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Clerk of the Superior Court
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on behalf of herself and all others similarly situated

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO**

BLANCA MORALES MEJIA, on behalf
of herself and all others similarly situated,

Plaintiffs,

v.

RAR HOTEL MANAGEMENT, INC., a
California corporation; and Does 1 to 50,
inclusive,

Defendants.

CLASS ACTION

Case No. 24CU020660C

**FIRST AMENDED COMPLAINT
(AMENDED AS A MATTER OF RIGHT
UNDER LABOR CODE § 2699.3(a)(2)(C))
FOR:**

1. **FAILURE TO PAY ALL WAGES;**
2. **FAILURE TO PAY ALL OVERTIME
WAGES AT THE LEGAL OVERTIME
PAY RATE;**
3. **FAILURE TO PAY REPORTING TIME
PAY;**
4. **FAILURE TO PAY ON-
CALL/STANDBY SHIFTS**
5. **FAILURE TO PROVIDE ALL MEAL
PERIODS;**
6. **FAILURE TO AUTHORIZE AND
PERMIT ALL PAID REST PERIODS;**
7. **FAILURE TO PAY PREMIUM WAGES
AT THE LEGAL PAY RATE;**
8. **FAILURE TO FULLY REIMBURSE
WORK EXPENSES;**
9. **FAILURE TO TIMELY FURNISH
ACCURATE ITEMIZED WAGE
STATEMENTS;**
10. **PENALTIES UNDER LABOR CODE
§ 2699; AND**
11. **UNFAIR BUSINESS PRACTICES**

DEMAND FOR JURY TRIAL

Action Filed: November 4, 2024
Trial Date: None set

1 Plaintiff Blanca Morales Mejia, an individual on behalf of herself and all others similarly
2 situated (collectively referred to as “Plaintiffs”), hereby files this First Amended Complaint
3 amended as a matter of right under Labor Code § 2699.3(a)(2)(C)) against Defendant RAR Hotel
4 Management, Inc. and Does 1 to 50 (collectively referred to as “Defendants”). Plaintiffs are
5 informed and believe, and on the basis of that information and belief, allege as follows:

6 **I.**

7 **INTRODUCTION**

8 1. This is a civil action seeking recovery for Defendants’ violations of the California
9 Labor Code, California Business and Professions Code, the applicable Wage Orders issued by
10 the California Industrial Welfare Commission (the “IWC Wage Orders”) and related common law
11 principles.

12 2. Plaintiffs’ action seeks monetary damages including full restitution from
13 Defendants as a result of Defendants’ unlawful, fraudulent, and/or unfair business practices.

14 3. The acts complained of herein occurred, occur and will occur, at least in part,
15 within the time period from four years preceding the filing of the original Complaint herein, up
16 to and through the time of trial for this matter (although this should not automatically be
17 considered the statute of limitations for any cause of action herein).

18 **RELEVANT JOB TITLES**

19 4. For introductory and general information only (and not to be considered a
20 proposed class definition), the relevant individuals in this action are Defendants’ non-exempt
21 employees who were subjected to Defendants’ policies and practices as described herein. Any
22 differences in job activities between the different individuals in these positions were and are
23 legally insignificant to the issues presented by this action.

24 **SUMMARY OF CLAIMS**

25 5. With regard to Defendant’s non-exempt employees, Defendants have:

26 a. Failed to pay straight time, minimum, and/or overtime wages for all hours
27 worked;

28 b. Failed to pay all overtime wages at the legal overtime pay rate;

- c. Failed to pay the appropriate reporting time pay;
- d. Failed to pay the appropriate pay for on-call/standby shifts;
- e. Failed to provide all legally-required or meal periods;
- f. Failed to authorize and permit all paid legally-required and/or legally-compliant rest periods;
- g. Failed to pay meal and/or rest period penalty premium wages at the legal pay rate;
- h. Failed to reimburse for all work-related expenses;
- i. Failed to timely furnish accurate itemized wage statements;
- j. Incurred penalties under Labor Code §§ 2698, et seq.;
- k. Conducted unfair business practices.

II.

PARTIES

PLAINTIFF BLANCA MORALES MEJIA

6. Plaintiff Blanca Morales Mejia is an individual over the age of 18 and is now and/or at all times mentioned in this Complaint was a citizen of the State of California.

7. Plaintiff Blanca Morales Mejia worked for Defendants as a housekeeper from approximately June 1, 2021, to the present, including in San Diego, California, which is in San Diego County, California.

8. Plaintiff Blanca Morales Mejia seeks recovery herein from Defendants because with regard to Plaintiff Blanca Morales Mejia, while acting for Defendants in her capacity as a housekeeper, Defendants have:

- a. Failed to pay straight time, minimum, and/or overtime wages for all hours worked;
- b. Failed to pay all overtime wages at the legal overtime pay rate;
- c. Failed to pay the appropriate reporting time pay;
- d. Failed to pay the appropriate pay for on-call/standby shifts;
- e. Failed to provide all legally-required or meal periods;

- f. Failed to authorize and permit all paid legally-required rest and/or legally-compliant rest periods;
- g. Failed to pay meal and/or rest period penalty premium wages at the legal pay rate;
- h. Failed to reimburse for all work-related expenses;
- i. Failed to timely furnish accurate itemized wage statements;
- j. Incurred penalties under Labor Code §§ 2698, et seq.; and
- k. Conducted unfair business practices.

DEFENDANT, RAR HOTEL MANAGEMENT, INC.

9. Defendant RAR Hotel Management, Inc., is now and/or at all times mentioned in this Complaint was a California corporation and the owner and operator of an industry, business and/or facility(/ies) licensed to do business and actually doing business in the State of California.

DOES 1 TO 50, INCLUSIVE

10. Does 1 to 50, inclusive, are now and/or at all times mentioned in this Complaint were licensed to do business and/or actually doing business in California.

11. Plaintiffs do not know the true names or capacities, whether individual, partner or corporate, of Does 1 to 50, inclusive and for that reason, Does 1 to 50 are sued under such fictitious names under California Code of Civil Procedure § 474.

12. Plaintiffs will seek leave of court to amend this Complaint to allege such names and capacities as soon as they are ascertained.

ALL DEFENDANTS

13. Defendants, and each of them, are now and/or at all times mentioned in this Complaint were in some manner legally responsible for the events, happenings, and circumstances alleged in this Complaint. Defendants, and each of them, directly or indirectly, or through an agent or any other person, employed or exercised control over the wages, hours, or working conditions of Plaintiffs.

14. Defendants, and each of them, proximately subjected Plaintiffs to the unlawful practices, wrongs, complaints, injuries, and/or damages alleged in this Complaint.

15. Defendants, and each of them, are now and/or at all times mentioned in this Complaint were the agents, servants, and/or employees of some or all other Defendants, and vice-versa, and in doing the things alleged in this Complaint, Defendants are now and/or at all times mentioned in this Complaint were acting within the course and scope of that agency, servitude, and/or employment.

16. Defendants, and each of them, are now and/or at all times mentioned in this Complaint were members of and/or engaged in a joint venture, partnership, and common enterprise, and were acting within the course and scope and in pursuance of said joint venture, partnership, and common enterprise.

17. Defendants, and each of them, at all times mentioned in this Complaint concurred and contributed to the various acts and omissions of each and every one of the other Defendants in proximately causing the complaints, injuries, and/or damages alleged in this Complaint.

18. Defendants, and each of them, at all times mentioned in this Complaint approved of, condoned and/or otherwise ratified each and every one of the acts and/or omissions alleged in this Complaint.

19. Defendants, and each of them, at all times mentioned in this Complaint aided and abetted the acts and omissions of each and every one of the other Defendants thereby proximately causing the damages alleged in this Complaint.

III.

JURISDICTION AND VENUE

20. The California Superior Court has jurisdiction in this matter due to Defendants' aforementioned violations of California statutory law and/or related common law principles.

21. The California Superior Court also has jurisdiction in this matter because both the individual and aggregate monetary damages and restitution sought herein exceed the minimal jurisdictional limits of the Superior Court and will be established at trial, according to proof.

22. The California Superior Court also has jurisdiction in this matter because during their employment with Defendants, Plaintiff Blanca Morales Mejia and the members of the putative Classes herein were all California citizens and Defendant RAR Hotel Management, Inc. is a

1 California corporation. Further, there is no federal question at issue, as the issues herein are based
2 solely on California statutes and law.

3 23. Venue is proper in San Diego County under Code of Civil Procedure §§ 395(a)
4 and 395.5, in that liability arose there because at least some of the transactions that are the
5 subject matter of this Complaint occurred therein and/or each Defendant either is found,
6 maintains offices, transacts business, and/or has an agent therein.

7 **IV.**

8 **CLASS ACTION ALLEGATIONS**

9 24. Code of Civil Procedure § 382 provides in pertinent part, “[W]hen the question is
10 one of a common or general interest, of many persons, or when the parties are numerous, and it
11 is impracticable to bring them all before the court, one or more may sue or defend for the benefit
12 of all.” Plaintiffs bring this suit as a class action under Code of Civil Procedure § 382.

13 25. The putative classes Plaintiffs will seek to certify are currently composed of and
14 defined as follows:

- 15 a. All California citizens employed by Defendants as non-exempt employees (as
16 defined, supra) during the appropriate time period who were subjected to
17 Defendants’ policies and practices regarding the payment of straight time,
18 minimum and/or overtime wages as specifically described herein (hereinafter,
19 the “Wage Class”);
- 20 b. All California citizens employed by Defendants as non-exempt employees (as
21 defined, supra) during the appropriate time period who were subjected to
22 Defendants’ policies and practices regarding the calculation of overtime pay
23 as specifically described herein (hereinafter, the “Overtime Rate Class”);
- 24 c. All California citizens employed by Defendants as non-exempt employees (as
25 defined, supra) during the appropriate time period who were subjected to
26 Defendants’ policies and practices regarding the payment of reporting time
27 pay as specifically described herein (hereinafter, the “Reporting Time Class”);

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- 1 d. All California citizens employed by Defendants as non-exempt employees (as
2 defined, supra) during the appropriate time period who were subjected to
3 Defendants' policies and practices regarding the payment of on-call/standby
4 shifts as specifically described herein (hereinafter, the "On-Call/Standby
5 Class");
- 6 e. All California citizens employed by Defendants as non-exempt employees (as
7 defined, supra) during the appropriate time period who were subjected to
8 Defendants' policies and practices regarding meal periods as specifically
9 described herein (hereinafter, the "Meal Period Class");
- 10 f. All California citizens employed by Defendants as non-exempt employees (as
11 defined, supra) during the appropriate time period who were subjected to
12 Defendants' policies and practices regarding paid rest periods as specifically
13 described herein (hereinafter, the "Rest Period Class");
- 14 g. All California citizens employed by Defendants as non-exempt employees (as
15 defined, supra) during the appropriate time period who were subjected to
16 Defendants' policies and practices regarding the payment of meal and/or rest
17 period penalty premium wages as specifically described herein (hereinafter,
18 the "Premium Rate Class");
- 19 h. All California citizens employed by Defendants as non-exempt employees (as
20 defined, supra) during the appropriate time period who were subjected to
21 Defendants' policies and practices regarding business expense reimbursement
22 as specifically described herein (hereinafter, the "Reimbursements Class");
- 23 i. All California citizens employed by Defendants as non-exempt employees (as
24 defined, supra) during the appropriate time period who were subjected to
25 Defendants' policies and practices regarding itemized wage statements as
26 specifically described herein (hereinafter, the "Wage Statement Class"); and
- 27 j. All California citizens employed by Defendants as non-exempt employees (as
28 defined, supra) during the appropriate time period regarding whom

Defendants have engaged in unlawful, unfair and/or fraudulent business acts or practices prohibited by Business & Professions Code §§ 17200, et seq. as specifically described herein (hereinafter, the “17200 Class”).

26. The Wage Class, Overtime Rate Class, Reporting Time Class, On-Call/Standby Class, Meal Period Class, Rest Period Class, Premium Rate Class, Reimbursements Class, Wage Statement Class, and 17200 Class are herein collectively referred to as the “Classes.”

27. Throughout discovery in this litigation, Plaintiffs may find it appropriate and/or necessary to amend the definition of the Classes. Plaintiffs will formally define and designate a class definition at such time when Plaintiffs seek to certify the Classes alleged herein.

28. Numerosity (Code of Civil Procedure § 382):

- a. The potential quantity of members of the Classes as defined is so numerous that joinder of all members is unfeasible and impractical;
- b. The disposition of the claims of the members of the Classes through this class action will benefit both the parties and this Court;
- c. The quantity of members of the Classes is unknown to Plaintiffs at this time; however, it is estimated that the membership of the Classes numbers greater than 100 individuals; and
- d. The quantity and identity of such membership is readily ascertainable via inspection of Defendants’ records.

29. Superiority (Code of Civil Procedure § 382): The nature of this action and the nature of the laws available to Plaintiffs make the use of the class action format particularly efficient and the appropriate procedure to afford relief to Plaintiffs for the wrongs alleged herein, as follows:

- a. California has a public policy that encourages the use of the class action device;
- b. By establishing a technique whereby the claims of many individuals can be resolved at the same time, the class suit both eliminates the possibility of repetitious litigation and provides small claimants with a method of obtaining

1 redress for claims which would otherwise be too small to warrant individual
2 litigation;

3 c. This case involves large corporate Defendants and a large number of
4 individual Class members with many relatively small claims and common
5 issues of law and fact;

6 d. If each individual member of the Classes was required to file an individual
7 lawsuit, the large corporate Defendants would necessarily gain an
8 unconscionable advantage because Defendants would be able to exploit and
9 overwhelm the limited resources of each individual member of the Classes
10 with Defendants' vastly superior financial and legal resources;

11 e. Requiring each individual member of the Classes to pursue an individual
12 remedy would also discourage the assertion of lawful claims by the members
13 of the Classes who would be disinclined to pursue an action against
14 Defendants because of an appreciable and justifiable fear of retaliation and
15 permanent damage to their lives, careers, and well-being;

16 f. Proof of a common business practice or factual pattern, of which the members
17 of the Classes experienced, is representative of the Classes herein and will
18 establish the right of each of the members of the Classes to recover on the
19 causes of action alleged herein;

20 g. Absent class treatment, the prosecution of separate actions by the individual
21 members of the Classes, even if possible, would likely create:

22 i) a substantial risk of each individual plaintiff presenting in separate,
23 duplicative proceedings the same or essentially similar arguments and
24 evidence, including expert testimony;

25 ii) a multiplicity of trials conducted at enormous expense to both the
26 judicial system and the litigants;

27 iii) inconsistent or varying verdicts or adjudications with respect to the
28 individual members of the Classes against Defendants;

1 iv) potentially incompatible standards of conduct for Defendants; and
2 v) potentially incompatible legal determinations with respect to individual
3 members of the Classes which would, as a practical matter, be
4 dispositive of the interest of the other members of the Classes who are
5 not parties to the adjudications or which would substantially impair or
6 impede the ability of the members of the Classes to protect their
7 interests.

8 h. The claims of the individual members of the Classes are not sufficiently large
9 to warrant vigorous individual prosecution considering all of the concomitant
10 costs and expenses attendant thereto;

11 i. Courts seeking to preserve efficiency and other benefits of class actions
12 routinely fashion methods to manage any individual questions; and

13 j. The Supreme Court of California urges trial courts, which have an obligation
14 to consider the use of innovative procedural tools to certify a manageable
15 class, to be procedurally innovative in managing class actions.

16 30. Well-defined Community of Interest: Plaintiffs also meet the established
17 standards for class certification, as follows:

18 a. Typicality: The claims of Plaintiff Blanca Morales Mejia are typical of the
19 claims of all members of the Classes she seeks to represent because all
20 members of the Classes sustained injuries and damages arising out of
21 Defendants' common course of conduct in violation of law and the injuries
22 and damages of all members of the Classes were caused by Defendants'
23 wrongful conduct in violation of law, as alleged herein.

24 b. Adequacy: Plaintiff Blanca Morales Mejia:

- 25 i) is an adequate representative of the Classes she seeks to represent;
26 ii) will fairly protect the interests of the members of the Classes;
27 iii) has no interests antagonistic to the members of the Classes; and
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iv) will vigorously pursue this suit via attorneys who are competent, skilled and experienced in litigating matters of this type.

c. Predominant Common Questions of Law or Fact: There are common questions of law and/or fact as to the members of the Classes which predominate over questions affecting only individual members of the Classes, including, without limitation:

- i) Whether Defendants paid the legal and appropriate straight time pay, minimum wage pay and/or overtime pay for all work hours to the members of the Wage Class;
- ii) Whether Defendants paid all overtime wages owed to the members of the Overtime Rate Class at the appropriate overtime pay rate;
- iii) Whether Defendants paid the appropriate minimum reporting time to the members of the Reporting Time Class;
- iv) Whether Defendants paid the appropriate pay to the members of the On-Call/Standby Class;
- v) Whether Defendants failed and continue to fail to provide legally required or compliant meal periods to the members of the Meal Period Class in violation of the Labor Code and Section 11 of the IWC Wage Orders;
- vi) Whether Defendants failed and continue to fail to authorize and permit paid legally or compliant rest periods to the members of the Rest Period Class in violation of the Labor Code and Section 12 of the IWC Wage Orders;
- vii) Whether Defendants paid the legal and appropriate pay rate for meal and/or rest period penalty premium wages to the members of the Premium Rate Class;
- viii) Whether Defendants failed to fully reimburse for all work-related expenses incurred by the members of the Reimbursements Class;

- ix) Whether Defendants failed to timely furnish accurate, itemized and legal wage statements to the members of the Wage Statement Class;
- x) Whether Defendants' conduct constitutes unfair competition within the meaning of Business & Professions Code §§ 17200, et seq.;
- xi) Whether the members of the Classes are entitled to compensatory damages, and if so, the means of measuring such damages;
- xii) Whether the members of the Classes are entitled to injunctive relief;
- xiii) Whether the members of the Classes are entitled to restitution; and
- xiv) Whether Defendants are liable for attorneys' fees and costs.

31. Whether each member of the Classes might be required to ultimately justify an individual claim does not preclude maintenance of a class action.

V.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

FAILURE TO PAY ALL WAGES

(On Behalf of the Wage Class)

(Against All Defendants)

32. Plaintiffs incorporate by reference and reallege each and every one of the allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set forth herein.

33. Labor Code § 204 establishes the fundamental right of all employees in the State of California to be paid wages, including straight time and overtime, in a timely fashion for their work.

34. Labor Code § 510(a) states in pertinent part, "Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek ... shall be compensated at the rate of no less than one and one-half times the regular rate of pay for any employee."

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1 35. Labor Code § 1182.12 provides the statewide minimum wage in California.

2 36. Labor Code § 1194(a) states, “Notwithstanding any agreement to work for a
3 lesser wage, any employee receiving less than the legal minimum wage or the legal overtime
4 compensation applicable to the employee is entitled to recover in a civil action the unpaid
5 balance of the full amount of this minimum wage or overtime compensation, including interest
6 thereon, reasonable attorney’s fees, and costs of suit.”

7 37. Further, under Labor Code § 1197, payment of less than the minimum wage fixed
8 by the Labor Commission is unlawful.

9 38. Under Labor Code § 1198, it is unlawful to employ persons for longer than the
10 hours set by the Industrial Welfare Commission or under conditions prohibited by the IWC
11 Wage Order(s).

12 39. Under the IWC Wage Order(s), Defendants are required to pay the members of
13 the Wage Class for all hours worked, meaning the time during which an employee is subject to
14 the control of an employer, including all the time the employee is suffered or permitted to work,
15 whether or not required to do so.

16 40. Defendants, as a matter of established company policy and procedure, at each and
17 every one of the individual facilities owned and/or operated by Defendants, consistently:

- 18 a. Administered a uniform company policy and practice as to the pay policies
19 regarding the members of the Wage Class;
- 20 b. Required the members of the Wage Class to spend time under Defendants’
21 control for work-related tasks without compensation, including but not limited
22 to being forced to wait an inordinate period in a line of employees before
23 being able to clock in and/or out, and requiring employees to perform work-
24 related tasks at the end of their shifts after clocking out; and, as such,
- 25 c. Defendants suffered, permitted, and/or required the members of the Wage
26 Class to work without paying for all time they were under Defendants’
27 control.

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1 41. Because Defendants required the members of the Wage Class to remain under
2 Defendants' control without paying therefor, this resulted in the members of the Wage Class
3 earning less than the legal minimum wage in the State of California.

4 42. Defendants' pattern, practice and uniform administration of corporate policy
5 regarding illegal employee compensation as described herein is unlawful and creates an
6 entitlement, under Labor Code § 218, to recovery by Plaintiffs and the members of the Wage
7 Class, in a civil action, of the unpaid balance of the full amount of wages owing, calculated at the
8 appropriate rate.

9 43. Further, Defendants' pattern and practice in uniform administration of corporate
10 policy regarding Defendants' failure to pay the legal minimum wage to the members of the
11 Wage Class as described herein is unlawful and creates entitlement, under Labor Code § 1194(a),
12 to recovery by the members of the Wage Class, in a civil action, for the unpaid balance of the
13 full amount of the unpaid minimum wages owed, calculated as the difference between the
14 straight time compensation paid and the applicable minimum wage, including interest thereon.

15 44. Under Labor Code § 1194.2(a) (which provides that in any action under Labor
16 Code § 1194, an employee shall be entitled to recover liquidated damages), the members of the
17 Wage Class seek recovery of liquidated damages in an amount equal to the wages unlawfully
18 unpaid and interest thereon.

19 45. That calculation of individual damages for the members of the Wage Class may at
20 some point be required does not foreclose the possibility of taking common evidence on
21 questions regarding their entitlement to overtime compensation.

22 46. Under Labor Code §§ 218.6 and 1194(a) and Civil Code § 3287, the members of
23 the Wage Class seek recovery of pre-judgment interest on all amounts recovered herein.

24 47. Under Labor Code §§ 218.5 and/or 1194, the members of the Wage Class request
25 that the Court award reasonable attorneys' fees and costs incurred by them in this action.

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SECOND CAUSE OF ACTION
FAILURE TO PAY ALL OVERTIME
WAGES AT THE LEGAL OVERTIME PAY RATE
(On Behalf of the Overtime Rate Class)
(Against All Defendants)

48. Plaintiffs incorporate by reference and reallege each and every one of the allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set forth herein.

49. Labor Code § 204 establishes the fundamental right of all employees in the State of California to be paid wages, including straight time and overtime, in a timely fashion for their work.

50. Labor Code § 510(a) states in pertinent part, “Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek ... shall be compensated at the rate of no less than one and one-half times the regular rate of pay for any employee.”

51. The “regular rate of pay” includes “all [applicable] remuneration paid to, or on behalf of the employee.” (29 U.S.C. § 207(3).) The California Industrial Welfare Commission applies this standard for determining an employee’s regular rate of pay for overtime calculation purposes.

52. Labor Code §§ 1194(a) states: “Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney’s fees, and costs of suit.”

53. Defendants, as a matter of established company policy and procedure, at each and every one of the individual facilities owned and/or operated by Defendants, consistently:

- a. Administered a uniform company policy and practice regarding the payment of wages, including overtime and bonuses, to the members of the Overtime

Rate Class;

b. Suffered and/or permitted Plaintiff and the members of the Overtime Rate Class to work in excess of eight hours per workday and/or in excess of 40 hours per workweek;

c. Paid the members of the Overtime Rate Class various additional forms of non-discretionary remuneration, including but not limited to bonuses and incentive pay; and yet,

d. Failed to pay Plaintiff and the members of the Overtime Rate Class at the legal rate reflecting all applicable forms of remuneration for overtime hours worked as required by law.

54. Defendants' pattern, practice and uniform administration of corporate policy regarding illegal employee compensation as described herein is unlawful and creates an entitlement, under Labor Code §§ 218 and 1194(a), to recovery by the members of the Overtime Rate Class, in a civil action, for the unpaid balance of the full amount of the overtime premiums owing.

55. That calculation of individual damages for the members of the Overtime Rate Class may at some point be required does not foreclose the possibility of taking common evidence on questions regarding their entitlement to overtime compensation.

56. Under Labor Code §§ 218.6 and 1194(a), and Civil Code § 3287, the members of the Overtime Rate Class seek recovery of pre-judgment interest on all amounts recovered herein.

57. Under Labor Code §§ 218.5 and/or 1194, the members of the Overtime Rate Class request that the Court award reasonable attorneys' fees and costs incurred by them in this action.

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THIRD CAUSE OF ACTION
FAILURE TO PAY REPORTING TIME PAY
(On Behalf of the Reporting Time Class)
(Against All Defendants)

58. Plaintiffs incorporate by reference and reallege each and every one of the allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set forth herein.

59. Labor Code § 204 establishes the fundamental right of all employees in the State of California to be paid wages, including straight time and overtime, in a timely fashion for their work.

60. Under the IWC Wage Order(s), Defendants are required to pay the members of the Reporting Time Class for all hours worked, meaning the time during which an employee is subject to the control of an employer.

61. The IWC Wage Order(s) § 5(A) states, “Each workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee’s usual or scheduled day’s work, the employee shall be paid for half the usual or scheduled day’s work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee’s regular rate of pay, which shall not be less than the minimum wage.”

62. The IWC Wage Order(s) § 5(B) states, “If an employee is required to report for work a second time in any one workday and is furnished less than two (2) hours of work on the second reporting, said employee shall be paid for two (2) hours at the employee’s regular rate of pay, which shall not be less than the minimum wage.”

63. Defendants, as a matter of established company policy and procedure, at each and every one of the individual facilities owned and/or operated by Defendants, regularly and consistently required the members of the Reporting Time Class to report for work at their scheduled reporting time and then did not put them to work and/or furnished less than half of their usual or scheduled day’s work without paying for half the usual or scheduled day’s work (at least two hours) at each respective Reporting Time Class Member’s regular rate of pay.

64. At no time when Defendants did not pay the legally requisite reporting time pay were the provisions of the IWC Wage Orders § 5(C) or (D) applicable, in that Defendants' acts were not because of threats to employees or property, public utility failures, Acts of God or other causes not within Defendants' control or employees on paid standby status.

65. The pattern and practice in uniform administration of corporate policy regarding Defendants' failure to pay the legal reporting time pay to the members of the Reporting Time Class as described herein is unlawful and creates entitlement to recovery by the members of the Reporting Time Class, in a civil action, for the unpaid balance of the full amount of the unpaid wages owed, including interest thereon.

66. Under Labor Code § 218.6 and Civil Code § 3287, the members of the Reporting Time Class seek recovery of pre-judgment interest on all amounts recovered herein.

67. Under Labor Code § 218.5, the members of the Reporting Time Class request that the Court award reasonable attorneys' fees and costs incurred by them in this action.

FOURTH CAUSE OF ACTION

FAILURE TO PAY ON-CALL/STANDBY PAY

(On Behalf of the On-Call/Standby Class)

(Against All Defendants)

68. Plaintiffs incorporate by reference and reallege each and every one of the allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set forth herein.

69. Labor Code § 204 establishes the fundamental right of all employees in the State of California to be paid wages, including straight time and overtime, in a timely fashion for their work.

70. Under the IWC Wage Order(s), Defendants are required to pay the members of the On-Call/Standby Class for all hours worked, meaning the time during which an employee is subject to the control of an employer.

71. The IWC Wage Order(s) § 5(A) states, “Each workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said

1 employee's usual or scheduled day's work, the employee shall be paid for half the usual or
2 scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours, at
3 the employee's regular rate of pay, which shall not be less than the minimum wage."

4 72. Further, Labor Code § 1182.12 provides the statewide minimum wage in
5 California.

6 73. Labor Code § 1194(a) states, "Notwithstanding any agreement to work for a
7 lesser wage, any employee receiving less than the legal minimum wage or the legal overtime
8 compensation applicable to the employee is entitled to recover in a civil action the unpaid
9 balance of the full amount of this minimum wage or overtime compensation, including interest
10 thereon, reasonable attorney's fees, and costs of suit."

11 74. Further, under Labor Code § 1197, payment of less than the minimum wage fixed
12 by the Labor Commission is unlawful.

13 75. Under Labor Code § 1198, it is unlawful to employ persons for longer than the
14 hours set by the Industrial Welfare Commission or under conditions prohibited by the IWC
15 Wage Order(s).

16 76. Under the IWC Wage Order(s), Defendants are required to pay the members of
17 the On-Call/Standby Class for all hours worked, meaning the time during which an employee is
18 subject to the control of an employer, including all the time the employee is suffered or permitted
19 to work, whether or not required to do so.

20 77. Defendants, as a matter of established company policy and procedure, at each and
21 every one of the individual facilities owned and/or operated by Defendants, regularly and
22 consistently scheduled members of the On-Call/Standby Class to be available on-call and to
23 standby, meaning to be available within the hour.

24 78. Nonetheless, the members of the On-Call/Standby Class were not paid for the
25 time they spent waiting under Defendants' control and/or were paid for less than half the usual or
26 schedule day's work at each respective On-Call/Standby Class Member's regular rate of pay.

27 79. At no time when Defendants did not pay the legally requisite on-call/standby pay
28 were the provisions of the IWC Wage Orders § 5(C) or (D) applicable, in that Defendants' acts

1 were not because of threats to employees or property, public utility failures, Acts of God or other
2 causes not within Defendants' control or employees on paid standby status.

3 80. The pattern and practice in uniform administration of corporate policy regarding
4 Defendants' failure to pay the legal on-call/standby pay to the members of the On-Call/Standby
5 Class as described herein is unlawful and creates entitlement to recovery by the members of the
6 On-Call/Standby Class, in a civil action, for the unpaid balance of the full amount of the unpaid
7 wages owed, including interest thereon.

8 81. Under Labor Code § 218.6 and Civil Code § 3287, the members of the On-
9 Call/Standby Class seek recovery of pre-judgment interest on all amounts recovered herein.

10 82. Under Labor Code § 218.5, the members of the On-Call/Standby Class request
11 that the Court award reasonable attorneys' fees and costs incurred by them in this action.

12 **FIFTH CAUSE OF ACTION**
13 **FAILURE TO PROVIDE ALL MEAL PERIODS**
14 **(On Behalf of the Meal Period Class)**
15 **(Against All Defendants)**

16 83. Plaintiffs incorporate by reference and reallege each and every one of the
17 allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set
18 forth herein.

19 84. Labor Code § 226.7(b) provides, "An employer shall not require an employee to
20 work during a meal or rest or recovery period mandated pursuant to an applicable statute, or
21 applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational
22 Safety and Health Standards Board, or the Division of Occupational Safety and Health."

23 85. Labor Code § 512 provides, "An employer may not employ an employee for a
24 work period of more than five hours per day without providing the employee with a meal period
25 of not less than 30 minutes, except that if the total work period per day of the employee is no
26 more than six hours, the meal period may be waived by mutual consent of both the employer and
27 employee. An employer may not employ an employee for a work period of more than 10 hours
28 per day without providing the employee with a second meal period of not less than 30 minutes,

1 except that if the total hours worked is no more than 12 hours, the second meal period may be
2 waived by mutual consent of the employer and the employee only if the first meal period was not
3 waived.”

4 86. Labor Code § 516 provides that the Industrial Welfare Commission “may adopt or
5 amend working condition orders with respect to break periods, meal periods, and days of rest for
6 any workers in California consistent with the health and welfare of those workers.”

7 87. Section 11(C) of the IWC Wage Orders provides that “Unless the employee is
8 relieved of all duty during a 30 minute meal period, the meal period shall be considered an “on
9 duty” meal period and counted as time worked. An “on duty” meal period shall be permitted
10 only when the nature of the work prevents an employee from being relieved of all duty and when
11 by written agreement between the parties an on-the-job paid meal period is agreed to. The
12 written agreement shall state that the employee may, in writing, revoke the agreement at any
13 time.”

14 88. Section 11(D) of the IWC Wage Order(s) provides “If an employer fails to
15 provide an employee a meal period in accordance with the applicable provisions of this order, the
16 employer shall pay the employee one (1) hour of pay at the employee’s regular rate of
17 compensation for each workday that the meal period is not provided.”

18 89. On one or more occasions, the members of the Meal Period Class worked over
19 five hours per shift and therefore were entitled to an uninterrupted meal period of not less than
20 30 minutes prior to exceeding five hours of employment.

21 90. Further, on one or more occasions, some members of the Meal Period Class
22 worked over 10 hours per shift and therefore were entitled to an uninterrupted second meal
23 period of not less than 30 minutes prior to exceeding 10 hours of employment.

24 91. The members of the Meal Period Class did not validly or legally waive their meal
25 periods, by mutual consent with Defendants or otherwise.

26 92. The members of the Meal Period Class did not enter into any written agreement
27 with Defendants agreeing to an on-the-job paid meal period.

28 ///

1 93. As a matter of Defendants’ established company policy, Defendants failed to
2 always comply with the meal period requirements established by Labor Code §§ 226.7, 512, and
3 516 and Section 11 of the IWC Wage Order(s) by failing to always provide the members of the
4 Meal Period Class with a first and in some cases a second legally compliant meal period.

5 94. Under Section 11(B) of the IWC Wage Order(s) and Labor Code § 226.7(c),
6 which states “If an employer fails to provide an employee a meal or rest or recovery period in
7 accordance with a state law, including, but not limited to, an applicable statute or applicable
8 regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and
9 Health Standards Board, or the Division of Occupational Safety and Health, the employer shall
10 pay the employee one additional hour of pay at the employee's regular rate of compensation for
11 each workday that the meal or rest or recovery period is not provided,” the members of the Meal
12 Period Class are entitled to damages in an amount equal to one additional hour of pay at each
13 employee’s regular rate of compensation for each work day that one or more meal periods were
14 not provided to them, in a sum to be proven at trial.

15 95. Under Labor Code § 218.6 and Civil Code § 3287, the members of the Meal
16 Period Class seek recovery of pre-judgment interest on all amounts recovered herein.

17 **SIXTH CAUSE OF ACTION**

18 **FAILURE TO AUTHORIZE AND PERMIT ALL PAID REST PERIODS**

19 **(On Behalf of the Rest Period Class)**

20 **(Against All Defendants)**

21 96. Plaintiffs incorporate by reference and reallege each and every one of the
22 allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set
23 forth herein.

24 97. Labor Code § 226.7(b) provides, “An employer shall not require an employee to
25 work during a meal or rest or recovery period mandated pursuant to an applicable statute, or
26 applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational
27 Safety and Health Standards Board, or the Division of Occupational Safety and Health.”

28 ///

1 98. Labor Code § 516 provides that the Industrial Welfare Commission “may adopt or
2 amend working condition orders with respect to break periods, meal periods, and days of rest for
3 any workers in California consistent with the health and welfare of those workers.”

4 99. Section 12(A) of the IWC Wage Order(s) states, “Every employer shall authorize
5 and permit all employees to take rest periods, which insofar as practicable shall be in the middle
6 of each work period. The authorized rest period time shall be based on the total hours worked
7 daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof.
8 However, a rest period need not be authorized for employees whose total daily work time is less
9 than three and one-half (3 ½) hours. Authorized rest period time shall be counted as hours
10 worked for which there shall be no deduction from wages.”

11 100. In *Augustus v. ABM Security Services, Inc.* (2016) 2 Cal.5th 257, 269, the
12 California Supreme Court held that “during rest periods employers must relieve employees of all
13 duties and relinquish control over how employees spend their time.” The court further held that a
14 policy that “tethered by time and policy to particular locations” is inconsistent with the required
15 relinquishment of control. (*Ibid.*) The court noted that employees must be free to “[take
16 a] brief walk,” or “take care of other personal matters ...like pumping breast milk ...or
17 completing a phone call to arrange child care.” (*Id.* at p. 270.)

18 101. Section 12(B) of the IWC Wage Order(s) states, “If an employer fails to provide
19 an employee a rest period in accordance with the applicable provisions of this order, the
20 employer shall pay the employee one (1) hour of pay at the employee’s regular rate of
21 compensation for each workday that the rest period is not provided.”

22 102. The members of the Rest Period Class sometimes worked over four hours per
23 shift. Further, the members of the Rest Period Class sometimes worked over six hours per shift
24 and in some cases over 10 hours per shift.

25 103. The members of the Rest Period Class were entitled to a rest period of not less
26 than 10 minutes for every four hours of work or major fraction thereof.

27 104. As a matter of Defendants’ established company policy, Defendants failed to
28 always authorize and permit legally-compliant rest periods. Defendants did not authorize and

1 permit rest periods for shifts every four hours or major fraction thereof, including by failing to
2 provide a rest period altogether and/or failing to relinquish control over how employees spent
3 their break time due, including by requiring the members of the Rest Period Class to carry radio
4 walkie talkies and be “on-call,” thus preventing the members of the Rest Period Class from
5 taking uninterrupted rest periods.

6 105. Under Section 12 of the IWC Wage Order(s) and Labor Code § 226.7(b) which
7 states “if an employer fails to provide an employee a meal or rest period in accordance with an
8 applicable order of the Industrial Welfare Commission, the employer shall pay the employee one
9 additional hour of pay at the employee’s regular rate of compensation for each work day that the
10 meal or rest period is not provided,” the members of the Rest Period Class are entitled to
11 damages in an amount equal to one (1) additional hour of pay at each employee’s regular rate of
12 compensation for each work day that one or more rest periods were not so provided.

13 106. Under Labor Code § 218.6 and Civil Code § 3287, the members of the Rest
14 Period Class seek recovery of pre-judgment interest on all amounts recovered herein.

15 **SEVENTH CAUSE OF ACTION**

16 **FAILURE TO PAY PREMIUM WAGES AT THE LEGAL PAY RATE**

17 **(On Behalf of the Premium Rate Class)**

18 **(Against All Defendants)**

19 107. Plaintiffs incorporate by reference and reallege each and every one of the
20 allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set
21 forth herein.

22 108. Labor Code § 516 provides that the Industrial Welfare Commission “may adopt or
23 amend working condition orders with respect to break periods, meal periods, and days of rest for
24 any workers in California consistent with the health and welfare of those workers.”

25 109. Section 11(C) of the IWC Wage Orders provides that “Unless the employee is
26 relieved of all duty during a 30 minute meal period, the meal period shall be considered an “on
27 duty” meal period and counted as time worked. An “on duty” meal period shall be permitted
28 only when the nature of the work prevents an employee from being relieved of all duty and when

1 by written agreement between the parties an on-the-job paid meal period is agreed to. The
2 written agreement shall state that the employee may, in writing, revoke the agreement at any
3 time.”

4 110. Section 11(D) of the IWC Wage Order(s) provides that “If an employer fails to
5 provide an employee a meal period in accordance with the applicable provisions of this order, the
6 employer shall pay the employee one (1) hour of pay at the employee’s regular rate of
7 compensation for each workday that the meal period is not provided.”

8 111. Section 12(A) of the IWC Wage Order(s) states, “Every employer shall authorize
9 and permit all employees to take rest periods, which insofar as practicable shall be in the middle
10 of each work period. The authorized rest period time shall be based on the total hours worked
11 daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof.
12 However, a rest period need not be authorized for employees whose total daily work time is less
13 than three and one-half (3 ½) hours. Authorized rest period time shall be counted as hours
14 worked for which there shall be no deduction from wages.”

15 112. Section 12(B) of the IWC Wage Order(s) states, “If an employer fails to provide
16 an employee a rest period in accordance with the applicable provisions of this order, the
17 employer shall pay the employee one (1) hour of pay at the employee’s regular rate of
18 compensation for each workday that the rest period is not provided.”

19 113. The “regular rate of pay” includes “all [applicable] remuneration paid to, or on
20 behalf of the employee.” (29 U.S.C. § 207(3).) The California Industrial Welfare Commission
21 applies this standard for determining an employee’s regular rate of pay for overtime calculation
22 purposes.

23 114. *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal.5th 858, states in pertinent
24 part, “Under California law, employers must provide employees with overtime pay when
25 employees work more than a certain amount of time. ... To calculate overtime pay, [Labor Code]
26 section 510(a) requires an employer to compensate an employee by a multiple of the employee’s
27 ‘regular rate of pay.’ ... If an employer does not provide an employee with a compliant meal,
28 rest, or recovery period, section 226.7, subdivision (c) (section 226.7(c)) requires the employer to

1 ‘pay the employee one additional hour of pay at the employee's regular rate of compensation.’
2 The question here is whether the Legislature intended ‘regular rate of compensation’ under
3 section 226.7(c) to have the same meaning as ‘regular rate of pay’ under section 510(a), such that
4 the calculation of premium pay for a noncompliant meal, rest, or recovery period, like the
5 calculation of overtime pay, must account for not only hourly wages but also other
6 nondiscretionary payments for work performed by the employee. We hold that the terms are
7 synonymous: ‘regular rate of compensation’ under section 226.7(c), like ‘regular rate of pay’
8 under section 510(a), encompasses all nondiscretionary payments, not just hourly wages.”

9 115. As a matter of Defendants’ established company policy, Defendants failed to
10 always comply with the meal and/or rest period premium penalty payment requirements
11 established by *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal.5th 858, Labor Code §§
12 226.7, 512, and 516, and Section 11 and/or 12 of the IWC Wage Order(s).

13 116. Under Section 11(D) and/or Section 12 of the IWC Wage Order(s) and Labor
14 Code § 226.7(b)/(c), which states “if an employer fails to provide an employee a meal or rest
15 period in accordance with an applicable order of the Industrial Welfare Commission, the
16 employer shall pay the employee one additional hour of pay at the employee’s regular rate of
17 compensation for each work day that the meal or rest period is not provided,” the members of the
18 Premium Rate Class were entitled to damages in an amount equal to one additional hour of pay
19 at each employee’s regular rate of compensation for each work day that a meal and/or rest period
20 was not provided, in a sum to be proven at trial.

21 117. However, Defendants, as a matter of established company policy and procedure,
22 at each and every one of the individual facilities owned and/or operated by Defendants,
23 consistently:

- 24 a. Administered a uniform company policy and practice regarding the payment
25 of wages, including premium pay, to the members of the Premium Rate Class;
- 26 b. Paid the members of the Premium Rate Class meal and/or rest period premium
27 wages not at the regular rate of pay, but at a base rate of pay or otherwise,
28 and/or not including “all [applicable] remuneration paid to, or on behalf of the

employee”; and

c. As such, failed to pay the members of the Premium Rate Class all compensation owed, as required by law.

118. Defendants’ pattern, practice and uniform administration of corporate policy regarding illegal employee compensation as described herein is unlawful and creates an entitlement, under Labor Code §§ 218 and 1194(a), to recovery by the members of the Premium Rate Class, in a civil action, for the unpaid balance of the full amount of the meal and/or rest period premiums owing.

119. That calculation of individual damages for the members of the Premium Rate Class may at some point be required does not foreclose the possibility of taking common evidence on questions regarding their entitlement to overtime compensation.

120. Under Labor Code §§ 218.6 and 1194(a), and Civil Code § 3287, the members of the Premium Rate Class seek recovery of pre-judgment interest on all amounts recovered herein.

121. Under Labor Code §§ 218.5 and/or 1194, the members of the Premium Rate Class request that the Court award reasonable attorneys’ fees and costs incurred by them in this action.

EIGHTH CAUSE OF ACTION

FAILURE TO FULLY REIMBURSE WORK EXPENSES

(On Behalf of the Reimbursements Class)

(Against All Defendants)

122. Plaintiffs incorporate by reference and reallege each and every one of the allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set forth herein.

123. Under Labor Code § 2802(a), “an employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer.”

124. Section 9(B) of the IWC Wage Order(s) states in pertinent part: “When tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee

1 whose wages are at least two (2) times the minimum wage provided herein may be required to
2 provide and maintain hand tools and equipment customarily required by the trade or craft.”

3 125. Labor Code § 2804 states in pertinent part, “Any contract or agreement, express
4 or implied, made by any employee to waive the benefits of this article or any part thereof is null
5 and void, and this article shall not deprive any employee or his personal representative of any
6 right or remedy to which he is entitled under the laws of this State.”

7 126. As a matter of Defendants’ established company policy, Defendants required the
8 members of the Reimbursements Class to personally incur necessary expenditures in direct
9 consequence of the discharge of their duties, including but not limited to the use of personal
10 mobile devices for work-related activities and the provision and maintenance of tools and
11 equipment, including cleaning supplies, which in this case are required by Defendants and/or are
12 necessary to the performance of the job performed by the members of the Reimbursements
13 Class.

14 127. However, the members of the Reimbursements Class did not always earn at least
15 two (2) times the minimum wage, and as such, Defendants are legally required to reimburse the
16 members of the Reimbursements Class for all necessary expenditures.

17 128. Defendants failed to fully and reasonably reimburse the members of the
18 Reimbursements Class for all necessary expenditures, including but not limited to the
19 aforementioned expenditures.

20 129. As a proximate result of the aforementioned violations of Labor Code §2802(a),
21 the members of the Reimbursements Class are entitled to recovery from Defendants of the
22 unpaid balance for all necessary expenditures, including but not limited to the aforementioned
23 expenditures.

24 130. As a proximate result of the aforementioned violations of Labor Code §2802(a),
25 the members of the Reimbursements Class have been damaged in an amount according to proof
26 at the time of Trial.

27 131. Pursuant to Labor Code §2802(b), the members of the Reimbursements Class
28 request that the Court award interest at the same rate as judgments in civil actions, accruing from

1 the date on which each member of the Reimbursements Class incurred the necessary expenditure
2 or loss.

3 132. Pursuant to Labor Code §2802(c), the members of the Reimbursements Class
4 request that the Court award reasonable attorneys' fees and costs incurred by them in this action.

5 **NINTH CAUSE OF ACTION**

6 **FAILURE TO TIMELY**

7 **FURNISH ACCURATE ITEMIZED WAGE STATEMENTS**

8 **(On Behalf of the Wage Statement Class)**

9 133. Plaintiffs incorporate by reference and reallege each and every one of the
10 allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set
11 forth herein.

12 134. Labor Code § 226(a) states in pertinent part, "Every employer shall, semimonthly
13 or at the time of each payment of wages, furnish each of his or her employees, either as a
14 detachable part of the check, draft, or voucher paying the employee's wages, or separately when
15 wages are paid by personal check or cash, an accurate itemized statement in writing showing (1)
16 gross wages earned, (2) total hours worked by the employee... (4) all deductions... (5) net wages
17 earned, (6) the inclusive dates of the period for which the employee is paid... (8) the name and
18 address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during
19 each the pay period and the corresponding number of hours worked at each hourly rate by the
20 employee...."

21 135. Further, the IWC Wage Orders § 7(A) states in pertinent part, "(A) Every
22 employer shall keep accurate information with respect to each employee including the following:
23 (3) Time records showing when the employee begins and ends each work period. Meal periods,
24 split shift intervals, and total daily hours worked shall also be recorded...(5) Total hours worked
25 in the payroll period and applicable rates of pay...."

26 136. Therefore, under Labor Code § 226(a) and the IWC Wage Orders § 7(A),
27 California employers are required to maintain accurate records pertaining to the total hours
28 worked for Defendants by the members of the Wage Statement Class, including but not limited

1 to, beginning and ending of each work period, meal period and split shift interval, the total daily
2 hours worked, and the total hours worked per pay period and applicable rates of pay.

3 137. As a pattern and practice, in violation of Labor Code § 226(a) and the IWC Wage
4 Orders § 7(A), Defendants did not and still do not furnish each of the members of the Wage
5 Statement Class with an accurate itemized statement in writing showing (1) gross wages earned,
6 (2) total hours worked by the employee, (3) all deductions, (4) net wages earned and/or (5) all
7 applicable hourly rates in effect during each respective pay period and the corresponding number
8 of hours worked at each hourly rate by each respective individual.

9 138. As set forth herein in prior causes of action, Defendants failed to pay the members
10 of the Wage Statement Class all wages due and owing.

11 139. As a derivative result of this failure to pay wages and as a pattern and practice in
12 violation of Labor Code § 226(a) and the IWC Wage Orders § 7(A), Defendants knowingly and
13 intentionally failed to furnish accurate wage statements to the members of the Wage Statement
14 Class, including, but not limited to, failing to provide the beginning and ending of each work
15 period, meal period interval, total daily hours worked, total hours worked per pay period, and the
16 applicable rates of pay.

17 140. As of January 1, 2013, SB 1255 amended Labor Code § 226 to clarify that an
18 employee suffers injury if the employer fails to provide accurate and complete information as
19 required by any one or more items listed in Labor Code § 226(a)(1)-(9) and the employee cannot
20 promptly and easily ascertain requisite information without reference to other documents or
21 information.

22 141. Here, the members of Derivative Wage Statement Class suffered injury because,
23 due to Defendants' failure to pay all wages due and owing, Defendants derivatively failed to
24 provide accurate and complete information as required by one or more items listed in Labor
25 Code § 226(a)(1)-(9).

26 142. In addition, the members of the Wage Statement Class have suffered injury as a
27 result of Defendants' failure to maintain accurate records for the members of the Wage
28 Statement Class in that the members of the Wage Statement Class were not timely provided

1 written accurate itemized statements showing all requisite information, including but not limited
2 to total hours worked by the employee, net wages earned and all applicable hourly rates in effect
3 during the pay period and the corresponding number of hours worked at each hourly rate, in
4 violation of Labor Code § 226 and the IWC Wage Orders § 7(A), such that the members of the
5 Wage Statement Class were misled by Defendants as to the correct information regarding
6 various items, including but not limited to total hours worked by the employee, net wages earned
7 and all applicable hourly rates in effect during the pay period and the corresponding number of
8 hours worked at each hourly rate.

9 143. The actual injuries suffered by the members of the Wage Statement Class as a
10 result of Defendants' knowing and intentional failure to provide accurate records for the
11 members of the Wage Statement Class include but are not limited to:

- 12 a. Confusion over whether they received all wages owed them by Defendants;
- 13 b. The difficulty and expense of attempting to reconstruct time and pay records;
- 14 c. Being forced to engage in mathematical computations to analyze whether
15 Defendants' wages in fact compensated for all hours worked;
- 16 d. The inability to accurately calculate wage rates complicated by the fact that
17 wage statement information required by Labor Code § 226 is missing;
- 18 e. That such practice prevents the members of the Derivative Wage Statement
19 Class from being able to effectively challenge information on their wage
20 statements; and/or
- 21 f. The difficulty and expense of filing and maintaining this lawsuit, and the
22 discovery required to collect and analyze the very information that California
23 law requires.

24 144. Under Labor Code § 226(e), the members of the Wage Statement Class are
25 entitled to \$50.00 per employee for the initial pay period in which a violation hereunder occurs
26 and \$100.00 per employee for each violation in a subsequent pay period, not exceeding an
27 aggregate penalty of \$4,000.00.

28 ///

1 145. Under Labor Code § 226(g), the currently-employed members of the Wage
2 Statement Class are entitled to injunctive relief to ensure Defendants' compliance with Labor
3 Code § 226.

4 146. Under Labor Code §§ 226(e)/(g), the members of the Wage Statement Class are
5 also entitled to an award of costs and reasonable attorneys' fees.

6 **TENTH CAUSE OF ACTION**
7 **PENALTIES UNDER LABOR CODE § 2699**
8 **(On Behalf of the Aggrieved Employees)**
9 **(Against All Defendants)**

10 147. Plaintiffs incorporate by reference and reallege each and every one of the
11 allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set
12 forth herein.

13 148. In addition to seeking civil penalties for the substantive Labor Code violations as
14 alleged above, Plaintiffs allege as follows:

15 **A. FAILURE TO PAY SICK PAY AT THE LEGAL PAY RATE**

16 149. Labor Code § 246(a) states: "(a) An employee who, on or after July 1, 2015,
17 works in California for the same employer for 30 or more days within a year from the
18 commencement of employment is entitled to paid sick days as specified in this section."

19 150. Labor Code § 246(b)(1) states: "An employee shall accrue paid sick days at the
20 rate of not less than one hour per every 30 hours worked, beginning at the commencement of
21 employment or the operative date of this article, whichever is later, subject to the use and accrual
22 limitations set forth in this section."

23 151. Labor Code § 246(l) states: "For the purposes of this section, an employer shall
24 calculate paid sick leave using any of the following calculations:

- 25 (1) Paid sick time for nonexempt employees shall be calculated in the same
26 manner as the regular rate of pay for the workweek in which the employee
27 uses paid sick time, whether or not the employee actually works overtime in
28 that workweek.

1 (2) Paid sick time for nonexempt employees shall be calculated by dividing the
2 employee's total wages, not including overtime premium pay, by the
3 employee's total hours worked in the full pay periods of the prior 90 days of
4 employment."

5 152. Defendants, as a matter of established company policy and procedure, at each and
6 every one of the individual facilities owned and/or operated by Defendants, during the relevant
7 time period:

- 8 a. Administered a uniform company policy and practice as to the pay policies
9 regarding Plaintiff and all other similarly situated aggrieved employees; and
10 b. Failed to pay Plaintiff and all other similarly situated aggrieved employees for
11 paid sick days in a manner that fully complies with Labor Code § 246(l).

12 153. Defendants' pattern, practice, and uniform administration of corporate policy
13 regarding illegal employee compensation as described herein is unlawful and creates an
14 entitlement, under Labor Code §§ 246, 248.5, and/or 2699, et seq., to recovery by Plaintiff and
15 all other similarly situated aggrieved employees, in a civil action, to the extent allowed by law.

16 **B. PENALTIES ASSESSED**

17 154. Under Labor Code § 2699(a) (which provides that any provision of the Labor
18 Code that provides for a civil penalty to be assessed and collected by the LWDA, or any of its
19 departments, divisions, commissions, board agencies or employees, such civil penalties may, as
20 an alternative, be recovered through a civil action brought by an aggrieved employee on behalf
21 of himself or herself and other current or former employees) and Labor Code § 2699(f) (which
22 establishes a civil penalty for violations of all Labor Code provisions except those for which a
23 civil penalty is specifically provided), the aggrieved employees seek recovery of all applicable
24 civil penalties, as follows:

- 25 a. As applicable, for civil penalties under Labor Code § 2699(f), for all
26 violations of the Labor Code except for those for which a civil penalty is
27 specifically provided, in the amount of \$100 for each aggrieved employee per
28 pay period for the initial violation; and \$200 for each aggrieved employee per

1 pay period for each subsequent violation;

- 2 b. As applicable, civil penalties under Labor Code § 558 (in addition to and
3 entirely independent and apart from any other penalty provided in the Labor
4 Code), for violations of Labor Code §§ 500-556, in the amount of \$50 for
5 each underpaid aggrieved employee for each pay period the aggrieved
6 employee was underpaid, and \$100 for each subsequent violation for each
7 underpaid employee for each pay period for which the employee was
8 underpaid;
- 9 c. As applicable, for civil penalties under Labor Code § 1197.1 (in addition to
10 and entirely independent and apart from any other penalty provided in the
11 Labor Code), for violations of Labor Code §§ 1194 and 1197, in the amount
12 of \$100 for each underpaid aggrieved employee for each pay period the
13 aggrieved employee was intentionally underpaid, and \$250 for each
14 subsequent violation for each underpaid aggrieved employees regardless of
15 whether the initial violation was intentionally committed;
- 16 d. As applicable, for civil penalties under Labor Code § 210 (in addition to and
17 entirely independent and apart from any other penalty provided in the Labor
18 Code), for each employee who is/was not paid wages in accordance with
19 Labor Code §§ 204 and 204b in the amount of a civil penalty of \$100 for each
20 aggrieved employee per pay period for each initial violation, and \$200 for
21 each aggrieved employee per pay period for each subsequent violation;
- 22 e. As applicable, for civil penalties under Labor Code § 226.3 (in addition to and
23 entirely independent and apart from any other penalty provided in the Labor
24 Code), for each violation of Labor Code § 226(a), in the amount of \$250 for
25 each aggrieved employee per pay period for each violation and \$1,000 for
26 each aggrieved employee per pay period for each subsequent violation;
- 27 f. As applicable, for civil penalties under Labor Code § 248.5(e) (in addition to
28 and entirely independent and apart from any other penalty provided in the

Labor Code), for each violation of Labor Code § 246; and

g. As applicable, for any and all additional civil penalties and sums as provided by the Labor Code and/or other relevant statutes.

155. In addition, Plaintiff seeks and is entitled to 65% of all penalties obtained under Labor Code § 2699 to be allocated to the LWDA, for education of employers and employees about their rights and responsibilities under the Labor Code, and 35% to Plaintiff and all other similarly situated aggrieved employees.

156. Further, Plaintiff is entitled to recover reasonable attorneys' fees and costs under Labor Code §§ 2699(k)(1) and any other applicable statute.

157. Labor Code § 2699.3(a) states in pertinent part: "A civil action by an aggrieved employee pursuant to subdivision (a) or (f) of Section 2699 alleging a violation of any provision listed in Section 2699.5 shall commence only after the following requirements have been met: (1) (A) The aggrieved employee or representative shall give written notice by online filing with the Labor and Workforce Development Agency and by certified mail to the employer of the specific provisions of this code alleged to have been violated, including the facts and theories to support the alleged violation."

158. Labor Code § 2699.3(c)(1) states in pertinent part: "A civil action by an aggrieved employee pursuant to subdivision (a) or (f) of Section 2699 alleging a violation of any provision other than those listed in Section 2699.5 or Division 5 (commencing with Section 6300) shall commence only after the following requirements have been met: (1) (A) The aggrieved employee or representative shall give written notice by online filing with the Labor and Workforce Development Agency and by certified mail to the employer of the specific provisions of this code alleged to have been violated, including the facts and theories to support the alleged violation."

159. Here, Plaintiffs' civil action alleges violations of provisions listed in Labor Code § 2699.5 and violations of provisions other than those listed in Labor Code § 2699.5. As such, Labor Code § 2699.3(a) and § 2699.3(c) apply to this action.

///

1 160. On November 4, 2024, Plaintiffs complied with Labor Code § 2699.3(a) and
2 Labor Code § 2699.3(c) in that Plaintiffs gave written notice by online filing with the LWDA
3 and by certified mail to Defendants of the specific provisions of the Labor Code alleged to have
4 been violated, including the facts and theories to support the alleged violations. Attached hereto
5 as Exhibit 1 is Plaintiffs' LWDA letter.

6 161. Labor Code § 2699.3(a) further states in pertinent part: "(2)(A) The agency shall
7 notify the employer and the aggrieved employee or representative by certified mail that it does
8 not intend to investigate the alleged violation within 60 calendar days of the postmark date of the
9 notice received pursuant to paragraph (1). Upon receipt of that notice or if no notice is provided
10 within 65 calendar days of the postmark date of the notice given pursuant to paragraph (1), the
11 aggrieved employee may commence a civil action pursuant to Section 2699."

12 162. As of January 9, 2025 (65 calendar days after Plaintiffs' November 4, 2024
13 LWDA letter was filed online), Plaintiffs had not received any notification that the LWDA
14 intended to investigate the alleged violations. As such, Plaintiffs have complied with Labor Code
15 § 2699.3(a) and are authorized to commence a civil action that includes a cause of action under
16 Labor Code § 2699.

17 163. Further, as of December 8, 2024 (33 calendar days after Plaintiffs' November 4,
18 2024 LWDA letter was mailed to Defendants via certified mail), Plaintiffs have not received
19 from Defendants written notice by certified mail that the alleged violations have been cured,
20 including a description of actions taken. As such, Plaintiffs have complied with Labor Code §
21 2699.3(c) and are authorized to commence a civil action that includes a cause of action under
22 Labor Code § 2699.

23 **ELEVENTH CAUSE OF ACTION**

24 **UNFAIR BUSINESS PRACTICES**

25 **(On Behalf of the 17200 Class)**

26 **(Against All Defendants)**

27 164. Plaintiffs incorporate by reference and reallege each and every one of the
28 allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set

1 forth herein.

2 165. Business & Professions Code § 17200 provides, in pertinent part, “unfair
3 competition shall mean and include any unlawful, unfair or fraudulent business act.”

4 166. Business & Professions Code § 17205 provides that unless otherwise expressly
5 provided, the remedies or penalties provided for unfair competition “are cumulative to each other
6 and to the remedies or penalties available under all other laws of this state.”

7 167. Business & Professions Code § 17204 provides that an action for any relief from
8 unfair competition may be prosecuted by any person who has suffered injury in fact and has lost
9 money or property as a result of such unfair competition.

10 168. Defendants have engaged in unlawful, unfair and fraudulent business acts or
11 practices prohibited by Business & Professions Code § 17200, including those set forth in the
12 preceding and foregoing paragraphs of the complaint, thereby depriving the members of the
13 17200 Class of the minimum working standards and conditions due to them under the Labor
14 Code and/or the IWC Wage Orders, as specifically described herein.

15 169. Defendants have engaged in unfair business practices in California by practicing,
16 employing and utilizing the employment practices outlined in the preceding paragraphs,
17 specifically, by requiring employees to perform the labor services complained of herein without
18 the requisite compensation.

19 170. Defendants’ use of such practices constitutes an unfair business practice and
20 unfair competition and provides an unfair advantage over Defendants’ competitors.

21 171. Plaintiffs have suffered injury in fact and have lost money or property as a result
22 of such unfair competition.

23 172. Plaintiffs seek full restitution from Defendants, as necessary and according to
24 proof, to restore any and all monies withheld, acquired, and/or converted by Defendants by
25 means of the unfair practices complained of herein.

26 173. Further, if Defendants are not enjoined from the conduct set forth above,
27 Defendants will continue to practice, employ, and utilize the employment practices outlined in
28 the preceding paragraphs.

174. Therefore, Plaintiffs request that the Court issue a preliminary and permanent injunction prohibiting Defendants from engaging in the foregoing conduct.

VI.

WHEREFORE, Plaintiffs pray:

As to the First Cause of Action for Failure to Pay All Wages:

c. For liquidated damages as authorized by Labor Code § 1194.2(a);

e. For pre-judgment interest as allowed by Labor Code §§ 218.6 and 1194(a) and Civil Code § 3287;

As to the Second Cause of Action for Failure to Pay All Overtime Wages at the Legal Overtime
Pay Rate:

h. For pre-judgment interest as allowed by Labor Code §§ 218.6 and 1194(a), and Civil Code § 3287;

As to the Third Cause of Action for Failure to Pay Reporting Time Pay:

j. For recovery of the unpaid balance of the full amount of the unpaid reporting time pay due and owing, according to proof;

k. For pre-judgment interest as allowed by Labor Code § 218.6 and Civil Code § 3287;

l. For an award of reasonable attorneys' fees and costs under Labor Code § 218.5;

As to the Fourth Cause of Action for Failure to Pay On-Call/Standby Pay:

m. For recovery of the unpaid balance of the full amount of the unpaid On-Call/Standby pay due and owing, according to proof;

n. For pre-judgment interest as allowed by Labor Code § 218.6 and Civil Code § 3287;

o. For an award of reasonable attorneys' fees and costs under Labor Code § 218.5;

As to the Fifth Cause of Action for Failure to Provide Meal Periods:

p. For one hour of pay at the regular rate of compensation for each member of the Meal Period Class for each workday that a meal period was not provided;

q. For an award of reasonable attorneys' fees and costs under Labor Code § 218.5;

r. For pre-judgment interest as authorized by Labor Code § 218.6 and Civil Code § 3287;

As to the Sixth Cause of Action for Failure to Authorize and Permit Paid Rest Periods:

s. For one hour of pay at the regular rate of compensation for each member of the Rest Period Class for each workday that a meal or rest period was not provided;

t. For an award of reasonable attorneys' fees and costs under Labor Code § 218.5;

u. For pre-judgment interest as authorized by Labor Code § 218.6 and Civil Code § 3287;

As to the Seventh Cause of Action for Failure to Pay Premium Wages At the Legal Pay Rate:

v. For damages, as set forth in Labor Code § 1194(a) and the IWC Wage Order(s) regarding wages due and owing, according to proof;

///

1 w. For pre-judgment interest as allowed by Labor Code §§ 218.6 and 1194(a) and
2 Civil Code §3287;

3 x. For an award of reasonable attorneys' fees and costs under Labor Code §§ 218.5
4 and/or 1194(a);

5 As to the Eighth Cause of Action for Failure to Fully Reimburse Business Expenses:

6 y. For recovery of the unpaid balance for all necessary expenditures and losses
7 incurred in direct consequence of the discharge of Defendants' duties;

8 z. For penalties pursuant to Labor Code §225.5;

9 aa. For interest thereon at the same rate as judgments in civil actions, accruing from
10 the date on which each member of the Reimbursements Class incurred the necessary expenditure
11 or loss, pursuant to Labor Code §2802(b), Labor Code §218.6 and Civil Code §§3287(b);

12 bb. For reasonable attorneys' fees and costs pursuant to Labor Code §2802(c) and
13 Labor Code §218.5;

14 As to the Ninth Cause of Action for Derivative Failure to Timely Furnish Accurate Itemized
15 Wage Statements:

16 cc. For recovery as authorized by Labor Code § 226(e);

17 dd. For an award of costs and reasonable attorneys' fees under Labor Code §§
18 226(e)/(g);

19 As to the Tenth Cause of Action for Penalties Under Labor Code § 2699:

20 ee. As applicable, for civil penalties under Labor Code § 2699(f), in addition to and
21 entirely independent and apart from other penalties in the Labor Code and for Labor Code
22 violations without a specific civil penalty, in the amount of \$100 for each aggrieved employee
23 per pay period for each violation, and \$200 for each aggrieved employee per pay period for each
24 subsequent violation;

25 ff. As applicable, for civil penalties under Labor Code § 558, in addition to and
26 entirely independent and apart from other penalties in the Labor Code, as follows:

27 i) For any initial violation, fifty dollars (\$50) for each aggrieved underpaid
28 employee for each pay period for which the employee was underpaid; and

1 ii) For each subsequent violation, one hundred dollars (\$100) for each aggrieved
2 underpaid employee for each pay period for which the employee was
3 underpaid;

4 gg. As applicable, for civil penalties under Labor Code § 1197.1, in addition to and
5 entirely independent and apart from other penalties in the Labor Code, as follows:

6 i) For any initial violation that is intentionally committed, \$100 for each
7 aggrieved underpaid employee for each pay period for which the employee
8 was underpaid; and

9 ii) For each subsequent violation, regardless of whether the initial violation is
10 intentionally committed, \$250 for each aggrieved underpaid employee for
11 each pay period for which the employee was underpaid;

12 hh. As applicable, for civil penalties under Labor Code § 210, in addition to and
13 entirely independent and apart from other penalties in the Labor Code, in the amount of \$100 for
14 each aggrieved employee per pay period for each violation, and \$200 for each aggrieved
15 employee per pay period for each subsequent violation;

16 ii. As applicable, for civil penalties under Labor Code § 226.3, in addition to and
17 entirely independent and apart from other penalties in the Labor Code, in the amount of \$250 for
18 each aggrieved employee per pay period for each violation, and \$1,000 for each aggrieved
19 employee per pay period for each subsequent violation;

20 jj. As applicable, for civil penalties under Labor Code § 248.5(e) (in addition to and
21 entirely independent and apart from any other penalty provided in the Labor Code), for each
22 violation of Labor Code § 246; and

23 kk. As applicable, for any and all additional civil penalties and sums as provided by
24 the Labor Code and/or other relevant statutes.

25 As to the Eleventh Cause of Action for Unfair Business Practices:

26 ll. For an accounting, under administration of Plaintiffs and/or the receiver and
27 subject to Court review, to determine the amount to be returned by Defendants, and the amounts
28 to be refunded to members of the Classes who are owed monies by Defendants;

1 mm. For an Order requiring Defendants to identify each of the members of the Classes
2 by name, home address, home telephone number and, if available, email address;

3 nn. For an Order requiring Defendants to make full restitution and payment under
4 California law;

5 oo. For an Order for a preliminary and/or permanent injunction prohibiting
6 Defendants from engaging in the acts complained of herein;

7 pp. For the creation of an administrative process wherein each injured member of the
8 Classes may submit a claim in order to receive his/her money;

9 qq. For all other appropriate injunctive, declaratory and equitable relief;

10 rr. For interest to the extent permitted by law;

11 ss. For an award of attorneys' fees and costs incurred in the investigation, filing and
12 prosecution of this action under Code of Civil Procedure § 1021.5, Business & Professions Code
13 §§ 17200, et seq., Labor Code § 1194 and/or any other applicable provision of law;

14 As to All Causes of Action:

15 tt. For such relief as this Court may deem just and proper, including reasonable
16 attorneys' fees and costs incurred.

17 **VII.**

18 **DEMAND FOR JURY TRIAL**

19 Plaintiffs hereby demand trial of their claims by jury to the extent authorized by law.

20 Dated: January 10, 2025

D.LAW, INC.

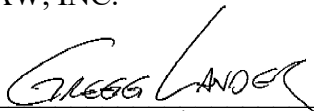
21 By: 
22 Gregg Lander, Esq.
23 Vanessa M. Ruggles, Esq.
24 Guido E. Toscano, Esq.
25 Attorneys for Plaintiffs
26
27
28

EXHIBIT 1

November 4, 2024

Submitted at <https://www.dir.ca.gov> with \$75 filing fee

PAGA Administrator
California Labor and Workforce Development Agency
PAGAfiling@dir.ca.gov

Re: RAR Hotel Management, Inc. (the “Employer”)

NOTICE OF LABOR CODE VIOLATIONS UNDER LABOR CODE § 2699.3

To: PAGA Administrator, California Labor and Workforce Development Agency, and the Employer

From: Blanca Morales Mejia (the “Employee”), who was subjected to the wage and hour practices set forth below.

The Employee, by way of the above-named counsel, submits this Notice, under and in compliance with the requirements of California Labor Code § 2699.3(a)/(c), and alleges the facts and theories to support the alleged violations as follows:

During the applicable time period each Employer employed the Employee and all other similarly situated aggrieved employees as non-exempt employees and utilized consistent policies and procedures regarding the Employee and all such other aggrieved employees, as follows:

First, the Employee and other aggrieved employees spent time under the Employer’s control but were not paid therefor. For example, the Employer required the Employee and other aggrieved employees to perform work-related tasks at the end of their shifts after clocking out and inordinately wait in a line of employees before being able to clock in and/or out. In these circumstances, the Employer failed to pay all straight time, minimum, and/or overtime wages due for the time the Employee and other aggrieved employees were subject to the Employer’s control. As such, the Employer violated Labor Code §§ 510, 1194, 1197, and/or 1198 and the applicable Industrial Wage Order, and owes penalties under Labor Code §§ 2699(f), 1197.1, and/or 558.

Second, the Employer paid the Employee and other aggrieved employees certain forms of non-discretionary pay, including but not limited to bonuses and/or incentive pay. However, the Employer did not include all forms of remuneration in the overtime pay rate when the Employee and other aggrieved employees worked overtime. As such, the Employer violated Labor Code §§ 510, 1194, 1197, 1198 and the applicable Industrial Wage Order and owes penalties under Labor Code §§ 2699(f), 1197.1, and/or 558.

Third, the Employee and other aggrieved employees were sometimes required to report to work but were not put to work or were furnished less than half of their usual or scheduled day’s work. When this occurred, they were sometimes paid for less than half the usual or scheduled day’s work at each such employee’s regular rate of pay, in violation of the applicable Industrial Wage Order § 5(A)/(B) and Labor Code § 1198. As such, the Employer owes penalties under Labor Code §§ 2699(a)/(f), 1197.1, and/or 558.



Fourth, the Employee and other aggrieved employees were sometimes required to be on call/standby and available to report to work within one hour. Nonetheless, the Employer did not compensate for this time under the Employer's control and/or paid for less than half the usual or scheduled day's work at each such employee's regular rate of pay, in violation of the applicable Industrial Wage Order § 5(A)/(B) and Labor Code § 1194, 1197, and/or 1198 and the applicable Industrial Wage Order, and owes penalties under Labor Code §§ 2699(f), 1197.1, and/or 558.

Fifth, the Employer failed to timely provide all legally compliant meal breaks (including second meal breaks) to the Employee and other aggrieved employees, because the Employer failed to relinquish all control and/or because meal breaks were missed, interrupted, short and/or late. The Employee and other aggrieved employees were required to carry and respond to Employer-issued radios during their shift, including during meal and rest periods, essentially requiring them to be "on call" during meal and rest periods. The Employee and other aggrieved employees routinely worked over five hours but did not always get lawful full thirty-minute uninterrupted meal breaks within the first five hours of their shifts, including but not limited to for the reasons stated above. Further, they sometimes worked over ten and/or twelve hours but were not timely provided a legally compliant second meal break, including but not limited to for the reasons set forth above. The Employer did not always pay a meal period penalty for these violations. As such, the Employer violated Labor Code §§ 226.7, 512 and 516 and the applicable Industrial Wage Order ¶ 11 and owes penalties under Labor Code §§ 2699(f) and/or 558.

Sixth, the Employer failed to always authorize and permit paid rest breaks to the Employee and other aggrieved employees. As stated, the Employee and other similarly employees were required to carry and respond to Employer-issued radios during their shifts, essentially requiring them to be "on call" during meal and rest periods. The Employee and other aggrieved employees did not always get full ten-minute uninterrupted rest breaks within the first four hours of their shift or major fraction thereof and each subsequent four hours worked thereafter or major fraction thereof. As such, the Employee and other aggrieved employees were not always authorized and permitted legally compliant rest breaks. *Augustus v ABM Security Services, Inc.* (2016) 2 Cal 5th 257. Because the Employer did not pay a rest period penalty for these violations, the Employer violated Labor Code §§ 226.7 and 516 and the applicable Industrial Wage Order ¶ 12(A)/(B) and owes penalties under Labor Code §§ 2699(f) and/or 558.

Seventh, the Employer sometimes paid the Employee and other aggrieved employees premium pay for meal and/or rest period violations. However, the Employer failed to always comply with the meal and/or rest period penalty payment requirements established by *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal.5th 858, Labor Code §§ 226.7, 512, 516, and Section 11 and/or 12 of the IWC Wage Order(s). Specifically, the Employer failed to always include all forms of remuneration in the calculation of the regular rate of pay. As such, the Employer owes the Employee and other aggrieved employees unpaid wages, in violation of Labor Code §§ 1194 and 226.7(c) and owes penalties under Labor Code §§ 2699(f), 1197.1, and/or 558.

Eighth, the Employee and other aggrieved employees incurred work-related expenses while performing reasonable and necessary work-related duties, including but not limited to for the use of their personal mobile devices which were required by the Employer to respond to customer requests. The Employer failed to reimburse for these personal mobile device-related expenses. (*Cochran v. Schwan's Home Service, Inc.* (2014) 228 Cal.App.4th 1137.) As such, the Employer violated Labor Code §§ 450 and 2802 and owes penalties under Labor Code § 2699(f). Similarly, the Employer failed to reimburse the Employee for the provision and maintenance of tools and equipment, including cleaning supplies. Here, such tools and equipment are necessary to the performance of the job, and the Employee and other aggrieved employees did not always



earn at least two times the minimum wage. As such, the Employer violated Labor Code § 2802 and owes penalties under Labor Code § 2699(f).

Ninth, regarding wage statements, under Labor Code § 226 and the applicable Industrial Wage Order, the Employer is required to include certain information on a paystub. Here, because of the Employer failed to pay all wages as set forth above, Employer issued wage statements that inaccurately reflected hours worked and/or wages earned by the Employee and other aggrieved employees, and the Employer has derivatively violated Labor Code § 226 and owes penalties under Labor Code §§ 2699(f) and/or 226.3.

Tenth, the Employer failed to always provide the Employee and other aggrieved employees with paid sick days paid at the regular rate of pay. The Employer paid the Employee and other aggrieved employees certain forms of non-discretionary pay, including but not limited to bonuses, commissions, and/or incentive pay. However, the Employer did not include all forms of remuneration in the sick pay rate in violation of Labor Code § 246(l) and owes penalties under Labor Code §§ 2699(a)/(f), 248.5, and/or 558.

Under Labor Code § 2699.3(a)(2)(A), please advise within 65 calendar days of the postmark date of this notice whether the LWDA intends to investigate these alleged violations.

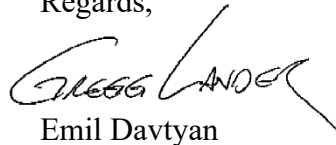
Further, under Labor Code § 2699.3(c)(2)(A), the Employer may cure the alleged violations within 33 calendar days of the postmark date of this notice and within that period, give notice by certified mail if the alleged violation is cured, including a description of actions taken.

In addition, this letter clearly sets forth the Employee's grievances and proposed remedies, under the Labor Code, PAGA, and otherwise, as set forth above. The Employee would like to engage in reasonable efforts to settle this dispute before filing a civil action against the Employer. The Employee gives the Employer the opportunity, prior to the expiration of the deadline for the LWDA to investigate, to meet the Employee's demands and settle this dispute.

We understand that if we do not receive a response within 65 calendar days of the postmark and filing date of this notice that the LWDA intends to investigate these allegations and/or a notice from the Employer that the alleged violations are cured, and/or if the alleged violations are not cured, then the Employee may immediately thereafter commence a civil action against the Employer under Labor Code § 2699.

Thank you for your consideration.

Regards,



Emil Davtyan
Gregg Lander
Vanessa M. Ruggles

cc: (via Certified Mail)
RAR Hotel Management, Inc.
11025 Vista Sorrento Parkway
San Diego, CA 92130

1 **PROOF OF SERVICE**

2 **STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

3 I, the undersigned, am over the age of 18 years and not a party to this action. My business
4 address is 1635 Pontius Avenue, Second Floor, Los Angeles, CA 90025-3361, which is located
in Los Angeles County, where the service herein occurred.

5 On the date of execution hereof, I caused to be served the following attached document/s:

6 **FIRST AMENDED COMPLAINT**

7 on the interested parties in this action, addressed as follows:

8 Attorneys for Defendant Rar Hotel Management, Inc.:

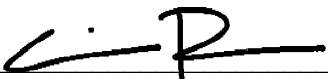
9 Adam L. Parry, Esq.
10 Omar V. Hernandez, Esq.
STOKES WAGNER ALC
11 401 W. A Street, Suite 2235
San Diego, CA 92101
12 Tel.: (619) 232-4261 / Fax: (619) 232-4840
Emails: AParry@stokeswagner.com
13 OHernandez@stokeswagner.com

14 using the following service method:

15 X **VIA ELECTRONIC MAIL:** Service by electronic mail to parties who have already
16 appeared in this post-January 1, 2019 proceeding was made pursuant to the procedures specified
in California Code of Civil Procedure § 1010.6(b). The electronic mail was sent to electronic
service address(es) that has/have been previously confirmed by email.

17 I declare under penalty of perjury under the laws of the United States of America and the State of
18 California that the foregoing is true and correct.

19 Executed on **January 10, 2025**, at Los Angeles, California.

20 
21 _____
22 **Cindy Rivas**
23
24
25
26
27
28