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Superior Court of California,
County of Alameda

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ALAMEDA

EDIN AVILA,

Plaintiff,

vs.

BAKERY STREET, INC.; AARON CHUA;
and DOES 1 to 25, inclusive,

Defendants.

) CASE NO.: 25CV117542

) **COMPLAINT FOR DAMAGES FOR:**

) **1) FAILURE TO COMPENSATE FOR**
) **ALL HOURS WORKED;**

) **2) FAILURE TO PAY MINIMUM**
) **WAGES;**

) **3) FAILURE TO PAY OVERTIME;**

) **4) FAILURE TO PROVIDE**
) **ACCURATE ITEMIZED WAGE**
) **STATEMENTS;**

) **5) FAILURE TO PAY WAGES OWED**
) **EVERY PAY PERIOD;**

) **6) FAILURE TO PAY WAGES WHEN**
) **EMPLOYMENT ENDS;**

) **7) FAILURE TO PROVIDE REST**
) **BREAKS;**

) **8) FAILURE TO PROVIDE MEAL**
) **BREAKS;**

) **9) FAILURE TO REIMBURSE**
) **BUSINESS EXPENSES;**

) **10) PRIVATE ATTORNEYS GENERAL**
) **ACT ("PAGA")**

) **11) FAILURE TO MAINTAIN SAFE**
) **WORKPLACE (VIOLATIONS OF**
) **LABOR CODE SECTION 6400 ET**
) **SEQ.)**

) **12) NEGLIGENT FAILURE TO**
) **MAINTAIN SAFE WORKPLACE**

1) **13) WRONGFUL CONSTRUCTIVE**
2) **DISCHARGE IN VIOLATION OF**
3) **PUBLIC POLICY;**
4) **14) VIOLATION OF BUSINESS AND**
5) **PROFESSIONS CODE SECTION**
6) **17200**

7) **JURY TRIAL DEMANDED**
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COMES NOW Plaintiff, EDIN AVILA (hereinafter "Plaintiff"), and alleges as follows:

PARTIES, JURISDICTION, and VENUE

1. Jurisdiction and Venue are proper in this Court and this action is properly filed in the County of Alameda in this judicial district because Defendants BAKERY STREET, INC. and AARON CHUA, and DOES 1 to 25, inclusive (hereinafter collectively "BAKERY STREET" or "Defendant(s)") do business in the County of Alameda, and because Defendants' obligations and liabilities arise therein, and because the work that was performed by Plaintiff in the County of Alameda is the subject of this action. Moreover, Plaintiff's damages sought herein exceed \$35,000.

2. Plaintiff is a male resident of the County of Alameda, State of California.

3. Plaintiff is informed and believes that at all times herein mentioned, Defendant BAKERY STREET, INC. is a California corporation, doing business in the County of Alameda, State of California, and which employed Plaintiff.

4. Plaintiff is informed and believes that at all times herein mentioned, Defendant AARON CHUA was and is the owner, managing agent, and/or managing director of BAKERY STREET, INC. and controlled Plaintiff's wages, hours, and/or working conditions. Defendants BAKERY STREET, INC. and AARON CHUA are collectively referred to herein as "Defendant(s)" (unless otherwise noted) or "BAKERY STREET".

5. At all times mentioned herein and at all times material hereto, each of the defendants named in this Complaint was the agent, employee, partner, and joint venturer of each of the other

1 defendants named and mentioned herein, and was acting within the course and scope of, and in
2 furtherance of, said agency, employment, partnership and joint venture described herein.
3 Plaintiff is further informed and believes, and upon such information and belief alleges, that at
4 all times herein mentioned, each of the Defendants gave consent to, ratified and authorized the
5 acts alleged herein and each of his, or its co-Defendants.

6 6. Plaintiff is ignorant of the true names and capacities, whether individual, corporate, or
7 associate of those defendants fictitiously sued as DOES 1 to 25, inclusive, and so Plaintiff sues
8 them by these fictitious names. Plaintiff is informed and believes that each of the DOE
9 defendants, numbers 1 to 25, reside in the State of California and are in some manner responsible
10 for the conduct alleged herein. Upon discovering the true names and capacities of these
11 fictitiously named defendants, Plaintiff will amend this complaint to show the true names and
12 capacities of these fictitiously named defendants.

13 7. Unless otherwise alleged in this complaint, Plaintiff is informed, and on the basis of
14 that information and belief, alleges that at all times herein mentioned, each of the remaining
15 codefendants, in doing the things hereinafter alleged, were acting within the course, scope, and
16 under the authority of their agency, employment, or representative capacity, with the consent of
17 his/her codefendants.

18 **GENERAL ALLEGATIONS**

19 8. Plaintiff started working at BAKERY STREET on or around 2023 as a dishwasher.
20 Plaintiff is and was classified as an hourly, non-exempt employee. Plaintiff's last rate of pay
21 was around \$16.50 per hour. Plaintiff's employment ended on or around June or July 2024 as
22 he was forced to quit his employment.

23 9. It is Plaintiff's position that due to personally suffering the below violations, Plaintiff
24 can equivocally bring the following labor code violations on behalf of all other employees,
25 including ALL hourly, non-exempt employees who worked for BAKERY STREET anywhere
26 in the state of California (at all different locations) during the relevant PAGA period.

27 10. It is Plaintiff's position that BAKERY STREET has violated the following Labor Code
28 Sections against Plaintiff and other similarly situated aggrieved employees, who include all
non-exempt, hourly employees who worked for BAKERY STREET at their various locations

1 in the State of California during the relevant PAGA period.

2 11. BAKERY STREET violated Labor Code § 1194, 1194.2, 1197, and 1197.1 because it
3 failed to pay Plaintiff and other similarly situated aggrieved employees for all hours worked,
4 including the statutory minimum wage for all hours worked and for “off the clock” work. This
5 is so because BAKERY STREET had a company policy wherein they would disproportionately
6 round down the number of hours worked, resulting in “time shaving” and further resulting in
7 aggrieved employees not being paid for all hours worked. In fact, one look at Plaintiff’s paystubs
8 indicates that the company had a rounding policy wherein they would round work hours to the
9 nearest quarter hour as opposed to recording accurate time. Moreover, BAKERY STREET failed
10 to provide its employees with proper and accurate reporting time pay.

11 12. Due to the above “off the clock” violations, BAKERY STREET also violated Labor
12 Code §510 because it failed to pay Plaintiff and other aggrieved employees overtime
13 compensation, even though they worked more than 8 hours per day, 12 hours per day, and/or 40
14 hours per week throughout their employment. Plaintiff’s and other aggrieved employees’ actual
15 work hours entitled them to overtime compensation, however, BAKERY STREET did not
16 compensate its hourly, non-exempt employees with the correct amount of overtime due to the
17 “off the clock” work and time shaving as described above. Plaintiff and others would be entitled
18 to overtime because they would work Saturday shifts, however, the company had a policy
19 wherein they would not pay weekly overtime, despite the fact that Plaintiff and others worked
20 on Saturdays. Furthermore, Plaintiff did receive bonuses based on performance and BAKERY
21 STREET failed to include bonuses/incentive payments/shift differentials in calculating
22 employees’ regular rate of pay for use in deciphering the correct overtime rate of pay.
23 Additionally, the incentive, shift differential, and bonus payments were also not factored into
24 employees’ regular rate for purposes of receiving meal and rest break premiums per the Ferra v.
Loews case.

25 13. BAKERY STREET also violated Labor Code § 226.7 and the appropriate Industrial
26 Welfare Commission Wage Order no. 1/4/7 because it failed to provide Plaintiff and other
27 similarly situated aggrieved employees with 10-minute rest periods for every four hours of work,
28 or majority portion thereof, throughout their employment. BAKERY STREET did not

1 completely relieve Plaintiff and others of all duty during said rest periods. BAKERY STREET
2 did not pay to Plaintiff and others one additional hour of pay at Plaintiff's regular rate of
3 compensation for each workday that one or more statutory rest periods was not provided.
4 Plaintiff and others did not always and consistently receive timely, uninterrupted rest breaks
5 throughout their employment. As such, the culture as well as the policies and procedures of
6 BAKERY STREET did not lend itself to the employees receiving consistent statutory rest breaks
7 wherein they were relieved of all work duties.

8 14. BAKERY STREET violated Labor Code §§ 512 and 226.7 and the appropriate
9 Industrial Welfare Commission Wage Order no. 1/4/7 because it failed to provide hourly, non-
10 exempt employees, including Plaintiff and others, the requisite 30-minute, uninterrupted meal
11 periods for every five (5) hours of work throughout their employment. BAKERY STREET did
12 not completely relieve Plaintiff and other employees of all duty during said meal
13 periods. BAKERY STREET did not pay to Plaintiff and its hourly, non-exempt employees one
14 additional hour of pay at their regular rate of compensation for each workday that one or more
15 statutory meal periods was not provided. Like the rest breaks, receiving a consistent thirty-
16 minute uninterrupted and timely meal break before the 5th hour did not always happen. In fact,
17 it was commonplace for Plaintiff and others to take their meal breaks late and after the 5th hour
18 worked. Consequently, it was the normal practice and custom of BAKERY STREET not to
19 consistently authorize, permit, and enforce timely, statutory meal periods. If BAKERY STREET
20 had Plaintiff sign a meal period waiver, it would not be valid and enforceable since Plaintiff and
21 others generally worked more than a 5-hour shift. Furthermore, under California law, however,
22 employees must make an affirmative decision every day regarding whether to waive their meal
23 periods. August 13, 2003 DLSE Opinion Letter ("The decision to forego a meal period may not,
24 therefore, be based on a specific requirement of the employer or on a policy or practice which
25 could reasonably be perceived to be a condition of employment. Therefore, blanket "waivers" of
26 meal periods ...whether written or oral, will not be considered valid."). If BAKERY STREET
27 had Plaintiff sign an on-duty meal period agreement wherein Plaintiff agreed to work through
28 the meal periods, it would be invalid and unenforceable because the nature of Plaintiff's job does
not and did not prevent him from taking a meal period and the company could have hired

1 “breakers” to relieve Plaintiff of his job duties so that he can actually take a timely, uninterrupted
2 meal period. Moreover, any such “on duty” meal period agreement did not allow for Plaintiff to
3 revoke such an agreement even if it was signed. As such, Plaintiff and others did not always
4 receive statutory, timely meal periods during their employment. To the extent that BAKERY
5 STREET argues that employees receive meal break premium pay for missed meal periods, that
6 argument is inconsequential for PAGA penalty purposes since the PAGA penalties are for the
7 violations themselves, irrespective of whether an employee received the premium payment for a
8 missed, short, or interrupted meal period. In *Kirby v. Immoos Fire Protection, Inc.*, the Court
9 stated, “section 226.7 does not give employers a lawful choice between
10 providing *either* meal and rest breaks *or* an additional hour of pay.” See *Kirby v. Immoos Fire*
11 *Protection, Inc.*, (2012) 53 Cal.4th 1244, 1256 (emphasis in original). Thus, the extra hour of
12 pay does not excuse the violation; the employer has still committed a violation even if the remedy
13 for the violation has been paid. See *Wert v. U.S. Bancorp*, (S.D. Cal. Mar. 22, 2016, 2016 WL
14 1110302 at *4). As such, the work environment and culture at BAKERY STREET was not
15 conducive to receiving consistent, timely, statutory meal breaks under California law. Moreover,
16 any meal or rest break premiums paid were not compensated at the weighted average regular
17 rate, inclusive of bonuses and/or incentive payments as well as overtime compensation.

18 15. Furthermore, during the relevant time period, and due to the above labor code
19 violations, BAKERY STREET failed to pay Plaintiff and other similarly situated aggrieved
20 employees all wages due to them within any time period specified by California Labor Code
21 section 204. Since Plaintiff was not compensated for his “off the clock” work and since Plaintiff
22 did not receive proper and complete meal and rest break premiums, Plaintiff would still be owed
23 wages pursuant to Labor Code Section 204. BAKERY STREET was also in violation of
24 California Labor Code section 226(a) by failing to include pertinent information on the wage
25 statements, including but not limited to, the correct hourly rate, all hours worked, overtime hours
26 worked, correct overtime pay, gross wages earned, net wages earned, premium pay for missed
27 meal and rest breaks, all deductions, the correct start and end of the pay period, all employee
28 identifying information, the correct and complete name and address of the legal employer, and
reimbursement for business expenses, among others. As such, BAKERY STREET did not

1 provide Plaintiff and other similarly situated aggrieved employees with complete, accurate
2 itemized wage statements.

3 16. During the relevant time period, BAKERY STREET also failed to keep accurate and
4 complete payroll records showing the actual hours worked per day and the wages paid to Plaintiff
5 and others pursuant to California Labor Code sections 1174(d).

6 17. BAKERY STREET also violated Labor Code § 203 because it willfully failed to pay
7 Plaintiff and other similarly situated aggrieved employees earned and due wages upon separation
8 of employment, either immediately upon involuntary termination, or within 72 hours of
9 resignation. These earned but unpaid wages include compensation for all hours worked,
10 including minimum wages, overtime compensation, and premium pay for missed meal and rest
11 breaks.

12 18. During the relevant time period, Plaintiff and other aggrieved employees incurred
13 necessary, business-related expenses and costs that were not reimbursed by BAKERY STREET.
14 These costs include, but are not limited to, boots and a protective suit that Plaintiff had to
15 purchase in order to try to protect himself from the harmful chemicals. Accordingly, BAKERY
16 STREET was in violation of California Labor Code sections 2800 and 2802.

17 19. Furthermore, BAKERY STREET did not provide proper and correct/accurate sick pay
18 (inclusive of all bonuses/shift differentials/incentive payments) that was also delineated on
19 employee pay stubs and also failed to provide proper sick leave in violation of Labor Code
20 sections 233 and 246. Moreover, there were no suitable seating/rest break facilities for the
21 employees pursuant to Wage Order no. 1-2001/4-2001/7-2001 as employees did not have a
22 designated break area.

23 20. In addition, Plaintiff would have individual claims for wrongful constructive discharge
24 in that Plaintiff was forced to quit his employment due to the dangerous work environment.
25 Plaintiff started to get physically ill from the harmful chemicals he was working with and must
26 have brought up the issue to his boss at least 10 times.

27 21. In fact, Plaintiff had to go to the hospital in January 2024 due to the effects on his
28 health. Plaintiff reported the fact that he was getting ill to his boss, but his boss did not care about
Plaintiff's physical well-being. Plaintiff's doctor had advised him NOT to continue working with

1 those chemicals after January 2024 and Plaintiff informed his boss of this, however, it did not
2 matter.

3 22. Plaintiff was forced to continue working with the harmful chemicals until he literally
4 could not take it anymore and was forced to quit.

5 **FIRST CAUSE OF ACTION**

6 **FAILURE TO COMPENSATE FOR ALL HOURS WORKED**

7 **(California Industrial Welfare Commission Order 1-2001/4-2001/7-2001, California Code**
8 **of Regulations Title 8 Section 11010/11040/11070, and California Labor Code Section**
9 **1198)**

10 **(Plaintiff against all named defendants and all DOE defendants)**

11 23. Plaintiff re-alleges and incorporates by reference each and every allegation in
12 paragraphs 1 through 22, inclusive, of this Complaint as though fully set forth herein.

13 24. At all times relevant herein, Defendants were required to compensate its employees for
14 all hours worked upon reporting for work at the appointed time stated by the employer
15 pursuant to Industrial Welfare Commission Order 1-2001/4-2001/7-2001, California Code of
16 Regulations, Title 8, Section 11010/11040/11070.

17 25. For the three (3) years preceding filing of this action, Defendants failed to compensate
18 Plaintiff for all hours worked.

19 26. Under the aforementioned wage order and regulations, Plaintiff is to recover
20 compensation for all hours worked but not paid by Defendants for the three (3) years
21 preceding the filing of this Complaint.

22 27. As a proximate result of the aforementioned violations, Plaintiff has been damaged in
23 an amount according to proof at time of trial, but in an amount in excess of the jurisdiction of
24 this Court.

25 28. Defendants' conduct described herein violates Labor Code Section 512, 558, 1194, and
26 1198. Therefore, pursuant to Labor Code Sections 218.5, 512, 558, and 1194, Plaintiff is
27 entitled to recover damages for the nonpayment of wages for all hours worked, penalties, plus
28 reasonable attorney's fees and costs of suit.

29. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged

1 along with any allowable interest, penalties, attorney's fees, and costs which will equal an
2 amount known to Plaintiff once he has obtained all of his payroll records from
3 Defendants.

4 **SECOND CAUSE OF ACTION**

5 **FAILURE TO PAY MINIMUM WAGES**

6 **(California Labor Code Sections 1194, 1194.2, 1197)**

7 **(Plaintiff against all named defendants and all DOE defendants)**

8 30. Plaintiff re-alleges and incorporates by reference each and every allegation in
9 paragraphs 1 through 29, inclusive, of this Complaint as though fully set forth herein.

10 31. Pursuant to Labor Code Sections 1194, 1194.2 and 1197, it is unlawful for an employer
11 to suffer or permit a California employee to work without paying wages at the minimum wage
12 rate for all hours worked as required by the applicable Industrial Welfare Commission
13 (hereinafter "IWC") Wage Order No. 1-2001/4-2001/7-2001, codified at California Code of
14 Regulations, Title 8, Section 11010/11040/11070, subdivision 4.

15 32. Pursuant to IWC Wage Order no. 1-2001/4-2001/7-2001, subdivision 2(K)/(H), at all
16 relevant times, "hours worked" included "the time during which an employee is subject to the
17 control of an employer, and includes all the time the employee is suffered or permitted to work,
18 whether or not required to do so..."

19 33. During his employment, Plaintiff was regularly required as a matter of uniform policy
20 and practice to work, and in fact worked, as an employee of Defendants and Plaintiff was paid
21 less than the minimum wage rate by Defendants for hours worked in violation of California
22 Labor Code Section 1197 and the applicable California Industrial Wage Commission wage
23 order(s).

24 34. Plaintiff was, at all relevant times, under the control of Defendants and suffered or
25 permitted to work by Defendants. Defendants' acts or omissions in failing to adequately
26 compensate Plaintiff were not in good faith nor were there reasonable grounds for Defendants
27 to believe that their acts or omissions were not contrary to California law.

28 35. For all hours worked by Plaintiff for which he was paid less than the minimum wage
rate by Defendants, Plaintiff is entitled to not less than the applicable California minimum

1 wage rate and, pursuant to Labor Code Section 1194.2(a), liquidated damages in an amount
2 equal to unpaid minimum wages and interests thereon. Pursuant to Labor Code Section 1194,
3 Plaintiff is also entitled to attorney's fees, costs and interests according to proof.

4 36. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
5 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
6 trial.

7 **THIRD CAUSE OF ACTION**

8 **FAILURE TO PAY OVERTIME**

9 **(California Industrial Welfare Commission Order 1-2001/4-2001/7-2001, California Code
10 Of Regulations Title 8 Section 11010/11040/11070; California Labor Code Section 510)**

11 **(Plaintiff against all named defendants and all DOE defendants)**

12 37. Plaintiff re-alleges and incorporates by reference each and every allegation in
13 paragraphs 1 through 36, inclusive, of this Complaint as though fully set forth herein.

14 38. Pursuant to Industrial Welfare Commission Order No. 1-2001/4-2001/7-2001, Cal.
15 Code of Regs., Title 8, Section 11010/11040/11070, for the period of Plaintiff's employment,
16 Defendants were required to compensate Plaintiff for all overtime, which is calculated at one
17 and one-half (1.5) times the regular rate of pay for hours worked in excess of eight (8) in a day
18 or forty (40) hours in a week, and two (2) times the regular rate of pay for hours worked in
19 excess of twelve (12) hours in a day or hours worked in excess of eight (8) on the seventh
20 consecutive work day in a week.

21 39. Plaintiff was a non-exempt employee entitled to the protections of the California
22 Industrial Welfare Commission Order No. 1-2001/4-2001/7-2001, California Code of
23 Regulations, Title 8, Section 11010/11040/11070.

24 40. Plaintiff worked more than eight (8) hours in a single workday, twelve (12) hours in a
25 single workday or forty (40) hours in a single workweek on numerous occasions.

26 41. Plaintiff was entitled to the above overtime premiums.

27 42. Defendants did not pay Plaintiff premium wages of at least one and one-half times
28 Plaintiff's regular rate of pay for hours worked past eight (8) in a day. Defendants did not pay
Plaintiff premium wages of at least twice Plaintiff's regular rate of pay for hours worked past

1 twelve (12) in a day.

2 43. Defendants did not pay Plaintiff premium wages of at least one and one-half times
3 Plaintiff's regular rate of pay for hours worked past forty (40) in a week.

4 44. Plaintiff worked at least one pay period in which he was not properly paid overtime
5 within the three (3) years prior to the initiation of this lawsuit.

6 45. Defendants know or should know the actual dates of overtime worked, the amount of
7 overtime worked, and the amount of unpaid overtime due.

8 46. As a proximate result of Defendants' violations, Plaintiff has been damaged in an
9 amount according to proof at time of trial, but in an amount in excess of the jurisdiction of this
10 Court.

11 47. Pursuant to California Labor Code Sections 218.6, 510, 1194, and California Code of
12 Regulations, Title 8, Sections 11010/11040/11070, Plaintiff is entitled to recover damages for
13 the nonpayment of overtime premiums for all overtime hours worked, penalties, interest, plus
14 reasonable attorney's fees and costs of suit.

15 48. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
16 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
17 trial.

18 **FOURTH CAUSE OF ACTION**

19 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

20 **(California Labor Code Section 226)**

21 **(Plaintiff against all named defendants and all DOE defendants)**

22 49. Plaintiff re-alleges and incorporates by reference each and every allegation in
23 paragraphs 1 through 48, inclusive, of this Complaint as though fully set forth herein.

24 50. Pursuant to California Labor Code Section 226, every employer must furnish each
25 employee an itemized statement of wages and deductions at the time of payment of wages.

26 51. Defendants knowingly and intentionally did not furnish Plaintiff with any pay stubs that
27 accurately reflected all information required by Labor Code Section 226, including but not
28 limited to, gross wages earned, including overtime, minimum wages, and premium pay for
missed meal and rest breaks, net wages earned, total hours worked by the employee, and all

1 deductions. Therefore, Defendants failed to maintain and provide accurate itemized wage
2 statements to Plaintiff in accordance with California Labor Code Section 226(a).

3 52. Pursuant to California Labor Code Section 226(e), Plaintiff is entitled to recover the
4 greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation
5 occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay
6 period, not exceeding an aggregate amount of four thousand dollars (\$4,000), plus costs and
7 reasonable attorney's fees.

8 53. As a direct and proximate result of Defendants' unlawful conduct, Plaintiff has
9 sustained damages, including loss of earnings, in an amount to be established at trial. As a
10 further direct and proximate result of Defendants' unlawful conduct, as set forth herein,
11 Plaintiff is entitled to recover penalties, in an amount to be established at trial, as well as costs
12 and attorney's fees pursuant to statute.

13 54. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
14 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
15 trial.

16 **FIFTH CAUSE OF ACTION**

17 **FAILURE TO PAY WAGES OWED EVERY PAY PERIOD**

18 **(California Labor Code Section 204)**

19 **(Plaintiff against all named defendants and all DOE defendants)**

20 55. Plaintiff re-alleges and incorporates by reference each and every allegation in
21 paragraphs 1 through 54, inclusive, of this Complaint as though fully set forth herein.

22 56. California Labor Code Section 204 establishes the fundamental right of all employees
23 in the State of California to be paid wages in a timely fashion for their work.

24 57. At all times relevant during the liability period, Defendants failed to pay Plaintiff the
25 full amount of all owed wages when due as required by California Labor Code Section 204.

26 58. Defendants failed to pay Plaintiff all wages earned each pay period. Plaintiff is
27 informed, believes, and thereon alleges, that all times relevant during the liability period,
28 Defendants maintained a policy or practice of not paying Plaintiff wages for all hours worked,
including overtime hours, the minimum wage, and premium pay for missed meal and rest

breaks.

59. As a result of Defendants' unlawful conduct, Plaintiff has suffered damages in an amount, subject to proof, to the extent he was not paid all wages each pay period. The precise amount of unpaid wages is not presently known to Plaintiff but can be determined directly from Defendants' records or indirectly based on information from Defendants' records.

60. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged along with any allowable interest, penalties, attorney's fees, and costs according to proof at trial.

SIXTH CAUSE OF ACTION

FAILURE TO PAY WAGES WHEN EMPLOYMENT ENDS

(California Labor Code Sections 201, 203)

(Plaintiff against all named defendants and all DOE defendants)

61. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1 through 60, inclusive, of this Complaint as though fully set forth herein.

62. Pursuant to California Labor Code Section 201(a), an employer who discharges an employee must immediately pay for all compensation due and owing.

63. Pursuant to California Labor Code Section 202, when an employee resigns, the employer must pay all compensation due and owing within 72 hours of resignation, or on the employee's last day of work, if the employee gives more than 72 hours notice of resignation.

64. Pursuant to California Labor Code Section 203, if an employer willfully fails to pay, without abatement or reduction, any wages of an employee whose employment ends, the wages of the employee shall continue as a penalty from the due date at the same rate until paid or until an action is commenced; however, the wages shall not continue for more than 30 days for failure to pay an employee owed wages.

65. After Plaintiff's employment with Defendants ended, Defendants willfully refused and continue to refuse to pay him unpaid wages as required by Labor Code Section 203.

66. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged along with any allowable interest, penalties, attorney's fees, and costs according to proof at

1
2 trial. Moreover, Plaintiff prays for the above-mentioned money from 3 years immediately
3 preceding the filing of this lawsuit.

4 67. Under this cause of action, Plaintiff also prays for attorney's fees and costs under
5 California Labor Code Section 218.5 for time spent pursuing the non-payment of wages as set
6 forth herein. Plaintiff also prays for interest under California Labor Code Section 218.6.

7 68. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
8 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
9 trial.

10 **SEVENTH CAUSE OF ACTION**

11 **FAILURE TO GIVE REST BREAKS**

12 **(Plaintiff against all named defendants and all DOE defendants)**

13 69. Plaintiff re-alleges and incorporates by reference each and every allegation in
14 paragraphs 1 through 68, inclusive, of this Complaint as though fully set forth herein.

15 70. Plaintiff brings this cause of action under the following laws, for the following reasons:

- 16 a. Title 8 of the California Code of Regulations Sections 11010/11040/11070(12)(A),
17 which provides that every employer shall authorize and permit all employees to take
18 rest periods, which insofar as practicable shall be in the middle of each work period.
19 The authorized rest period time shall be based on the total hours worked daily at the
20 rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof;
- 21 b. Title 8 of the California Code of Regulations Sections 11010/11040/11070(12)(B),
22 which provides that if an employer fails to provide an employee a rest period in
23 accordance with the applicable provisions of this order, the employer shall pay the
24 employee one (1) hour of pay at employee's regular rate of compensation for each
25 workday that the rest period is not provided;
- 26 c. Title 8 of the California Code of Regulations sections 11010/11040/11070(20)(A),
27 which penalizes the employer \$50.00 for each initial violation, per employee, of any
28 provision of the Wage Order, and \$100.00 for each additional violation thereafter per
employee; and

1 d. California Labor Code section 226.7, which states that (a) no employer shall require
2 any employee to work during any rest period mandated by an applicable order of the
3 Industrial Welfare Commission, and (b) if an employer fails to provide an employee
4 a rest period in accordance with an applicable order of the Industrial Welfare
5 Commission, the employer shall pay the employee one (1) additional hour of pay at
6 employee's regular rate of compensation for each work day that the rest period is not
7 provided.

8 71. Plaintiff alleges that he was not authorized and permitted to take a ten (10) minute
9 rest break after every four (4) hours of work or major fraction thereof, as required by California
10 law.

11 72. Under this cause of action, Plaintiff prays for wages due to him under the statutes,
12 regulations, and wage orders alleged in this cause of action along with any allowable interest,
13 penalties, attorney's fees and costs according to proof at trial. Specifically, Plaintiff prays for the
14 foregoing moneys calculated from 3 years immediately preceding the filing of this lawsuit.

15 73. Plaintiff also prays for Labor Code section 218.5 recovery of costs and attorney's
16 fees as well as interest under Labor Code section 218.6.

17 74. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
18 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
19 trial.

20 **EIGHTH CAUSE OF ACTION**

21 **FAILURE TO GIVE MEAL BREAKS**

22 **(Plaintiff against all named defendants and all DOE defendants)**

23 75. Plaintiff re-alleges and incorporates by reference each and every allegation in
24 paragraphs 1 through 74, inclusive, of this Complaint as though fully set forth herein.

25 76. Plaintiff brings this cause of action under the following laws, for the following reasons:

- 26 a. California Labor Code section 512(a), which requires that employees be given a 30-
27 minute uninterrupted meal break after five (5) hours of work, and a second
28 uninterrupted meal break after ten (10) hours of work;
- b. California Labor Code section 226.7, which states that (a) no employer shall require

any employee to work during any meal period mandated by an applicable order of the Industrial Welfare Commission, and (b) if any employer fails to provide an employee a meal period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one (1) additional hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided;

- c. California Industrial Welfare Commission Order No. 1/4/7 section 11(B), as codified under Title 8 of the California Code of Regulations Section 11010/11040/11070, which states that if an employer fails to provide an employee a meal period in accordance with the applicable provisions of the Wage 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 meal period is not provided;
- d. California Industrial Welfare Commission Wage Order No. 1/4/7 Section 7(A)(3), as codified under Title 8 of the California Code of Regulations Section 11010/11040/11070, which requires an employer to maintain records documenting its employees' meal periods;
- e. California Industrial Welfare Commission wage order No. 1/4/7 Section 20(A), as codified under California Code of Regulations Section 11010/11040/11070, which penalizes the employer \$50.00 for each initial violation, per employee, of any provision of the Wage Order, and \$100.00 for each additional violation thereafter per employee; and
- f. California Labor Code section 1171 and 1173, which have given the California Labor Commission jurisdiction to enact Wage Orders (such as Wage Order no. 1, 4, and 7) as enforceable law.

77. Plaintiff alleges that he was not authorized and permitted to take relieved meal breaks after five (5) hours of work. Plaintiff further alleges that he was not authorized and permitted to take a second relieved meal break after ten (10) hours of work, as required by California law. California Labor Code section 512(a) and California Industrial Welfare Commission Order No. 1/4/7, as codified under California Code of Regulations Sections 11010/11040/11070 et. seq.

1 requires that employees receive uninterrupted meal periods every five (5) hours of consecutive
2 work, and that the meal period be at least 30 minutes in length, wherein employee is relieved of
3 all work duty. California Labor Code section 226.7 provides that employers may not require
4 their employees to work through their meal periods. California Labor Code section 226.7 and
5 California Code of Regulations section 11010/11040/11070 requires that if the employer fails to
6 provide the employee with an uninterrupted meal period, the employer must pay the employee
7 one (1) hour of pay for each work day that the meal period is not given.

8 78. Under this cause of action, Plaintiff prays for wages due to him under the statutes,
9 regulations, and wage orders alleged in this cause of action along with any allowable interest,
10 penalties, attorney's fees and costs according to proof at trial. Specifically, Plaintiff prays for
11 the foregoing moneys calculated from 3 years immediately preceding the filing of this lawsuit.

12 79. Plaintiff also prays for Labor Code section 218.5 recovery of costs and attorney's
13 fees as well as interest under Labor Code section 218.6.

14 80. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
15 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
16 trial.

17 **NINTH CAUSE OF ACTION**

18 **FAILURE TO REIMBURSE FOR BUSINESS EXPENSES**

19 **(Plaintiff against All Named Defendants and all DOE defendants)**

20 81. Plaintiff re-alleges and incorporates by reference each and every allegation in
21 paragraphs 1 through 80, inclusive, of this Complaint as though fully set forth herein.

22 82. Labor Code section 2802 provides that "[a]n employer shall indemnify his or her
23 employee for all necessary expenditures or losses incurred by the employee in direct
24 consequence of the discharge of his or her duties."

25 83. Beginning at least 3 years prior to the filing of this complaint, in order to discharge
26 their duties for Defendant, Plaintiff incurred reasonable and necessary expenses in the course
27 of completing his job duties, which were not reimbursed by Defendant. These expenses
28 include but are not limited to, boots and a protective suit that Plaintiff had to purchase in order
to try to protect himself from the harmful chemicals.

1 84. Plaintiff is entitled to reimbursement for these necessary expenditures, plus interest
2 and attorney's fees and costs, under Labor Code section 2802.

3 **TENTH CAUSE OF ACTION**

4 **PRIVATE ATTORNEYS GENERAL ACT**

5 **Representative Claim for PAGA penalties under California Labor Code sections 201,**
6 **202, 203, 204 and/or 204b, 210, 226, 226.3, 226.7, 233, 246, 510, 512, 558, 558.1, 1174,**
7 **1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2800, 2802, 6400 et seq)**

8 **(Plaintiff against all named Defendants and all DOE defendants)**

9 85. Plaintiff re-alleges and incorporates by reference each and every allegation
10 in paragraphs 1 through 84, inclusive, of this Complaint as though fully set forth herein.

11 86. Plaintiff has complied with the procedures for bringing suit specified in
12 California Labor Code § 2699.3. By letter dated October 4, 2024, Plaintiff gave written notice
13 by certified mail to the Labor and Workforce Development Agency ("LWDA") and Defendants
14 of the specific provisions of the California Labor Code alleged to have been violated, including
15 the facts and theories to support the alleged violations.

16 87. Pursuant to California Labor code section 2699.3, no response was received from
17 the LWDA within 65 days of the postmark date of the above-alleged letter.

18 88. Plaintiff therefore has exhausted all administrative remedies required of him under
19 California Labor Code sections 2698, 2699, and 2699.3, and, as a result, may prosecute this
20 cause of action and pursue penalties in a representative action for Defendants' violations of the
21 Labor Code.

22 89. Pursuant to California Labor Code section 2699, any provisions of the Labor
23 Code that provides for a civil penalty to be assessed and collected by the LWDA or any of its
24 departments, divisions, commissions, boards, agencies, or employees for violation of the code
25 may, as an alternative, be recovered through a civil action brought by an aggrieved employee
26 on behalf of himself or herself and other current or former employees pursuant to the procedures
27 specified in California Labor Code section 2699.3.

28 90. Plaintiff is an "aggrieved employee" because Plaintiff was employed by the alleged
violin and had one or more of the alleged violations committed against her, and therefore is

properly suited to represent the interests of other current and former employees, including all current and former hourly, non-exempt employees who worked for BAKERY STREET in the State of California during the applicable PAGA Period.

91. Based on the acts alleged above, Plaintiff, on behalf of others, seeks penalties under California Labor Code sections 2698 and 2699 because of Defendants' violations of numerous provisions of the California Labor Code as alleged in this Complaint.

92. Plaintiff therefore has exhausted all administrative remedies required of him under California Labor Code sections 2698, 2699, and 2699.3, and, as a result, may prosecute this cause of action and pursue penalties in a representative action for Defendants' violations of the Labor Code.

93. California Labor Code section 2699 et seq. imposes penalties upon culpable Defendants for violating the Labor Code.

94. Plaintiff seeks penalties for Defendants' misconduct as alleged herein as permitted by law, but only those penalties that are required to be shared with the LWDA as Plaintiff is not seeking individual penalties/victim specific relief or underpaid wages for herself or other employees under this specific PAGA cause of action. Plaintiff has separate causes of action in this Complaint for individual wages but is not seeking wages through the PAGA action.

95. Specifically, Plaintiff seeks penalties under California Labor Code section 2699, for the following:

Violations of California Labor Code sections 201, 202, 203, 204, and/or 204b, 210, 226, 226.3, 226.7, 233, 246, 510, 512, 558, 558.1, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2800, 2802, 6400 et seq. and any other Labor Codes/Industrial Welfare Commission Order (No. 1/4/7) violated based on the facts alleged in this Complaint.

96. Pursuant to Labor Code section 2698 et seq., Plaintiff seeks to recover attorney's fees, costs, and civil penalties on behalf of Plaintiff and other current and former aggrieved employees as alleged herein in an amount to be shown according to proof at trial and within the jurisdictional limits of this Court.

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employees.”

104. Defendants failed to furnish Plaintiff with employment, and a place of employment, that was safe and healthful by failing to do everything reasonably necessary to protect Plaintiff's life, safety and health following each concern regarding failure to alert Plaintiff and other employees as to the harmful chemicals in the workplace.

105. Defendant failed to furnish Plaintiff with employment, and a place of employment, that was safe and healthful by failing to implement and/or enforce policies and procedures reasonably adequate to render Plaintiff's employment and place of employment safe, including enforcement of OSHA policies and procedures requiring proper safeguards to protect against infectious diseases and illnesses.

106. Defendants' conduct described herein created intolerable, unsafe, and unhealthful working conditions such that Plaintiff had a reasonable, good faith and honest fear of harm to his safety on account of the work environment resulting in the constructive discharge of Plaintiff's employment in violation of public policy.

107. Defendants' conduct described herein violates California Labor Code Sections 6400, 6401, 6402, 6403, 6404, and 6406.

108. As a proximate result of the aforementioned violations, Plaintiff has been damaged in an amount according to proof at time of trial, but in an amount in excess of the jurisdiction of this Court.

TWELFTH CAUSE OF ACTION

NEGLIGENT FAILURE TO MAINTAIN SAFE WORKPLACE

(Plaintiff against all named defendants and all DOE defendants)

109. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1 through 108, inclusive, of this Complaint as though fully set forth herein. This cause of action is brought by Plaintiff against all Defendants jointly and individually.

110. At all times relevant herein, Plaintiff was employed by Defendants as a dishwasher.

111. Defendants owed Plaintiff a common law duty to provide him with working conditions which were reasonably safe. Restatement Second of Agency, § 492.

112. Defendants' failure to do everything reasonably necessary to protect Plaintiff's life, safety, and health following each concern regarding failure to alert Plaintiff and other employees as to the harmful chemicals in the workplace, was at best negligent conduct by Defendants.

113. Defendants' negligent failure to reasonably respond to Plaintiff's complaints about workplace safety and to provide working conditions which were reasonably safe for Plaintiff, breached duties owed to Plaintiff.

114. As a proximate result of the aforementioned negligent conduct, Plaintiff was constructively discharged from his employment in violation of public policy, and has and will continue to suffer past and future loss of earnings, reduced earning capacity in the future, and other incidental and consequential damages in an amount according to proof at the time of trial.

115. As a proximate result of the aforementioned negligent conduct, Plaintiff has been damaged in an amount according to proof at time of trial, but in an amount in excess of the jurisdiction of this Court.

THIRTEENTH CAUSE OF ACTION

WRONGFUL CONSTRUCTIVE DISCHARGE IN VIOLATION OF PUBLIC POLICY

(Plaintiff against All Named Defendants and all DOE Defendants)

116. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1 through 115 inclusive, of this Complaint as though fully set forth herein.

117. At all times during his employment with BAKERY STREET, Plaintiff performed his duties with the utmost diligence and competence.

118. Defendants intentionally created an illegal and unsafe work environment and atmosphere. This situation became intolerable for Plaintiff and Plaintiff had no alternative but to quit his job.

119. The employment of Plaintiff was constructively wrongfully terminated on or around June or July 2024 in violation of the fundamental public policy of the State of California with respect to maintaining a safe and healthy work environment. Moreover, Plaintiff was forced to hire an attorney to assist him to end these illegal activities. Said conduct violated statutory and constitutional expressions of public policy including, but not limited to,

1 the California Labor Code, including sections 6400, 6401, 6402, 6403, 6404, and 6406.

2 120. As set forth above, said actions by Defendants were wrongful and in violation
3 of the fundamental principles of the public policy of the State of California as reflected in its
4 laws, objectives and policies. Said statutes and constitutional expressions of public policy
5 include, but are not limited to, the California Labor Code. These laws inure to the benefit of the
6 public at large, and not just the private interests of the employers and employees whom they
7 govern or protect.

8 121. As a direct and proximate result of the aforementioned acts and omissions of
9 Defendants, Plaintiff suffered general and compensatory damages, including but not limited to,
10 loss of income (past and future), loss of employment benefits (past and future), general and
11 compensatory damages (past and future), mental pain and anguish and emotional distress (past
12 and future), and will continue to suffer in the future, in an amount to be proved at trial.

13 122. The foregoing conduct engaged in by Defendants and each of its directors,
14 officers and/or managing agents, constitutes malice, fraud, and oppression and was authorized,
15 ratified, and carried on with a conscious and willful disregard of their workers' right to work in
16 a safe and healthy work environment, so as to justify the imposition of punitive damages to
punish and set an example of said Defendants.

17 **FOURTEENTH CAUSE OF ACTION**

18 **VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17200**

19 **(California Business and Professions Code Section 17200)**

20 **(Plaintiff against All Named Defendants and all DOE defendants)**

21 123. Plaintiff re-alleges and incorporates by reference each and every allegation in
22 paragraphs 1 through 122, inclusive, of this Complaint as though fully set forth herein.

23 124. By virtue of the foregoing statutes, regulations, and laws, the acts of Defendants
24 constitutes unfair and unlawful business practices under California Business and Professions
25 Code Section 17200, et seq.

26 125. Defendant's violations of the California labor laws and the Labor Code
27 constitutes a business practice because it was done repeatedly over a significant period of time
28 in a systematic manner that was detrimental to Plaintiff and other employees.

1 126. As a result of the acts of Defendants, as alleged herein, Plaintiff is entitled to
2 reasonable attorneys' fees and costs of said suit as specifically provided in California Code of
3 Civil Procedure Section 1021.5 and California Business and Professions Code section 17200 et
4 seq.

5 127. As a result of the acts of Defendants, as alleged herein, Plaintiff is entitled to
6 multiple damages as specifically provided in California Business and Professions Code section
7 17200 et seq.

8 128. For the four years preceding the filing of this action, Plaintiff requests
9 restitution of all monies and profits to be disgorged from Defendants in an amount according to
10 proof at time of trial, but in excess of the jurisdiction of this Court.

11 **PRAYER FOR RELIEF**

- 12 1. For compensatory damages including lost past and future wages, overtime,
13 commissions, and all other sums of money, including employment benefits, together
14 with interest on said amounts, and any other economic injury to Plaintiff, according to
15 proof;
- 16 2. For special and consequential damages to the extent allowed by law;
- 17 3. For general damages according to proof;
- 18 4. For an award of punitive damages against Defendants according to proof;
- 19 5. For restitution and disgorgement for all unfair business practices by corporate
20 Defendants against Plaintiff in an amount according to proof;
- 21 6. For an order enjoining corporate Defendants from further unfair and unlawful business
22 practices in violation of Business and Professions Code section 17200, et seq.;
- 23 7. For damages and penalties against Defendants under Labor Code section
24 226 for Plaintiff in an amount subject to proof at trial;
- 25 8. For damages and penalties pursuant to Labor Code section 203 against Defendants in
26 an amount subject to proof at trial;
- 27 9. For one hour of wages due to Plaintiff for each work period of more than five (5) hours
28 when Plaintiff did not receive an uninterrupted thirty (30) minute meal period.
10. For one hour of wages due to Plaintiff for each work period of at least three-and-a-half

1 (3.5) hours when Plaintiff did not receive an uninterrupted ten (10) minute rest period.

2 11. For maximum civil penalties available under the Labor Code and applicable Wage Order
3 against Defendant as described more particularly in the Complaint and Representative
4 PAGA claim/action;

5 12. For all remedies available to Plaintiff under the applicable Wage Order and the
6 Labor Code including an award of unpaid wages, attorney's fees, costs, interest,
7 liquidated damages, damages, penalties, and waiting time penalties according to proof
8 to the extent permitted by law;

9 13. For the imposition of civil penalties and/or statutory penalties;

10 14. Reasonable attorney's fees where available by law, including but not limited to,
11 pursuant to the California Labor Code, including section 2698, and/or other
12 applicable laws; and

13 15. Costs and expenses of suit incurred herein;

14 16. For all interest as allowed by law;

15 17. For such other and further relief as the Court deems just and proper.

16 DATED: March 25, 2025

MESSRELIAN LAW INC.

17
18 By Maralle Messrelia
19 Harout Messrelia, Esq.
20 Maralle Messrelia, Esq., Of Counsel
21 Attorneys for Plaintiff

22 **DEMAND FOR JURY TRIAL**

23 Plaintiff hereby demands, as a matter of right, a trial by jury in this case.

24 DATED: March 25, 2025

MESSRELIAN LAW INC.

25
26 By Maralle Messrelia
27 Harout Messrelia, Esq.
28 Maralle Messrelia, Esq., Of Counsel
Attorneys for Plaintiff