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Superior Court of California,
County of San Diego

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Clerk of the Superior Court
By J. Walters ,Deputy Clerk

Attorneys for Plaintiffs,
ERIKA RESTREPO, BRYAN CASTILLO

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

ERIKA RESTREPO, an individual, BRYAN
CASTILLO, an individual, and in their
representative capacity on behalf of the State of
California and other AGGRIEVED
EMPLOYEES,

Plaintiff,

vs.

CHINGON RESTAURANT GROUP, LLC, a
California limited liability company; UNI FOOD
SD, INC. a California corporation; TEMPO
5TH AVE, LLC, a California limited liability
company; TEMPO BREA, LLC, a California
limited liability company; TEMPO ANAHEIM
HILLS, LLC, a California limited liability
company; KING & QUEEN GROUP, LLC, a
California limited liability company; TEMPO
UNIVERSE, LLC, a California limited liability
company; FREDDY BRAIDI, an individual;
LUIS JORGE CUEVA, an individual; and
DOES 1-25

Defendants.

Case No. 25CU000533C

COMPLAINT FOR DAMAGES

DEMAND FOR JURY TRIAL

1 PLAINTIFF ERIKA RESTREPO (“PLAINTIFF RESTREPO”), an individual, PLAINTIFF
2 BRYAN CASTILLO (“PLAINTIFF CASTILLO”), an individual, on behalf of themselves and in a
3 representative capacity on behalf of the State of California and other AGGRIEVED EMPLOYEES,
4 defined below, against DEFENDANT CHINGON RESTAURANT GROUP, LLC, a California
5 limited liability company, DEFENDANT UNI FOOD SD, INC, a California corporation,
6 DEFENDANT TEMPO 5TH AVE, LLC, a California limited liability company DEFENDANT
7 TEMPO BREA, LLC, a California limited liability company, DEFENDANT TEMPO ANAHEIM
8 HILLS, LLC, a California limited liability company, DEFENDANT KING & QUEEN GROUP,
9 LLC, a California limited liability company, DEFENDANT TEMPO UNIVERSE, LLC, a
10 California limited liability company, DEFENDANT FREDDY BRAIDI, an individual;
11 DEFENDANT LUIS JORGE CUEVA, an individual; and DOES 1-25 (“Defendant
12 DOES”)(collectively “DEFENDANTS”), allege on information and belief, except for their own acts
13 and knowledge which are based on personal knowledge, the following:

14 I. INTRODUCTION

15 1. PLAINTIFFS bring this action individually and as a representative action on behalf
16 of themselves, the State of California and pursuant to the Private Attorneys General Act of 2004,
17 California Labor Code § 2698, *et seq.* (“PAGA”) on behalf of other current and former
18 AGGRIEVED EMPLOYEES of DEFENDANTS for engaging in a pattern and practice of wage and
19 hour violations under the California Labor Code.

20 2. PLAINTIFFS seek recovery of all individual damages in addition to all civil
21 penalties permitted pursuant to California Labor Code § 2699, *et seq.*

22 3. PLAINTIFFS are informed and believe, and thereon allege, that DEFENDANTS
23 decreased their employment-related costs by systematically violating California wage and hour
24 laws.

25 4. DEFENDANTS’ systematic pattern of wage and hour and IWC Wage Order
26 violations toward PLAINTIFFS and other AGGRIEVED EMPLOYEES in California include, *inter*
27 *alia*:
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- a. Failure to provide rest periods;
- b. Failure to provide meal periods;
- c. Failure to pay minimum wages;
- d. Failure to pay all overtime wages;
- e. Failure to reimburse for required business expenses;
- f. Failure to pay wages when due;
- g. Failure to provide accurate itemized wage statements;
- h. Failure to maintain true and accurate records;
- i. Failure to timely pay wages upon termination of employment.

5. PLAINTIFFS reserve the right to name additional representatives throughout the State of California.

II. PARTIES

6. PLAINTIFF ERIKA RESTREPO (“PLAINTIFF RESTREPO”), an individual, has resided, and at all times mentioned in this Complaint, continues to reside in San Diego County.

7. PLAINTIFFS BRYAN CASTILLO (“PLAINTIFF CASTILLO”), an individual, has resided, and at all times mentioned in this Complaint, continues to reside in San Diego County.

8. DEFENDANT CHINGON RESTAURANT GROUP, LLC, a California limited liability company, registered with the California Secretary of State as entity No. 201729110036, that at all relevant times mentioned herein conducted and continues to conduct substantial and regular business throughout California. DEFENDANT CHINGON RESTAURANT GROUP, LLC maintains ownership, recruitment, and/or operational interests in DEFENDANT UNI FOOD SD, INC, DEFENDANT TEMPO 5TH AVE, LLC, DEFENDANT TEMPO BREA, LLC, DEFENDANT TEMPO ANAHEIM HILLS, LLC, DEFENDANT KING & QUEEN GROUP, LLC, DEFENDANT TEMPO UNIVERSE, LLC.

9. DEFENDANT UNI FOOD SD, INC, a California corporation, registered with the California Secretary of State as entity No. 4846101, that at all relevant times mentioned herein conducted and continues to conduct substantial and regular business throughout California.

1 10. DEFENDANT TEMPO 5TH AVE, LLC, a California limited liability company,
2 registered with the California Secretary of State as entity No. 202120810209, that at all relevant
3 times mentioned herein conducted and continues to conduct substantial and regular business
4 throughout California.

5 11. DEFENDANT TEMPO BREA, LLC, a California limited liability company,
6 registered with the California Secretary of State as entity No. 201635210018, that at all relevant
7 times mentioned herein conducted and continues to conduct substantial and regular business
8 throughout California.

9 12. DEFENDANT TEMPO ANAHEIM HILLS, LLC, a California limited liability
10 company, registered with the California Secretary of State as entity No. 201635210020, that at all
11 relevant times mentioned herein conducted and continues to conduct substantial and regular
12 business throughout California.

13 13. DEFENDANT KING & QUEEN GROUP, LLC, a California limited liability
14 company, registered with the California Secretary of State as entity No. 202360312486, that at all
15 relevant times mentioned herein conducted and continues to conduct substantial and regular
16 business throughout California.

17 14. DEFENDANT TEMPO UNIVERSE, LLC, a California limited liability company,
18 registered with the California Secretary of State as entity No. 202123610792, that at all relevant
19 times mentioned herein conducted and continues to conduct substantial and regular business
20 throughout California. DEFENDANT TEMPO UNIVERSE, LLC is a manager and member of
21 DEFENDANT TEMPO BREA, LLC.

22 15. DEFENDANT FREDDY BRAIDI, an individual, is, on information and belief, a
23 California resident and does business in California. DEFENDANT FREDDY BRAIDI is a manager
24 and member of DEFENDANT CHINGON RESTAURANT GROUP, LLC, DEFENDANT
25 TEMPO 5TH AVE, LLC, DEFENDANT TEMPO ANAHEIM HILLS, LLC, and KING & QUEEN
26 GROUP, LLC. On information and belief, at all relevant times, DEFENDANT FREDDY BRAIDI
27 has been an owner, director, officer, or managing agent of DEFENDANT CHINGON
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1 RESTAURANT GROUP, LLC, DEFENDANT TEMPO 5TH AVE, LLC, DEFENDANT TEMPO
2 ANAHEIM HILLS, LLC, and KING & QUEEN GROUP, LLC.

3 16. DEFENDANT LUIS JORGE CUEVA, an individual, is, on information and belief,
4 a California resident and does business in California. DEFENDANT LUIS JORGE CUEVA is a
5 manager and member of DEFENDANT CHINGON RESTAURANT GROUP, LLC,
6 DEFENDANT TEMPO ANAHEIM HILLS, LLC, and DEFENDANT TEMPO UNIVERSE, LLC.
7 On information and belief, at all relevant times, DEFENDANT LUIS JORGE CUEVA has been an
8 owner, director, officer, or managing agent of DEFENDANT CHINGON RESTAURANT GROUP,
9 LLC, DEFENDANT TEMPO ANAHEIM HILLS, LLC, and DEFENDANT TEMPO UNIVERSE,
10 LLC.

11 17. Defendant DOES 1-25 ("Defendant DOES") are persons and/or entities, including
12 Tempo Cantina in Corona, Tempo Cantina Downey, California, King & Queen Cantina Little Italy,
13 King & Queen Cantina Santa Monica, King & Queen Cantina Oxnard, King & Queen Whittier,
14 King & Queen San Pedro, Mr. Tempo Night Club Gaslamp, Mr. Tempo Sports Bar & Cantina
15 Hollywood, Mr. Tempo Sports Bar & Cantina Gaslamp, Mr. Tempo Sports Bar & Cantina
16 Montebello, Mr. Tempo Sports Bar & Cantina El Centro, Mr. Tempo Sports Bar & Cantina
17 Bakersfield, Mr. Tempo Sports Bar & Cantina Glendale, Mr. Tempo Sports Bar & Cantina
18 Downtown LA, Mr. Tempo Sports Bar & Cantina Downey, Mar Chingon Gaslamp, that at all
19 relevant times mentioned herein conducted and continue to conduct substantial and regular business
20 throughout California.

21 18. Each of the fictitiously named DEFENDANTS participated in the acts alleged in this
22 Complaint. The true names and capacities, whether individual, corporate, subsidiary, partnership,
23 associate, including Tempo Cantina in Corona and/or Tempo Cantina Downey and/or California,
24 King & Queen Cantina Little Italy and/or King & Queen Cantina Santa Monica and/or King &
25 Queen Cantina Oxnard and/or King & Queen Whittier and/or King & Queen San Pedro and/or Mr.
26 Tempo Night Club Gaslamp and/or Mr. Tempo Sports Bar & Cantina Hollywood and/or Mr. Tempo
27 Sports Bar & Cantina Gaslamp and/or Mr. Tempo Sports Bar & Cantina Montebello and/or Mr.
28 Tempo Sports Bar & Cantina El Centro and/or Mr. Tempo Sports Bar & Cantina Bakersfield and/or

1 Mr. Tempo Sports Bar & Cantina Glendale and/or Mr. Tempo Sports Bar & Cantina Downtown LA
2 and/or Mr. Tempo Sports Bar & Cantina Downey and/or Mar Chingon Gaslamp, or otherwise of
3 DEFENDANT DOES 1 through 25, inclusive, are presently unknown to PLAINTIFFS who
4 therefore sues these DEFENDANTS by such fictitious names pursuant to Cal. Civ. Proc. Code. §
5 474. PLAINTIFFS will seek leave to amend this Complaint to allege the true names and capacities
6 of DOES 1 through 25, inclusive, when they are ascertained. PLAINTIFFS are informed and
7 believe, and based upon that information and belief allege, that the DEFENDANTS named in this
8 Complaint, including DOES 1 through 25, inclusive (hereinafter collectively “DEFENDANTS”),
9 are responsible in some manner for one or more of the events and happenings that proximately
10 caused the injuries and damages hereinafter alleged.

11 19. PLAINTIFFS further allege that each DEFENDANT is the alter ego of each other
12 for the following reasons:

13 A. DEFENDANTS advertise and represent common ownership of the following
14 restaurants in California on their website: Tempo Cantina with locations in
15 Anaheim, Downey, and Corona; King & Queen Cantina with locations in Litty Italy
16 SD, Santa Monica, Oxnard, Whittier, San Pedro; Mr. Tempo Sports Bar & Cantina
17 with locations in Hollywood, Gaslamp SD, Montebello, El Centro, Bakersfield,
18 Glendale, Buena Park, Downtown Los Angeles, and Downey Firestone; Mr. Tempo
19 Nightclub in Gaslamp SD, Mar Chingon in Gaslamp SD, Tempo in Brea.

20 B. DEFENDANTS employed PLAINTIFFS as Defendant Tempo 5th Ave, LLC and
21 subsequently, Defendant Uni Foods SD, Inc., and operated as Mar Chingon, Mr.
22 Tempo Sports Bar & Cantina, and Mr. Tempo Night Club. DEFENDANTS issued
23 wage statements from a single entity, Tempo 5th Ave, LLC, and subsequently, Uni
24 Foods SD, Inc.

25 C. DEFENDANTS identify the various entities, including the 12 operating restaurants,
26 as “Concepts” owned by the larger parent company Defendant Chingon Restaurant
27 Group, LLC.
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1 D. On the California Secretary of State's website (<https://businesssearch.sos.ca.gov/>)
2 DEFENDANT CHINGON RESTAURANT GROUP, LLC, DEFENDANT TEMPO
3 5TH AVE, LLC, DEFENDANT TEMPO BREA, LLC, DEFENDANT TEMPO
4 ANAHEIM HILLS, LLC, DEFENDANT KING & QUEEN GROUP, LLC,
5 DEFENDANT TEMPO UNIVERSE, LLC, have the same principal address.

6 E. Under information and belief DEFENDANT CHINGON RESTAURANT GROUP,
7 LLC, DEFENDANT TEMPO 5TH AVE, LLC, DEFENDANT UNI FOOD SD,
8 INC., DEFENDANT TEMPO BREA, LLC, DEFENDANT TEMPO ANAHEIM
9 HILLS, LLC, DEFENDANT KING & QUEEN GROUP, LLC, DEFENDANT
10 TEMPO UNIVERSE, LLC utilize the same standardized employment forms and
11 implement identical employment policies at each of its locations.

12 20. PLAINTIFFS allege that DEFENDANTS' various separate corporate entities are
13 used by an individual or individuals, or by another corporation, to accomplish inequitable
14 purposes, including to limit liability for the unlawful acts of DEFENDANTS.

15 21. PLAINTIFFS allege that there is such a unity of interest and ownership between
16 DEFENDANTS' various corporate entities that own DEFENDANTS' restaurants and the
17 individual or individuals, or organization controlling those corporate entities that their separate
18 personalities no longer exist.

19 22. PLAINTIFFS further allege that the failure to disregard DEFENDANTS' various
20 corporate entities would promote injustice.

21 23. DEFENDANTS own, operate, and/or manage restaurants and bars throughout
22 California, including San Diego County.

23 24. DEFENDANTS employed PLAINTIFF RESTREPO between approximately July
24 2022, and October 2024, at Mr. Tempo Cantina Gaslamp, paid on an hourly basis and entitled to
25 tips. At all times, DEFENDANTS paid PLAINTIFF RESTREPO as an hourly, non-exempt
26 employee.

27 25. DEFENDANTS employed PLAINTIFF CASTILLO between approximately May
28 2023, and September 2024, as a Manager at Mr. Tempo Cantina Gaslamp, paid on an hourly basis

1 and entitled to tips. At all times, DEFENDANTS paid PLAINTIFF CASTILLO as an hourly, non-
2 exempt employee.

3 **III. PRIVATE ATTORNEYS GENERAL ACT AND DEFENDANTS' LIABILITY**

4 26. PLAINTIFFS bring the representative action on behalf of the State of California and
5 on behalf of all hourly, non-exempt individuals who are or previously were employed by
6 DEFENDANT CHINGON RESTAURANT GROUP, LLC, and/or DEFENDANT UNI FOOD SD,
7 INC, and/or DEFENDANT TEMPO 5TH AVE, LLC, and/or DEFENDANT TEMPO BREA, LLC,
8 and/or DEFENDANT TEMPO ANAHEIM HILLS, LLC, and/or DEFENDANT KING & QUEEN
9 GROUP, LLC, and/or DEFENDANT TEMPO UNIVERSE, LLC, including DEFENDANT DOES
10 currently identified as Tempo Cantina in Corona and/or Tempo Cantina Downey and/or California,
11 King & Queen Cantina Little Italy and/or King & Queen Cantina Santa Monica and/or King &
12 Queen Cantina Oxnard and/or King & Queen Whittier and/or King & Queen San Pedro and/or Mr.
13 Tempo Night Club Gaslamp and/or Mr. Tempo Sports Bar & Cantina Hollywood and/or Mr. Tempo
14 Sports Bar & Cantina Gaslamp and/or Mr. Tempo Sports Bar & Cantina Montebello and/or Mr.
15 Tempo Sports Bar & Cantina El Centro and/or Mr. Tempo Sports Bar & Cantina Bakersfield and/or
16 Mr. Tempo Sports Bar & Cantina Glendale and/or Mr. Tempo Sports Bar & Cantina Downtown LA
17 and/or Mr. Tempo Sports Bar & Cantina Downey and/or Mar Chingon Gaslamp, in California who
18 suffered one or more Labor Code violations enumerated in Labor Code §§ 2698 *et seq.* (hereinafter
19 "AGGRIEVED EMPLOYEES") and who worked for DEFENDANTS between October 29, 2023,
20 and the present ("PAGA PERIOD").

21 27. PLAINTIFFS are an "AGGRIEVED EMPLOYEE" within the meaning of Labor
22 Code § 2699(c) because they were employed by DEFENDANTS and suffered each of alleged Labor
23 Code violations committed by DEFENDANTS.

24 28. PLAINTIFFS and all other AGGRIEVED EMPLOYEES are, and at all relevant
25 times were, employees of DEFENDANTS, within the meanings set forth in the California Labor
26 Code and the applicable Industrial Welfare Commission Wage Order.

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1 29. The Private Attorney General Act (“PAGA”) permits an aggrieved employee to
2 enforce any provision of the California Labor Code that provides for a civil penalty. (*Lab. Code* §
3 2699(a).)

4 30. Section 558 of the California Labor Code provides that “any employer *or other*
5 *person* acting on behalf of an employer who violates, or causes to be violated, a section of this
6 chapter or any provision regulating hours and days of work in any order of the Industrial Welfare
7 Commissions shall be subject to a civil penalty...” (*Lab. Code* § 558(a).)

8 31. Section 1197.1 of the Labor Code provides that “[a]ny employer *or other person*
9 acting either individually or as an officer, agent, or employee of another person, who pays or causes
10 to be paid to any employee a wage less than the minimum fixed by an applicable state or local law,
11 or by an order of the commission shall be subject to a civil penalty...” (*Lab. Code* § 1197.1(a).)

12 32. Interpreting Sections 558 and 1197.1 of the Labor Code, California courts have held
13 that a corporate employer’s owners, officers and directors, are subject to civil penalties for the
14 employer’s failure to pay appropriate wages to its employees, and, since liability under either 558
15 or 1197.1 does not depend on a finding of an alter ego, no alter ego allegations or findings are
16 necessary. *Atempa v. Pedrazzani*, (2018) 27 Cal.App.5th 809; see generally *Ochoa-Hernandez v.*
17 *Cjaders Food, Inc.* (2009 WL 1404694); *Thurman v. Bayshore Management, Inc.* (2017) 203
18 Cal.App.4th 1112, 1145-1146.

19 33. Section 558.1 of the California Labor Code provides that “any employer *or other*
20 *person acting* on behalf of an employer, who violates, *or causes to be violated*, any provision
21 regulating minimum wages or hours and days of work in any order of the Industrial Welfare
22 Commission, or violates, or causes to be violated, Sections 203, 226, 226.7, 1193.6, 1194, or 2802,
23 may be held liable as the employer for such violation.” (*Lab. Code* § 558.1(a).) Section 558.1(b)
24 identifies the “other person acting on behalf of an employer” includes “owner, director, officer, or
25 managing agent” of the employer. (*Lab. Code* § 558.1(b).)

26 34. PLAINTIFFS are informed and believe, and thereon allege, that DEFENDANTS and
27 each of them, are subject to civil penalties for their failure to pay PLAINTIFFS and other
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1 AGGRIEVED EMPLOYEES the appropriate wages as complained of herein and proximately
2 caused the complaints, injuries, and damages alleged herein.

3 35. PLAINTIFFS are informed and believe, and thereon allege, that DEFENDANTS and
4 each of them, are subject to liability for their failure to pay PLAINTIFFS and other AGGRIEVED
5 EMPLOYEES the appropriate wages as complained of herein and proximately caused the
6 complaints, injuries, and damages alleged herein.

7 36. DEFENDANTS, each of them, have been personally involved in the purported
8 violations and/or had sufficient participation in the employer, such that DEFENDANTS may be
9 deemed to have contributed to, and “caused” the labor code violations alleged.

10 37. At all relevant times, each DEFENDANT, whether named or fictitious, was the
11 agent, employee or other person acting on behalf of each other DEFENDANT, and, in participating
12 in the acts alleged in this Complaint, acted within the scope of such agency or employment and
13 ratified the acts of the other.

14 38. Each DEFENDANT, whether named or fictitious, exercised control over
15 PLAINTIFFS’ and other AGGRIEVED EMPLOYEES’ wages, working hours, and/or working
16 conditions.

17 39. Each DEFENDANT, whether named or fictitious, acted in all respects pertinent to
18 this action as the agent of the other DEFENDANT, carried out a joint scheme, business plan or
19 policy, and the acts of each DEFENDANT are legally attributable to the other DEFENDANTS.

20 **IV. JURISDICTION AND VENUE**

21 40. This Court has jurisdiction over this Action pursuant to the California Code of Civil
22 Procedure, Section 410.10.

23 41. Venue is proper in this Court pursuant to California Code of Civil Procedure,
24 Sections 395 and 395.5, because PLAINTIFFS worked in this County for DEFENDANTS and
25 DEFENDANTS (i) currently maintain and at all relevant times-maintained offices and facilities in
26 this County, and (ii) committed the wrongful conduct herein alleged in this County against
27 PLAINTIFFS.

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V. FACTUAL ALLEGATIONS

A. Rest Period Violations

42. DEFENDANTS required PLAINTIFFS and other AGGRIEVED EMPLOYEES to work in excess of four (4) hours without being provided ten (10) minute rest periods as a result of DEFENDANTS' policies and practices.

43. Further, for the same reasons PLAINTIFFS and other AGGRIEVED EMPLOYEES were denied their first rest periods of at least ten (10) minutes for some shifts worked of at least two (2) to four (4) hours, these same employees were denied a first and second rest period of at least ten (10) minutes for some shifts worked of between six (6) and eight (8) hours.

44. Specifically, DEFENDANTS failed to provide any rest periods to PLAINTIFFS and other AGGRIEVED EMPLOYEES and forced employees to forfeit their rest periods to prioritize customer service. Additionally, as a result of DEFENDANTS' scheduling practices, DEFENDANTS typically understaffed shifts which prevented PLAINTIFF and other AGGRIEVED EMPLOYEES from being relieved for a rest period. For instance, PLAINTIFFS detailed how DEFENDANTS did not provide any rest periods to employees as a result of how busy the restaurant was and DEFENDANTS' understaffing practices. PLAINTIFF CASTILLO was able to occasionally relieve PLAINTIFF RESTREPO and other AGGRIEVED EMPLOYEES, but this was not a standard practice due to nature of these positions and the influx of customers.

45. Generally, PLAINTIFFS and other AGGRIEVED EMPLOYEES are required to forfeit their rest periods.

46. PLAINTIFFS and other AGGRIEVED EMPLOYEES were also not provided with one-hour wages *in lieu* thereof, and as a result, PLAINTIFFS and other AGGRIEVED EMPLOYEES were denied their proper rest periods by DEFENDANTS and DEFENDANTS' managers.

47. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANTS were required to provide rest periods to PLAINTIFFS and other AGGRIEVED EMPLOYEES per every four (4) hours worked or major fraction thereof or provide the employee one (1) hour of pay at the employee's regular rate of compensation for each workday the rest period is not provided. During

1 the entirety of PLAINTIFFS' employment and the PAGA Period, DEFENDANTS required
2 PLAINTIFFS and other AGGRIEVED EMPLOYEES to work through rest periods without paying
3 them in accordance with Industrial Wage Orders. As a result, PLAINTIFFS and other AGGRIEVED
4 EMPLOYEES forfeited their regular wages by working without compensation at the applicable
5 wage and rates. DEFENDANTS had, and may continue to practice, a uniform policy to not pay
6 PLAINTIFFS and other AGGRIEVED EMPLOYEES all rest premiums owed.

7 B. Meal Period Violations

8 48. DEFENDANTS required PLAINTIFFS and other AGGRIEVED EMPLOYEES to
9 work during the meal break during what is scheduled to be PLAINTIFFS' and other AGGRIEVED
10 EMPLOYEES' off-duty meal break due to the nature and constraints of their job duties, and
11 DEFENDANTS' scheduling practices.

12 49. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANTS were
13 required to provide meal periods of not less than thirty (30) minutes to PLAINTIFFS and other
14 AGGRIEVED EMPLOYEES for each work period of more than five (5) hours, except when that
15 work period is not more than six (6) and validly waived or provide one (1) hour of pay at the
16 employee's regular rate of compensation.

17 50. Further, DEFENDANTS' managers discouraged PLAINTIFFS and other
18 AGGRIEVED EMPLOYEES from leaving the premises during their meal periods. Typically,
19 PLAINTIFFS and other AGGRIEVED EMPLOYEES were only allowed to leave the premises for
20 meal periods when certain managers were not working. Some of DEFENDANTS' managers did not
21 permit employees to leave the premises for their off-duty meal period.

22 51. DEFENDANTS' managers instructed PLAINTIFFS and other AGGRIEVED
23 EMPLOYEES to clock out for their scheduled meal period but, required PLAINTIFFS and other
24 AGGRIEVED EMPLOYEES to continue working during what is supposed to be their off-duty meal
25 break. When PLAINTIFF and other AGGRIEVED EMPLOYEES truthfully recorded their
26 postponed meal periods, DEFENDANTS' managers disciplined employees for incurring the meal
27 penalty despite DEFENDANTS being unable to adequately staff their restaurants and timely break
28 employees.

1 52. DEFENDANTS' managers maintained a practice in which they often required
2 PLAINTIFF and other AGGRIEVED EMPLOYEES to truncate the meal periods they did receive
3 and return before the end of their 30-minute meal period in order to complete work. Often the result
4 of customer influxes and DEFENDANTS' understaffing.

5 53. On one occasion, one of DEFENDANTS' managers demanded PLAINTIFF
6 RESTREPO to return from her meal period before the end of the 30-minute period. When
7 PLAINTIFF RESTREPO refused, DEFENDANTS' manager wrote up PLAINTIFF RESTREPO for
8 insubordination. After PLAINTIFF RESTREPO refused to sign the write-up, PLAINTIFF
9 RESTREPO raised the issue with DEFENDANTS' Human Resources. This issue went unresolved
10 for the remainder of PLAINTIFF RESTREPO'S employment.

11 54. DEFENDANTS required PLANITIFF and other AGGRIEVED EMPLOYEES to
12 work during what was scheduled to be off-duty meal break and/or required PLAINTIFFS and other
13 AGGRIEVED EMPLOYEES to truncate their meal periods in order to complete more work.

14 55. As a result, PLANITIFF and other AGGRIEVED EMPLOYEES forfeited their meal
15 periods without compensation at the applicable wage and rates. DEFENDANTS had, and may
16 continue to practice, a uniform policy to not pay PLANITIFF and other AGGRIEVED
17 EMPLOYEES meal premiums.

18 56. As a result of DEFENDANTS' policies and practices, PLAINTIFFS and other
19 AGGRIEVED EMPLOYEES were unable to take thirty (30) minute off-duty meal breaks and were
20 not fully relieved of duty for their meal period.

21 57. PLAINTIFFS and other AGGRIEVED EMPLOYEES were required to perform
22 work as ordered by DEFENDANTS for more than five (5) hours during some shifts without
23 receiving a meal break. The nature of the work performed by PLAINTIFF and other AGGRIEVED
24 EMPLOYEES does not qualify for limited and narrowly construed "on-duty" meal period
25 exception. PLAINTIFF and other AGGRIEVED EMPLOYEES therefore forfeited meal breaks
26 without additional compensation and in accordance with DEFENDANTS' policies and practices.

27 C. Failure to Reimburse

28 58. DEFENDANTS failed to indemnify PLAINTIFFS and other AGGRIEVED

1 EMPLOYEES for use of their personal cell phone as a direct consequence of discharging work
2 duties.

3 59. DEFENDANTS required PLAINTIFFS and other AGGRIEVED EMPLOYEES to
4 download a mobile application “Whatsapp” in order to communicate with management and other
5 employees about job responsibilities, duties during shifts, posting the schedule, and communicate
6 any changes to the menu.

7 60. DEFENDANTS failed to provide employees with a designated work phone and
8 failed to provide employees reimbursement for the cost of their phone.

9 61. DEFENDANTS shifted the costs associated with running a business onto
10 PLAINTIFFS and other AGGRIEVED EMPLOYEES.

11 D. Paid Sick time as Personal Time Off

12 62. During PLAINTIFFS’ employment and the PAGA Period, DEFENDANTS required
13 PLAINTIFFS and other AGGRIEVED EMPLOYEES to use accrued Paid Sick Leave when
14 employees requested unpaid time off.

15 63. DEFENDANTS implemented a policy and practice in which DEFENDANTS
16 required PLAINTIFF and other AGGRIEVED EMPLOYEES to deplete their Paid Sick Time in
17 order to avoid payment of these wages, including upon termination.

18 E. Violations for Untimely Payment of Wages

19 64. Pursuant to California Labor Code section 204, PLAINTIFFS and other
20 AGGRIEVED EMPLOYEES are entitled to timely payment of wages during their employment.
21 PLAINTIFFS and other AGGRIEVED EMPLOYEES, from time to time, did not receive payment
22 of all wages, including, but not limited to, minimum wages, meal period premium wages, and rest
23 period premium wages within permissible time period and on days designated in advance by the
24 employer as regular payday.

25 F. Off-the-Clock Work Resulting in Minimum Wage and Overtime Violations

26 65. During PLAINTIFF CASTILLO’S employment and the PAGA Period,
27 DEFENDANTS failed to accurately pay PLAINTIFF CASTILLO and under information and belief,
28 other AGGRIEVED EMPLOYEES for all hours worked.

1 66. DEFENDANTS required PLAINTIFF CASTILLO and other AGGRIEVED
2 EMPLOYEES to attend work meetings while these employees were not clocked in or otherwise
3 being compensated for this time.

4 67. DEFENDANTS directed and directly benefited from the uncompensated off-the-
5 clock work performed by PLAINTIFF CASTILLO and other AGGRIEVED EMPLOYEES.

6 68. DEFENDANTS controlled the work schedules, duties, protocols, applications,
7 assignments, and employment conditions of PLAINTIFF CASTILLO and other AGGRIEVED
8 EMPLOYEES.

9 69. DEFENDANTS were able to track the amount of time PLAINTIFF CASTILLO and
10 other AGGRIEVED EMPLOYEES spent working however, DEFENDANTS failed to document,
11 track, and pay PLAINTIFF CASTILLO and other AGGRIEVED EMPLOYEES all wages earned
12 and owed for all the work they performed, including during off-the-clock work. From time-to-time
13 this may have included overtime wages.

14 70. PLAINTIFF CASTILLO and other AGGRIEVED EMPLOYEES were non-exempt
15 employees, subject to the requirements of the California Labor Code.

16 71. DEFENDANTS' policies and practices deprived PLAINTIFF CASTILLO and other
17 AGGRIEVED EMPLOYEES of all regular wages and from time to time, overtime wages owed for
18 the off-the-clock work activities.

19 72. DEFENDANTS knew or should have known that PLAINTIFF CASTILLO and other
20 AGGRIEVED EMPLOYEES' off-the-clock work was compensable under the law.

21 73. As a result, PLAINTIFF CASTILLO and other AGGRIEVED EMPLOYEES
22 forfeited wages due them for all hours worked at DEFENDANTS' direction, control and benefit for
23 the time spent while off-the-clock. DEFENDANTS have a uniform policy and practice to not pay
24 PLAINTIFF CASTILLO and other AGGRIEVED EMPLOYEES wages for all hours worked in
25 accordance with applicable law.

26 74. Moreover, as a result, DEFENDANTS provided PLAINTIFF CASTILLO and other
27 AGGRIEVED EMPLOYEES with a paystub that failed to comply with Cal. Lab. Code § 226 and
28 did not maintain accurate payroll and timekeeping records.

1 75. To the extent wages are deemed to be owed to PLAINTIFFS and other
2 AGGRIEVED EMPLOYEES, whose employment has terminated, DEFENDANTS conduct
3 violations Labor Code sections 201 and/or 202, and therefore PLAINTIFFS and other
4 AGGRIEVED EMPLOYEES are entitled to waiting time penalties under Labor Code section 203,
5 which penalties are sought herein on behalf of the PLAINTIFFS and other AGGRIEVED
6 EMPLOYEES. DEFENDANTS' conduct as alleged herein was willful, intentional, and not in good
7 faith. Further, PLAINTIFFS are entitled to seek and recover statutory costs.

8 G. Inaccurate Itemized Wage Statements

9 76. California Labor Code Section 226 requires an employer to furnish its employees an
10 accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked, (3)
11 the number of piece-rate units earned and any applicable piece-rate, (4) all deductions, (5) net wages
12 earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the
13 employee and only the last four digits of the employee's social security number or an employee
14 identification number other than a social security number, (8) the name and address of the legal
15 entity that is the employer and, (9) all applicable hourly rates in effect during the pay period and the
16 corresponding number of hours worked at each hourly rate by the employee.

17 77. During PLAINTIFFS' employment and during the PAGA period, when
18 PLAINTIFFS and other AGGRIEVED EMPLOYEES were not paid meal and rest period premiums
19 or not paid for all hours worked, DEFENDANTS failed to provide PLAINTIFFS and other
20 AGGRIEVED EMPLOYEES with complete and accurate wage statements. DEFENDANTS'
21 paystubs failed to show, among other things, the total hours worked and all applicable hourly rates
22 in effect during the pay period and the corresponding amount of time worked at each hourly rate,
23 correct rates of pay for penalty payments or missed meal and rest periods.

24 78. DEFENDANTS routinely failed to keep, maintain, and store accurate payroll records
25 and provide wage statements that comply with Cal. Lab. Code § 226.

26 79. PLAINTIFFS and other AGGRIEVED EMPLOYEES suffered damages as a result
27 of DEFENDANTS' aforementioned violation because they could not promptly and easily determine
28 from the wage statement alone the applicable hourly rate and the corresponding number of hours

1 worked at the applicable hourly rate for this remuneration.

2 80. As a result, DEFENDANTS issued PLAINTIFFS and other AGGRIEVED
3 EMPLOYEES with wage statements that violate Cal. Lab. Code § 226. Further, DEFENDANTS'
4 violations are knowing and intentional, and were not isolated or due to an unintentional payroll error
5 due to clerical or inadvertent mistake.

6 H. Defendants' Sexual Harassment and Failure to Prevent Sexual Harassment.

7 81. During PLAINTIFF RESTREPO'S employment with DEFENDANT UNI FOOD
8 SD, PLAINTIFF RESTREPO was subjected to a hostile work environment as a result of the conduct
9 carried out and environment created by DEFENDANT'S Manager and DEFENDANTS employment
10 practices and policies.

11 82. DEFENDANT'S Manager create an overtly sexual environment by making
12 unwanted comments toward PLAINTIFF RESTREPO. This included making "jokes" with sexual
13 innuendos directed at PLAINTIFF RESTREPO, commenting on PLAINTIFF RESTREPO'S bodies
14 and/or appearance, and suggesting PLAINTIFF RESTREPO needed to work on "getting [Plaintiff
15 Restrepo] an a**." DEFENDANTS UNI FOOD, SD'S manager made these unwanted comments
16 on a habitual basis.

17 83. Additionally, on one occasion, PLAINTIFF RESTREPO was working a very busy
18 shift and was getting sweaty carrying out her server duties. DEFENDANT UNI FOOD SD'S
19 manager reached his finger into PLAINTIFF RESTREPO'S armpit, without consent and
20 permission, and then sniffed his finger. PLAINTIFF RESTREPO was in shock and disgusted by
21 DEFENDANT UNI FOOD SD'S Manager's behavior.

22 84. Under information and belief, PLAINTIFF RESTREPO is not the only employee
23 who faced unwanted sexual comments from DEFENDANT UNI FOOD SD'S manager.

24 85. PLAINTIFF RESTREPO filed a complaint with the Department of Fair Employment
25 and Housing ("DFEH") on December 23, 2024, and obtained an immediate Right-to-Sue letter
26 attached hereto as Exhibit A.

27 F. Defendants' Retaliation for Reporting Labor Code Violations

28 86. PLAINTIFF RESTREPO engaged in a protected activity by reporting

1 DEFENDANTS' labor code violations to human resources and to DEFENDANTS' managers.

2 87. However, after PLAINTIFF RESTREPO reported the labor code violations and
3 attempted to assert her rights under California Labor Code, DEFENDANTS changed PLAINTIFF
4 RESTREPO'S schedule and only assigned PLAINTIFF smaller earning sections within the
5 restaurant. DEFENDANTS interfered with PLAINTIFF's ability to earn tips and wages.

6 88. When PLAINTIFF RESTREPO asked DEFENDANTS why her typical section was
7 re-assigned, they said it was because she was not following the rules.

8 89. PLAINTIFF RESTREPO'S reporting of DEFENDANTS' labor code violations
9 were a substantial motivating reason for DEFENDANTS' decision to reassign PLAINTIFF
10 RESTREPO'S section and subsequently, terminate PLAINTIFF RETREPO. There was a causal
11 nexus between the protected activity and the alleged adverse action.

12 90. DEFENDANTS took an adverse employment action against PLAINTIFF
13 RESTREPO within ninety days of the employee's reporting DEFENDANTS' violation of
14 California labor code.

15 91. DEFENDANTS' decision to reassign PLAINTIFF'S sections and subsequently
16 discharge PLAINTIFF was a substantial factor in causing PLAINTIFF RESTREPO'S harm.

17 **VI. CAUSES OF ACTION**

18 **FIRST CAUSE OF ACTION**

19 For Failure to Provide Rest Periods

(Cal. Lab. Code §§ 226.7 & 512)

20 (PLAINTIFFS Against DEFENDANT UNI FOOD SD, INC., DEFENDANT TEMPO 5TH AVE,
21 LLC, and DOES 1-25)

22 92. PLAINTIFFS incorporate by reference and reallege as if fully stated herein each and
23 every allegation set forth above.

24 93. Labor Code Sections 226.7 and 512 and the Industrial Wage Orders require
25 DEFENDANTS to provide employees with all rest periods specified in the applicable Wage Order.
26 These laws and regulations further entitle employees to be paid one additional hour of pay at their
27 regular rate of compensation for each day of denied rest period.

28 94. PLAINTIFFS were required to work in excess of four (4) hours without being

1 provided ten (10) minute rest periods. Further and for the same reasons PLAINTIFFS were denied
2 their first rest periods of at least ten (10) minutes for some shifts worked of at least two (2) to four
3 (4) hours, PLAINTIFFS were denied a first and second rest period of at least ten (10) minutes for
4 shifts worked of between six (6) and eight (8) hours. PLAINTIFFS were also not provided with one-
5 hour wages in lieu thereof.

6 95. As a result of the work schedules and staffing practices by DEFENDANTS,
7 PLAINTIFFS were denied their proper rest periods by DEFENDANTS and DEFENDANTS'
8 managers.

9 96. DEFENDANTS violated California Labor Code §§ 226.7 and the applicable IWC
10 Wage Order by failing to compensate PLAINTIFFS who were not provided a rest period, in
11 accordance with the applicable Wage Order, one additional hour of compensation at each
12 employee's regular rate of pay for each workday that rest period was not provided.

13 97. As a proximate result of the aforementioned violations, PLAINTIFFS have been
14 damaged in an amount according to proof at trial, and seek all wages earned and due, interest,
15 penalties, expenses and costs of suit.

16 **SECOND CAUSE OF ACTION**

17 For Failure to Provide Meal Periods

18 (Cal. Lab. Code §§ 226.7 & 512)

19 (PLAINTIFFS Against DEFENDANT UNI FOOD SD, INC., DEFENDANT TEMPO 5TH AVE,
20 LLC, and DOES 1-25)

21 98. PLAINTIFFS incorporate by reference and reallege as if fully stated herein each and
22 every allegation set forth above.

23 99. Labor Code Sections 226.7 and 512 and the Industrial Wage Orders require
24 DEFENDANTS to provide employees with all meal periods specified in the applicable Wage Order.
25 These laws and regulations further entitle employees to be paid one additional hour of pay at their
26 regular rate of compensation for each day of denied meal period.

27 100. DEFENDANTS failed to provide all the legally required off-duty meal breaks to
28 PLAINTIFFS as required by the applicable Wage Order and Labor Code. The nature of the work
performed by PLAINTIFFS does not prevent these employees from being relieved of all of their

1 duties for the legally required off-duty meal periods. As a result of DEFENDANTS policies and
2 practices, PLAINTIFFS were not fully relieved of duty by DEFENDANT for their meal periods.

3 101. DEFENDANTS further violated California Labor Code §§ 226.7, 512 and the
4 applicable IWC Wage Order by failing to compensate PLAINTIFFS who were not provided a meal
5 period, in accordance with the applicable Wage Order, one additional hour of compensation at each
6 employee's regular rate of pay for each workday that a meal period was not provided.

7 102. As a proximate result of the aforementioned violations, PLAINTIFFS have been
8 damaged in an amount according to proof at trial, and seek all wages earned and due, interest,
9 penalties, expenses and costs of suit.

10 **THIRD CAUSE OF ACTION**

11 For Failure to Pay Minimum Wages

12 (Cal. Lab. Code § 1194, 1194.2, 1197& 1197.1, 218.5, 218.6)

13 (PLAINTIFFS Against DEFENDANT UNI FOOD SD, INC., DEFENDANT TEMPO 5TH AVE,
14 LLC, and DOES 1-25)

15 103. PLAINTIFFS incorporate by reference and reallege as if fully stated herein each and
16 every allegation set forth above.

17 104. PLAINTIFFS bring a claim for DEFENDANTS' willful and intentional violations
18 of California Labor Code and the Industrial Welfare Commission requirements for DEFENDANTS'
19 failure to accurately calculate and pay minimum wages to PLAINTIFFS.

20 105. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid wages,
21 including minimum wage compensation and interest thereon, together with the costs of suit. Cal.
22 Lab. § 1194.2 further establishes an employee's right to liquidated damages in an amount equal to
23 the unpaid minimum wages according to proof at trial.

24 106. DEFENDANTS maintained a uniform wage practice of paying PLAINTIFFS
25 without regard to the correct amount of time worked. As set forth herein, DEFENDANTS' uniform
26 policy and practice was to unlawfully and intentionally deny payment of wages due to PLAINTIFFS
27 for all hours worked and therefore did not receive minimum wage for all hours worked as required
28 by Cal. Lab. Code § 1197.

107. DEFENDANTS' uniform pattern of unlawful wage and hour practices manifested,

1 without limitation, as a result of implementing a uniform policy and practice that denied accurate
2 compensation to PLAINTIFFS in regard to minimum wages.

3 108. In committing these violations of the California Labor Code, DEFENDANTS failed
4 to calculate the amount of time worked and consequently underpaid the actual time worked by
5 PLAINTIFFS. DEFENDANTS acted in an illegal attempt to avoid the payment of all earned wages,
6 and other benefits in violation of the California Labor Code, the Industrial Welfare Commission
7 requirements and other applicable laws and regulations.

8 109. PLAINTIFFS were paid less for time worked than they were entitled to, constituting
9 a failure to pay all earned wages.

10 110. As a direct result of DEFENDANTS' unlawful wage practices as alleged herein,
11 PLAINTIFFS have suffered and will continue to suffer an economic injury including the use and
12 enjoyment of wages and lost interest on such wages all to their damage in amounts in amounts which
13 are presently unknown to PLAINTIFFS, and which will be ascertained according to proof at trial.

14 111. DEFENDANTS knew or should have known that PLAINTIFFS were under-
15 compensated for their time worked. DEFENDANTS systematically elected, either through
16 intentional malfeasance or gross nonfeasance, to not pay employees for their labor as a matter of
17 uniform corporate policy, practice and procedure, and DEFENDANTS perpetrated this systematic
18 scheme by refusing to pay PLAINTIFFS the correct wages for their time worked.

19 112. In performing the acts and practices herein alleged in violation of California labor
20 laws, and refusing to compensate PLAINTIFFS for all time worked and provide them with the
21 requisite compensation, DEFENDANTS acted and continue to act intentionally, oppressively, and
22 maliciously toward PLAINTIFFS with a conscious disregard for their legal rights, or the
23 consequences to them, and with the intent of depriving these employees of their property and legal
24 rights, and otherwise causing them injury in order to increase company profits at the expense of
25 these employees.

26 113. PLAINTIFFS, therefore, request recovery of all unpaid wages, according to proof,
27 interest, statutory costs, as well as the assessment of any statutory penalties against DEFENDANTS,
28 in a sum as provided by the California Labor Code and/or other applicable statutes.

1 **FOURTH CAUSE OF ACTION**

2 For Failure to Pay Overtime Compensation

3 (Cal. Lab. Code §§ 558, 510, 1194, 1198)

4 (PLAINTIFFS Against DEFENDANT UNI FOOD SD, INC., DEFENDANT TEMPO 5TH AVE,
5 LLC, and DOES 1-25)

6 114. PLAINTIFFS incorporate by reference and reallege as if fully stated herein each and
7 every allegation set forth above.

8 115. Labor Code section 558 provides for a civil penalty to be assessed against any
9 employer or other person acting on behalf of an employer who fails to compensate employees at the
10 statutory overtime rate for any work in excess of eight hours in one day or any work in excess of 40
11 hours in any workweek or who fails to compensate employees at the statutory double time rates for
12 any work in excess of twelve hours in one day or any work in excess of 8 hours on the seventh day
13 of a workweek.

14 116. DEFENDANTS routinely and systematically failed to properly record accurate time
15 records for each employee showing when each employee began and ended each work period. From
16 time-to-time, this work included overtime. By failing to properly record hours DEFENDANTS
17 routinely and systematically failed to compensate employees at the statutory overtime rate for any
18 work in excess of eight hours in one day or any work in excess of 40 hours in any workweek as
19 required by Labor Code section 510 and Section 3 of the applicable Wage Order.

20 117. Pursuant to Labor Code section 558, PLAINTIFFS are entitled to recover a penalty
21 of \$50.00 for the initial failure to compensate employees at the statutory overtime rate for any work
22 in excess of eight hours in one day or any work in excess of 40 hours in any workweek and/or failure
23 to compensate employees at the statutory double time rates for any work in excess of twelve hours
24 in one day in addition to any underpaid wages; and \$100.00 for each subsequent failure to
25 compensate employees at the statutory overtime rate for any work in excess of eight hours in one
26 day or any work in excess of 40 hours in any workweek in addition to any underpaid wages.

27 118. As a proximate result of DEFENDANTS' failure to pay overtime and/or wages as
28 alleged above, PLAINTIFFS are entitled to recover from DEFENDANTS penalties pursuant to
section 558 as may be established according to proof at trial.

1 119. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid wages,
2 including overtime compensation and interest thereon, together with the costs of suit. Cal. Lab. Code
3 § 1198 further states that the employment of an employee for longer hours than those fixed by the
4 Industrial Welfare Commission is unlawful.

5 120. During PLAINTIFFS' employment, PLAINTIFFS were required by
6 DEFENDANTS to perform work for DEFENDANTS and was not paid for all the time worked,
7 which from time-to-time included overtime wages.

8 121. DEFENDANTS' uniform pattern of unlawful wage and hour practices manifested,
9 without limitation, applicable to other AGGRIEVED EMPLOYEES as a whole, as a result of
10 implementing a uniform policy and practice that failed to accurately record overtime worked by
11 PLAINTIFFS and denied accurate compensation to PLAINTIFFS for overtime worked, including,
12 the overtime work performed in excess of eight (8) hours in a workday, and/or forty (40) hours in
13 any workweek.

14 122. DEFENDANTS acted in an illegal attempt to avoid the payment of all earned wages,
15 and other benefits in violation of the California Labor Code, the Industrial Welfare Commission
16 requirements and other applicable laws and regulations.

17 123. As a direct result of DEFENDANTS' unlawful wage practices as alleged herein,
18 PLAINTIFFS did not receive the correct overtime compensation for their time worked for
19 DEFENDANTS.

20 124. Cal. Lab. Code § 515 sets out various categories of employees who are exempt from
21 the overtime requirements of the law. For portions of PLAINTIFFS' employment, these exemptions
22 did not apply to PLAINTIFFS. Further, PLAINTIFFS are not subject to a valid collective bargaining
23 agreement that would preclude the causes of action contained herein this Complaint.

24 125. By virtue of DEFENDANTS' unlawful failure to accurately pay all earned
25 compensation to PLAINTIFFS for the true amount of overtime worked, PLAINTIFFS have suffered
26 and will continue to suffer an economic injury in amounts which are presently unknown to them,
27 and which will be ascertained according to proof at trial.

28 126. DEFENDANTS knew or should have known that PLAINTIFFS were under

1 compensated for their time worked. DEFENDANTS systematically elected, either through
2 intentional malfeasance or gross nonfeasance, to not pay them for labor as a matter of uniform
3 company policy, practice and procedure, and DEFENDANTS perpetrated this systematic scheme
4 by refusing to pay PLAINTIFFS the correct overtime wages for their overtime worked.

5 127. In performing the acts and practices herein alleged in violation of California labor
6 laws, and refusing to compensate PLAINTIFFS for all time worked and provide them with the
7 requisite compensation, DEFENDANTS acted and continues to act intentionally, oppressively, and
8 maliciously toward PLAINTIFFS with a conscious of and utter disregard for their legal rights, or
9 the consequences to him, and with the despicable intent of depriving them of their property and legal
10 rights, and otherwise causing them injury in order to increase company profits at the expense of
11 these employees.

12 128. Therefore, PLAINTIFFS request recovery of overtime wages, according to proof,
13 interest, statutory costs, as well as the assessment of any statutory penalties against DEFENDANTS,
14 in a sum as provided by the California Labor Code and/or other applicable statutes.

15 **FIFTH CAUSE OF ACTION**

16 For Failure To Pay Wages

17 (Cal. Lab. Code § 204, 210)

18 (PLAINTIFFS Against DEFENDANT UNI FOOD SD, INC., DEFENDANT TEMPO 5TH AVE,
19 LLC, and DOES 1-25)

20 129. PLAINTIFFS incorporate by reference and reallege as if fully stated herein each and
21 every allegation set forth above.

22 130. Labor Code Section 204 provides in part provides in part that “all wages, ..., earned
23 by any person in any employment are due and payable twice during each calendar month, on days
24 designated in advance by the employer as the regular paydays.”

25 131. PLAINTIFFS are informed and believe, and thereon alleges that DEFENDANTS did
26 not pay PLAINTIFFS all earned wages, including all regular and/or overtime wages and meal and
27 rest premiums, on regularly established paydays.

28 132. In violation of Labor Code section 204, DEFENDANTS knowingly and willfully
refused to perform their obligations to compensate their employees for all wages earned.

1 133. Pursuant to Labor Code section 210, PLAINTIFFS are entitled to recover a penalty
2 of \$100.00 for the initial failure to timely pay each employee all of the wages earned, and \$200.00
3 for each subsequent failure to pay each employee all of the wages earned; in addition, pursuant to
4 section 210, for each subsequent failure to pay in compliance with Labor Code section 204,
5 PLAINTIFFS are entitled to recover an additional amount equal to 25% of the unlawfully withheld
6 wages.

7 134. As a direct and proximate result of DEFENDANTS' conduct in violation of Labor
8 Code section 204 as alleged above, DEFENDANTS' employees have suffered, and continue to
9 suffer, losses related to the use and enjoyment of wages and lost interest on such wages all to their
10 damage in amounts according to proof at trial.

11 **SIXTH CAUSE OF ACTION**

12 For Failure to Pay Wages Upon Termination

13 (Cal. Lab. Code § 201, 202, 203)

14 (PLAINTIFFS Against DEFENDANT UNI FOOD SD, INC., DEFENDANT TEMPO 5TH AVE,
15 LLC, and DOES 1-25)

16 135. PLAINTIFFS incorporate by reference and reallege as if fully stated herein each and
17 every allegation set forth above.

18 136. If an employer willfully fails to pay, without abatement or reduction, in accordance
19 with Sections 201, . . . 202, any wages of an employee who is discharged or who quits, the wages
20 of the employee shall continue as a penalty from the due date thereof at the same rate until paid or
21 until an action therefor is commenced; but the wages shall not continue for more than 30 days. (Cal.
22 Lab. Code § 203).

23 137. To date, DEFENDANTS have yet to pay PLAINTIFFS all of the wages and all
24 premiums due for missed meal breaks and missed rest breaks and DEFENDANTS have failed to
25 pay any penalty wages owed under California Labor Code section 203.

26 138. Additionally, the employment of PLAINTIFFS was terminated, and DEFENDANTS
27 have not tendered payment of wages to these employees who were underpaid for minimum wage,
28 and/or missed meal and rest breaks, as required by law.

139. DEFENDANTS knowingly and willfully violated the laws, regulations and orders

1 governing the wages of PLAINTIFFS as described in the causes of action above.

2 140. Therefore, as provided by Cal Lab. Code § 203, on behalf of themselves whose
3 employment has terminated, PLAINTIFFS demands up to thirty (30) days of pay as penalty for not
4 paying all wages due at time of termination and demand an accounting and payment of all wages
5 due, plus interest and statutory costs as allowed by law.

6 **SEVENTH CAUSE OF ACTION**

7 For Failure to Reimburse Business Expenses

8 (Cal. Lab. Code §§ 2802)

9 (PLAINTIFFS Against DEFENDANT UNI FOOD SD, INC., DEFENDANT TEMPO 5TH AVE,
10 LLC, and DOES 1-25)

11 141. PLAINTIFFS incorporate by reference and reallege as if fully stated herein each and
12 every allegation set forth above.

13 142. Pursuant to California Labor Code section 2802, DEFENDANTS are required to
14 indemnify PLAINTIFFS for the expenses and losses incurred during the performance of their job
15 duties. The purpose of this statute is to prevent employers from passing their operating expenses on
16 to their employees.

17 143. DEFENDANTS required PLAINTIFFS to use personal cell phones to discharge
18 work duties but failed to reimburse PLAINTIFFS for the use or cost of their cell phones.

19 144. In violation of Labor Code section 2802, DEFENDANTS failed to reimburse
20 PLAINTIFFS for necessary business expenditures for use of their personal cell phone.

21 145. DEFENDANTS sought to pay their own pockets at the expense of their employees,
22 and instead of compensating their employees for the necessary business costs, the employer passed
23 on its costs to its employees.

24 146. DEFENDANTS intentionally failed to reimburse its employees for the actual
25 expenses incurred and thereby increased its own profits to the detriment of its employees.

26 147. PLAINTIFFS seek to recover these business expenditures, plus interest thereon,
27 reasonable attorneys' fees, and costs, and statutory and civil penalties as provided by the Labor Code
28 in an amount to be proven.

148. Interest accrues from the date the employee incurred the necessary expenditure or

1 loss.

2 **EIGHTH CAUSE OF ACTION**

3 For Failure to Provide Accurate, Itemized Wage Statements

4 (Cal. Lab. Code §§ 226; 226.3; 1174.5)

5 (PLAINTIFFS Against DEFENDANT UNI FOOD SD, INC., DEFENDANT TEMPO 5TH AVE,
6 LLC, and DOES 1-25)

7 149. PLAINTIFFS incorporate by reference and reallege as if fully stated herein each and
8 every allegation set forth above.

9 150. Labor Code section 226 requires defendants to provide employees an accurate
10 itemized statement showing (1) gross wages earned, (2) total hours worked by the employee, (3) the
11 number of piece units and rates if applicable, (4) all deductions, (5) net wages earned, (6) the
12 inclusive date of the period for which the employee is paid, (7) the name of the employee and his/her
13 or their social security number, (8) the name and address of the legal entity that is the employer, and
14 (9) all applicable hourly rates in effect and the corresponding number of hours worked

15 151. DEFENDANTS did not accurately record PLAINTIFF'S time worked, wage, and
16 missed meal and rest breaks. DEFENDANTS failed to provide an accurate wage statement in
17 writing that properly and accurately itemizes all wages, missed meal and rest periods, applicable
18 hourly wages in effect, and reporting time wages owed to PLAINTIFFS and thereby also failed to
19 set forth the correct wages earned by these employees.

20 152. DEFENDANTS knowingly and intentionally failed to comply with Labor Code
21 section 226(a) on each and every wage statement that they provided to PLAINTIFFS.

22 153. By failing to keep adequate records, as required by Labor Code sections 226 and
23 1174, DEFENDANTS injured PLAINTIFFS making it difficult for this employee to calculate the
24 minimum wages owed. Those injuries include unpaid wages, interest, and penalties thereon.

25 154. PLAINTIFFS seek to recover the statutory penalties provided by Labor Code section
26 226(e), 226.3, and 1174.5 for the wage statement violations and inaccurate records maintained and
27 committed by DEFENDANTS.
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1 DEFENDANT UNI FOOD SD, INC., DEFENDANT TEMPO 5TH AVE, LLC, and DOES 1-25, is
2 liable for punitive damages.

3 **TENTH CAUSE OF ACTION**

4 For Failure to Prevent Harassment

(Cal. Gov't. Code § 12940(k))

5 (Plaintiff Restrepo Against DEFENDANT UNI FOOD SD, INC., DEFENDANT TEMPO 5TH
6 AVE, LLC, and DOES 1-25)

7 162. PLAINTIFF RESTREPO incorporates by reference and realleges as if fully stated
8 herein each and every allegation set forth above.

9 163. At all relevant times herein, Cal. Gov't Code §§ 12940 et seq. was in full force and
10 effect and binding upon DEFENDANT UNI FOOD SD, INC., DEFENDANT TEMPO 5TH AVE,
11 LLC, and DOES 1-25, and their employees. Section 12940(k) provides that it is an unlawful
12 employment practice for an employer to "fail to take all reasonable steps necessary to prevent
13 discrimination... from occurring."

14 164. Through its acts and omissions, DEFENDANT UNI FOOD SD, INC.,
15 DEFENDANT TEMPO 5TH AVE, LLC, and DOES 1-25 failed in its affirmative duty to take all
16 reasonable steps necessary to prevent harassment on the basis of gender from occurring in violation
17 of Cal. Gov't Code § 12940(k).

18 165. As a direct and proximate result of DEFENDANT UNI FOOD SD, INC.,
19 DEFENDANT TEMPO 5TH AVE, LLC, and DOES 1-25'S unlawful conduct, PLAINTIFF
20 RESTREPO suffered damages for which DEFENDANT UNI FOOD SD, INC., DEFENDANT
21 TEMPO 5TH AVE, LLC, and DOES 1-25 are liable in an amount to be proven at trial.

22 166. DEFENDANT UNI FOOD SD, INC., DEFENDANT TEMPO 5TH AVE, LLC, and
23 DOES 1-25'S unlawful acts entitle PLAINTIFF RESTREPO to compensatory damages, equitable
24 relief, attorneys' fees and costs.

25 167. Further, DEFENDANT UNI FOOD SD, INC., DEFENDANT TEMPO 5TH AVE,
26 LLC, and DOES 1-25 committed the acts alleged herein maliciously, fraudulently, oppressively,
27 and in a conscious disregard for Plaintiff's rights entitling PLAINTIFF RESTREPO to punitive
28 damages. The unlawful conduct alleged herein was engaged in by the officers, directors, supervisors,

1 and/or managing agents of DEFENDANT UNI FOOD SD, INC., DEFENDANT TEMPO 5TH
2 AVE, LLC, and DOES 1-25 who were acting at all times in this Complaint within the scope and
3 course of their employment. Pursuant to Cal. Civ. Code § 3294, DEFENDANT UNI FOOD SD,
4 INC., DEFENDANT TEMPO 5TH AVE, LLC, and DOES 1-25 is liable for punitive damages.

5 **ELEVENTH CAUSE OF ACTION**

6 For Retaliation

7 (Cal. Lab. Code §§ 2698 et seq.)

8 (PLAINTIFF RESTREPO Against DEFENDANT UNI FOOD SD, INC., DEFENDANT TEMPO
9 5TH AVE, LLC, and DOES 1-25))

10 168. PLAINTIFF RESTREPO incorporates by reference and realleges as if fully stated
11 herein each and every allegation set forth above.

12 169. Cal. Lab Code § 98.6 prohibits employers from discharging, discriminating,
13 retaliating, or taking any adverse action against any employee for engaging in a protected activity
14 like reporting wage and hour violations.

15 170. PLAINTIFF RESTREPO engaged in a protected activity by complaining to
16 DEFENDANTS about wage and hour violations and refusing to work in violation of California
17 Labor Code and Industrial Wage Orders.

18 171. DEFENDANTS violated Cal. Lab. Code § 98.6 by subjecting PLAINTIFF
19 RESTREPO to adverse employment actions by reducing her work schedule and providing her with
20 different, smaller-earning sections within the restaurant and subsequently terminating PLAINTIFF
21 RESTREPO.

22 172. PLAINTIFF RESTREPO'S reporting of DEFENDANTS' labor code violations was
23 a substantial motivating reason for DEFENDANTS' decision to reassign PLAINTIFF
24 RESTREPO'S section and subsequently, terminate PLAINTIFF RETREPO. There was a causal
25 nexus between the protected activity and the alleged adverse action.

26 173. DEFENDANTS took an adverse employment action against PLAINTIFF
27 RESTREPO within ninety days of the employee's reporting DEFENDANTS' violation of
28 California labor code.

174. As a direct and proximate result of DEFENDANTS' adverse employment actions,

1 PLAINTIFF RESTREPO has suffered damages for which DEFENDANT UNI FOOD SD, INC.,
2 DEFENDANT TEMPO 5TH AVE, LLC, and DOES 1-25 are liable in an amount to be proven at
3 trial.

4 **TWELVETH CAUSE OF ACTION**

5 For Recovery of Civil Penalties Under the Labor Code Private Attorney General Act
6 (Cal. Lab. Code §§ 98.6)
(PLAINTIFFS and Aggrieved Employees Against All DEFENDANTS)

7 175. PLAINTIFFS and other AGGRIEVED EMPLOYEES incorporate by reference and
8 reallege as if fully stated herein each and every allegation set forth above.

9 176. As a result of the acts alleged herein, PLAINTIFFS, each as an AGGRIEVED
10 EMPLOYEE within the meaning of Labor Code section 2699, subdivision (c), on behalf of
11 themselves and all other AGGRIEVED EMPLOYEES of DEFENDANTS, seek the recovery of
12 civil penalties against DEFENDANTS pursuant to California Labor Code sections 2698 et seq., for
13 the following knowing and intentional violations of the California Labor Code:

- 14 a. For failing to compensate employees who were not provided a rest period in violation
15 of Labor Code Section 226.7 and 512; and
- 16 b. For failing to compensate employees who were not provided a meal period in
17 violation of Labor Code Section 226.7 and 512; and
- 18 c. For failing to pay all minimum wages, in violation of Labor Code sections 1194,
19 1194.2, 1197.1, 218.5, and 218.6;
- 20 d. For failing to provide employees who worked more than eight (8) hours per workday
21 and more than forty (40) hours per workweek additional compensation beyond their
22 regular wages in violation of Labor Code Section 510, 558, 1194, and 1198.
- 23 e. For failing to pay wages, in violation of Labor Code sections 204 and 210;
- 24 f. For failing to pay wages upon termination, in violation of Labor Code sections 201,
25 202, and 203;
- 26 g. For failing to maintain for and provide accurate, itemized wage statements required
27 by Labor Code Section 226, 226.3;
- 28 h. For failing to reimburse employees for business-related expenses in violation of

Labor Code section 2802;

i. For failing to maintain accurate records in violation of Labor Code Section 1174.5.

177. The above-referenced civil penalties shall include the recovery of amounts specified in the applicable sections of the Labor Code, and if not specifically provided, those under section 2699(f), and shall include those amounts sufficient to recover underpaid wages pursuant to C.C.R. section 11040 and Labor Code sections §§ 201, 202, 203, 204, 210, 218.5, 218.6, 226, 226.3, 226.7, 510, 512, 515, 558, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2802, and 2699, subdivisions (a) and (f).

178. PLAINTIFFS filed this complaint after the LWDA was afforded the opportunity to consider PLAINTIFFS' notice of DEFENDANTS' Labor Code violations and of PLAINTIFFS' intent to prosecute a private enforcement action for civil penalties under PAGA. After the LWDA declined to investigate, PLAINTIFFS brought this PAGA cause of action against DEFENDANTS, pursuant to California Labor Code section 2699.3, subdivision (a)(2)(A).

DEMAND FOR RELIEF

WHEREFORE, PLAINTIFFS prays for a judgment against each DEFENDANT, jointly and severally, as follows:

1. On behalf of the PLAINTIFFS:

A. Compensatory damages, according to proof at trial, including unpaid wages, due to PLAINTIFF, during the applicable employment period plus interest thereon at the statutory rate;

B. Meal and rest period compensation pursuant to Cal. Lab. Code §§ 226.7, 512 and the applicable IWC Wage Order;

C. The wages of PLAINTIFFS as a penalty from the due date thereof at the same rate until paid or until an action therefore is commenced, in accordance with Cal. Lab. Code § 203;

D. The greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000), and an award of costs for violation of Cal. Lab. Code § 226.

E. One hundred dollars (\$100) for the initial pay period in which Defendants

intentionally failed to pay minimum wages per employee per pay period and two hundred fifty dollars (\$250) per employee per pay period for each violation in a subsequent pay period for violation of Cal. Lab. Code § 1197 and 1197.1

F. The amount of the expenses PLAINTIFFS incurred in the course of their job duties, plus interest, and costs of suit.

G. Punitive damages in an amount to punish DEFENDANTS to be proven at trial.

H. Liquidates damages pursuant to Cal. Lab. Code § 1194.2 in an amount equal to the unpaid minimum wages according to proof at trial;

I. Civil penalties for DEFENDANTS violation of Cal. Lab. Code § 98.6.

2. On Behalf of the State of California and with respect to all AGGRIEVED EMPLOYEES

i. Recovery of civil penalties as prescribed by the Labor Code Private Attorneys General Act of 2004;

3. On all claims:

A. An award of interest, including prejudgment interest at the legal rate;

B. Such other and further relief as the Court deems just and equitable; and

C. An award of penalties, attorneys' fees and cost of suit, as allowable under the law.

DATED: January 3, 2025

Respectfully submitted,

EMRAN LAW

By: Harris Emran

Harris Emran

Attorney for PLAINTIFFS and
OTHER AGGRIEVED EMPLOYEES

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DEMAND FOR A JURY TRIAL

PLAINTIFFS demands a jury trial on issues triable to a jury.

DATED: January 3, 2025

EMRAN LAW

By: Harris Emran
Harris Emran
Attorney for PLAINTIFFS and OTHER
AGGRIEVED EMPLOYEES