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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
RANCHO CUCAMONGA DISTRICT

MAR 06 2025

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RICHARD GARDEA,
and all putative class members

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO

RICHARD GARDEA, an individual, on behalf
of himself and all others similarly situated,

Plaintiff,

vs.

FAVORED FOODS LLC, a California limited
liability company, and DOES 1-50, inclusive,

Defendant.

Case No.: CIVRS2401557

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT FOR:**

1. Failure to Pay For All Hours Worked,
Including Overtime Hours Worked
2. Failure to Pay All Wages Owed Twice
Per Month
3. Failure to Pay Minimum Wage
4. Failure to Pay Wages Due Upon
Termination
5. Meal Break Violations
6. Rest Break Violations
7. Failure to Reimburse for Required
Business Expenses
8. Failure to Provide Accurate Itemized
Wage Statements & Violation of
Record Keeping Requirements
9. Unlawful Business Practices Bus &
Prof. Code §17200
10. Private Attorneys General Act
Penalties §2698 et seq

**FILED AS OF RIGHT PURSUANT TO
LABOR CODE 2699.3(a)(2)(B)**

JURY TRIAL DEMANDED

FILED ON DEMAND

1 Plaintiff RICHARD GARDEA, individually, and on behalf of all others similarly situated
2 all aggrieved employees, and as a Private Attorney General for the State of California (collectively
3 “Plaintiff”), alleges as follows:

4 NATURE OF THE ACTION

5 1. This is an employment class and representative action on behalf of over 50 hourly, non-
6 exempt employees against their employer for violations of numerous wage and hour laws. Plaintiff
7 brings this employment class and representative action complaint on behalf of himself, and all
8 others similarly situated, all aggrieved employees, and as a Private Attorney General for the State
9 of California against FAVORED FOODS LLC, and DOES 1-50, inclusive, (hereafter collectively
10 “Defendant” or “Defendants”).

11 2. Defendant FAVORED FOODS LLC operates Chick-fil-A fast food restaurants doing
12 business in California. Plaintiff RICHARD GARDEA worked for Defendant as a cook on an
13 hourly, non-exempt basis until January 2, 2024, at Defendant’s Chick-fil-A restaurant located at
14 12190 Foothill Blvd, Rancho Cucamonga. Plaintiff and the proposed class earn at or near
15 minimum wage.

16 3. As described further below, Defendant has violated the California Labor Code by (1)
17 failing to pay for all hours worked, including overtime hours worked (§218, 510, 558, 1194, 1197,
18 1198, 1199, Wage Order 5); (2) failing to pay all wages owed twice per month (§204, 210); (3)
19 failing to pay minimum wage (§200, 218.5, 226, 558, 1194, 1194.2, 1197, 1197.2, 1198, 1199);
20 (4) failing to pay all wages due upon termination (§201, 202, 203, 256); (5) failing to provide rest
21 breaks (§226, 226.7, 512, 558, 1198); (6) failing to provide timely meal breaks (§226, 226.7, 512,
22 558, 1198); (7) failing to reimburse for required business expenses (§1198, 2802); (8) failing to
23 provide accurate itemized wage statements and violating record keeping requirements (§226, 246,
24 248, 1174, 1174.5); and (9) unlawful and unfair business practices (Bus. & Prof. Code §17200, *et*
25 *seq.*). Plaintiff further alleges that Defendant is liable for civil penalties under the Private Attorneys
26 General Act (“PAGA”), Labor Code §2698 *et seq.*

27 4. The class claims in this action are brought pursuant to Code of Civil Procedure (“CCP”)
28 §382, seeking recovery for unpaid wages, including overtime wages, missed meal and rest period

1 penalty pay, statutory and waiting time penalties, injunctive and other equitable relief, interest, and
2 reasonable attorneys' fees and costs. Pursuant to the class action procedures provided for under
3 California law, Plaintiff, on behalf of himself, aggrieved employees and proposed Class Members
4 (also referred to as "Class"), also seeks injunctive relief and restitution of all benefits Defendant
5 has received from their unlawful actions as alleged herein. Plaintiff has also provided notice of
6 these claims pursuant to §2698 et. seq., to the Labor and Workforce and Development Agency
7 ("LWDA") and now brings this First Amended Complaint, including claims for civil penalties
8 under the Private Attorneys General Act ("PAGA"), Labor Code §2698 et seq. Attorney General
9 Act ("PAGA"), Labor Code §2698 et seq.

10 5. The "Class Period" is designated as the four-year period prior to the filing of this
11 Complaint through the date of the final disposition of this action. From the start of the Class Period
12 through the present, Defendant has had a policy and/or practice of among other violations: late
13 and/or interrupted meal breaks, untimely and/or interrupted rest breaks, issuing inaccurate wage
14 statements, and ignoring and violating California wage and hour laws, in their business as more
15 fully set forth below.

16 6. The "PAGA Period" is defined herein commences one year prior to the date of filing the
17 PAGA Notice letter with the LWDA.

18 7. Defendant has treated all persons employed in California in such a way as to violate
19 California's laws governing conditions of employment and payment of wages owed. Plaintiff
20 asserts that Defendant has knowingly and with conscious disregard of the law refused to pay the
21 Class Members and aggrieved employees all wages owed, including overtime wages and meal and
22 rest break penalty wages. Defendant has violated numerous Labor Code provisions, as set forth
23 herein. Class Members and aggrieved employees are owed their back pay, plus interest and/or
24 premiums and penalties under Business and Professions Code section 17203 to compensate Class
25 Members and aggrieved employees for the delay in receiving wages due.

26 8. Defendant, by and through their actions, has engaged in unfair competition, requiring
27 restitution to persons affected and disgorgement of profits so obtained.
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THE PARTIES

9. Plaintiff RICHARD GARDEA is an individual who resides in California and worked for Defendant as a cook on an hourly, non-exempt basis until January 2, 2024, at Defendant's Chick-fil-A restaurant located at 12190 Foothill Boulevard in Rancho Cucamonga.

10. Defendant FAVORED FOODS LLC, is a California limited liability company doing business in California with the capacity to sue and to be sued and doing business, in San Bernardino County, State of California. Defendant exercised control over the wages, hours, and/or working conditions of Plaintiff and members of the proposed class throughout the liability period.

11. Defendant Does 1-50, inclusive, are sued herein under fictitious names. Their true names and capacities are unknown to Plaintiff. When their true names and capacities are ascertained, Plaintiff will amend this complaint by inserting their true names and capacities herein. Plaintiff is informed and believe, and thereon alleges, that each of the fictitiously named Defendant is responsible in some manner for the occurrences herein alleged, and that the damages sustained by Plaintiff, aggrieved employees and the Class Members herein alleged were proximately caused by such Doe Defendants.

12. Plaintiff is informed and believes and thereon alleges that each Defendant, directly or indirectly, or through agents or other persons, employed Plaintiff and other members of the Class, and exercised control over their wages, hours, and working conditions. Plaintiff is informed and believes and thereon alleges that each Defendant acted in all respects pertinent to this action as the agent of the other Defendants, carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendant is legally attributable to the other Defendants.

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JURISDICTION AND VENUE

13. Venue is proper in this judicial district because Defendant conducts business in this County and Defendant has legal obligations to Plaintiff, aggrieved employees and many of the Class Members in this case that arose in this county.

14. The monetary damages, restitution, and statutory penalties sought by Plaintiff exceed the minimal jurisdictional limits of the Superior Court and will be established according to proof at trial. Based on information, investigation, and analysis, Plaintiff alleges that the amount in

controversy, including claims for monetary damages, penalties, and attorney's fees, is more than twenty-five thousand dollars (\$25,000) and less than five million dollars (\$5,000,000).

15. The California Superior Court has jurisdiction in this matter because Plaintiff is a resident of California and Defendant is incorporated in and/or qualified to do business in California and regularly conduct business in California. Further, there is no federal question at issue as the claims herein are based solely on California law.

CLASS AND REPRESENTATIVE ACTION ALLEGATIONS

16. During the Class Period, Defendant committed various violations of the California Labor Code, the UCL and the applicable IWC Wage Order, as alleged below in more detail. Defendant enforces multiple policies that violate state law which are intended to increase its own profits to the detriment of its employees.

17. Plaintiff, aggrieved employees and the putative class are hourly, non-exempt employees of Defendant's fast food restaurants.

18. Defendant failed to (1) pay for all hours worked, including overtime hours worked (§218, 510, 558, 1194, 1197, 1198, 1199, Wage Order 5); (2) pay all wages owed twice per month (§204, 210); (3) pay minimum wage (§200, 218.5, 226, 558, 1194, 1194.2, 1197, 1197.2, 1198, 1199); (4) pay all wages due upon termination (§201, 202, 203, 256); (5) provide rest breaks (§226, 226.7, 512, 558, 1198); (6) provide timely meal breaks (§226, 226.7, 512, 558, 1198); (7) reimburse for required business expenses (§1198, 2802); (8) provide accurate itemized wage statements and violating record keeping requirements (§226, 246, 248, 1174, 1174.5); and (9) unlawful and unfair business practices (Bus. & Prof. Code §17200, *et. seq.*). Plaintiff further alleges that Defendant is liable for civil penalties under the Private Attorneys General Act ("PAGA"), Labor Code §2698 *et seq.*

19. Failure to pay all wages, including overtime and penalty. Defendant failed to pay for all hours worked, including overtime hours worked. Plaintiff, aggrieved employees and class members frequently worked off the clock and were routinely subjected to periods wherein they were under the Defendant's control but not compensated for their time. For example, Plaintiff and his coworkers were required to come into work thirty (30) minutes to one (1) hour before their shifts

1 and do off-the-clock pre-shift work, including cleaning and setting up. When they were permitted
2 to clock in, because numerous employees came on shift at the same time, many employees were
3 required to wait in required lines to use the timeclock. Plaintiff recalls waiting up to five (5) to ten
4 (10) minutes each time Plaintiff and Plaintiff's coworkers were required to wait in line to clock in
5 our out. This time spent walking and waiting in required lines was required by Defendant prior to
6 each shift and when clocking back in for lunch and was essential and required before employees
7 could begin and/or resume working on the clock.

8 20. Failure to Timely Pay All Wages Owed. Defendant failed to pay all wage owed twice
9 per month.

10 21. Failure to Timely Pay Minimum Wage. Defendant failed to pay minimum wage.

11 22. Failure to Timely Pay Wages Upon Termination. Defendant failed to pay wages due
12 upon termination.

13 23. Rest Breaks. Defendant failed to consistently maintain and follow a policy and practice
14 that provides its employees with off-duty rest periods as required by California law.

15 24. Meal Breaks. Defendant failed to consistently maintain and follow a policy and practice
16 that provides its employees with compliant meal periods as required by California law.

17 25. Business Expenses. Defendant failed to reimburse for required business expenses.
18 Plaintiff, aggrieved employees and Class Members are required to use their personal cell phones
19 for work related communications, although Defendant did not reimburse them in any way for the
20 expense of their personal cell phone use.

21 26. Inaccurate Wage Statements. Defendant further failed to consistently provide timely,
22 accurate, itemized wage statements to employees, as well as maintain accurate records, in
23 accordance with Labor Code §§ 226 and 1174.

24 27. Unfair Business Practices. Based upon the above allegations, Defendant from time to
25 time engaged in unfair competition.

26 28. Plaintiff brings this action on behalf of himself, and all other persons similarly situated,
27 to recover from Defendant for failure to comply with California wage and hour laws, and for claims
28 under Business and Professions Code § 17200.

1 29. This action has been brought and may properly be maintained as a class action
2 pursuant to the provisions of Code of Civil Procedure § 382 because the proposed class is
3 ascertainable and there is a well-defined community of interest. Plaintiff is among in excess of 50
4 employees who have been similarly injured by Defendant's unlawful employment policies and
5 practices.

6 30. The "Relevant Time Period" or proposed "Class Period" as defined herein commences
7 four years prior to the date of filing this Complaint.

8 31. The "PAGA Period" is defined herein commences one year prior to the date of filing
9 the PAGA Notice letter with the LWDA.

10 32. The PAGA Class, also referred to herein as "aggrieved employees": "All current and
11 former hourly, non-exempt employees of Defendant in California, at any time from one year prior
12 to the filing of the PAGA Notice letter with the LWDA until the resolution of this matter."
13 Plaintiff reserves the right to amend or modify the definition of aggrieved employees with respect
14 to the issues or in any other way.

15 33. Plaintiff brings this action on his behalf and as a class action under Cal. Code of Civil
16 Procedure §382 on behalf of the following defined groups:

17 34. Proposed Class: "All persons who are employed or have been employed by Defendant
18 in the State of California as hourly, non-exempt workers during the period of the relevant statute
19 of limitations."

20 35. Proposed Sub-classes:

21 A. All persons who are employed or have been employed by Defendant in the State
22 of California as hourly, non-exempt workers during the period of the relevant
23 statute of limitations, who worked one or more shift in excess of five (5) hours.

24 B. All persons who are employed or have been employed by Defendant in the State
25 of California as hourly, non-exempt workers during the period of the relevant
26 statute of limitations, who worked one or more shifts in excess of six (6) hours.

27 C. All persons who are employed or have been employed by Defendant in the State
28 of California as hourly, non-exempt workers during the period of the relevant

1 statute of limitations, who worked one or more shifts in excess of eight (8)
2 hours.

3 D. All persons who are employed or have been employed by Defendant in the State
4 of California as hourly, non-exempt workers during the period of the relevant
5 statute of limitations, who worked one or more shifts in excess of three and one-
6 half hours (3 ½), but less than or equal to six (6) hours.

7 E. All persons who are employed or have been employed by Defendant in the State
8 of California as hourly, non-exempt workers during the period of the relevant
9 statute of limitations, who worked one or more shifts in excess of six (6) hours,
10 but less than or equal to ten (10) hours.

11 F. All persons who are employed or have been employed by Defendant in the State
12 of California as hourly, non-exempt workers during the period of the relevant
13 statute of limitations, who were paid sick pay.

14 G. All persons who are employed or have been employed by Defendant in the State
15 of California as hourly, non-exempt workers during the period of the relevant
16 statute of limitations, who separated their employment from Defendant.

17 H. All persons who are employed or have been employed by Defendant in the State
18 of California as hourly, non-exempt workers during the period of the relevant
19 statute of limitations, who received pay for one or more pay periods.

20 36. This action is brought, and may properly be maintained, as a class action under CCP
21 §382 and/or a representative action under Business & Professions Code §§17200 et seq. and Labor
22 Code §2699 because there is a well-defined community of interest in the litigation, and the
23 proposed Class, PAGA Class, and Subclasses (collectively “Class”) are easily ascertainable.

24 37. Numerosity: The Proposed Class is so numerous that joinder of all members is
25 impractical. Plaintiff is informed and believes, and on that basis alleges, that during the relevant
26 time period, Defendant employed over 50 putative Class Members who are geographically
27 dispersed and who satisfy the definition of the proposed Class. As such, a class action is the only
28 available method for the fair and efficient adjudication of this controversy. Membership in the

1 Proposed Class can be easily ascertained by an examination and analysis of employee and payroll
2 records, among other records within Defendant's possession and control.

3 38. Typicality: Plaintiff's claims are typical of the claims of the Class Members. Plaintiff,
4 like others similarly situated, was subjected to Defendant's common, unlawful policies, practices,
5 and procedures described above. The Plaintiff's positions at the company was typical of those of
6 other Class Members. Plaintiff's claims are typical of the claims of each Class Member because
7 each have sustained damages arising out of and caused by Defendant's common course of conduct,
8 as alleged herein. As such, Plaintiff has the same interests in this matter as all members of the
9 Class.

10 39. Adequacy: Plaintiff will fairly and adequately protect the interests of the members of
11 the Class. Plaintiff has retained counsel competent and experienced in complex class actions and
12 California labor and employment litigation.

13 40. Commonality: Common questions of law and fact exist, including but not limited to
14 the following:

- 15 i. Whether Defendant violated wage and hour laws by failing to pay overtime
16 wages;
- 17 ii. Whether Defendant violated wage and hour laws by failing to pay all wages
18 owed twice per month;
- 19 iii. Whether Defendant violated wage and hour laws by failing to pay minimum
20 wage;
- 21 iv. Whether Defendant violated wage and hour laws by failing to pay all wages
22 due upon termination;
- 23 v. Whether Defendant violated wage and hour laws by failing to provide
24 compliant meal breaks;
- 25 vi. Whether Defendant's policy and practice concerning meal breaks was
26 unlawful;
- 27 vii. Whether Defendant violated wage and hour laws by failing to provide rest
28 breaks;

- 1 viii. Whether Defendant's policy and practice concerning rest breaks was
2 unlawful;
- 3 ix. Whether Defendant violated wage and hour laws by failing to reimburse for
4 required business expenses;
- 5 x. Whether Defendant unlawfully failed to keep and furnish Class Members
6 with accurate, itemized records of hours worked, in violation of Labor Code
7 §§ 226 and 1174;
- 8 xi. The proper measure of damages sustained and the proper measure of
9 restitution recoverable by Plaintiff, the Class Members, and Subclass
10 Members;
- 11 xii. Whether the Class Members are entitled to injunctive relief to enjoin any
12 further violations of wage and labor laws;
- 13 xiii. Whether Defendant, and each of them, are/were participants in the alleged
14 unlawful and/or tortious conduct;
- 15 xiv. Whether Defendant's conduct was willful and reckless;
- 16 xv. The effect upon and the extent of injuries suffered by Plaintiff and the Plaintiff
17 Class and the appropriate amount of reimbursement, restitution, damages, or
18 other compensation; and
- 19 xvi. What is the extent of liability of each Defendant, including DOE defendants,
20 to each Class and Subclass member?

21 41. Superiority: A class action is superior to other available methods of the fair and
22 efficient adjudication of the controversy, particularly in the context of wage and hour litigation
23 where the damage suffered by individual plaintiffs, while not inconsequential, makes individual
24 actions impracticable given the expenses and burdens associated with seeking individual relief.
25 Prosecuting over 50 identical, individual lawsuits does not promote judicial efficiency or equity
26 and consistency in judicial results. Moreover, the Class is a group of hourly, low-wage earning
27 employees who rely on their wages and requiring that each individual take time away from work
28 to prosecute individual actions would be inequitable and result in undue hardship for the individual

1 Class members and their families. Public policy favors efficient resolution of their claims and
2 uniform enforcement of California Labor laws against entities skirting their legal obligations at the
3 expense of a vulnerable working population.

4 42. Manageability: Plaintiff is informed and believes that all allegations in this Complaint
5 are capable of being determined on the same evidence and based primarily on review of corporate
6 records and key testimony of Defendant's corporate representatives. To the extent statistical
7 analysis and representative evidence is necessary, Plaintiff and proposed class counsel will employ
8 competent experts and consultants in the field to determine and review evidence for both issues of
9 liability and damages in a scientifically reliable manner.

10 43. Plaintiff requests, pursuant to Rule 1857(a)(1) and Rule 3.766 of the California Rules
11 of Court, that the absent Class and Subclass Members be notified by the best notice practicable
12 under the circumstances, including individual notice to all members who can be identified through
13 reasonable effort. The names and address of the Class and Subclass Members are available from
14 Defendant.

15 **FIRST CAUSE OF ACTION**

16 **FAILURE TO PAY FOR ALL HOURS WORKED INCLUDING OVERTIME HOURS** 17 **WORKED**

18 Cal. Labor Code §§218, 510, 558, 1194, 1197, 1198, 1199, Wage Order 5.

19 (Plaintiff Against All Defendants)

20 44. Plaintiff incorporates by reference in this cause of action each allegation of the
21 preceding paragraphs as though fully set forth herein.

22 45. Defendant's conduct described in this complaint violates the provisions of Labor Code
23 §§ 218, 510, 558, 1194, 1197, 1198, 1199, Wage Order 5.

24 46. The Wage Orders define "hours worked" as "the time during which an employee is
25 subject to the control of an employer, and including all the time the employee is suffered or
26 permitted to work, whether or not required to do so." Defendant has been engaged in many
27 unlawful employment practices which resulted in underpayment for hours worked each pay period,
28 including overtime hours worked, as more fully set forth below. Defendant has also failed to pay

1 the required minimum wage for all hours worked and has failed to pay all wages owed twice per
2 month.

3 47. Plaintiff, aggrieved employees and Class Members have been employed under
4 conditions prohibited by the wage order, and thus Defendant has also violated §§1198 and 1199.

5 48. Off-the-Clock Hours Worked. Plaintiff, aggrieved employees and Class Members
6 frequently worked off the clock and were routinely subjected to periods wherein they were under
7 the Defendant's control but not compensated for their time. For example, Plaintiff and his
8 coworkers were required to come into work thirty (30) minutes to one (1) hour before their shifts
9 and do off-the-clock pre-shift work.

10 49. Off-the-Clock Hours Worked- Waiting in Required Lines. Plaintiff, aggrieved
11 employees and Class Members frequently worked off the clock and were routinely subjected to
12 periods wherein they were under the Defendant's control but not compensated for their time.
13 Numerous employees came on shift at the same time which resulted in many employees waiting
14 in required lines to clock in for work to use the timeclock. Plaintiff recalls waiting up to five (5)
15 to ten (10) minutes each time Plaintiff and Plaintiff's coworkers were required to wait in line to
16 clock in our out. This time spent walking and waiting in required lines was required by Defendant
17 prior to each shift and when clocking back in for lunch and was essential and required before
18 employees could begin and/or resume working on the clock.

19 **SECOND CAUSE OF ACTION**

20 **FAILURE TO PAY ALL WAGES OWED TWICE PER MONTH**

21 Cal. Lab. Code §204, 210

22 (Plaintiff Against All Defendants)

23 50. Plaintiff incorporates by reference in this cause of action each allegation of the
24 preceding paragraphs as though fully set forth herein.

25 51. Defendant's conduct from time to time described in this complaint violates the
26 provisions of Labor Code §§ 204, 210.

27 52. Defendant was required to pay Plaintiff, aggrieved employees and Class Members all
28 wages earned twice during each calendar month pursuant to Labor Code §204(a).

53. Defendant failed to pay all wages earned to employees as a result of the unlawful employment policies and practices discussed herein. As a result of these practices, employees were underpaid for hours worked, including overtime and premium wages, and this underpayment resulted in a failure to pay all wages owed twice per month.

54. Due to these failures, Defendant is liable under Labor Code §204, 210 for failure to pay wages as required by law.

THIRD CAUSE OF ACTION

FAILURE TO PAY MINIMUM WAGE

Cal. Lab. Code §200, 218.5, 226, 558, 1194, 1194.2, 1197, 1197.2, 1198, 1199

(Plaintiff Against All Defendants)

55. Plaintiff incorporates by reference in this cause of action each allegation of the preceding paragraphs as though fully set forth herein.

56. Defendant's conduct from time to time described in this complaint violates the provisions of Labor Code §§ 200, 218.5, 226, 558, 1194, 1194.2, 1197, 1197.2, 1198, 1199.

57. Pursuant to Labor Code sections 1194, 1194.2 and 1197, it is unlawful for an employer to suffer or permit a California employee to work without paying wages at the proper minimum wage for all time worked as required by the applicable IWC Wage Order.

58. Defendant failed to pay Plaintiff, aggrieved employees and Class Members for all hours worked as a result of Defendant's practices described above. Based on Defendant's unlawful conduct described herein, and because Plaintiff, aggrieved employees and the Class Members were paid at or near minimum wage, employer's failure to pay for all hours worked, including overtime, resulted in a payment of less than the minimum wage for all hours worked, in violation of Labor Code §1197, 1197.1, 1199 and the Wage Orders.

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1 **FOURTH CAUSE OF ACTION**

2 **FAILURE TO PAY WAGES DUE UPON TERMINATION**

3 Cal. Lab. Code §201, 202, 203

4 (Plaintiff Against All Defendants)

5 59. Plaintiff incorporates by reference in this cause of action each allegation of the
6 preceding paragraphs as though fully set forth herein.

7 60. Defendant's conduct from time to time described in this complaint violates the
8 provisions of Labor Code §§ 201, 202, 203, 256.

9 61. An employee who is discharged must be paid all of his or her wages, including accrued
10 vacation, immediately at the time of termination. (Labor Code Sections 201 and 227.3.) As set
11 forth above, Defendant knowingly and willfully failed to pay all compensation due and owing to
12 Plaintiff at the time employment terminated.

13 62. Defendant willfully failed to pay employees who are no longer employed by it all
14 compensation due upon termination of employment as required by Cal. Lab. Code §§201 and 202.
15 Plaintiff and similarly situated individuals are now entitled to recover up to thirty (30) days' pay
16 as waiting time under the terms of §203.

17 **FIFTH CAUSE OF ACTION**

18 **FAILURE TO PROVIDE REST BREAKS**

19 Cal. Lab. Code §§226, 226.7, 512, 558, 1198

20 (Plaintiff Against All Defendants)

21 63. Plaintiff incorporates by reference in this cause of action each allegation of the
22 preceding paragraphs as though fully set forth herein.

23 64. Defendant's conduct from time to time described in this complaint violates the
24 provisions of Labor Code §§ 226, 226.7, 512, 558, 1198.

25 65. Defendant failed to maintain a compliant rest period policy and practice that provides
26 their employees with off-duty rest periods as required by California law. Plaintiff reports that
27 employees frequently missed rest periods as a result of Defendant's staffing and business practices,
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1 and that rest breaks were not scheduled into daily shifts. For example, Plaintiff would often miss
2 his rest periods due to the press of work.

3 66. Rest periods were either less than ten minutes, not provided, interrupted or late, “on
4 duty,” or not scheduled before and after a meal period for shifts greater than six hours, as
5 prescribed by California law because Defendant: (1) did not account for all hours worked that were
6 unaccounted for on their timecard; (2) did not adequately inform and train employees about their
7 rights to rest breaks and premium payments for non-compliant rest breaks; (3) did not adequately
8 inform and train employees about when, where and how to take timely and uninterrupted ten-
9 minute rest breaks; (4) because Defendant did not staff enough people to schedule all timely and
10 uninterrupted ten-minute rest breaks; and/or (5) because management at various levels, affecting
11 all hourly, non-exempt employees, refused to offer, permit, or enforce a lawfully compliant rest
12 break policy.

13 67. The rest period requirement obligates employers to permit and authorize employees to
14 take off-duty rest periods, meaning employers must relieve employees of all duties and relinquish
15 control over how employees spend their time. *Augustus v. ABM Security Services, Inc.*, (2016) 5
16 Cal.5th 257, 269. Employers must pay employees an additional hour of wages at the employee’s
17 regular rate of pay for each missed or improper rest period (e.g., less than 10 minutes, interrupted
18 rest period, rest period(s) at improper time(s) during shift(s). Lab. Code §226.7; applicable IWC
19 Wage Order, §12(B) (“If an employer fails to provide an employee a rest period in accordance
20 with the applicable provisions of this Order, the employer shall pay the employee one (1) hour of
21 pay at the employee’s regular rate of compensation for each workday that the rest period is not
22 provided”). Moreover, under California law rest periods must be a “net” ten minutes in a suitable
23 rest area. (*Id.* at 268) (relying on January 3, 1986, and February 22, 2002 DLSE Letters wherein
24 the DLSE ruled that the net ten-minute language for rest periods means ten minutes of time in a
25 rest area and cannot include time it takes to get to and from the rest area). The employer must show
26 that it clearly articulates the right to a net ten minutes, which means it must clearly communicate
27 what “net” ten minutes means (i.e., regardless of what happens along the way to and from a rest
28 area, employees are entitled to a full ten minutes of rest in the rest area). *Id.*; see also, *Bufile v.*

1 Dollar Fin. Grp., Inc., (2008) 162 Cal. App. 4th 1193, 1199 (the “onus is on the employer to clearly
2 communicate the authorization and permission [to take rest periods] to their employees.”).

3 68. Defendant did not authorize or permit all of its hourly employees to take at least a ten-
4 minute rest period in which they were relieved of all duties, for every 4 hours of work, or major
5 fraction thereof, as required by Cal. Lab. Code §226.7, §512 and the Wage Orders. When breaks
6 were missed Defendant failed to pay the 1-hour penalty, as required. Because Defendant violated
7 the Wage Order, Defendant is liable under Labor Code §1198.

8 **SIXTH CAUSE OF ACTION**

9 **FAILURE TO PROVIDE TIMELY MEAL PERIODS**

10 Cal. Lab. Code §§226 (a), 226.7, 512, 558, 1198

11 (Plaintiff Against All Defendants)

12 69. Plaintiff incorporates by reference in this cause of action each allegation of the
13 preceding paragraphs as though fully set forth herein.

14 70. Defendant’s conduct described in this complaint violates the provisions of Labor Code
15 §§ 226 (a), 226.7, 512, 558, 1198.

16 71. Labor Code §512 provides, “[a]n employer may not employ an employee for a work
17 period of more than five hours per day without providing the employee with a meal period of not
18 less than 30 minutes...” Labor Code §226.7(a) provides, “[n]o employer shall require an employee
19 to work during any meal... period mandated by an applicable order of the Industrial Welfare
20 Commission.” Paragraph 11 of the Wage Order provides, in pertinent part, “[u]nless an employee
21 is relieved of all duty during a 30-minute meal period, the meal period shall be considered an ‘on
22 duty’ meal period and counted as time worked.”

23 72. Defendant failed to permit Plaintiff and others to take timely, off-duty, meal breaks of
24 “not less than 30 minutes” for each five consecutive hours of work in violation of Labor Code
25 §§226.7 and 512. Defendant failed to pay all penalty pay to Plaintiff, aggrieved employees or Class
26 Members for noncompliant meal periods. As a derivative claim, Plaintiff alleges that pay
27 statements were inaccurate, failing to include required meal period penalties, thus failing to meet
28 the requirements of Labor Code §226(a).

1 73. In this case, Plaintiff and Plaintiff's coworkers frequently missed their meal periods
2 due to the press of work. Plaintiff, aggrieved employees and class members needed to be relieved
3 from their position in order to take a meal break and employer failed to adequately staff employees
4 to permit breaks.

5 74. Full, uninterrupted, off-duty, thirty-minute meal periods were not provided because
6 Defendant: (1) did not account for all hours worked that were unaccounted for on their timecard;
7 (2) did not adequately inform and train employees about their rights to meal periods and premium
8 payments for non-compliant meal periods; (3) did not adequately inform and train employees about
9 when, where and how to take timely and uninterrupted thirty-minute meal periods; (4) because
10 Defendant did not staff enough people to schedule all timely and uninterrupted thirty-minute meal
11 periods; (5) because management at various levels, affecting all hourly, non-exempt employees,
12 refused to offer, permit, or enforce a lawfully compliant meal period policy; and/or (6) because
13 Defendant unlawfully shaved and/or rounded clock in and clock out times for meal periods.
14 Plaintiff, aggrieved employees and class members were not paid a premium payment, paid as an
15 hour's wage when meal periods were not given to them in compliance with California law.

16 **SEVENTH CAUSE OF ACTION**

17 **FAILURE TO REIMBURSE FOR REQUIRED BUSINESS EXPENSES**

18 Cal. Lab. Code §§1198, 2802

19 (Plaintiff Against All Defendants)

20 75. Plaintiff incorporates by reference in this cause of action each allegation of the
21 preceding paragraphs as though fully set forth herein.

22 76. Defendant's conduct from time to time described in this complaint violates the
23 provisions of Labor Code §§ 1198, 2802.

24 77. Labor Code §2802 requires employers to indemnify employees for necessary
25 expenditures or losses incurred by employees in direct consequence of the discharge of duties.

26 78. Plaintiff, aggrieved employees and Class Members are required to use their personal
27 cell phones for work related communications, although Defendant did not reimburse them in any
28 way for the expense of their personal cell phone use as required by the Labor Code. For example,

1 Plaintiff was required to use his phone to take photos of the kitchen, dish station, and drains and
2 send those photos to management to verify that those locations were cleaned.

3 **EIGHTH CAUSE OF ACTION**

4 **PAYSTUB AND RECORD KEEPING VIOLATIONS**

5 Cal. Labor Code §§ 226, 246, 248, 1174, 1174.5

6 **(Plaintiff Against All Defendants)**

7 79. Plaintiff incorporates by reference in this cause of action each allegation of the
8 preceding paragraphs as though fully set forth herein.

9 80. Defendant's conduct described in this complaint from time to time violates the
10 provisions of Labor Code §§ 226, 246, 248, 1174, 1174.5.

11 81. Defendant knowingly and intentionally failed to provide timely, accurate, itemized
12 wage statements to Plaintiff, aggrieved employees and the Class Members in accordance with
13 Labor Code §§ 226 and keep accurate records as required by §1174(d).

14 82. §226 (a) requires:

15 A. An employer, semimonthly or at the time of each payment of wages,
16 shall furnish to his or her employee, either as a detachable part of the check,
17 draft, or voucher paying the employee's wages, or separately if wages are paid
18 by personal check or cash, an accurate itemized statement in writing showing
19 (1) gross wages earned, (2) total hours worked by the employee, except as
20 provided in subdivision (j), (3) the number of piece-rate units earned and any
21 applicable piece rate if the employee is paid on a piece-rate basis, (4) all
22 deductions, provided that all deductions made on written orders of the employee
23 may be aggregated and shown as one item, (5) net wages earned, (6) the
24 inclusive dates of the period for which the employee is paid, (7) the name of the
25 employee and only the last four digits of his or her social security number or an
26 employee identification number other than a social security number, (8) the
27 name and address of the legal entity that is the employer and, if the employer is
28 a farm labor contractor, as defined in subdivision (b) of Section 1682, the name

1 and address of the legal entity that secured the services of the employer, and (9)
2 all applicable hourly rates in effect during the pay period and the corresponding
3 number of hours worked at each hourly rate by the employee...

4 83. Such failures caused injury to Plaintiff and others, by, among other things, impeding
5 them from knowing the total hours worked and the amount of wages to which they are and were
6 entitled.

7 84. Finally, Defendant has violated Labor Code §432.5 for forcing Plaintiff, aggrieved
8 employees and Class Members to sign employment-related contracts and documents, including
9 documents that contained unlawful terms of employment.

10 **NINTH CAUSE OF ACTION**

11 **UNFAIR BUSINESS PRACTICES IN VIOLATION OF**

12 California Business and Professions Code section 17200, et seq.

13 **(Plaintiff Against All Defendants)**

14 85. Plaintiff incorporates by reference in this cause of action each allegation of the
15 preceding paragraphs as though fully set forth herein.

16 86. Defendant from time to time knowingly committed, and upon information and belief
17 continue to commit, ongoing unlawful business practices within the meaning of the UCL,
18 including, but not limited to unlawful practices as described in the causes of action articulated
19 above, and hereby incorporated herein.

20 87. Plaintiff lost money and property as a result of Defendant's unlawful business practices
21 described above.

22 88. Pursuant to the UCL, Plaintiff, aggrieved employees and all Class Members are entitled
23 to restitution of money or property acquired by Defendant by means of such unlawful business
24 practices, in amounts not yet known, but to be ascertained at trial.

25 89. Pursuant to the UCL, Plaintiff, aggrieved employees and Class Members are entitled
26 to injunctive relief against Defendant's ongoing unlawful business practices. If an injunction does
27 not issue enjoining Defendant from engaging in the unlawful business practices described above,
28 Plaintiff and the general public will be irreparably injured.

1 90. Plaintiff has no plain, speedy, and adequate remedy at law. Defendant, if not enjoined
2 by this Court, will continue to engage in the unlawful business practices described above in
3 violation of the UCL, in derogation of the rights of Plaintiff, aggrieved employees and Class
4 Members and of the general public.

5 91. Plaintiff's success in this action will result in the enforcement of important rights
6 affecting the public interest by conferring a significant benefit upon the general public.

7 92. Defendant's numerous violations of local and California law, as well as the other
8 statutory and regulatory violations alleged herein, constitute unlawful business actions and
9 practices in violation of Business and Professions Code § 17200, et seq.

10 93. Pursuant to Business and Professions Code § 17200, et seq., Plaintiff, aggrieved
11 employees and the Class Members are entitled to restitution of unpaid wages, including overtime,
12 sick pay, and premium wages, among other relief alleged herein, that were withheld and retained
13 by Defendant during a period that commences four years prior to the filing of this action. Plaintiff
14 is further entitled to a permanent injunction requiring Defendant to comply with all provisions of
15 California labor law, including properly paying the lawful rate of pay for all hours worked,
16 properly paying sick pay, providing rest periods to all workers as defined herein, timely paying
17 due wages upon termination, maintaining accurate wages statements and payroll records, in
18 addition to an award of attorneys' fees and costs pursuant to Code of Civil Procedure § 1021.5 and
19 other applicable law, and costs.

20 **TENTH CAUSE OF ACTION**

21 **STATUTORY PENALTIES PURSUANT TO PRIVATE ATTORNEYS GENERAL ACT,**

22 **Labor Code §2698 et seq.**

23 **(Plaintiff Against All Defendants)**

24 94. Plaintiff incorporates by reference in this cause of action each allegation of the
25 preceding paragraphs as though fully set forth herein.

26 95. Under the Private Attorneys General Act of 2006, Labor Code §§2698-2699.5, an
27 aggrieved employee, on behalf of themselves and other current or former employees, may recover
28 penalties under any provision of the Labor Code that provides for civil penalties. These penalties

1 are in addition to any other relief available under the Labor Code. Plaintiff is an aggrieved
2 employees under PAGA.

3 96. As set forth above, Defendant has committed numerous violations for which the Labor
4 Code provides for penalties, including violations of all applicable Labor Code provisions set forth
5 in the foregoing causes of action. Labor Code §2699.5 identifies the aforementioned Labor Code
6 provisions as statutes to which §2699.3's procedural requirements must be met before a penalty
7 may be assessed under §2699(f). Plaintiff has complied with the procedural requirements specified
8 in §2699.3 by providing written notice to the Defendant and the Labor & Workforce Development
9 Agency ("LWDA"). See Exhibit 1 attached hereto, which is a true and correct copy of the Notice
10 correspondence showing compliance with §2699.3. No notice of intent to investigate the alleged
11 violations was provided within the statutory period. Consequently, Plaintiff has exhausted
12 administrative remedies, and on behalf of themselves and all other aggrieved current and former
13 employees of Defendant. Plaintiff, therefore, now pursues this cause of action as permitted by
14 §2698, et seq.

15 97. Enforcement of statutory provisions enacted to protect workers and to ensure proper
16 and prompt payment of wages due to employees is a fundamental public interest in California.
17 Consequently, Plaintiff's success in this action will result in the enforcement of important rights
18 affecting the public interest and will confer a significant benefit upon the general public. Private
19 enforcement of the rights enumerated herein is necessary, as no public agency has pursued
20 enforcement. Plaintiff has incurred financial burden in pursuing this action and it would be against
21 the interests of justice to require payment of attorneys' fees and costs from any recover that might
22 be obtained herein, pursuant to, inter alia, Labor Code §§2698, et seq., and Code of Civil Procedure
23 §1021.5

24 98. In addition, if Plaintiff succeeds in enforcing these rights affecting the public interest,
25 then attorneys' fees may be awarded to Plaintiff and against Defendant under Code of Civil
26 Procedure §1021.5 and other applicable law in part, because:
27
28

- 1 D. That Defendant is found to have violated the above-referenced provisions of the
2 Labor Code, CCR and the IWC Wage Order as to Plaintiff, Class Members and
3 aggrieved employees;
- 4 E. For compensatory damages, in an amount according to proof at trial, with
5 interest thereon;
- 6 F. For compensation for not being paid overtime;
- 7 G. For compensation for not being paid all wages owed twice per month;
- 8 H. For compensation for not being paid minimum wage;
- 9 I. For compensation for not being paid wages due upon termination;
- 10 J. For compensation for not being provided rest breaks;
- 11 K. For compensation for not being provided timely meal periods;
- 12 L. For compensation for not being reimbursed for required business expenses;
- 13 M. For compensation for not being paid premium and penalty wages;
- 14 N. That Defendant's actions are found to be willful and/or in bad faith to the extent
15 necessary under §§ 201, 202, 203, and 558 of the California Labor Code for
16 willful failure to pay all compensation owed at the time of separation to
17 Plaintiff, aggrieved employees and Class Members no longer employed by
18 Defendant;
- 19 O. That Plaintiff, aggrieved employees and Class Members receive penalties for
20 Defendant's violation of §226 and 1174 of the California Labor Code for willful
21 failure to provide and maintain the required accurate and itemized wage
22 statements;
- 23 P. That Plaintiff, aggrieved employees and Class Members receive an award in the
24 amount of unpaid wages owed, including interest thereon, and penalties as
25 provided in the Labor Code, CCR and Wage Order, including under Labor Code
26 §§ 203, 510, and 558, subject to proof at trial;
- 27 Q. That Defendant be ordered to pay restitution to Plaintiff, aggrieved employees
28 and Class Members for amounts acquired through Defendant's unlawful

activities pursuant to Business and Professions Code §§ 17200-05 and enjoined to cease and desist from unlawful and unfair activities in violation of California Business and Professions Code § 17200 et. seq.;

R. That Plaintiff, aggrieved employees and Class Members receive an award of reasonable attorneys' fees and costs pursuant to Code of Civil Procedure §1021.5, Labor Code §226, 218.5, and 1194 and/or applicable laws;

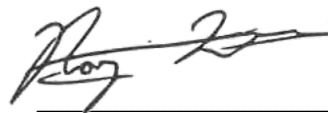
S. That the Court award penalties pursuant to Labor Code §2698 *et seq.*;

T. That the Court issue declaratory relief that Defendant's challenged policies are unlawful; and

U. That the Court order further relief, in law and equity, as it deems appropriate and just.

DATED: March 5, 2025

KOUL LAW FIRM, APC



BY: Nazo Koulloukian, Esq.
Attorneys for Plaintiff RICHARD
GARDEA and putative class members

DEMAND FOR JURY TRIAL

Plaintiff, on behalf of himself and the putative class, hereby demands trial by jury to the full extent permitted by law.

DATED: March 5, 2025

KOUL LAW FIRM, APC



BY: Nazo Koulloukian, Esq.
Attorneys for Plaintiff RICHARD
GARDEA and putative class members

EXHIBIT 1



Nazo@Koullaw.com

P (213) 761 – 5484

F (818) 561 – 3938

3435 WILSHIRE BLVD

SUITE 1710

LOS ANGELES, CA 90010

www.koullaw.com

October 15, 2024

Via E-filing:

California Labor & Workforce
Development Agency
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102

Via Certified U.S. Mail:

Favored Foods LLC
12190 Foothill Blvd
Rancho Cucamonga, CA 91739

Re: PAGA Notice Pursuant to California Labor Code §2699
Claimants: Richard Gardea
Employer: Favored Foods LLC

Dear Sir or Madam:

Claimant Richard Gardea has retained Nazo Koulloukian, Esq. of the Koul Law Firm, APC, to represent him, and all other aggrieved employees, for wage and hour claims against his former employer, Favored Foods LLC (hereafter “Employer”). Claimant worked for Employer as a cook on an hourly, non-exempt basis until January 2, 2024, at Employer’s Chick-fil-A restaurant.

Employer has violated, and/or has caused to be violated, several Labor Code provisions and is therefore liable for civil penalties under Cal. Labor Code §2698 *et seq.* We request that your agency investigate the claims alleged below or permit Claimant to seek civil penalties under the Private Attorney General Act (“PAGA”), Labor Code §2698 *et seq.*, on behalf of the Labor and Workforce and development Agency (“LWDA”) and the State of California in a representative action. This letter will serve as notice of these allegations pursuant to Cal. Lab. Code §2699.3.

Failure to Pay For All Hours Worked, Including Overtime Hours Worked

(Cal. Labor Code §§218, 510, 558, 1194, 1197, 1198, 1199, 2698 *et seq.*, Wage Order 5)

The Wage Orders define “hours worked” as “the time during which an employee is subject to the control of an employer, and including all the time the employee is suffered or permitted to work, whether or not required to do so.” Employer has been engaged in many unlawful employment practices which resulted in underpayment for hours worked each pay period, including overtime hours worked, as more fully set forth below. Employer has also failed to pay

the required minimum wage for all hours worked and has failed to pay all wages owed twice per month.

Claimant and aggrieved employees have been employed under conditions prohibited by the wage order, and thus Employer has also violated §§1198 and 1199. Employer is liable for civil penalties pursuant to Labor Code §§558 and 2699 *et seq.*

Off-the-Clock Hours Worked

Claimant and aggrieved employees frequently worked off the clock and were routinely subjected to periods wherein they were under the Employer's control but not compensated for their time. For example, Claimant and his coworkers were required to come into work thirty (30) minutes to one (1) hour before their shifts and do off-the-clock pre-shift work.

Off-the-Clock Hours Worked- Waiting in Required Lines

Claimant and aggrieved employees frequently worked off the clock and were routinely subjected to periods wherein they were under the Employer's control but not compensated for their time. Numerous employees came on shift at the same time which resulted in many employees waiting in required lines to clock in for work to use the timeclock. Claimant recalls waiting up to five (5) to ten (10) minutes each time Claimant and Claimant's coworkers were required to wait in line to clock in our out. This time spent walking and waiting in required lines was required by Employer prior to each shift and when clocking back in for lunch and was essential and required before employees could begin and/or resume working on the clock.

Failure to Pay All Wages Owed Twice Per Month

(Cal. Lab. Code §§204, 210, and 2698 *et seq.*)

Employer was required to pay Claimant and aggrieved employees all wages earned twice during each calendar month pursuant to Labor Code §204(a).

Employer failed to pay all wages earned to employees as a result of the unlawful employment policies and practices discussed herein. As a result of these practices, employees were underpaid for hours worked, including overtime and premium wages, and this underpayment resulted in a failure to pay all wages owed twice per month.

Due to these failures, Employer is liable under Labor Code §204, 210 and 2698 *et seq.* for failure to pay wages as required by law.

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Failure to Pay Minimum Wage

(Cal. Labor Code §§ 200, 218.5, 226, 558, 1194, 1194.2, 1197, 1197.2, 1198, 1199, 2698 et seq.)

Pursuant to Labor Code sections 1194, 1194.2 and 1197, it is unlawful for an employer to suffer or permit a California employee to work without paying wages at the proper minimum wage for all time worked as required by the applicable IWC Wage Order.

Employer failed to pay Claimant and aggrieved employees for all hours worked as a result of Employer's practices described above. Based on Employer's unlawful conduct described herein, and because Claimant and the aggrieved employees were paid at or near minimum wage, employer's failure to pay for all hours worked, including overtime, resulted in a payment of less than the minimum wage for all hours worked, in violation of Labor Code §1197, 1197.1, 1199 and the Wage Orders. Employer is liable for civil penalties pursuant to Labor Code §§558 and 2699 *et seq.*

Failure to Pay Wages Due Upon Termination

(Cal. Lab. Code §§201, 202, 203, 256 and 2698 *et seq.*)

An employee who is discharged must be paid all of his or her wages, including accrued vacation, immediately at the time of termination. (Labor Code Sections 201 and 227.3.) As set forth above, Employer knowingly and willfully failed to pay all compensation due and owing to Claimant at the time employment terminated.

Employer willfully failed to pay employees who are no longer employed by it all compensation due upon termination of employment as required by Cal. Lab. Code §§201 and 202. Claimant and similarly situated individuals are now entitled to recover up to thirty (30) days' pay as waiting time under the terms of §203. Moreover, Employer is liable for civil penalties pursuant to Cal. Lab. Code § 2698 *et. seq.*

Failure to Provide Rest Breaks

(Cal. Labor Code §§226, 226.7, 512, 558, 1198, 2698 *et seq.*, Wage Orders)

Employer failed to maintain a compliant rest period policy and practice that provides their employees with off-duty rest periods as required by California law. Claimant reports that employees frequently missed rest periods as a result of Employer's staffing and business practices, and that rest breaks were not scheduled into daily shifts. For example, Claimant would often miss his rest periods due to the press of work.

Rest periods were either less than ten minutes, not provided, interrupted or late, "on duty," or not scheduled before and after a meal period for shifts greater than six hours, as prescribed by California law because Employer: (1) did not account for all hours worked that were unaccounted for on their timecard; (2) did not adequately inform and train employees about their rights to rest

breaks and premium payments for non-compliant rest breaks; (3) did not adequately inform and train employees about when, where and how to take timely and uninterrupted ten-minute rest breaks; (4) because Employer did not staff enough people to schedule all timely and uninterrupted ten-minute rest breaks; and/or (5) because management at various levels, affecting all hourly, non-exempt employees, refused to offer, permit, or enforce a lawfully compliant rest break policy.

The rest period requirement obligates employers to permit and authorize employees to take off-duty rest periods, meaning employers must relieve employees of all duties and relinquish control over how employees spend their time. *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th 257, 269. Employers must pay employees an additional hour of wages at the employee's regular rate of pay for each missed or improper rest period (e.g., less than 10 minutes, interrupted rest period, rest period(s) at improper time(s) during shift(s)). Lab. Code §226.7; applicable IWC Wage Order, §12(B) ("If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this Order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the rest period is not provided"). Moreover, under California law rest periods must be a "net" ten minutes in a suitable rest area. (*Id.* at 268) (relying on January 3, 1986, and February 22, 2002 DLSE Letters wherein the DLSE ruled that the net ten-minute language for rest periods means ten minutes of time in a rest area and cannot include time it takes to get to and from the rest area). The employer must show that it clearly articulates the right to a net ten minutes, which means it must clearly communicate what "net" ten minutes means (i.e., regardless of what happens along the way to and from a rest area, employees are entitled to a full ten minutes of rest in the rest area). *Id.*; see also, *Bufile v. Dollar Fin. Grp., Inc.*, (2008) 162 Cal. App. 4th 1193, 1199 (the "onus is on the employer to clearly communicate the authorization and permission [to take rest periods] to their employees.").

Employer did not authorize or permit all of its hourly employees to take at least a ten-minute rest period in which they were relieved of all duties, for every 4 hours of work, or major fraction thereof, as required by Cal. Lab. Code §226.7, §512 and the Wage Orders. When breaks were missed Employer failed to pay the 1-hour penalty, as required. Because Employer violated the Wage Order, Employer is liable under Labor Code §1198. As a result of these violations, Employer is liable for civil penalties pursuant to Cal. Labor Code §2698 et. seq.

Failure to Provide Timely Meal Breaks

(Cal. Labor Code §§226 (a), 226.7, 512, 558, 1198, 2698 et seq., Wage Order)

Labor Code §512 provides, "[a]n employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes..." Labor Code §226.7(a) provides, "[n]o employer shall require an employee to work during any meal... period mandated by an applicable order of the Industrial Welfare Commission." Paragraph 11 of the Wage Order provides, in pertinent part, "[u]nless an employee

is relieved of all duty during a 30-minute meal period, the meal period shall be considered an ‘on duty’ meal period and counted as time worked.”

Employer failed to permit Claimant and others to take timely, off-duty, meal breaks of “not less than 30 minutes” for each five consecutive hours of work in violation of Labor Code §§226.7 and 512. Employer failed to pay all penalty pay to Claimant or aggrieved employees for noncompliant meal periods. As a derivative claim, Claimant alleges that pay statements were inaccurate, failing to include required meal period penalties, thus failing to meet the requirements of Labor Code §226(a). As a result of these violations, Employers are liable for civil penalties pursuant to Cal. Labor Code §558 and §2698 *et. seq.*

In this case, Claimant and Claimant’s coworkers frequently missed their meal periods due to the press of work. Employees needed to be relieved from their position in order to take a meal break and employer failed to adequately staff employees to permit breaks.

Full, uninterrupted, off-duty, thirty-minute meal periods were not provided because Employer: (1) did not account for all hours worked that were unaccounted for on their timecard; (2) did not adequately inform and train employees about their rights to meal periods and premium payments for non-compliant meal periods; (3) did not adequately inform and train employees about when, where and how to take timely and uninterrupted thirty-minute meal periods; (4) because Employer did not staff enough people to schedule all timely and uninterrupted thirty-minute meal periods; (5) because management at various levels, affecting all hourly, non-exempt employees, refused to offer, permit, or enforce a lawfully compliant meal period policy; and/or (6) because Employer unlawfully shaved and/or rounded clock in and clock out times for meal periods. Employees were not paid a premium payment, paid as an hour’s wage when meal periods were not given to them in compliance with California law.

Failure to Reimburse For Required Business Expenses

(Cal. Labor Code §§1198, 2802, 2699 *et seq.*)

Labor Code §2802 requires employers to indemnify employees for necessary expenditures or losses incurred by employees in direct consequence of the discharge of duties. Accordingly, Employers are liable for civil penalties under PAGA §2699 *et seq.*

Claimant and aggrieved employees are required to use their personal cell phones for work related communications, although Employer did not reimburse them in any way for the expense of their personal cell phone use as required by the Labor Code. For example, Claimant was required to use his phone to take photos of the kitchen, dish station, and drains and send those photos to management to verify that those locations were cleaned.

Failure to Provide Accurate Itemized Wage Statements & Violation of Record Keeping Requirements

(Cal. Labor Code §§ 226, 246, 248, 1174, 1174.5, 2699 *et seq*)

Employer knowingly and intentionally failed to provide timely, accurate, itemized wage statements to Claimant and the aggrieved employees in accordance with Labor Code §§ 226 and keep accurate records as required by §1174(d).

§226 (a) requires:

An employer, semimonthly or at the time of each payment of wages, shall furnish to his or her employee, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately if wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except as provided in subdivision (j), (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) 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, (8) the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee...

Such failures caused injury to Claimant and others, by, among other things, impeding them from knowing the total hours worked and the amount of wages to which they are and were entitled. Employer knowingly and intentionally failed to accurately list all the items described above. Employer is liable for civil penalties pursuant to Labor Code § 2698 *et seq*.

Finally, Employer has violated Labor Code §432.5 for forcing Claimant and aggrieved employees to sign employment-related contracts and documents, including documents that contained unlawful terms of employment.

Conclusion

Employer has violated a number of California wage and hour laws. Claimant respectfully requests that the agency investigate the above allegations and hereby provides notice of the allegations pursuant to PAGA's provisions. Alternatively, Claimant requests that the agency inform him if it does not intend to investigate these violations so that he may pursue his claims as a representative action in civil court.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Nazo Koulloukian', with a stylized flourish extending to the right.

Nazo Koulloukian, Esq.
Attorneys for Claimant

PROOF OF SERVICE

Case No. CIVRS2401557
Gardea v. Favored Foods LLC

I, NADIA CHAVEZ declare that I am a resident of or employed in the County of Los Angeles, California. I am over the age of 18 years and not a party to the entitled case. The name and address of my residence or business is KOUL LAW FIRM, 217 South Kenwood Street, Glendale, California 91205

On March 5, 2025, I served the foregoing document described as:

FIRST AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT

 X **BY E-MAIL:** I hereby certify that this document was served from Glendale, California, by e-mail delivery on the parties listed herein at their most recent known e-mail address from e-mail nadia@koullaw.com pursuant to California Rules of Court. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

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:

Joshua B. Wagner
Paul D. Harshaw
GORDON REES SCULLY MANSUKHANI, LLP
633 W. 5th Street, 52 Floor
Los Angeles, CA 90071
jwagner@grsm.com
pharshaw@grsm.com
rgbrown@grsm.com
lmonroe@grsm.com

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on this March 5, 2025, in Glendale, California.



NADIA CHAVEZ