Code sections 2699(a), (f), and (k).

17 **TENTH CAUSE OF ACTION**

18 **Violation of California Business & Professions Code §§ 17200, *et seq.* –**

19 **Unlawful Business Practices**

20 **(Against all Defendants)**

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

23 136. Defendants are "persons" as defined by California Business & Professions
24 Code section 17201, as they are corporations, firms, partnerships, joint stock companies,
25 and/or associations.

26 137. Defendants' conduct, as alleged herein, has been, and continues to be, unfair,
27 unlawful and harmful to Plaintiff, class members, and to the general public. Plaintiff has
28 suffered injury in fact and has lost money as a result of Defendants' unlawful business

practices. Plaintiff seeks to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure section 1021.5.

138. Defendants' activities, as alleged herein, are violations of California law, and constitute unlawful business acts and practices in violation of California Business & Professions Code sections 17200, *et seq.*

139. A violation of California Business & Professions Code sections 17200, *et seq.* may be predicated on the violation of any state or federal law. In the instant case, Defendants' policies and practices have violated state law in at least the following respects:

- (a) Requiring non-exempt, hourly paid employees, including Plaintiff and class members, to work overtime without paying them proper compensation in violation of California Labor Code sections 510 and 1198, and the applicable IWC Wage Order, as alleged herein;
- (b) Failing to pay at least minimum wage to Plaintiff and class members in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198, and the applicable IWC Wage Order, as alleged herein;
- (c) Failing to provide all meal periods to Plaintiff and class members in violation of California Labor Code sections 226.7, 512(a), 516, and 1198, and the applicable IWC Wage Order, as alleged herein;
- (d) Failing to authorize and permit Plaintiff and class members to take all rest periods in violation of California Labor Code sections 226.7, 516, and 1198, and the applicable IWC Wage Order, as alleged herein;
- (e) Failing to provide Plaintiff and class members with accurate wage statements and failing to maintain accurate payroll records in violation of California Labor Code sections 226(a), 1174(d), and 1198, and the applicable IWC Wage Order, as alleged herein;
- (f) Failing timely to pay all earned wages to Plaintiff and class members in violation of California Labor Code section 204, as alleged herein;

- (g) Failing to reimburse Plaintiff and class members for all business expenses necessarily incurred in violation of California Labor Code section 2802, as alleged herein; and
- (h) Failing to provide written notice of information material to Plaintiff's and class members' employment with Defendants in violation of California Labor Code section 2810.5(a)(1)(A)-(C), as set forth below.

140. At all relevant times herein, California's Wage Theft Prevention Act was enacted to ensure that employers provide employees with basic information material to their employment relationship at the time of hiring, and to ensure that employees are given written and timely notice of any changes to basic information material to their employment. Codified at California Labor Code section 2810.5, the Wage Theft Prevention Act provides that at the time of hiring, an employer must provide written notice to employees containing basic and material payroll information, including, among other things, the rate(s) of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, the regular payday designated by the employer, and any allowances claims as part of the minimum wage, including meal or lodging allowances. Labor Code § 2810.5(a)(1)(A)-(C).

141. At all relevant times, Defendants failed, on a company-wide basis, to provide written notice to Plaintiff and class members that lists the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C). Defendants' failure to provide Plaintiff and class members with written notice of basic information regarding their employment with Defendants is in violation of California Labor Code section 2810.5.

142. As a result of the violations of California law herein described, Defendants unlawfully gained an unfair advantage over other businesses. Plaintiff and class members have suffered pecuniary loss by Defendants' unlawful business acts and practices alleged herein.

143. Pursuant to California Business & Professions Code sections 17200, *et seq.*, Plaintiff and class members are entitled to restitution of the wages withheld and retained by

1 Defendants during a period that commences four years prior to the filing of the initial
2 complaint; a permanent injunction requiring Defendants to pay all outstanding wages due to
3 Plaintiff and class members; and an award of attorneys' fees pursuant to California Code of
4 Civil Procedure section 1021.5 and other applicable laws; and an award of costs.

5 **ELEVENTH CAUSE OF ACTION**

6 **Violation of California Business & Professions Code §§ 17200, *et seq.* –**

7 **Unfair Business Practices**

8 **(Against all Defendants)**

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

11 145. Defendants are “persons” as defined by California Business & Professions
12 Code section 17201, as they are corporations, firms, partnerships, joint stock companies,
13 and/or associations.

14 146. Defendants’ conduct, as alleged herein, has been, and continues to be, unfair,
15 and harmful to Plaintiff, class members, and to the general public. Plaintiff has suffered
16 injury in fact and has lost money as a result of Defendants’ unfair business practices. Plaintiff
17 seeks to enforce important rights affecting the public interest within the meaning of Code of
18 Civil Procedure section 1021.5.

19 147. Defendants’ activities, namely Defendants’ company-wide practice and/or
20 policy of not paying Plaintiff and class members all meal and rest period premiums due to
21 them under Labor Code section 226.7, deprived Plaintiff and class members of the
22 compensation guarantee and enhanced enforcement implemented by section 226.7. The
23 statutory remedy provided by section 226.7 is a “‘dual-purpose’ remedy intended primarily to
24 compensate employees, and secondarily to shape employer conduct.” *Safeway, Inc. v.*
25 *Superior Court*, 238 Cal. App. 4th 1138, 1149 (2015). The statutory benefits of section 226.7
26 were guaranteed to Plaintiff and class members as part of their employment with Defendants,
27 and thus Defendants’ practice and/or policy of denying these statutory benefits constitutes an
28 unfair business practice in violation of California Business & Professions Code sections

17200, *et seq.* (*Id.*)

148. A violation of California Business & Professions Code sections 17200, *et seq.* may be predicated on any unfair business practice. In the instant case, Defendants' policies and practices have violated the spirit of California's meal and rest period laws and constitute acts against the public policy behind these laws.

149. Pursuant to California Business & Professions Code sections 17200, *et seq.*, Plaintiff and class members are entitled to restitution for the class-wide loss of the statutory benefits implemented by section 226.7 withheld and retained by Defendants during a period that commences four years prior to the filing of the initial complaint; a permanent injunction requiring Defendants to pay all statutory benefits implemented by section 226.7 due to Plaintiff and class members; an award of attorneys' fees pursuant to California Code of Civil Procedure section 1021.5 and other applicable laws; and an award of costs.

REQUEST FOR JURY TRIAL

Plaintiff requests a trial by jury.

PRAYER FOR RELIEF

Plaintiff, on behalf of all others similarly situated, prays for relief and judgment against Defendants, jointly and severally, as follows:

1. For damages, unpaid wages, penalties, injunctive relief, and attorneys' fees in excess of twenty-five thousand dollars (\$25,000), exclusive of interest and costs. Plaintiff reserves the right to amend her prayer for relief to seek a different amount.

Class Certification

2. That this case be certified as a class action;
3. That Plaintiff be appointed as the representative of the Class and Subclass;
4. That counsel for Plaintiff be appointed as class counsel.

As to the First Cause of Action

5. That the Court declare, adjudge, and decree that Defendants violated California Labor Code sections 510 and 1198, and the applicable IWC Wage Order by willfully failing to pay all overtime wages due to Plaintiff and class members;

6. For general unpaid wages at overtime wage rates and such general and special damages as may be appropriate;

7. For pre-judgment interest on any unpaid overtime compensation commencing from the date such amounts were due, or as otherwise provided by law;

8. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to California Labor Code section 1194(a); and

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

As to the Second Cause of Action

10. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198, and the applicable IWC Wage Order by willfully failing to pay minimum wages to Plaintiff and class members;

11. For general unpaid wages and such general and special damages as may be appropriate;

12. For pre-judgment interest on any unpaid compensation from the date such amounts were due, or as otherwise provided by law;

13. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to California Labor Code section 1194(a);

14. For liquidated damages pursuant to California Labor Code section 1194.2; and

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

As to the Third Cause of Action

16. That the Court declare, adjudge, and decree that Defendants violated California Labor Code sections 226.7, 512(a), 516, and 1198, and the applicable IWC Wage Order by willfully failing to provide all meal periods to Plaintiff and class members;

17. That the Court make an award to the Plaintiff and class members of one (1) hour of pay at each employee's regular rate of pay for each workday that a meal period was not provided;

1 18. For all actual, consequential, and incidental losses and damages, according to
2 proof;

3 19. For premiums pursuant to California Labor Code section 226.7(c);

4 20. For pre-judgment interest on any unpaid meal period premiums from the date
5 such amounts were due, or as otherwise provided by law;

6 21. For attorneys' fees pursuant to California Code of Civil Procedure section
7 1021.5, or as otherwise provided by law; and

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

10 **As to the Fourth Cause of Action**

11 23. That the Court declare, adjudge and decree that Defendants violated California
12 Labor Code sections 226.7, 516, and 1198, and the applicable IWC Wage Order by willfully
13 failing to authorize and permit Plaintiff and class members to take all rest periods;

14 24. That the Court make an award to the Plaintiff and class members of one (1) hour
15 of pay at each employee's regular rate of pay for each workday that a rest period was not
16 authorized and permitted;

17 25. For all actual, consequential, and incidental losses and damages, according to
18 proof;

19 26. For premiums pursuant to California Labor Code section 226.7(c);

20 27. For pre-judgment interest on any unpaid rest period premiums from the date
21 such amounts were due, or as otherwise provided by law;

22 28. For attorneys' fees pursuant to California Code of Civil Procedure section
23 1021.5, or as otherwise provided by law; and

24 29. For such other and further relief as the Court may deem equitable and
25 appropriate.

26 **As to the Fifth Cause of Action**

27 30. That the Court declare, adjudge and decree that Defendants violated the
28 recordkeeping provisions of California Labor Code section 226(a) and the applicable IWC

Wage Order as to Plaintiff and Subclass members, and willfully failed to provide accurate itemized wage statements thereto;

31. For all actual, consequential, and incidental losses and damages, according to proof;

32. For injunctive relief pursuant to California Labor Code section 226(h);

33. For statutory penalties pursuant to California Labor Code section 226(e);

34. For attorneys' fees and costs pursuant to California Labor Code section 226(e)(1); and

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

As to the Sixth Cause of Action

36. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 201 and 202 by willfully failing to pay overtime wages, minimum wages, and/or meal and rest period premiums owed at the time of termination of the employment of Plaintiff and other terminated class members;

37. For all actual, consequential and incidental losses and damages, according to proof;

38. For waiting time penalties according to proof pursuant to California Labor Code section 203 for all employees who have left Defendants' employ;

39. For pre-judgment interest on any unpaid wages from the date such amounts were due, or as otherwise provided by law;

40. For attorneys' fees pursuant to California Code of Civil Procedure section 1021.5, or as otherwise provided by law; and

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

As to the Seventh Cause of Action

42. That the Court declare, adjudge and decree that Defendants violated California Labor Code section 204 by willfully failing to timely pay Plaintiff and class members

overtime wages, minimum wages, and/or meal and rest period premiums pay during their employment;

43. For all actual, consequential and incidental losses and damages, according to proof;

44. For statutory penalties according to proof pursuant to California Labor Code section 210;

45. For pre-judgment interest on any unpaid wages from the date such amounts were due, or as otherwise provided by law;

46. For attorneys' fees pursuant to California Code of Civil Procedure section 1021.5, or as otherwise provided by law; and

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

As to the Eighth Cause of Action

48. That the Court declare, adjudge and decree that Defendants violated California Labor Code section 2802 by willfully failing to reimburse and/or indemnify all business-related expenses and costs incurred by Plaintiff and class members;

49. For unpaid business-related expenses and such general and special damages as may be appropriate;

50. For pre-judgment interest on any unpaid business-related expenses from the date such amounts were due, or as otherwise provided by law;

51. For all actual, consequential, and incidental losses and damages, according to proof;

52. For attorneys' fees and costs pursuant to California Labor Code section 2802(c), or as otherwise provided by law; and

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

As to the Ninth Cause of Action

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

1 following California Labor Code provisions as to Plaintiff and other aggrieved employees:
2 510 and 1198 (by failing to pay all overtime compensation); 226.7, 510, and 1198 (by failing
3 to include all forms of remuneration in the regular rate of pay for purposes of paying overtime
4 wages and/or meal and rest period premiums); 1182.12, 1194, 1197, 1197.1, and 1198 (by
5 failing to pay at least minimum wages for all hours worked); 226.7, 512(a), 516, and 1198 (by
6 failing to provide all meal periods); 226.7, 516, and 1198 (by failing to authorize and permit
7 all rest periods); 226(a), 1174(d), and 1198 (by failing to provide accurate wage statements
8 and maintain accurate payroll records); 201 and 202 (by failing to timely pay all earned wages
9 upon termination); 204 (by failing to timely pay all earned wages during employment); 2802
10 (by failing to reimburse business expenses); and 2810.5 (by failing to provide notice of
11 material terms of employment);

12 55. For civil penalties pursuant to the California Labor Code, including sections
13 210, 226.3, 256, 558, 1174.5, 2699(a), (f), and (k), for violations of California Labor Code
14 sections 201, 202, 204, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1,
15 1198, 2802, and 2810.5;

16 56. For injunctive relief pursuant to California Labor Code sections 1194.5 and/or
17 2699(k) to bring Defendants into compliance with the requirements of California Labor Code
18 sections 201, 202, 204, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1,
19 1198, 2802, and 2810.5;

20 57. For attorneys' fees and costs pursuant to California Labor Code section
21 2699(k)(1), and any and all other relevant statutes, for Defendants' violations of California
22 Labor Code sections 201, 202, 204, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194,
23 1197, 1197.1, 1198, 2802, and 2810.5;

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

25 59. For such other and further relief as the Court may deem equitable and
26 appropriate.

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

28 60. That the Court declare, adjudge and decree that Defendants' conduct of failing

1 to provide Plaintiff and class members all overtime wages due to them, failing to provide
2 Plaintiff and class members all minimum wages due to them, failing to provide Plaintiff and
3 class members all meal periods, failing to authorize and permit Plaintiff and class members to
4 take all rest periods, failing to provide Plaintiff and class members accurate and complete
5 wage statements, failing to maintain accurate payroll records for Plaintiff and class members,
6 failing to timely pay Plaintiff and class members all earned wages during employment, failing
7 to reimburse Plaintiff and class members for business-related expenses, and failing to provide
8 written notice of material terms of employment, constitutes an unlawful business practice in
9 violation of California Business and Professions Code sections 17200, *et seq.*;

10 61. For restitution of unpaid wages to Plaintiff and all class members and
11 prejudgment interest from the day such amounts were due and payable;

12 62. For the appointment of a receiver to receive, manage, and distribute any and all
13 funds disgorged from Defendants and determined to have been wrongfully acquired by
14 Defendants as a result of violations of California Business & Professions Code sections
15 17200, *et seq.*;

16 63. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
17 California Code of Civil Procedure section 1021.5; and

18 64. For such other and further relief as the Court may deem equitable and
19 appropriate.

20 **As to the Eleventh Cause of Action**

21 65. That the Court declare, adjudge and decree that Defendants' conduct of denying
22 Plaintiff and class members the statutory benefits guaranteed under section 226.7 constitutes
23 an unfair business practice in violation of California Business and Professions Code sections
24 17200, *et seq.*;

25 66. For restitution of the statutory benefits under section 226.7 unfairly withheld
26 from Plaintiff and class members and prejudgment interest from the day such amounts were
27 due and payable;

28 67. For the appointment of a receiver to receive, manage, and distribute any and all

1 funds disgorged from Defendants and determined to have been wrongfully acquired by
2 Defendants as a result of violations of California Business & Professions Code sections
3 17200, *et seq.*;

4 68. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
5 California Code of Civil Procedure section 1021.5;

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

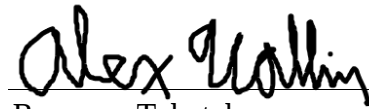
7 70. For such other and further relief as the Court may deem equitable and
8 appropriate.

9
10 Dated: November 13, 2024

Respectfully submitted,

Capstone Law APC

11
12
13 By:



Roxanna Tabatabaeepour

Ryan Tish

Alexander Wallin

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15 Attorneys for Plaintiff Yvette Munger
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EXHIBIT “1”



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SAIRAH BUDHWANI
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August 8, 2024

VIA ONLINE SUBMISSION

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

Subject: *Yvette Munger v. Yuba City Hotel, LP, et al.*

Dear PAGA Administrator:

This office represents Yvette Munger in connection with her claims under the California Labor Code. Ms. Munger was an employee of YUBA CITY HOTEL, LP; LOTUS MANAGEMENT GROUP LLC; LOTUS MANAGEMENT, INC.; CHICO HOTEL LP; HOLLISTER GATEWAY HOTEL, LP; LATHROP HOTEL, LP; and/or ORO HOTEL, L.P. For the purpose of this letter, Ms. Munger collectively refers to these entities as "LMG."

The employers may be contacted directly at the addresses below:

YUBA CITY HOTEL, LP
6030 HELLYER AVE STE 150
SAN JOSE, CA 95138

LOTUS MANAGEMENT GROUP LLC
208 BRISTOL COURT
DANVILLE, CA 94506

LOTUS MANAGEMENT, INC.
6030 HELLYER AVE STE #150
SAN JOSE, CA 95138

CHICO HOTEL LP
6030 HELLYER AVE STE 150
SAN JOSE, CA 95138

HOLLISTER GATEWAY HOTEL, LP
6030 HELLYER AVE STE 150
SAN JOSE, CA 95138

LATHROP HOTEL, LP
6030 HELLYER AVE STE #150
SAN JOSE, CA 95138

ORO HOTEL, L.P.
6030 HELLYER AVE STE #150
SAN JOSE, CA 95138

Ms. Munger 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. Munger seeks relief on behalf of herself, the State of California, and other persons who are or were employed by LMG in California as a non-exempt, hourly paid employee and who received at least one wage statement ("aggrieved

employees”). This letter is sent in compliance with the notice and reporting requirements of California Labor Code section 2699.3.

LMG employed Ms. Munger as a non-exempt Housekeeper from approximately September 2023 to December 2023. Ms. Munger worked at LMG’s Holiday Inn Express & Suites Yuba City hotel location in Yuba City, California. During her employment, Ms. Munger typically worked seven (7) hours or more per day and five (5) days per week. At the time her employment ended, Ms. Munger was compensated approximately \$15.50 per hour. Ms. Munger’s job duties included, without limitation, cleaning and vacuuming hotel rooms, throwing out trash, changing linens, and replenishing towels and toiletries.

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

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

YUBA CITY HOTEL,LP; CHICO HOTEL LP; HOLLISTER GATEWAY HOTEL, LP; LATHROP HOTEL , LP; and ORO HOTEL, L.P. are California limited partnerships. LOTUS MANAGEMENT GROUP LLC is a California limited liability company and LOTUS MANAGEMENT, INC. is a California corporation. LMG operates hotels, rooming houses, and other lodging places, with at least six (6) hotels in California. Upon information and belief, LMG maintains a single, centralized Human Resources (HR) department at its corporate headquarters in San Jose, California or Danville, California, for all non-exempt, hourly paid employees working for LMG in California, including Ms. Munger and other aggrieved employees. At all relevant times, LMG issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Ms. Munger and other aggrieved employees, regardless of their location or position.

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

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

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.

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

First, LMG had a company-wide policy and/or practice of improperly rounding employee clock-in and clock-out duration times to the nearest quarter-hour in its timekeeping system. LMG's rounding policy resulted in the failure to compensate Ms. Munger and other aggrieved employees fully for all hours worked, causing Ms. Munger and other aggrieved employees to not be paid overtime wages for all of the overtime hours they actually worked. Upon information and belief, LMG's rounding policy was, and continues to be, unfair and has, over time, resulted in the underpayment of wages to Ms. Munger and other aggrieved employees. To the extent LMG's rounding policy took away time worked that was eligible for overtime, Ms. Munger and other aggrieved employees were denied overtime pay for all hours worked.

Second, during the relevant time period, LMG had, and continues to have, a company-wide policy and/or practice of discouraging and impeding Ms. Munger and other aggrieved employees from recording hours worked that were outside of their scheduled shifts in order to limit the amount of overtime employees could accrue. On information and belief, this limitation on overtime accrual was based on a company-wide policy of staffing locations strictly based on the labor hours or labor budget set by corporate. This policy of limiting overtime, coupled with LMG's practices and/or policies of understaffing and assigning heavy workloads (*see infra*), led Ms. Munger and other aggrieved employees to work off-the-clock before and after their scheduled shift times in order to complete assigned tasks. Specifically, LMG's management required Ms. Munger and other aggrieved employees to record only the scheduled shift start-times and shift end-times instead of their actual hours worked, upon threat of discipline, to limit overtime hours employees were eligible to be compensated for. For example, Ms. Munger would report to work approximately 45 minutes to one (1) hour before her scheduled shift start-time about twice per week in order to complete her assigned duties, such as laundering, folding, and replenishing linens; refilling cleaning products; and preparing her cleaning cart for the day, but she was not permitted to clock in before her scheduled shift start-time. Similarly, Ms. Munger was required to clock out at her scheduled shift end-time and continue working, for approximately one (1) hour at least once per week, in order to complete her assigned duties, such as cleaning hotel rooms, assisting other housekeepers, and replenishing linens. This off-the-clock work could have been recorded by LMG, but it refused to do so to avoid payment of additional wages to Ms. Munger and other aggrieved employees.

Third, as stated, on information and belief, LMG had, and continues to have, a company-wide policy and/or practice of staffing its locations strictly based on the labor hours or labor budget set by corporate. On information and belief, LMG's use of a labor budget resulted in chronic understaffing, such that there were too few employees on duty to handle the workload and provide meal period coverage. Moreover, LMG had a practice of failing to schedule meal periods, which further caused

Ms. Munger and other aggrieved employees to not be relieved of their duties for compliant meal periods. As a result, Ms. Munger and other aggrieved employees were not afforded uninterrupted thirty (30) minute meal periods during shifts in which they were entitled to receive meal periods. For example, Ms. Munger often had her meal periods interrupted due to the lack of coverage and to complete her assignment of cleaning 10-11 hotel rooms per day, in addition to assisting with laundry and kitchen duties. Consequently, Ms. Munger and other aggrieved employees performed work during meal periods for which they were not paid.

LMG knew or should have known that as a result of these company-wide practices and/or policies, Ms. Munger 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. Munger and other aggrieved employees worked shifts of eight (8) hours or more a day, or forty (40) hours a week or more, some of this off-the-clock work qualified for overtime premium pay.

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

LMG's failure to pay Ms. Munger 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. Munger 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 stated above, during the relevant time period, LMG had a policy of rounding Ms. Munger's and other aggrieved employees' hourly clock-in and clock-out duration times to the nearest quarter-hour in its timekeeping system, resulting in the failure to compensate Ms. Munger and other aggrieved employees fully for all hours worked.

Second, as set forth above, as a result of LMG's policies of limiting the amount of overtime employees could accrue pursuant to their labor budget practices and pressuring employees to record only their scheduled hours on timesheets rather than hours actually worked, LMG required Ms. Munger and other aggrieved employees to perform work off-the-clock. For example, LMG required

Ms. Munger to work off the clock before and after her shifts to complete tasks such as laundering and replenishing linens, refilling cleaning products, preparing her cleaning cart for the day, cleaning hotel rooms, and assisting other housekeepers. However, LMG failed to track all of this time Ms. Munger and other aggrieved employees spent working off-the-clock, and thus, Ms. Munger and other aggrieved employees received no compensation for this time.

Third, as set forth above, due to LMG's policies and/or practices of utilizing labor budgets, restaurant understaffing, assigning heavy workloads, failing to schedule meal periods, and subsequent lack of meal period coverage, Ms. Munger 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 during meal periods.

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

Under California law, an employer cannot evade meal period requirements via the use of "on-duty" meal agreements because it understaffs its locations. *Abdullah v. U.S. Sec. Assocs.*, 731 F.3d 952, 963 (9th Cir. Cal. 2013). In addition, an employee must be provided with the opportunity to eat his or her meal while performing the duties required and any on-duty meal period must, like any off-duty meal period, be at least 30 minutes long. *L'Chaim House, Inc., et al. v. Division of Labor Standards Enforcement*, 38 Cal. App. 5th 141 (2019).

During the relevant period, as stated, LMG had, and continues to have, company-wide policies and/or practices of understaffing its locations due to labor budgeting and/or limited payroll allocation, which combined with the assignment of heavy workloads and failure to schedule meal periods, resulted in a lack of meal period coverage and prevented Ms. Munger and other aggrieved employees from taking all timely meal periods to which they were entitled. As a result, Ms. Munger and other aggrieved employees were forced to work in excess of five (5) hours before taking a meal period, had their meal periods interrupted, and/or had to forgo their meal periods altogether. For example, Ms. Munger regularly had to cut her meal periods short and/or took her meal periods late, after having worked in excess of five (5) hours into her shift, in order to complete cleaning 10 or more assigned hotel rooms by the end of the day. Ms. Munger 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.

Moreover, LMG had a company-wide policy of requiring all newly hired employees to sign blanket meal period waivers at or near their time of hire. LMG took the position that non-exempt, hourly paid employees had waived their rights to first meal periods for the entirety of their employment and, on that basis, did not provide them with all meal periods to which they were entitled. LMG's meal period waivers are unlawful insofar as they fail to correctly inform employees of the requirements for waiving first meal periods. LMG's "Meal Period Waiver Agreement" forms state in relevant part: **"I am entitled to a meal period if I work more than six hours per shift, and I may voluntarily elect to forego [sic] my meal break if my shift is to end in less than eight hours** Therefore, the hotel and I agree that I will be allowed to remain on duty during my meal period and I will be compensated an additional hour at my normal rate of pay for that time that would normally be a meal period. (Emphasis added.)" However, under California Law, employees are able to waive their meal periods when they work shifts of more than five (5) hours, only when they do not work more than six (6) hours in a day, and LMG's written policy is therefore facially invalid.

Furthermore, LMG's blanket meal period waivers require employees to provide written notice should they wish to revoke the waiver. LMG's presumption that meal periods would not be provided for shifts in excess of six (6) hours but less than eight (8) hours, due to blanket meal period waivers signed at or near the time of hire, and imposition on employees to revoke the waivers in writing, discouraged and impeded Ms. Munger and other aggrieved employees from taking all meal periods to which they were entitled.

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

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

Id. (citing Cal. Labor Code § 226.7; Wage Order No. 5, subd. 11(A), (B)). That LMG required Ms. Munger and other aggrieved employees to sign meal period waivers simultaneously at or near their time of hire (as opposed to on a specific work day) renders them invalid and unenforceable, because LMG's obligation to provide Ms. Munger and other aggrieved employees with meal periods did not arise until they had employed them for a full five (5) hours.

Moreover, to the extent that LMG's "Meal Period Waiver Agreement" functioned as an on-duty meal period agreement, it is improper and unlawful as it treats missed or interrupted off-duty meal periods as on-duty meal periods. Under California law, an on-duty meal period agreement does not absolve employers of the duty to provide timely, 30-minute meal periods.² LMG's on-duty meal policy failed to inform Ms. Munger and other aggrieved employees that they are entitled to a 30-minute on-duty meal period and that on-duty meal periods must be timely, and therefore is facially invalid. Moreover, under California law, "on-duty" meal periods are a limited alternative to the requirement to provide off-duty meal periods and can only be utilized under certain circumstances. IWC Wage Order 5-2001, subdivision 11(A) provides that an "on duty" meal period "shall be permitted only when the nature of the work prevents an employee from being relieved of all duty and when by written agreement between the parties an on-the-job paid meal period is agreed to."

LMG's "on-duty" meal period policy results from the company's own staffing and business decisions, not because the nature of the work required on-duty meal periods. The work of LMG's employees is not of the kind that could be said to meet the "nature of the work" exception. Ms. Munger and other aggrieved employees worked at hotels, cleaning hotel rooms, laundering linens, and attending to guests. None of these tasks is akin to the kind that the California Division of Labor Standards Enforcement ("DLSE") has found warrant an "on-duty" meal period, such as transporting hazardous materials via vehicles that must be monitored at all times pursuant to federal regulation.

At all times mentioned herein, LMG knew or should have known that as a result of its policies, Ms. Munger and other aggrieved employees were prevented from being relieved of all duties and required to perform some of their assigned duties during meal periods. LMG further knew or should have known that it did not pay Ms. Munger and other aggrieved employees all meal period premiums when meal periods were late, interrupted, shortened, and/or missed. Further, to the extent that LMG's rounding policy reported that Ms. Munger and other aggrieved employees were provided with timely, full 30-minute meal periods when, in fact, the meal periods were taken after the fifth hour of work or were less than 30 minutes, Ms. Munger and other aggrieved employees did not receive meal period penalties for these improperly rounded meal periods.

Furthermore, LMG engaged in a company-wide practice and/or policy of not paying meal period premiums owed when compliant meal periods are not provided. Because of this practice and/or policy, Ms. Munger and other aggrieved employees have not received premium pay for all missed, late, and interrupted meal periods. Alternatively, to the extent that LMG did pay Ms. Munger and/or other aggrieved employees premium pay for missed, late, and interrupted meal periods, LMG did not pay Ms. Munger and/or other aggrieved employees at the correct rate of pay for premiums because LMG 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.

² Employers must provide employees a timely 30-minute meal period even though that meal period may be on-duty instead of off-duty. See *L'Chaim*, 38 Cal. App. 5th at 149 ("If an employee is entitled to an off-duty meal period of 30 minutes, yet work obligations intrude on a portion of that time, the off-duty period is converted to an on-duty period—no matter how small the portion of the period that work intruded upon—and the employee is paid for the entire period. There is no suggestion that once work interrupts an employee's meal period, the period simply ends even if 30 minutes have not yet passed.") and 147 ("[A]n on-duty meal period is not the functional equivalent of no meal period at all. On-duty meal periods are an intermediate category requiring more of employees than off-duty meal periods but less of employees than their normal work.").

Accordingly, LMG failed to provide all meal periods in violation of California Labor Code sections 226.7, 512(a), 516, and 1198. Ms. Munger 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, LMG regularly failed to authorize and permit Ms. Munger 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, LMG's company-wide use of labor budgeting and/or limited payroll allocation, understaffing, and assigning heavy workloads resulted in a lack of rest period coverage and prevented Ms. Munger and other aggrieved employees from being relieved of all duty in order to take their rest periods. LMG also failed to schedule rest periods, which, coupled with LMG's failure to provide adequate rest period coverage, further led to Ms. Munger and other aggrieved employees not being authorized and permitted to take compliant rest periods.

Moreover, LMG had a company-wide practice and/or policy of requiring that Ms. Munger and other aggrieved employees carry and respond to company-issued walkie-talkies during rest periods. For example, Ms. Munger would often have her rest periods interrupted because she was required to answer calls from her supervisor on her company-issued walkie-talkie and return to work to complete work tasks.

Furthermore, LMG maintained and implemented a company-wide on-premises rest period policy, which mandated that Ms. Munger and/or other aggrieved employees remain on the premises during their rest periods. Because Ms. Munger and/or other aggrieved employees were restricted from leaving LMG's premises during rest periods, they were denied the ability to use their rest periods freely for their own purposes, such as completing personal errands. Thus, LMG maintained control over Ms. Munger and/or other aggrieved employees during rest periods.

As a result of LMG's practices and policies, Ms. Munger and other aggrieved employees worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without receiving all

uninterrupted rest periods to which they were entitled. For example, Ms. Munger had to forgo her rest periods four (4) times per week due to the heavy workload and lack of coverage.

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

First, because LMG did not accurately record the time Ms. Munger and other aggrieved employees spent working off-the-clock, improperly rounded their total hours worked, 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), LMG did not list the correct amount of gross wages and net wages earned by Ms. Munger and other aggrieved employees, in compliance with section 226(a)(1) and section 226(a)(5), respectively. For the same reason, LMG failed to accurately list the total number of the hours worked by Ms. Munger and other aggrieved employees, in violation of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay period and the corresponding accurate number of hours worked at each hourly rate, in violation of section 226(a)(9).

Second, because LMG did not calculate other Ms. Munger's and/or aggrieved employees' regular rate of pay correctly for purposes of paying overtime wages and/or meal and rest period premiums, LMG 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). LMG 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).

Third, and separately from these violations, LMG issued uniform wage statements to Ms. Munger and other aggrieved employees that failed to correctly list the address of the legal entity of the actual employer in violation of 226(a)(8). The purpose of section 226(a)(8) is to provide California employees with transparency as to the true identity of their employer, to allow the employee to contact their employer during employment or in the future for various reasons, including filing an administrative claim, judicial claim, or other action to seek relief against their employer, to obtain unemployment benefits, etc. Ms. Munger's and other aggrieved employees' wage statements incorrectly list the employer's address as "2605 Camino Tassajara, Unit 1836, Danville, CA 94526-9998" but, according to the California Secretary of State's website, YUBA CITY HOTEL, LP's address is "6030 HELLYER AVE STE 150, SAN JOSE, CA 95138."

The wage statement deficiencies also include, without limitation, failing to list the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; failing to list all deductions; failing to list the inclusive dates of the period for which aggrieved employees were paid; failing to list the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number; failing to list the name of the legal entity that is the employer; and/or failing to state all hours worked as a result of not recording or stating hours worked off-the-clock.

California Labor Code section 1174(d) provides that "[e]very person employing labor in this state shall . . . [k]eep a record showing the names and addresses of all employees employed and the ages of all minors" and "[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments" Labor Code section 1174.5 provides that employers are subject to a \$500 civil penalty if they fail to maintain accurate and complete records as required by section 1174(d). During the relevant time period, and in violation of Labor Code section 1174(d), LMG willfully failed to maintain accurate payroll records for Ms. Munger 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 and improperly rounding Ms. Munger's and other aggrieved employees' total hours 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, LMG engaged in company-wide practices and/or policies of failing to record actual hours worked, and thereby failed to keep accurate records of work period and meal period start and end times for Ms. Munger and other aggrieved employees, in violation of section 1198.

Because LMG failed to provide the correct net and gross wages earned, applicable rates of pay, and number of total hours worked on wage statements, Ms. Munger 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. Munger 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. Munger 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, LMG failed to pay Ms. Munger and other aggrieved employees all wages due to them, including, but not limited to, overtime wages, minimum wages, and/or meal and rest period premiums, within any time period specified by California Labor Code section 204.

Ms. Munger 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.

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

Ms. Munger 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 § 2802 – Unreimbursed Business Expenses

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

During the relevant time period, LMG, on a company-wide basis, required that Ms. Munger 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. Munger was required to download and use a mobile timekeeping application, ADP, onto her personal mobile device for clocking in and out on a daily basis. As a further example, Ms. Munger and other aggrieved employees would be contacted on their personal mobile devices by their managers and co-workers to discuss work-related matters, such as areas of the hotel that required cleaning. Although LMG required Ms. Munger and other aggrieved employees to utilize their personal mobile devices to carry out their work-related responsibilities, LMG failed to reimburse them for this cost.

LMG could have provided Ms. Munger and other aggrieved employees with the actual equipment for use on the job, such as company mobile devices, or LMG could have reimbursed employees for the costs of their mobile device usage. Instead, LMG passed these operating costs off onto Ms. Munger and other aggrieved employees. At all relevant times, Ms. Munger did not earn at least two (2) times the minimum wage.

Thus, LMG had, and continues to have, a company-wide policy and/or practice of not reimbursing employees for expenses necessarily incurred in violation of California Labor Code section 2802. Ms. Munger 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 § 2810.5(a)(1)(A)-(C) – Failure to Provide Notice of Material Terms of Employment

California's Wage Theft Prevention Act was enacted to ensure that employers provide employees with basic information material to their employment relationship at the time of hiring, and to ensure that employees are given written and timely notice of any changes to basic information material to their employment. Codified at California Labor Code section 2810.5, the Wage Theft Prevention Act provides that at the time of hiring, an employer must provide written notice to employees of the rate(s) of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, the regular payday designated by the employer, and any allowances claims as part of the minimum wage, including meal or lodging allowances. Effective January 1, 2015, an employer's written notice pursuant to section 2810.5 must also include a statement that the employee may accrue and use sick leave; has a right to request and

use accrued paid sick leave; may not be terminated or retaliated against for using or requesting the use of accrued paid sick leave; and has the right to file a complaint against an employer who retaliates.

At all relevant times, on information and belief, LMG failed, on a company-wide basis, to provide written notice to Ms. Munger and other aggrieved employees that lists the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C). LMG's failure to provide Ms. Munger and other aggrieved employees with written notice of basic information regarding their employment with LMG is in violation of Labor Code section 2810.5.

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

Accordingly, Ms. Munger 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. Munger, 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 LMG 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, 2802, and 2810.5.

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

Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

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

Best Regards,

A handwritten signature in black ink, reading "Sairah Budhwani". The signature is fluid and cursive, with a long horizontal flourish extending from the end.

Sairah Budhwani

Copy: YUBA CITY HOTEL,LP (via U.S. Certified Mail); LOTUS MANAGEMENT GROUP LLC (via U.S. Certified Mail); LOTUS MANAGEMENT, INC. (via U.S. Certified Mail); CHICO HOTEL LP (via U.S. Certified Mail); HOLLISTER GATEWAY HOTEL, LP (via U.S. Certified Mail); LATHROP HOTEL , LP (via U.S. Certified Mail); ORO HOTEL, L.P. (via U.S. Certified Mail)

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



7022 2410 0000 2264 9179

Yuba City Hotel,LP
6030 HELLYER AVE STE 150
SAN JOSE, CA 95138

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

Yuba City Hotel,LP
6030 HELLYER AVE STE 150
SAN JOSE, CA 95138



9590 9402 8803 4005 5748 73

Article Number (Transfer from service label)

7022 2410 0000 2264 9179

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

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- A. Signature ☐ Agent
☒ Addressee
- B. Received by (Printed Name) C. Date of Delivery
- D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

- Service Type
- ☐ Adult Signature
 - ☐ Adult Signature Restricted Delivery
 - ☒ Certified Mail®
 - ☐ Certified Mail Restricted Delivery
 - ☐ Collect on Delivery
 - ☐ Collect on Delivery Restricted Delivery
 - ☐ Insured Mail
 - ☐ Mail Restricted Delivery
 - ☐ Priority Mail Express®
 - ☐ Registered Mail™
 - ☐ Registered Mail Restricted Delivery
 - ☐ Signature Confirmation™
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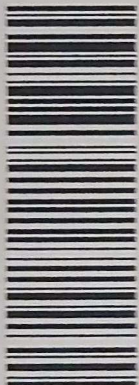
Extra Services & Fees (check box, add fee as appropriate)
☒ Return Receipt (hardcopy) \$
☐ Return Receipt (electronic) \$
Postage \$

Yuba City Hotel,LP
6030 HELLYER AVE STE 150
SAN JOSE, CA 95138

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

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1875 Century Park, East, 1000
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7022 2410 0000 2264 9186

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Postage

Lotus Management, Inc.
6030 HELLYER AVE STE #150
SAN JOSE, CA 95138

PS Form 3811, April 2010 PSN 7530-02-000-9053

Lotus Management, Inc.
6030 HELLYER AVE STE #150
SAN JOSE, CA 95138

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.

Lotus Management, Inc.
6030 HELLYER AVE STE #150
SAN JOSE, CA 95138



9590 9402 8803 4005 5748 80

2. Article Number (transfer from sender label)

7022 2410 0000 2264 9186

3. Service Type

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

COMPLETE THIS SECTION ON DELIVERY

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

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

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

Domestic Return Receipt

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Los Angeles, CA. 90067

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Chico Hotel LP
6030 HELLYER AVE STE 150
SAN JOSE, CA 95138

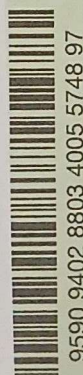
PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

Chico Hotel LP
6030 HELLYER AVE STE 150
SAN JOSE, CA 95138

SENDER: COMPLETE THIS SECTION

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- Print your name and address on the reverse so that we can return the card to you.

Chico Hotel LP
6030 HELLYER AVE STE 150
SAN JOSE, CA 95138



9590 9402 8803 4005 5748 97

2. Article Number (Transfer from service label)

7022 2410 0000 2264 8684

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COMPLETE THIS SECTION ON DELIVERY

A. Signature ☒ Agent
☒ Addressee

B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

Service Type
☐ Adult Signature
☐ Adult Signature Restricted Delivery
☒ Certified Mail[®]
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
☐ Registered Mail[™]
☐ Registered Mail Restricted Delivery
☐ Signature Confirmation[™]
☐ Signature Confirmation Restricted Delivery

restricted Delivery

Domestic Return Receipt

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

CERTIFIED MAIL



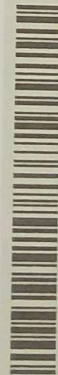
7022 2410 0000 2264 9223

Hollister Gateway Hotel, LP
6030 HELLYER AVE STE 150
SAN JOSE, CA 95138

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- Complete items 1, 2, and 3.
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Hollister Gateway Hotel, LP
6030 HELLYER AVE STE 150
SAN JOSE, CA 95138



9590 9402 8803 4005 5749 03

7022 2410 0000 2264 9223

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COMPLETE THIS SECTION ON DELIVERY

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

Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

- 3. Service Type
 - ☐ Adult Signature
 - ☐ Adult Signature Restricted Delivery
 - ☒ Certified Mail®
 - ☐ Certified Mail Restricted Delivery
 - ☐ Collect on Delivery
 - ☐ Collect on Delivery Restricted Delivery
 - ☐ Restricted Delivery
- ☐ Priority Mail Express®
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- ☐ Signature Confirmation™
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Hollister Gateway Hotel, LP
6030 HELLYER AVE STE 150
SAN JOSE, CA 95138

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Los Angeles, CA. 90067

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7022 2410 0000 2264 9216

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☐ Return Receipt (electronic) \$

Lathrop Hotel, LP
6030 HELLYER AVE STE #150
SAN JOSE, CA 95138

Lathrop Hotel, LP
6030 HELLYER AVE STE #150
SAN JOSE, CA 95138

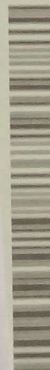
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9726 4922 0000 0142 2202

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Lathrop Hotel, LP
6030 HELLYER AVE STE #150
SAN JOSE, CA 95138



9590 9402 8803 4005 5749 10

2. Article Number (Transfer from service label)

7022 2410 0000 2264 9216

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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

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Insured Mail Restricted Delivery
- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
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1875 Century Park, East, 1000
Los Angeles, CA. 90067



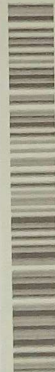
7022 2410 0000 2264 9209

Oro Hotel, L.P.
6030 HELLYER AVE STE #150
SAN JOSE, CA 95138

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Oro Hotel, L.P.
6030 HELLYER AVE STE #150
SAN JOSE, CA 95138



9590 9402 8803 4005 5749 27

Article Number (Transfer from service label)

7022 2410 0000 2264 9209

Restricted Delivery

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

- D. Is delivery address different from item 1? ☐ Yes
- If YES, enter delivery address below: ☐ No

- Service Type
- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Priority Mail Express®
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☐ Return Receipt (electronic) \$
☐ Ins \$
☐ Ad \$
☐ Ad \$
Postage \$
Total \$
Sent \$
State \$
City

Postmark

Oro Hotel, L.P.
6030 HELLYER AVE STE #150
SAN JOSE, CA 95138

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Hollister Gateway Hotel, LP

6030 HELLYER AVE STE 150

SAN JOSE, CA 95138

9590 9402 8803 4005 5749 03

7022 2410 0000 2264 9223

Restricted Delivery

3. Service Type

☐ Adult Signature

☐ Adult Signature Restricted Delivery

☒ Certified Mail®

☐ Certified Mail Restricted Delivery

☐ Collect on Delivery

☐ Collect on Delivery Restricted Delivery

☐ Priority Mail Express®

☐ Registered Mail™

☐ Registered Mail Restricted Delivery

☐ Signature Confirmation™

☐ Signature Confirmation Restricted Delivery

A. Signature

X

☐ Agent

☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes

If YES, enter delivery address below: ☐ No

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

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SENDER: COMPLETE THIS SECTION

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Chico Hotel LP

6030 HELLYER AVE STE 150

SAN JOSE, CA 95138

9590 9402 8803 4005 5748 97

7022 2410 0000 2264 8684

Restricted Delivery

3. Service Type

☐ Adult Signature

☐ Adult Signature Restricted Delivery

☒ Certified Mail®

☐ Certified Mail Restricted Delivery

☐ Collect on Delivery

☐ Collect on Delivery Restricted Delivery

☐ Priority Mail Express®

☐ Registered Mail™

☐ Registered Mail Restricted Delivery

☐ Signature Confirmation™

☐ Signature Confirmation Restricted Delivery

A. Signature

X

☐ Agent

☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes

If YES, enter delivery address below: ☐ No

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Lotus Management, Inc.

6030 HELLYER AVE STE #150

SAN JOSE, CA 95138

9590 9402 8803 4005 5748 80

7022 2410 0000 2264 9186

Restricted Delivery

3. Service Type

☐ Adult Signature

☐ Adult Signature Restricted Delivery

☒ Certified Mail®

☐ Certified Mail Restricted Delivery

☐ Collect on Delivery

☐ Collect on Delivery Restricted Delivery

☐ Priority Mail Express®

☐ Registered Mail™

☐ Registered Mail Restricted Delivery

☐ Signature Confirmation™

☐ Signature Confirmation Restricted Delivery

A. Signature

X

☐ Agent

☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes

If YES, enter delivery address below: ☐ No

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Domestic Return Receipt

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Lathrop Hotel, LP

6030 HELLYER AVE STE #150

SAN JOSE, CA 95138

9590 9402 8803 4005 5749 10

7022 2410 0000 2264 9216

Restricted Delivery

3. Service Type

☐ Adult Signature

☐ Adult Signature Restricted Delivery

☒ Certified Mail®

☐ Certified Mail Restricted Delivery

☐ Collect on Delivery

☐ Collect on Delivery Restricted Delivery

☐ Priority Mail Express®

☐ Registered Mail™

☐ Registered Mail Restricted Delivery

☐ Signature Confirmation™

☐ Signature Confirmation Restricted Delivery

A. Signature

X

☐ Agent

☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes

If YES, enter delivery address below: ☐ No

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

Domestic Return Receipt

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Oro Hotel, L.P.

6030 HELLYER AVE STE #150

SAN JOSE, CA 95138

9590 9402 8803 4005 5749 27

7022 2410 0000 2264 9209

Restricted Delivery

3. Service Type

☐ Adult Signature

☐ Adult Signature Restricted Delivery

☒ Certified Mail®

☐ Certified Mail Restricted Delivery

☐ Collect on Delivery

☐ Collect on Delivery Restricted Delivery

☐ Priority Mail Express®

☐ Registered Mail™

☐ Registered Mail Restricted Delivery

☐ Signature Confirmation™

☐ Signature Confirmation Restricted Delivery

A. Signature

X

☐ Agent

☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes

If YES, enter delivery address below: ☐ No

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

Domestic Return Receipt

SENDER: COMPLETE THIS SECTION

■ Complete items 1, 2, and 3.

■ Print your name and address on the reverse so that we can return the card to you.

Yuba City Hotel,LP

6030 HELLYER AVE STE 150

SAN JOSE, CA 95138

9590 9402 8803 4005 5748 73

7022 2410 0000 2264 9179

Restricted Delivery

3. Service Type

☐ Adult Signature

☐ Adult Signature Restricted Delivery

☒ Certified Mail®

☐ Certified Mail Restricted Delivery

☐ Collect on Delivery

☐ Collect on Delivery Restricted Delivery

☐ Priority Mail Express®

☐ Registered Mail™

☐ Registered Mail Restricted Delivery

☐ Signature Confirmation™

☐ Signature Confirmation Restricted Delivery

A. Signature

X

☐ Agent

☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes

If YES, enter delivery address below: ☐ No

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

Domestic Return Receipt

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you.		A. Signature X  ☐ Agent ☐ Addressee	
1 Lotus Management Group LLC 208 BRISTOL COURT DANVILLE, CA 94506		Received by (Printed Name) Janki Dubal	C. Date of Delivery 08/20/24
		Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☐ No	
 9590 9402 8803 4005 5749 34		Service Type ☐ Adult Signature ☐ Adult Signature Restricted Delivery ☒ Certified Mail® ☐ Certified Mail Restricted Delivery ☐ Collect on Delivery ☐ Collect on Delivery Restricted Delivery ☐ Insured Mail ☐ Priority Mail Express® ☐ Registered Mail™ ☐ Registered Mail Restricted Delivery ☐ Signature Confirmation™ ☐ Signature Confirmation Restricted Delivery	
Number (Transfer from service label) 7022 2410 0000 2264 9193		all Restricted Delivery	
PS Form 3811, July 2020 PSN 7530-02-000-9053		Domestic Return Receipt	

PROOF OF SERVICE

I am employed in the State of California, County of Los Angeles. I am over the age of 18 and not a party to the within suit; my business address is 1875 Century Park East, Suite 1000 Los Angeles, California 90067.

On **November 13, 2024**, I served the document described as: **FIRST AMENDED CLASS ACTION COMPLAINT & ENFORCEMENT ACTION UNDER THE PRIVATE ATTORNEYS GENERAL ACT, CALIFORNIA LABOR CODE §§ 2698, ET SEQ.** on the interested parties in this action by sending ☐ the original [or] ☒ a true copy thereof ☒ to interested parties as follows [or] ☐ as stated on the attached service list:

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Veronica.Hunter@jacksonlewis.com
Jackson Lewis P.C.
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Houston, Texas 77002
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LOTUS MANAGEMENT, INC.; CHICO
HOTEL LP; HOLLISTER GATEWAY
HOTEL, LP; LATHROP HOTEL , LP; and
ORO HOTEL, L.P.

☐ **BY MAIL (ENCLOSED IN A SEALED ENVELOPE):** I deposited the envelope(s) for mailing in the ordinary course of business at Los Angeles, California. I am “readily familiar” with this firm’s practice of collection and processing correspondence for mailing. Under that practice, sealed envelopes are deposited with the U.S. Postal Service that same day in the ordinary course of business with postage thereon fully prepaid at Los Angeles, California.

☒ **BY E-MAIL:** I hereby certify that this document was served from Los Angeles, California, by e-mail delivery on the parties listed herein at their most recent known e-mail address or e-mail of record in this action.

☐ **BY PERSONAL SERVICE:** I delivered the document, enclosed in a sealed envelope,

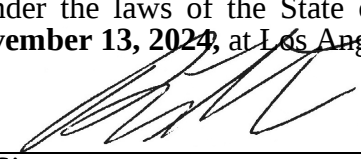
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by hand to the counsel for Defendant.

[] **BY ELECTRONIC SERVICE:** I caused the document(s) to be transmitted electronically via One Legal eService to the individuals listed above, as they exist on that database. This will constitute service of the document(s).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on **November 13, 2024**, at Los Angeles, California.

Riley McIntire
Type/Print Name



Signature