

SUMMONS (CITACION JUDICIAL)

NOTICE TO DEFENDANT: (AVISO AL DEMANDADO):

EAGLE FOODS, LLC, a California limited liability company; RAMBO, LLC, a California limited liability company; and DOES 1 through 50, Inclusive;

YOU ARE BEING SUED BY PLAINTIFF: (LO ESTÁ DEMANDANDO EL DEMANDANTE):

JOE MORENO, on behalf of himself, other Aggrieved Employees, and the State of California,

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego

09/03/2021 at 04:10:33 PM

Clerk of the Superior Court
By Connie Hines, Deputy Clerk

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol/), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol/) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:
(El nombre y dirección de la corte es):

San Diego Superior Courthouse
330 W Broadway
San Diego, CA 92101

CASE NUMBER:
(Número del Caso): 37-2021-00038129-CU-OE-CTL

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Jean-Claude Lapuyade, Esq. SBN:248676 Tel: (619) 599-8292 Fax: (619) 599-8291

JCL Law Firm, APC - 3990 Old Town Avenue, Suite C204, San Diego, CA 92110

DATE: 09/07/2021
(Fecha)

Clerk, by _____, Deputy
(Secretario) C. Hines (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

[SEAL]



NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):
3. ☐ on behalf of (specify):

under: ☐ CCP 416.10 (corporation)	☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation)	☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership)	☐ CCP 416.90 (authorized person)
☐ other (specify):	
4. ☐ by personal delivery on (date):

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Attorneys for Plaintiff JOE MORENO

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN DIEGO

JOE MORENO, on behalf of himself, other
Aggrieved Employees, and the State of
California,

Plaintiffs,

vs.

EAGLE FOODS, LLC, a California limited
liability company; RAMBO, LLC, a
California limited liability company; and
DOES 1 through 50, Inclusive;

Defendants.

Case No: 37-2021-00038129-CU-OE-CTL

**REPRESENTATIVE ACTION
COMPLAINT FOR:**

1. VIOLATIONS OF THE PRIVATE
ATTORNEY GENERAL ACT AT
LABOR CODE SETIONS 2698 *ET SEQ.*

DEMAND FOR A JURY TRIAL

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego

09/03/2021 at 04:10:33 PM

Clerk of the Superior Court
By Connie Hines, Deputy Clerk

1 Plaintiff JOE MORENO, (“PLAINTIFF”), an individual, in his representative capacity on
2 behalf the State of California, and fellow current and former AGGRIEVED EMPLOYEES, defined
3 *supra*, against EAGLE FOODS, LLC, a California limited liability company and RAMBO, LLC, a
4 California limited liability company (“DEFENDANT”), alleges on information and belief, except
5 for his own acts and knowledge which are based on personal knowledge, the following:

6 **PRELIMINARY ALLEGATIONS**

7 1. PLAINTIFF brings this representative action pursuant to the Private Attorneys
8 General Act of 2004, California Labor Code § 2698, et seq. (“PAGA”) on behalf of the State of
9 California and other current and former aggrieved employees of DEFENDANT for engaging in a
10 pattern and practice of wage and hour violations under the California Labor Code.

11 2. PLAINTIFF is informed and believes, and thereon alleges, that DEFENDANT
12 decreased its employment-related costs by systematically violating California wage and hour
13 laws.

14 3. DEFENDANT’s systematic pattern of wage and hour and IWC Wage Order
15 violations toward PLAINTIFF and other aggrieved employees in California include, inter alia:

- 16 a. Failure to provide compliant meal and rest periods;
- 17 b. Failure to pay all minimum, regular and overtime wages, including overtime wages
18 at the correct rate;
- 19 c. Failure to maintain true and accurate records;
- 20 d. Failure to provide accurate itemized wage statements;
- 21 e. Failure to reimburse employees for business-related expenses; and
- 22 f. Failure to timely pay wages due during, and upon termination of employment.

23 4. PLAINTIFF brings this representative action against DEFENDANT on behalf of
24 other aggrieved employees of DEFENDANT in California seeking all civil penalties and unpaid
25 wages permitted pursuant to California Labor Code § 2699, et seq.

26 5. PLAINTIFF reserves the right to name additional representatives throughout the
27 State of California.

THE PARTIES

6. Defendant EAGLE FOODS, LLC (“Defendant Eagle”) is a California limited liability company and at all relevant times mentioned herein conducted and continues to conduct substantial and regular business in the state of California.

7. Defendant RAMBO, LLC (“Defendant Rambo”) is a California limited liability company and at all relevant times mentioned herein conducted and continues to conduct substantial and regular business in the state of California.

8. Defendant Eagle and Defendant Rambo were the joint employers of PLAINTIFF as evidenced by the contracts signed and by the company the PLAINTIFF performed work for respectively, and are therefore jointly responsible as employers for the conduct alleged and collectively referred to herein as “DEFENDANT” and/or “DEFENDANTS.”

9. DEFENDANTS operate McDonald’s restaurant franchises.

10. PLAINTIFF was employed by DEFENDANTS from February of 2021 to March of 2021.

11. PLAINTIFF brings this action in his representative capacity on behalf of the State of California and on behalf of all of Defendant Eagle’s and/or Defendant Rambo’s current and former employees employed in California who suffered one or more Labor Code violations enumerated in Labor Code §§ 2698 *et seq.* (hereinafter “AGGRIEVED EMPLOYEES”) and who worked for DEFENDANT between June 30, 2020 and the present (“PAGA PERIOD”).

12. PLAINTIFF is an “AGGRIEVED EMPLOYEE” within the meaning of Labor Code § 2699(c) because he was employed by DEFENDANT and suffered one or more of the alleged Labor Code violations committed by DEFENDANT.

13. PLAINTIFF and all other AGRIEVED EMPLOYEES are, and at all relevant times were, employees of DEFENDANT, within the meanings set forth in the California Labor Code and the applicable Industrial Welfare Commission Wage Order.

14. Each of the fictitiously named defendants participated in the acts alleged in this Complaint. The true names and capacities of the defendants named as DOES 1 THROUGH 50, inclusive, are presently unknown to PLAINTIFF. PLAINTIFF will amend this Complaint,

1 setting forth the true names and capacities of these fictitiously named defendants when their true
2 names are ascertained. PLAINTIFF is informed and believes, and on that basis alleges, that each
3 of the fictitious defendants have participated in the acts alleged in this Complaint.

4 15. DEFENDANT, including DOES 1 THROUGH 50 (hereinafter collectively
5 "DEFENDANT" or "DEFENDANTS"), were PLAINTIFF's employers or persons acting on
6 behalf of PLAINTIFF's employer, within the meaning of California Labor Code § 558, who
7 violated or caused to be violated, a section of Part 2, Chapter 1 of the California Labor Code or
8 any provision regulating hours and days of work in any order of the Industrial Welfare
9 Commission and, as such, are subject to civil penalties for each underpaid employee, as set forth
10 in Labor Code § 558, at all relevant times.

11 16. DEFENDANTS were PLAINTIFF's employers or persons acting on behalf of
12 PLAINTIFF's employer either individually or as an officer, agent, or employee of another
13 person, within the meaning of California Labor Code § 1197.1, who paid or caused to be paid to
14 any employee a wage less than the minimum fixed by California state law, and as such, are
15 subject to civil penalties for each underpaid employee

16 **THE CONDUCT**

17 17. In violation of the applicable sections of the California Labor Code and the
18 requirements of the Industrial Welfare Commission ("IWC") Wage Order, DEFENDANTS as a
19 matter of company policy, practice and procedure, intentionally, knowingly and systematically
20 failed to provide legally compliant meal and rest periods, failed to accurately compensate
21 AGGRIEVED EMPLOYEES (defined *infra*) for missed meal and rest periods, failed to pay
22 AGGRIEVED EMPLOYEES for all time worked, and failed to issue to PLAINTIFF and
23 AGGRIEVED EMPLOYEES with accurate itemized wage statements showing, among other
24 things, all applicable hourly rates in effect during the pay periods and the corresponding amount
25 of time worked at each hourly rate. DEFENDANTS' uniform policies and practices are intended
26 to purposefully avoid the accurate and full payment for all time worked as required by California
27 law which allows DEFENDANTS to illegally profit and gain an unfair advantage over
28 competitors who comply with the law. To the extent equitable tolling operates to toll claims by

1 the AGGRIEVED EMPLOYEES against DEFENDANTS, the CLASS PERIOD should be
2 adjusted accordingly.

3 **Meal Period Violations**

4 18. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANTS
5 were required to pay AGGRIEVED EMPLOYEES for all their time worked, meaning the time
6 during which an employee is subject to the control of an employer, including all the time the
7 employee is suffered or permitted to work. From time-to-time during the PAGA PERIOD,
8 DEFENDANTS required AGGRIEVED EMPLOYEES to work without paying them for all the
9 time they were under DEFENDANTS' control. Specifically, as a result of demanding work
10 requirements, DEFENDANTS required AGGRIEVED EMPLOYEES to work while clocked out
11 during what was supposed to be their off-duty meal break. AGGRIEVED EMPLOYEES was
12 from time to time interrupted by work assignments while clocked out for what should have been
13 their off-duty meal break. Indeed, there were many days where PLAINTIFF did not even receive
14 a partial lunch. As a result, the AGGRIEVED EMPLOYEES forfeited minimum wage and
15 overtime wages by regularly working without their time being accurately recorded and without
16 compensation at the applicable minimum wage and overtime rates. DEFENDANTS' uniform
17 policy and practice not to pay AGGRIEVED EMPLOYEES for all time worked is evidenced by
18 DEFENDANTS' business records.

19 19. From time-to-time during the PAGA PERIOD, as a result of their rigorous work
20 schedules, AGGRIEVED EMPLOYEES were from time to time unable to take thirty (30) minute
21 off duty meal breaks and were not fully relieved of duty for their meal periods. AGGRIEVED
22 EMPLOYEES were required from time to time to perform work as ordered by DEFENDANTS
23 for more than five (5) hours during some shifts without receiving a meal break. Further,
24 DEFENDANTS from time to time failed to provide AGGRIEVED EMPLOYEES with a second
25 off-duty meal period for some workdays in which these employees were required by
26 DEFENDANTS to work ten (10) hours of work from time to time. The nature of the work
27 performed by the AGGRIEVED EMPLOYEES does not qualify for limited and narrowly
28 construed "on-duty" meal period exception. When they were provided with meal periods,

1 AGGRIEVED EMPLOYEES were, from time to time, required to remain on duty and/or on call.
2 AGGRIEVED EMPLOYEES therefore forfeited meal breaks without additional compensation
3 and in accordance with DEFENDANTS' strict corporate policy and practice.

4 **Rest Period Violations**

5 20. From time-to-time during the PAGA PERIOD, AGGRIEVED EMPLOYEES
6 were also required from time to time to work in excess of four (4) hours without being provided
7 ten (10) minute rest periods as a result of their rigorous work schedule. Further, for the same
8 reasons these employees were denied their first rest periods of at least ten (10) minutes for some
9 shifts worked of at least two (2) to four (4) hours from time to time, a first and second rest period
10 of at least ten (10) minutes for some shifts worked of between six (6) and eight (8) hours from
11 time to time, and a first, second and third rest period of at least ten (10) minutes for some shifts
12 worked of ten (10) hours or more from time to time. When they were provided with rest breaks,
13 AGGRIEVED EMPLOYEES were, from time to time, required to remain on duty and/or on call.
14 AGGRIEVED EMPLOYEES were also not provided with one-hour wages in lieu thereof. As a
15 result of their rigorous work schedules, AGGRIEVED EMPLOYEES were from time to time
16 denied their proper rest periods by DEFENDANTS and DEFENDANTS' managers.

17 **Wage Statement Violations**

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

26 22. From time to time during the PAGA PERIOD, when AGGRIEVED EMPLOYEES
27 missed meal and rest breaks, were paid inaccurate missed meal and rest period premiums, or were
28 not paid for all hours worked, DEFENDANTS also failed to provide AGGRIEVED

1 EMPLOYEES with complete and accurate wage statements which failed to show, among other
2 things, all applicable hourly rates in effect during the pay period and the corresponding amount
3 of time worked at each hourly rate, correct rates of pay for penalty payments or missed meal and
4 rest periods. Further, from time to time during the PAGA PERIOD, DEFENDANTS issued
5 itemized wage statements to PLAINTIFF and AGGRIEVED EMPLOYEES that failed to provide
6 the accurate name and address of the legal entity that is PLAINTIFF's and AGGRIEVED
7 EMPLOYEES' employer.

8 23. In addition to the violations described above, DEFENDANTS, from time to time,
9 failed to provide PLAINTIFF and AGGRIEVED EMPLOYEES with wage statements that
10 comply with Cal. Lab. Code § 226. As a result, DEFENDANTS issued PLAINTIFF and
11 AGGRIEVED EMPLOYEES with wage statements that violate Cal. Lab. Code § 226. Further,
12 DEFENDANTS' violations are knowing and intentional, were not isolated or due to an
13 unintentional payroll error due to clerical or inadvertent mistake.

14 **Unreimbursed Business Expenses**

15 24. DEFENDANTS as a matter of corporate policy, practice and procedure,
16 intentionally, knowingly and systematically failed to reimburse and indemnify PLAINTIFF and
17 AGGRIEVED EMPLOYEES for required business expenses they incurred in direct consequence
18 of discharging their duties on behalf of DEFENDANTS. Under California Labor Code Section
19 2802, employers are required to indemnify employees for all expenses incurred in the course and
20 scope of their employment. Cal. Lab. Code § 2802 expressly states that "an employer shall
21 indemnify his or her employee for all necessary expenditures or losses incurred by the employee
22 in direct consequence of the discharge of his or her duties, or of his or her obedience to the
23 directions of the employer, even though unlawful, unless the employee, at the time of obeying the
24 directions, believed them to be unlawful."

25 25. From time-to-time during the PAGA PERIOD, PLAINTIFF and AGGRIEVED
26 EMPLOYEES were required by DEFENDANTS to use their own personal cellular phones as a
27 result of and in furtherance of their job duties as employees for DEFENDANTS. But for the use
28 of their personal cell phones, PLAINTIFF and AGGRIEVED EMPLOYEES could not complete

1 their essential job duties. Notwithstanding, DEFENDANTS did not reimburse or indemnify
2 PLAINTIFF and AGGRIEVED EMPLOYEES for the cost associated with the use of their
3 personal cellular phones for DEFENDANTS' benefit. As a result, in the course of their
4 employment with DEFENDANTS, PLAINTIFF and AGGRIEVED EMPLOYEES incurred
5 unreimbursed business expenses which included, but were not limited to, costs related to the use
6 of their personal cellular phones all on behalf of and for the benefit of DEFENDANTS.

7 **JOINT EMPLOYER**

8 26. The Private Attorney General Act ("PAGA"), permits an aggrieved employee to
9 enforce any provision of the California Labor Code that provides for a civil penalty. (Lab. Code
10 § 2699(a).)

11 27. Section 558 of the California Labor Code provides that "any employer or other
12 person acting on behalf of an employer who violates, or causes to be violated, a section of this
13 chapter or any provision regulating hours and days of work in any order of the Industrial Welfare
14 Commissions shall be subject to a civil penalty..." (Lab. Code § 558(a).)

15 28. Section 1197.1 of the Labor Code provides that "[a]ny employer or other person
16 acting either individually or as an officer, agent, or employee of another person, who pays or
17 causes to be paid to any employee a wage less than the minimum fixed by an applicable state or
18 local law, or by an order of the commission shall be subject to a civil penalty..." (Lab. Code §
19 1197.1(a).)

20 29. Interpreting Sections 558 and 1197.1 of the Labor Code, California courts have
21 held that a corporate employer's owners, officers and directors, are subject to civil penalties for
22 the employer's failure to pay appropriate wages to its employees, and, since liability under either
23 558 or 1197.1 does not depend on a finding of an alter ego, no alter ego allegations or findings
24 are necessary. Atempa v. Pedrazzani, (2018) 27 Cal.App.5th 809; see generally Ochoa-Hernandez
25 v. Cjaders Food, Inc. (2009 WL 1404694); Thurman v. Bayshore Management, Inc. (2017) 203
26 Cal.App.4th 1112, 1145-1146.

27 30. PLAINTIFF is informed and believes, and thereon alleges, that DEFENDANTS,
28 and each of them, are subject to civil penalties for their failure to pay PLAINTIFF and the

1 aggrieved employees the appropriate wages as complained of herein and proximately caused the
2 complaints, injuries, and damages alleged herein.

3 31. At all relevant times, each DEFENDANTS, whether named or fictitious, was the
4 agent, employee or other person acting on behalf of each other DEFENDANTS, and, in
5 participating in the acts alleged in this Complaint, acted within the scope of such agency or
6 employment and ratified the acts of the other.

7 32. Each DEFENDANTS, whether named or fictitious, exercised control over
8 PLAINTIFF's wages, working hours, and/or working conditions.

9 33. Each DEFENDANTS, whether named or fictitious, acted in all respects pertinent
10 to this action as the agent of the other DEFENDANTS, carried out a joint scheme, business plan
11 or policy, and the acts of each DEFENDANTS are legally attributable to the other
12 DEFENDANTS.

13 **JURISDICTION AND VENUE**

14 34. This Court has jurisdiction over this Action pursuant to California Code of Civil
15 Procedure, Section 410.10. This Court has jurisdiction over PLAINTIFF's claims for civil
16 penalties under the Private Attorney General Act of 2004, California Labor Code §2698, et seq.

17 35. Venue is proper in this Court pursuant to California Code of Civil Procedure,
18 Sections 395 and 395.5, because PLAINTIFF worked in this County for DEFENDANTS, resides
19 in this County, and DEFENDANTS (i) currently maintains and at all relevant times maintained
20 offices and facilities in this County and/or conducts substantial business in this County, and (ii)
21 committed the wrongful conduct herein alleged in this County against the AGGRIEVED
22 EMPLOYEES.

23 **FIRST CAUSE OF ACTION**

24 **For Civil Penalties Pursuant to Private Attorneys General Act ("PAGA")**

25 **[Cal. Lab. Code §§ 2698, et seq.]**

26 **(By PLAINTIFF and AGGRIEVED EMPLOYEES and Against All DEFENDANTS)**

27 36. PLAINTIFF and the AGGRIEVED EMPLOYEES reallege and incorporate by this
28 reference, as though fully set forth herein, the prior paragraphs of this Complaint.

1 37. PAGA is a mechanism by which the State of California itself can enforce state labor
2 laws through the employee suing under the PAGA who do so as the proxy or agent of the state's
3 labor law enforcement agencies. An action to recover civil penalties under PAGA is
4 fundamentally a law enforcement action designed to protect the public and not to benefit private
5 parties. The purpose of the PAGA is not to recover damages or restitution, but to create a means
6 of "deputizing" citizens as private attorneys general to enforce the Labor Code. In enacting
7 PAGA, the California Legislature specified that "it was ... in the public interest to allow aggrieved
8 employees, acting as private attorneys general to recover civil penalties for Labor Code
9 violations ..." Stats. 2003, ch. 906, § 1. Accordingly, PAGA claims cannot be subject to
10 arbitration.

11 38. PLAINTIFF brings this Representative Action on behalf of the State of California
12 with respect to himself and all other current and former AGGRIEVED EMPLOYEES employed
13 by DEFENDANTS during the PAGA PERIOD.

14 39. At all relevant times, for the reasons described herein, and others, PLAINTIFF and
15 the AGGRIEVED EMPLOYEES were aggrieved employees of DEFENDANTS within the
16 meaning of Labor Code Section 2699(c).

17 40. Labor Code Sections 2699(a) and (g) authorize an AGGRIEVED EMPLOYEE, like
18 PLAINTIFF, on behalf of herself and other current or former employees, to bring a civil action
19 to recover civil penalties pursuant to the procedures specified in Labor Code Section 2699.3

20 41. PLAINTIFF complied with the procedures for bringing suit specified in Labor Code
21 Section 2699.3. By certified letter, return receipt requested, dated June 30, 2021, PLAINTIFF
22 gave written notice to the Labor and Workforce Development Agency ("LWDA") and to
23 DEENDANT of the specific provisions of the Labor Code alleged to have been violated,
24 including the facts and theories to support the alleged violations. See Exhibit #1, attached hereto
25 and incorporated by this reference herein.

26 42. As of September 3, 2021, more than sixty-five (65) days after serving the LWDA
27 with notice of DEFENDANTS' violations, the LWDA has not provided any notice by certified
28 mail of its intent to investigate the DEFENDANTS' alleged violations as mandated by Labor

1 Code Section 2699.3(a)(2)(A). Accordingly, pursuant to Labor Code Section 2699.3(a)(2)A,
2 PLAINTIFF may commence and is authorized to pursue this cause of action.

3 43. Pursuant to Labor Code Sections 2699(a) and (f), PLAINTIFF and the
4 AGGRIEVED EMPLOYEES are entitled to civil penalties for DEFENDANTS' violations of
5 Labor Code Section 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 226, 226.2, 226.3, 226.7, 246,
6 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.1, 1197.14, 1198, 1199, 2802, 2804, in the
7 following amounts:

8 a. For violation of Labor Code Sections 201, 202, 203, and 204,
9 one hundred dollars (\$100) for each AGGRIEVED EMPLOYEE per
10 pay period for the initial violation and two hundred dollars (\$200) for
11 AGGRIEVED EMPLOYEE per pay period for each subsequent
12 violation [penalty per Labor Code Section 2699(f)(2)];

13 b. For violations of Labor Code Section 226(a), a civil penalty
14 in the amount of two hundred fifty dollars (\$250) for each
15 AGGRIEVED EMPLOYEE for any initial violation and one
16 thousand dollars for each subsequent violation [penalty per Labor
17 Code Section 226.3];

18 c. For violations of Labor Code Sections 204, a civil penalty in
19 the amount of one hundred dollars (\$100) for each AGGRIEVED
20 EMPLOYEE for any initial violation and two hundred dollars (\$200)
21 for AGGRIEVED EMPLOYEE for each subsequent violation [penalty
22 per Labor Code Section 210];

23 d. For violations of Labor Code Sections 226.7, 510 and 512, a
24 civil penalty in the amount of fifty dollars (\$50) for each underpaid
25 AGGRIEVED EMPLOYEE for the initial violation and hundred
26 dollars (\$100) for each underpaid AGGRIEVED EMPLOYEE for each
27 subsequent violation [penalty per Labor Code Section 558];

28 e. For violations of Labor Code Section 2269(a), a civil penalty

1 in the amount of two hundred fifty dollars (\$250) per AGGRIEVED
2 EMPLOYEE per violation in an initial citation and one thousand
3 dollars (\$1,000) per AGGRIEVED EMPLOYEE for each subsequent
4 violation [penalty per Labor Code Section 226.3];

5 f. For violations of Labor Code Sections 1194, 1194.2, 1197,
6 1198 and 1199, a civil penalty in the amount of one hundred dollars
7 (\$100) per AGGRIEVED EMPLOYEE per pay period for the initial
8 violation and two hundred dollars fifty (\$250) per AGGRIEVED
9 EMPLOYEE per pay period for each subsequent violation [penalty
10 per Labor Code Section].

11 1. For all provisions of the Labor Code for which civil penalty is not specifically
12 provided, Labor Code § 2699(f) imposes upon DEFENDANTS a penalty of one hundred dollars
13 (\$100) for each AGGRIEVED EMPLOYEE per pay period for the initial violation and two
14 hundred dollars (\$200) for each AGGRIEVED EMPLOYEE per pay period for each subsequent
15 violation. PLAINTIFF and the AGGRIEVED EMPLOYEES are entitled to an award of
16 reasonable attorney's fees and costs in connection with their claims for civil penalties pursuant to
17 Labor Code Section 2699(g)(1).

18 2. To the extent that any of the conduct and violations alleged herein did not affect
19 PLAINTIFF during the PAGA PERIOD, PLAINTIFF seeks penalties for those violations that
20 affected other AGGRIEVED EMPLOYEES. (Carrington v. Starbucks Corp. (2018) 30
21 Cal.App.5th 504, 519; See also Huff v. Securitas Security Services USA, Inc. (2018) 23 Cal.
22 App. 5th 745, 751 ["PAGA allows an "aggrieved employee"—a person affected by at least one
23 Labor Code violation committed by an employer—to pursue penalties for all the Labor Code
24 violations committed by that employer."], Emphasis added, reh'g denied (June 13, 2018).)

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1 **PRAYER FOR RELIEF**

2 WHEREFORE, PLAINTIFF prays for judgment against DEFENDANTS as follows:

3 (a) For reasonable attorney's fees and costs of suit to the extent permitted by law,
4 including pursuant to Labor Code § 2699, *et seq.*;

5 (b) For civil penalties to the extent permitted by law pursuant to the Labor Code under
6 the Private Attorneys General Act; and

7 (c) For such other relief as the Court deems just and proper.

8 (d)

9 DATED: September 3, 2021

JCL LAW FIRM, APLC

10 By: 

11 Jean-Claude Lapuyade, Esq.
12 Attorney for Plaintiffs

13 **DEMAND FOR A JURY TRIAL**

14 PLAINTIFF demands a jury trial on issues triable to a jury.

15 DATED: September 3, 2021

JCL LAW FIRM, APLC

16 By: 

17 Jean-Claude Lapuyade, Esq.
18 Attorney for Plaintiffs
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28

EXHIBIT 1



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Jean-Claude Lapuyade, Esq.
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June 30, 2021

Via Online Filing to LWDA and Certified Mail to Defendant
Labor and Workforce Development Agency
Online Filing

EAGLE FOODS, LLC

c/o Ramzi Awad

10595 Tierrasanta Blvd

San Diego, CA 92124

Via Certified Mail with Return Receipt No.

7021 0950 0001 6369 9347

RAMBO, LLC

c/o Leticia Campos-Awad

8929 Clairemont Mesa Blvd

San Diego, CA 92123

Via Certified Mail with Return Receipt No.

7021 0950 0001 6369 9354

Re: Notice of Violations of California Labor Code Sections 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 226, 226.2, 226.3, 226.7, 246, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.1, 1197.14, 1198, 1199, 2802, and 2804, Violation of Applicable Industrial Welfare Commission Wage Order(s), and Pursuant to California Labor Code Section 2699.5

Dear Sir/Madam:

This office represents JOE MORENO (“Plaintiff”) and other aggrieved employees in a proposed class and representative action against EAGLE FOODS, LLC and RAMBO, LLC, (“Defendants”). This office intends to file the enclosed Class Action Complaint on behalf of Plaintiff and other employees who worked for Defendants EAGLE FOODS, LLC and/or RAMBO, LLC. The purpose of this correspondence is to provide the Labor and Workforce Development Agency with notice of alleged violations of the California Labor Code and certain facts and theories in support of the alleged violations in accordance with Labor Code section 2699.3.

Plaintiff was employed by Defendants in California from February 2021 to March 2021. While working for Defendants, Plaintiff and other aggrieved employees were denied, among other things, compliant meal and rest breaks, minimum wages, regular wages and overtime wages.

As a consequence, Plaintiff contends that Defendants failed to fully compensate him, and other aggrieved employees, for all earned wages and failed to provide California-compliant meal and rest breaks and reimburse employees for required expenses. Accordingly, Plaintiff contends that Defendants’ conduct violated Labor Code sections §§ 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 226, 226.2, 226.3, 226.7, 246, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.1, 1197.14, 1198, 1199, 2802, 2804, and applicable wage orders, and is therefore actionable pursuant to section 2698 *et seq.*

Plaintiff intends on representing the aggrieved employees, who are defined as all individuals who worked for Defendants, including exempt and non-exempt positions.

A true and correct copy of the proposed Complaint for the class action is attached hereto. The Complaint (i) identifies the alleged violations, (ii) details the facts and theories which support the alleged violations, (iii) details the specific work performed by Plaintiff, (iv) sets forth the people/entities, dates, classifications, violations, events, and actions which are at issue to the extent known to the Plaintiff, and (v) sets forth the illegal practices used by Defendant. Plaintiff therefore incorporates the allegations of the attached Complaint into this letter as if fully set forth herein.

If the agency needs any further information, please do not hesitate to ask. The class action lawsuit consists of a class of other aggrieved employees. As class counsel, our intention is to vigorously prosecute the class wide claims as alleged in the Complaint, and to procure civil penalties as provided by the Private Attorney General Act of 2004 on behalf of Plaintiff and all aggrieved California employees and Class Members.

Your earliest response to this notice is appreciated. If you have any questions or concerns, please do not hesitate to contact me at the above number and address.

Very truly yours,
JCL LAW FIRM, APC

A handwritten signature in black ink, appearing to read 'Jean-Claude Lapuyade', with a stylized flourish at the end.

Jean-Claude Lapuyade, Esq.

Enclosure (1)

JEAN-CLAUDE LAPUYADE (SBN 248676)

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FAX: (619) 404-9203

ATTORNEYS FOR PLAINTIFF

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN DIEGO**

JOE MORENO, an individual, on behalf of
himself, and on behalf of all persons similarly
situated,

Plaintiffs,

vs.

EAGLE FOODS, LLC, a California limited
liability company; RAMBO, LLC, a California
limited liability company; and DOES 1 through
50, Inclusive;

Defendants.

Case No. _____

CLASS ACTION COMPLAINT FOR:

1. UNFAIR COMPETITION IN VIOLATION OF CAL. BUS. & PROF. CODE §§ 17200, *et seq.*;
2. FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF CAL. LAB. CODE §§ 510, *et seq.*
3. FAILURE TO PAY MINIMUM WAGES IN VIOLATION OF CAL. LAB. CODE §§ 1194, 1197 & 1197.1;
4. FAILURE TO PROVIDE REQUIRED MEAL PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
5. FAILURE TO PROVIDE REQUIRED REST PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
6. FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS IN VIOLATION OF CAL. LAB. CODE § 226;
7. FAILURE TO PAY WAGES WHEN DUE IN VIOLATION OF CAL. LABOR CODE §§ 201, 202 AND 203;
8. FAILURE TO REIMBURSE PLAINTIFF FOR REQUIRED EXPENSES IN VIOLATION OF CAL. LAB. CODE § 2802;

9. VIOLATION OF THE PRIVATE
ATTORNEYS GENERAL ACT [LABOR
CODE §§ 2698, *ET SEQ.*]

DEMAND FOR JURY TRIAL

Plaintiff JOE MORENO (“PLAINTIFF”) an individual, on behalf of himself and all other similarly situated current and former employees, alleges on information and belief, except for his own acts and knowledge which are based on personal knowledge, the following:

THE PARTIES

1. Defendant EAGLE FOODS, LLC (“Defendant Eagle”) is a California limited liability company and at all relevant times mentioned herein conducted and continues to conduct substantial and regular business in the state of California.

2. Defendant RAMBO, LLC (“Defendant Rambo”) is a California limited liability company and at all relevant times mentioned herein conducted and continues to conduct substantial and regular business in the state of California.

3. Defendant Eagle and Defendant Rambo were the joint employers of PLAINTIFF as evidenced by the contracts signed and by the company the PLAINTIFF performed work for respectively, and are therefore jointly responsible as employers for the conduct alleged and collectively referred to herein as “DEFENDANT” and/or “DEFENDANTS.”

4. DEFENDANTS operate McDonald’s restaurant franchises.

5. The true names and capacities, whether individual, corporate, subsidiary, partnership, associate or otherwise of defendants DOES 1 through 50, inclusive, are presently unknown to PLAINTIFF who therefore sues these defendants by such fictitious names pursuant to Cal. Civ. Proc. Code § 474. PLAINTIFF will seek leave to amend this Complaint to allege the true names and capacities of Does 1 through 50, inclusive, when they are ascertained. PLAINTIFF is informed and believes, and based upon that information and belief allege, that the Defendants named in this Complaint, including DOES 1 through 50, inclusive (hereinafter collectively “DEFENDANTS” and/or

“DEFENDANT”), are responsible in some manner for one or more of the events and happenings that proximately caused the injuries and damages hereinafter alleged.

6. The agents, servants and/or employees of the DEFENDANTS and each of them acting on behalf of the DEFENDANT acted within the course and scope of his, her or its authority as the agent, servant and/or employee of the DEFENDANT, and personally participated in the conduct alleged herein on behalf of the DEFENDANT with respect to the conduct alleged herein. Consequently, the acts of each of the DEFENDANTS are legally attributable to the other and all DEFENDANTS are jointly and severally liable to PLAINTIFF and those similarly situated, for the loss sustained as a proximate result of the conduct of the DEFENDANTS’ agents, servants and/or employees.

7. DEFENDANTS were PLAINTIFF’s employers or persons acting on behalf of PLAINTIFF’s employer, within the meaning of California Labor Code § 558, who violated or caused to be violated, a section of Part 2, Chapter 1 of the California Labor Code or any provision regulating hours and days of work in any order of the Industrial Welfare Commission and, as such, are subject to civil penalties for each underpaid employee, as set forth in Labor Code § 558, at all relevant times.

8. DEFENDANTS were PLAINTIFF’s employers or persons acting on behalf of PLAINTIFF’s employer either individually or as an officer, agent, or employee of another person, within the meaning of California Labor Code § 1197.1, who paid or caused to be paid to any employee a wage less than the minimum fixed by California state law, and as such, are subject to civil penalties for each underpaid employee.

9. PLAINTIFF was employed by DEFENDANTS from February of 2021 to March of 2021.

10. PLAINTIFF brings this class action under California Code of Civil Procedure § 382 on behalf of non-exempt and exempt employees that worked for Defendant Eagle and/or Defendant Rambo in California (“CALIFORNIA CLASS”) at any time beginning four (4) years prior to the filing of this Complaint and ending on the date as determined by the Court (“CLASS PERIOD”). The members of the class are so numerous that joinder of all class members is impractical. The amount in controversy for the aggregate claim of CALIFORNIA CLASS Members is under five million dollars (\$5,000,000.00). PLAINTIFF reserves the right to amend the following class definitions before the Court determines whether class certification is appropriate, or thereafter upon leave of Court:

11. PLAINTIFF brings this Class Action on behalf of himself and on behalf of the CALIFORNIA CLASS in order to fully compensate the CALIFORNIA CLASS for their losses incurred during the CLASS PERIOD caused by DEFENDANTS' uniform policy and practice which (1) failed to provide PLAINTIFF and the CALIFORNIA CLASS with legally compliant meal and rest periods or an additional hour of pay at the regular rate of compensation in *lieu* thereof in violation of California Labor Code Sections 226.7(c), 512(a) and the applicable Industrial Welfare Commission Wage Order, (2) failed to pay PLAINTIFF and the CALIFORNIA CLASS for all hours worked in violation of, *inter alia*, California Labor Code Sections 510, 1194, 1197, and 1197.1, and (3) failed to provide accurate itemized wage statements in violation of California Labor Code Sections 226 and 226.3.

12. DEFENDANTS' uniform policies and practices alleged herein were unlawful, unfair and deceptive business practices whereby DEFENDANTS retained and continues to retain wages due PLAINTIFF and the other members of the CALIFORNIA CLASS.

13. PLAINTIFF and the other members of the CALIFORNIA CLASS seek an injunction enjoining such conduct by DEFENDANTS in the future, relief for the named PLAINTIFF and the other members of the CALIFORNIA CLASS who have been economically injured by DEFENDANTS' past and current unlawful conduct, and all other appropriate legal and equitable relief.

JURISDICTION AND VENUE

14. This Court has jurisdiction over this Action pursuant to California Code of Civil Procedure, Section 410.10 and California Business & Professions Code, Section 17203. This action is brought as a Class Action on behalf of PLAINTIFF and similarly situated employees of DEFENDANTS pursuant to Cal. Code of Civ. Proc. § 382.

15. Venue is proper in this Court pursuant to California Code of Civil Procedure, Sections 395 and 395.5, because PLAINTIFF worked in this County for DEFENDANTS, resides in this County, and DEFENDANTS (i) currently maintain and at all relevant times, maintained offices and facilities in this County and/or conducts substantial business in this County, and (ii) committed the wrongful conduct herein alleged in this County against members of the CALIFORNIA CLASS.

THE CONDUCT

16. In violation of the applicable sections of the California Labor Code and the requirements of the Industrial Welfare Commission ("IWC") Wage Order, DEFENDANTS as a matter of company policy, practice and procedure, intentionally, knowingly and systematically failed to provide legally compliant meal and rest periods, failed to accurately compensate PLAINTIFF, non-exempt employees of the CALIFORNIA CLASS, and AGGRIEVED EMPLOYEES (defined *infra*) for missed meal and rest periods, failed to pay PLAINTIFF non-exempt employees of the CALIFORNIA CLASS, and AGGRIEVED EMPLOYEES for all time worked, and failed to issue to PLAINTIFF, non-exempt employees of the CALIFORNIA CLASS, and AGGRIEVED EMPLOYEES with accurate itemized wage statements showing, among other things, all applicable hourly rates in effect during the pay periods and the corresponding amount of time worked at each hourly rate. DEFENDANTS' uniform policies and practices are intended to purposefully avoid the accurate and full payment for all time worked as required by California law which allows DEFENDANTS to illegally profit and gain an unfair advantage over competitors who comply with the law. To the extent equitable tolling operates to toll claims by the CALIFORNIA CLASS against DEFENDANTS, the CLASS PERIOD should be adjusted accordingly.

A. Meal Period Violations

17. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANTS were required to pay PLAINTIFF, non-exempt employees of the CALIFORNIA CLASS, and AGGRIEVED EMPLOYEES for all their time worked, meaning the time during which an employee is subject to the control of an employer, including all the time the employee is suffered or permitted to work. From time-to-time during the CLASS PERIOD, DEFENDANTS required PLAINTIFF, non-exempt employees of the CALIFORNIA CLASS, and AGGRIEVED EMPLOYEES to work without paying them for all the time they were under DEFENDANTS' control. Specifically, as a result of PLAINTIFF's demanding work requirements, DEFENDANTS required PLAINTIFF to work while clocked out during what was supposed to be PLAINTIFF's off-duty meal break. PLAINTIFF was from time to time interrupted by work assignments while clocked out for what should have been PLAINTIFF's off-duty meal break. Indeed, there were many days where PLAINTIFF did not even receive a partial lunch. As a result, the PLAINTIFF, non-exempt employees of the CALIFORNIA

CLASS, and AGGRIEVED EMPLOYEES forfeited minimum wage and overtime wages by regularly working without their time being accurately recorded and without compensation at the applicable minimum wage and overtime rates. DEFENDANTS' uniform policy and practice not to pay PLAINTIFF, non-exempt employees of the CALIFORNIA CLASS, and AGGRIEVED EMPLOYEES for all time worked is evidenced by DEFENDANTS' business records.

18. From time-to-time during the CLASS PERIOD, as a result of their rigorous work schedules, PLAINTIFF, non-exempt employees of the CALIFORNIA CLASS, and AGGRIEVED EMPLOYEES were from time to time unable to take thirty (30) minute off duty meal breaks and were not fully relieved of duty for their meal periods. PLAINTIFF, non-exempt employees of the CALIFORNIA CLASS, and AGGRIEVED EMPLOYEES were required from time to time to perform work as ordered by DEFENDANTS for more than five (5) hours during some shifts without receiving a meal break. Further, DEFENDANTS from time to time failed to provide PLAINTIFF, non-exempt employees of the CALIFORNIA CLASS, and AGGRIEVED EMPLOYEES with a second off-duty meal period for some workdays in which these employees were required by DEFENDANTS to work ten (10) hours of work from time to time. The nature of the work performed by the PLAINTIFF, non-exempt employees of the CALIFORNIA CLASS, and AGGRIEVED EMPLOYEES does not qualify for limited and narrowly construed "on-duty" meal period exception. When they were provided with meal periods, PLAINTIFF, non-exempt employees of the CALIFORNIA CLASS, and AGGRIEVED EMPLOYEES were, from time to time, required to remain on duty and/or on call. PLAINTIFF, non-exempt employees of the CALIFORNIA CLASS, and AGGRIEVED EMPLOYEES therefore forfeited meal breaks without additional compensation and in accordance with DEFENDANTS' strict corporate policy and practice.

B. Rest Period Violations

19. From time-to-time during the CLASS PERIOD, PLAINTIFF, non-exempt employees of the CALIFORNIA CLASS, and AGGRIEVED EMPLOYEES were also required from time to time to work in excess of four (4) hours without being provided ten (10) minute rest periods as a result of their rigorous work schedule. Further, for the same reasons these employees were denied their first rest periods of at least ten (10) minutes for some shifts worked of at least two (2) to four (4) hours from

time to time, a first and second rest period of at least ten (10) minutes for some shifts worked of between six (6) and eight (8) hours from time to time, and a first, second and third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or more from time to time. When they were provided with rest breaks, PLAINTIFF, non-exempt employees of the CALIFORNIA CLASS, and AGGRIEVED EMPLOYEES were, from time to time, required to remain on duty and/or on call. PLAINTIFF, non-exempt employees of the CALIFORNIA CLASS, and AGGRIEVED EMPLOYEES were also not provided with one-hour wages in lieu thereof. As a result of their rigorous work schedules, PLAINTIFF, non-exempt employees of the CALIFORNIA CLASS, and AGGRIEVED EMPLOYEES were from time to time denied their proper rest periods by DEFENDANTS and DEFENDANTS' managers.

C. Wage Statement Violations

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

21. From time to time during the CLASS PERIOD, when PLAINTIFF, members of the CALIFORNIA CLASS, and AGGRIEVED EMPLOYEES missed meal and rest breaks, were paid inaccurate missed meal and rest period premiums, or were not paid for all hours worked, DEFENDANTS also failed to provide PLAINTIFF, members of the CALIFORNIA CLASS, and AGGRIEVED EMPLOYEES with complete and accurate wage statements which failed to show, among other things, all applicable hourly rates in effect during the pay period and the corresponding amount of time worked at each hourly rate, correct rates of pay for penalty payments or missed meal and rest periods. Further, from time to time during the CLASS PERIOD, DEFENDANTS issued itemized wage statements to PLAINTIFF, members of the CALIFORNIA CLASS, and AGGRIEVED

1 EMPLOYEES that failed to provide the accurate name and address of the legal entity that is
2 PLAINTIFF's, members of the CALIFORNIA CLASS', and AGGRIEVED EMPLOYEES' employer.

3 22. In addition to the violations described above, DEFENDANTS, from time to time, failed
4 to provide PLAINTIFF, members of the CALIFORNIA CLASS, and AGGRIEVED EMPLOYEES
5 with wage statements that comply with Cal. Lab. Code § 226. As a result, DEFENDANTS issued
6 PLAINTIFF, members of the CALIFORNIA CLASS, and AGGRIEVED EMPLOYEES with wage
7 statements that violate Cal. Lab. Code § 226. Further, DEFENDANTS' violations are knowing and
8 intentional, were not isolated or due to an unintentional payroll error due to clerical or inadvertent
9 mistake.

10 **D. Unreimbursed Business Expenses**

11 23. DEFENDANTS as a matter of corporate policy, practice and procedure, intentionally,
12 knowingly and systematically failed to reimburse and indemnify PLAINTIFF, members of the
13 CALIFORNIA CLASS, and AGGRIEVED EMPLOYEES for required business expenses they
14 incurred in direct consequence of discharging their duties on behalf of DEFENDANTS. Under
15 California Labor Code Section 2802, employers are required to indemnify employees for all expenses
16 incurred in the course and scope of their employment. Cal. Lab. Code § 2802 expressly states that "an
17 employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the
18 employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the
19 directions of the employer, even though unlawful, unless the employee, at the time of obeying the
20 directions, believed them to be unlawful."

21 24. From time-to-time during the CLASS PERIOD, PLAINTIFF, members of the
22 CALIFORNIA CLASS, and AGGRIEVED EMPLOYEES were required by DEFENDANTS to use
23 their own personal cellular phones as a result of and in furtherance of their job duties as employees for
24 DEFENDANTS. But for the use of their personal cell phones, PLAINTIFF, members of the
25 CALIFORNIA CLASS, and AGGRIEVED EMPLOYEES could not complete their essential job
26 duties. Notwithstanding, DEFENDANTS did not reimburse or indemnify PLAINTIFF, members of
27 the CALIFORNIA CLASS, and AGGRIEVED EMPLOYEES for the cost associated with the use of
28 their personal cellular phones for DEFENDANTS' benefit. As a result, in the course of their

employment with DEFENDANTS, PLAINTIFF, members of the CALIFORNIA CLASS, and AGGRIEVED EMPLOYEES incurred unreimbursed business expenses which included, but were not limited to, costs related to the use of their personal cellular phones all on behalf of and for the benefit of DEFENDANTS.

E. CLASS ACTION ALLEGATIONS

25. PLAINTIFF brings the First through Eighth Causes of Action as a class action pursuant to California Code of Civil Procedure § 382 on behalf the CALIFORNIA CLASS, defined *supra*, that worked for Defendant Eagle and/or Defendant Rambo in California at any time beginning four (4) years prior to the filing of this Complaint and ending on the date as determined by the Court (“CLASS PERIOD”).

26. PLAINTIFF and the other CALIFORNIA CLASS members have uniformly been deprived of wages and penalties from unpaid wages earned and due, including but not limited to unpaid minimum wages, unpaid overtime compensation, unpaid meal and rest period premiums, illegal meal and rest period policies, failure to provide accurate itemized wage statements, failure to maintain required records, and interest, statutory and civil penalties, attorney’s fees, costs, and expenses.

27. The members of the class are so numerous that joinder of all class members is impractical.

28. Common questions of law and fact regarding DEFENDANTS’ conduct, including but not limited to, the off-the-clock work, unpaid meal and rest period premiums, failure to accurately calculate the regular rate of compensation for missed meal and rest period premiums, failing to provide legally compliant meal and rest periods, failure to provide accurate itemized wage statements accurate, and failure ensure they are paid at least minimum wage and overtime, exist as to all members of the class and predominate over any questions affecting solely any individual members of the class. Among the questions of law and fact common to the class are:

- a. Whether DEFENDANTS maintained legally compliant meal period policies and practices;
- b. Whether DEFENDANTS maintained legally compliant rest period policies and practices;
- c. Whether DEFENDANTS failed to pay PLAINTIFF and the

CALIFORNIA CLASS members accurate premium payments for missed meal and rest periods;

d. Whether DEFENDANTS failed to pay PLAINTIFF and the CALIFORNIA CLASS members accurate overtime wages.

e. Whether DEFENDANTS failed to pay PLAINTIFF and the CALIFORNIA CLASS members at least minimum wage for all hours worked.

f. Whether DEFENDANTS issued legally compliant wage statements;

g. Whether DEFENDANTS committed an act of unfair competition by systematically failing to record and pay PLAINTIFF and the other members of the CALIFORNIA CLASS for all time worked;

h. Whether DEFENDANTS committed an act of unfair competition by systematically failing to record all meal and rest breaks missed by PLAINTIFF and other CALIFORNIA CLASS members, even though DEFENDANTS enjoyed the benefit of this work, required employees to perform this work and permits or suffers to permit this work; and,

i. Whether DEFENDANTS committed an act of unfair competition in violation of the UCL, by failing to provide the PLAINTIFF and the other members of the CALIFORNIA CLASS with the legally required meal and rest periods.

29. PLAINTIFF is a member of the CALIFORNIA CLASS and suffered damages as a result of DEFENDANTS' conduct and actions alleged herein.

30. PLAINTIFF's claims are typical of the claims of the class, and PLAINTIFF has the same interests as the other members of the class.

31. PLAINTIFF will fairly and adequately represent and protect the interests of the CALIFORNIA CLASS members.

32. PLAINTIFF retained able class counsel with extensive experience in class action litigation.

33. Further, PLAINTIFF's interests are coincident with, and not antagonistic to, the interests of the other CALIFORNIA CLASS members.

34. There is a strong community of interest among PLAINTIFF and the members of the CALIFORNIA CLASS to, *inter alia*, ensure that the combined assets of DEFENDANTS are sufficient to adequately compensate the members of the CALIFORNIA CLASS for the injuries sustained;

35. The questions of law and fact common to the CALIFORNIA CLASS members predominate over any questions affecting only individual members, including legal and factual issues relating to liability and damages.

36. A class action is superior to other available methods for the fair and efficient adjudication of this controversy because joinder of all class members is impractical. Moreover, since the damages suffered by individual members of the class may be relatively small, the expense and burden of individual litigation makes it practically impossible for the members of the class individually to redress the wrongs done to them. Without class certification and determination of declaratory, injunctive, statutory and other legal questions within the class format, prosecution of separate actions by individual members of the CALIFORNIA CLASS will create the risk of:

a. Inconsistent or varying adjudications with respect to individual members of the CALIFORNIA CLASS which would establish incompatible standards of conduct for the parties opposing the CALIFORNIA CLASS; and/or,

b. Adjudication with respect to individual members of the CALIFORNIA CLASS which would as a practical matter be dispositive of the interests of the other members not party to the adjudication or substantially impair or impeded their ability to protect their interests.

37. Class treatment provides manageable judicial treatment calculated to bring an efficient and rapid conclusion to all litigation of all wage and hour related claims arising out of the conduct of DEFENDANTS.

FIRST CAUSE OF ACTION

For Unlawful Business Practices

[Cal. Bus. And Prof. Code §§ 17200, *et seq.*]

1 **(By PLAINTIFF and the CALIFORNIA CLASS and Against All DEFENDANTS)**

2 38. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and
3 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this Complaint.

4 39. DEFENDANTS are “person[s]” as that term is defined under Cal. Bus. and Prof. Code §
5 17021.

6 40. California Business & Professions Code §§ 17200, *et seq.* (the “UCL”) defines unfair
7 competition as any unlawful, unfair, or fraudulent business act or practice. Section 17203 authorizes
8 injunctive, declaratory, and/or other equitable relief with respect to unfair competition as follows:

9 Any person who engages, has engaged, or proposes to engage in unfair
10 competition may be enjoined in any court of competent jurisdiction. The
11 court may make such orders or judgments, including the appointment of a
12 receiver, as may be necessary to prevent the use or employment by any
13 person of any practice which constitutes unfair competition, as defined in
14 this chapter, or as may be necessary to restore to any person in interest any
15 money or property, real or personal, which may have been acquired by
16 means of such unfair competition.

17 Cal. Bus. & Prof. Code § 17203.

18 41. By reason of this uniform conduct applicable to PLAINTIFF and all CALIFORNIA
19 CLASS members, during the CLASS PERIOD, DEFENDANTS commit acts of unfair competition in
20 violation of the California Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200, *et seq.* (the
21 “UCL”), by engaging and continuing to engage in business practices which violates California law,
22 including but not limited to, the applicable Industrial Wage Order(s), the California Code of Regulations
23 and the California Labor Code including Sections 201, 202, 203, 204, 210, 226, 226.7, 510, 512, 1194,
24 1197, 1197.1, 1198, & 2802 for which this Court should issue declaratory and other equitable relief
25 pursuant to Cal. Bus. & Prof. Code § 17203 as may be necessary to prevent and remedy the conduct
26 held to constitute unfair competition, including restitution of wages wrongfully withheld.

27 42. By the conduct alleged herein, DEFENDANTS’ practices were unlawful and unfair in that
28 these practices violated public policy, were immoral, unethical, oppressive, unscrupulous or

substantially injurious to employees, and were without valid justification or utility for which this Court should issue equitable and injunctive relief pursuant to Section 17203 of the California Business & Professions Code, including restitution of wages wrongfully withheld.

43. By the conduct alleged herein, DEFENDANTS' practices were deceptive and fraudulent in that DEFENDANTS' uniform policy and practice failed to, *inter alia*, provide the legally mandated meal and rest periods, the required accurate amount of compensation for missed meal and rest periods, overtime and minimum wages owed, provide accurate itemized wage statements, due to a systematic business practice that cannot be justified, pursuant to the applicable Cal. Lab. Code, and Industrial Welfare Commission requirements in violation of Cal. Bus. Code §§ 17200, *et seq.*, and for which this Court should issue injunctive and equitable relief, pursuant to Cal. Bus. & Prof. Code § 17203, including restitution of wages wrongfully withheld.

44. By the conduct alleged herein, DEFENDANTS' practices were also unlawful, unfair and deceptive in that DEFENDANTS' employment practices caused PLAINTIFF and the other members of the CALIFORNIA CLASS to be underpaid during their employment with DEFENDANTS.

45. By the conduct alleged herein, DEFENDANTS' practices were also unlawful, unfair and deceptive in that DEFENDANTS' uniform policies, practices and procedures failed to, *inter alia*, provide the legally mandated meal and rest periods, the required accurate amount of compensation for missed meal and rest periods, overtime and minimum wages owed, provide accurate itemized wage statements, to PLAINTIFF and the other members of the CALIFORNIA CLASS as required by Cal. Labor Code.

46. Therefore, PLAINTIFF demands on behalf of himself and on behalf of each CALIFORNIA CLASS member, one (1) hour of pay for each workday in which an off-duty meal period was not timely provided for each five (5) hours of work, and/or one (1) hour of pay for each workday in which a second off-duty meal period was not timely provided for each ten (10) hours of work.

47. PLAINTIFF further demands on behalf of himself and on behalf of each CALIFORNIA CLASS member, one (1) hour of pay for each workday in which an off duty paid rest period was not timely provided as required by law.

48. PLAINTIFF further demands on all wages due to PLAINTIFF and the members of the

CALIFORNIA CLASS as a result of working while off the clock on meal periods, inaccurately calculated overtime and missed meal and rest periods premiums.

49. By and through the unlawful and unfair business practices described herein, DEFENDANTS has obtained valuable property, money and services from PLAINTIFF and the other members of the CALIFORNIA CLASS, including earned wages for all overtime worked, and has deprived them of valuable rights and benefits guaranteed by law and contract, all to the detriment of these employees and to the benefit of DEFENDANTS so as to allow DEFENDANTS to unfairly compete against competitors who comply with the law.

50. All the acts described herein as violations of, among other things, the Industrial Welfare Commission Wage Orders, the California Code of Regulations, and the California Labor Code, were unlawful and in violation of public policy, were immoral, unethical, oppressive and unscrupulous, were deceptive, and thereby constitute unlawful, unfair and deceptive business practices in violation of Cal. Bus. & Prof. Code §§ 17200, *et seq.*

51. PLAINTIFF and the other members of the CALIFORNIA CLASS are entitled to, and do, seek such relief as may be necessary to restore to them the money and property which DEFENDANTS has acquired, or of which PLAINTIFF and the other members of the CALIFORNIA CLASS have been deprived, by means of the above described unlawful and unfair business practices, including earned but unpaid wages for all overtime worked.

52. PLAINTIFF and the other members of the CALIFORNIA CLASS are further entitled to, and do, seek a declaration that the described business practices are unlawful, unfair and deceptive, and that injunctive relief should be issued restraining DEFENDANTS from engaging in any unlawful and unfair business practices in the future.

53. PLAINTIFF and the other members of the CALIFORNIA CLASS have no plain, speedy and/or adequate remedy at law that will end the unlawful and unfair business practices of DEFENDANTS. Further, the practices herein alleged presently continue to occur unabated. As a result of the unlawful and unfair business practices described herein, PLAINTIFF and the other members of the CALIFORNIA CLASS have suffered and will continue to suffer irreparable legal and economic harm unless DEFENDANTS is restrained from continuing to engage in these unlawful and unfair

business practices.

SECOND CAUSE OF ACTION

For Failure to Pay Overtime Compensation

[Cal. Lab. Code §§ 510, *et seq.*]

(By PLAINTIFF and the CALIFORNIA CLASS and Against All DEFENDANTS)

54. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior paragraphs of this Complaint.

55. PLAINTIFF and the other members of the CALIFORNIA CLASS for the period beginning four years prior to the filing of the Complaint and the present (“LABOR CLASS PERIOD”) bring a claim for DEFENDANTS’ willful and intentional violations of the California Labor Code and the Industrial Welfare Commission requirements for DEFENDANTS’ failure to pay these employees for all overtime worked, including, work performed in excess of eight (8) hours in a workday, and/or twelve (12) hours in a workday, and/or forty (40) hours in any workweek.

56. Pursuant to Cal. Lab. Code § 204, other applicable laws and regulations, and public policy, an employer must timely pay its employees for all hours worked.

57. Cal. Lab. Code § 510 further provides that employees in California shall not be employed more than eight (8) hours per workday and/or more than forty (40) hours per workweek unless they receive additional compensation beyond their regular wages in amounts specified by law.

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

59. During the LABOR CLASS PERIOD, PLAINTIFF and CALIFORNIA CLASS members were required by DEFENDANTS to work for DEFENDANTS and were not paid for all the time they worked or were not accurately compensated for all overtime hours worked.

60. DEFENDANTS’ uniform pattern of unlawful wage and hour practices manifested, without limitation, applicable to the CALIFORNIA CLASS as a whole, as a result of implementing a uniform policy and practice that failed to accurately record overtime worked by PLAINTIFF and other

CALIFORNIA CLASS members and denied accurate compensation to PLAINTIFF and the other members of the CALIFORNIA CLASS for overtime worked, including, the overtime work performed in excess of eight (8) hours in a workday, and/or twelve (12) hours in a workday, and/or forty (40) hours in any workweek.

61. In committing these violations of the California Labor Code, DEFENDANTS inaccurately calculated the amount of overtime worked and the applicable overtime rates and consequently underpaid the actual time worked by PLAINTIFF and other members of the CALIFORNIA CLASS. DEFENDANTS acted in an illegal attempt to avoid the payment of all earned wages, and other benefits in violation of the California Labor Code, the Industrial Welfare Commission requirements and other applicable laws and regulations.

62. As a direct result of DEFENDANTS' unlawful wage practices as alleged herein, PLAINTIFF and the other members of the CALIFORNIA CLASS did not receive full compensation for all overtime worked.

63. Cal. Lab. Code § 515 sets out various categories of employees who are exempt from the overtime requirements of the law. None of these exemptions are applicable to PLAINTIFF and the other members of the CALIFORNIA CLASS. Further, PLAINTIFF and the other members of the CALIFORNIA CLASS are not subject to a valid collective bargaining agreement that would preclude the causes of action contained herein this Complaint. Rather, the PLAINTIFF brings this Action on behalf of himself and the CALIFORNIA CLASS based on DEFENDANTS' violations of non-negotiable, non-waivable rights provided by the State of California.

64. During the LABOR CLASS PERIOD, PLAINTIFF and the other members of the CALIFORNIA CLASS were paid less for time worked that they were entitled to, constituting a failure to pay all earned wages.

65. DEFENDANTS failed to accurately pay PLAINTIFF and the other members of the CALIFORNIA CLASS overtime wages for the time they worked which was in excess of the maximum hours permissible by law as required by Cal. Lab. Code §§ 510, 1194 & 1198, even though PLAINTIFF and the other members of the CALIFORNIA CLASS were required to work, and did in fact work, overtime as to which DEFENDANTS failed to accurately record and pay using the applicable overtime

rate as evidenced by DEFENDANTS' business records and witnessed by employees.

66. By virtue of DEFENDANTS' unlawful failure to accurately pay all earned compensation to PLAINTIFF and the other members of the CALIFORNIA CLASS for the true time they worked, PLAINTIFF and the other members of the CALIFORNIA CLASS have suffered and will continue to suffer an economic injury in amounts which are presently unknown to them and which will be ascertained according to proof at trial.

67. DEFENDANTS knew or should have known that PLAINTIFF and the other members of the CALIFORNIA CLASS were under compensated for all overtime worked. DEFENDANTS systematically elected, either through intentional malfeasance or gross nonfeasance, to not pay employees for their labor as a matter of uniform company policy, practice and procedure, and DEFENDANTS perpetrated this systematic scheme by refusing to pay PLAINTIFF and the other members of the CALIFORNIA CLASS for overtime worked.

68. In performing the acts and practices herein alleged in violation of California labor laws, and refusing to compensate the members of the CALIFORNIA CLASS for all time worked and provide them with the requisite overtime compensation, DEFENDANTS acted and continues to act intentionally, oppressively, and maliciously toward PLAINTIFF and the other members of the CALIFORNIA CLASS with a conscious of and utter disregard for their legal rights, or the consequences to them, and with the despicable intent of depriving them of their property and legal rights, and otherwise causing them injury in order to increase company profits at the expense of these employees

69. PLAINTIFF and the other members of the CALIFORNIA CLASS therefore request recovery of all unpaid wages, including overtime wages, according to proof, interest, statutory costs, as well as the assessment of any statutory penalties against DEFENDANTS, in a sum as provided by the California Labor Code and/or other applicable statutes. To the extent overtime compensation is determined to be owed to the CALIFORNIA CLASS members who have terminated their employment, DEFENDANTS' conduct also violates Labor Code §§ 201 and/or 202, and therefore these individuals are also be entitled to waiting time penalties under Cal. Lab. Code § 203, which penalties are sought herein on behalf of these CALIFORNIA CLASS members. DEFENDANTS' conduct as alleged herein was willful, intentional and not in good faith. Further, PLAINTIFF and other CALIFORNIA CLASS

Members are entitled to seek and recover statutory costs.

THIRD CAUSE OF ACTION

For Failure to Pay Minimum Wages

[Cal. Lab. Code §§ 1194, 1197 and 1197.1]

(By PLAINTIFF and the CALIFORNIA CLASS and Against All DEFENDANTS)

70. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior paragraphs of this Complaint.

71. PLAINTIFF and the other members of the CALIFORNIA CLASS bring a claim for DEFENDANTS' willful and intentional violations of the California Labor Code and the Industrial Welfare Commission requirements for DEFENDANTS' failure to accurately record, calculate and pay minimum and reporting time wages to PLAINTIFF and CALIFORNIA CLASS members during the LABOR CLASS PERIOD.

72. Pursuant to Cal. Lab. Code § 204, other applicable laws and regulations, and public policy, an employer must timely pay its employees for all hours worked.

73. Cal. Lab. Code § 1197 provides the minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than the minimum so fixed is unlawful.

74. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid wages, including minimum wage compensation and interest thereon, together with the costs of suit.

75. DEFENDANTS maintain a uniform wage practice of paying PLAINTIFF and the other members of the CALIFORNIA CLASS without regard to the correct amount of time they work. For instance, as set forth herein, DEFENDANTS maintained a uniform policy that required PLAINTIFF to work while clocked out during what was supposed to be PLAINTIFF's off-duty meal break without compensation. Further, as set forth herein, DEFENDANTS' uniform policy and practice was to unlawfully and intentionally deny timely payment of wages due to PLAINTIFF and the other members of the CALIFORNIA CLASS.

76. DEFENDANTS' uniform pattern of unlawful wage and hour practices manifested, without limitation, applicable to the CALIFORNIA CLASS as a whole, as a result of implementing a

uniform policy and practice that denies accurate compensation to PLAINTIFF and the other members of the CALIFORNIA CLASS in regard to minimum wage pay.

77. In committing these violations of the California Labor Code, DEFENDANTS inaccurately calculated the correct time worked and consequently underpaid the actual time worked by PLAINTIFF and other members of the CALIFORNIA CLASS. DEFENDANTS acted in an illegal attempt to avoid the payment of all earned wages, and other benefits in violation of the California Labor Code, the Industrial Welfare Commission requirements and other applicable laws and regulations.

78. As a direct result of DEFENDANTS' unlawful wage practices as alleged herein, PLAINTIFF and the other members of the CALIFORNIA CLASS did not receive the correct minimum wage compensation for their time worked for DEFENDANTS.

79. During the LABOR CLASS PERIOD, PLAINTIFF and the other members of the CALIFORNIA CLASS were paid less for time worked that they were entitled to, constituting a failure to pay all earned wages.

80. By virtue of DEFENDANTS' unlawful failure to accurately pay all earned compensation to PLAINTIFF and the other members of the CALIFORNIA CLASS for the true time they worked, PLAINTIFF and the other members of the CALIFORNIA CLASS have suffered and will continue to suffer an economic injury in amounts which are presently unknown to them and which will be ascertained according to proof at trial.

81. DEFENDANTS knew or should have known that PLAINTIFF and the other members of the CALIFORNIA CLASS were under compensated for their time worked. DEFENDANTS systematically elected, either through intentional malfeasance or gross nonfeasance, to not pay employees for their labor as a matter of uniform company policy, practice and procedure, and DEFENDANTS perpetrated this systematic scheme by refusing to pay PLAINTIFF and the other members of the CALIFORNIA CLASS the correct minimum wages for their time worked.

82. In performing the acts and practices herein alleged in violation of California labor laws, and refusing to compensate the members of the CALIFORNIA CLASS for all time worked and provide them with the requisite compensation, DEFENDANTS acted and continues to act intentionally, oppressively, and maliciously toward PLAINTIFF and the other members of the CALIFORNIA CLASS

1 with a conscious and utter disregard for their legal rights, or the consequences to them, and with the
2 despicable intent of depriving them of their property and legal rights, and otherwise causing them injury
3 in order to increase company profits at the expense of these employees.

4 83. PLAINTIFF and the other members of the CALIFORNIA CLASS therefore request
5 recovery of all unpaid wages, according to proof, interest, statutory costs, as well as the assessment of
6 any statutory penalties against DEFENDANTS, in a sum as provided by the California Labor Code
7 and/or other applicable statutes. To the extent minimum wage compensation is determined to be owed
8 to the CALIFORNIA CLASS members who have terminated their employment, DEFENDANTS'
9 conduct also violates Labor Code §§ 201 and/or 202, and therefore these individuals are also be entitled
10 to waiting time penalties under Cal. Lab. Code § 203, which penalties are sought herein on behalf of
11 these CALIFORNIA CLASS members. DEFENDANTS' conduct as alleged herein was willful,
12 intentional and not in good faith. Further, PLAINTIFF and other CALIFORNIA CLASS members are
13 entitled to seek and recover statutory costs.

14 **FOURTH CAUSE OF ACTION**

15 **For Failure to Provide Required Meal Periods**

16 **[Cal. Lab. Code §§ 226.7 & 512]**

17 **(By PLAINTIFF and the Non-Exempt Members of the CALIFORNIA CLASS and Against All**
18 **DEFENDANTS)**

19 84. PLAINTIFF, and the non-exempt members of the CALIFORNIA CLASS, reallege and
20 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this Complaint.

21 85. During the LABOR CLASS PERIOD, from time to time, DEFENDANTS failed to
22 provide all the legally required off-duty meal breaks to PLAINTIFF and the non-exempt CALIFORNIA
23 CLASS members as required by the applicable Wage Order and Labor Code. The nature of the work
24 performed by PLAINTIFF and non-exempt CALIFORNIA CLASS members did not prevent these
25 employees from being relieved of all of their duties for the legally required off-duty meal periods. As a
26 result of their rigorous work schedules, PLAINTIFF and other non-exempt CALIFORNIA CLASS
27 members were from time to time not fully relieved of duty by DEFENDANTS for their meal periods.
28 Additionally, DEFENDANTS' failure to provide PLAINTIFF and the non-exempt CALIFORNIA

CLASS members with legally required meal breaks prior to their fifth (5th) hour of work is evidenced by DEFENDANTS' business records from time to time. Further, DEFENDANTS failed to provide PLAINTIFF and non-exempt CALIFORNIA CLASS members with a second off-duty meal period in some workdays in which these employees were required by DEFENDANTS to work ten (10) hours of work. As a result, PLAINTIFF and other non-exempt members of the CALIFORNIA CLASS therefore forfeited meal breaks without additional compensation and in accordance with DEFENDANTS' strict corporate policy and practice.

86. DEFENDANTS further violates California Labor Code §§ 226.7 and the applicable IWC Wage Order by failing to compensate PLAINTIFF and non-exempt CALIFORNIA CLASS Members who were not provided a meal period, in accordance with the applicable Wage Order, one additional hour of compensation at each employee's regular rate of compensation for each workday that a meal period was not provided.

87. As a proximate result of the aforementioned violations, PLAINTIFF and non-exempt CALIFORNIA CLASS Members have been damaged in an amount according to proof at trial, and seek all wages earned and due, interest, penalties, expenses and costs of suit.

FIFTH CAUSE OF ACTION

For Failure to Provide Required Rest Periods

[Cal. Lab. Code §§ 226.7 & 512]

(By PLAINTIFF and the Non-Exempt CALIFORNIA CLASS and Against All DEFENDANTS)

88. PLAINTIFF, and the non-exempt members of the CALIFORNIA CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior paragraphs of this Complaint.

89. During the LABOR CLASS PERIOD, PLAINTIFF and other non-exempt CALIFORNIA CLASS members were from time to time required to work in excess of four (4) hours without being provided ten (10) minute rest periods. Further, these employees were denied their first rest periods of at least ten (10) minutes for some shifts worked of at least two (2) to four (4) hours, a first and second rest period of at least ten (10) minutes for some shifts worked of between six (6) and eight (8) hours, and a first, second and third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or more from time to time. PLAINTIFF and other non-exempt CALIFORNIA CLASS members

1 were also not provided with one-hour wages in lieu thereof. As a result of their rigorous work schedules,
2 PLAINTIFF and other non-exempt CALIFORNIA CLASS members were periodically denied their
3 proper rest periods by DEFENDANTS and DEFENDANTS' managers.

4 90. DEFENDANTS further violated California Labor Code §§ 226.7 and the applicable IWC
5 Wage Order by failing to compensate PLAINTIFF and non-exempt CALIFORNIA CLASS Members
6 who were not provided a rest period, in accordance with the applicable Wage Order, one additional hour
7 of compensation at each employee's regular rate of compensation for each workday that rest period was
8 not provided.

9 91. As a proximate result of the aforementioned violations, PLAINTIFF and non-exempt
10 CALIFORNIA CLASS Members have been damaged in an amount according to proof at trial, and seek
11 all wages earned and due, interest, penalties, expenses and costs of suit.

12 **SIXTH CAUSE OF ACTION**

13 **For Failure to Provide Accurate Itemized Statements**

14 **[Cal. Lab. Code §§ 226 and 226.2]**

15 **(By PLAINTIFF and the CALIFORNIA CLASS and Against All DEFENDANTS)**

16 92. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and
17 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this Complaint.

18 93. Cal. Labor Code § 226 provides that an employer must furnish employees with an
19 "accurate itemized" statement in writing showing:

- 20 1. Gross wages earned;
- 21 2. Total hours worked by the employee, except for any employee
22 whose compensation is solely based on a salary and who is exempt from
23 payment of overtime under subdivision (a) of Section 515 or any applicable
24 order of the Industrial Welfare Commission;
- 25 3. The number of piece-rate units earned and any applicable piece rate
26 if the employee is paid on a piece-rate basis;
- 27 4. All deductions, provided that all deductions made on written orders
28 of the employee may be aggregated and shown as one item;

5. Net wages earned;
6. The inclusive dates of the period for which the employee is paid,
7. The name of the employee and his or her social security number, except that by January 1, 2008, only the last four digits of his or her social security number or an employee identification number other than a social security number may be shown on the itemized statement,
8. The name and address of the legal entity that is the employer, and
9. All applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

94. During the LABOR CLASS PERIOD, DEFENDANTS also failed to provide PLAINTIFF and the other members of the CALIFORNIA CLASS with complete and accurate wage statements which failed to accurately show, among other things, (1) total number of hours worked, (2) net wages earned, (3) gross wages earned and (7) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee in violation of California Labor Code Section 226.

95. DEFENDANTS knowingly and intentionally failed to comply with Cal. Labor Code § 226, causing injury and damages to the PLAINTIFF and the other members of the CALIFORNIA CLASS. These damages include, but are not limited to, costs expended calculating the correct rates for the overtime worked and the amount of employment taxes which were not properly paid to state and federal tax authorities. These damages are difficult to estimate. Therefore, PLAINTIFF and the other members of the CALIFORNIA CLASS may elect to recover liquidated damages of fifty dollars (\$50.00) for the initial pay period in which the violation occurred, and one hundred dollars (\$100.00) for each violation in a subsequent pay period pursuant to Cal. Lab. Code § 226, and all other damages and penalties available pursuant to Labor Code § 226.2(a)(6), all in an amount according to proof at the time of trial (but in no event more than four thousand dollars (\$4,000.00) for PLAINTIFF and each respective member of the CALIFORNIA CLASS herein.

SEVENTH CAUSE OF ACTION

FAILURE TO PAY WAGES WHEN DUE

(Cal Lab. Code §§201, 202, 203)

((By PLAINTIFF and the CALIFORNIA CLASS and Against All DEFENDANTS))

96. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior paragraphs of this Complaint.

97. Cal. Lab. Code § 200 provides that:

As used in this article:(a) "Wages" includes all amounts for labor performed by employees of every description, whether the amount is fixed or ascertained by the standard of time, task, piece, Commission basis, or other method of calculation. (b) "Labor" includes labor, work, or service whether rendered or performed under contract, subcontract, partnership, station plan, or other agreement if the labor to be paid for is performed personally by the person demanding payment.

98. Cal. Lab. Code § 201 provides, in relevant part, that "If an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately."

99. Cal. Lab. Code § 202 provides, in relevant part, that:

If an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting. Notwithstanding any other provision of law, an employee who quits without providing a 72-hour notice shall be entitled to receive payment by mail if he or she so requests and designates a mailing address. The date of the mailing shall constitute the date of payment for purposes of the requirement to provide payment within 72 hours of the notice of quitting.

1 100. There was no definite term in PLAINTIFF's or any CALIFORNIA CLASS Members'
2 employment contract.

3 101. Cal. Lab. Code § 203 provides:

4 If an employer willfully fails to pay, without abatement or reduction,
5 in accordance with Sections 201, 201.5, 202, and 205.5, any wages
6 of an employee who is discharged or who quits, the wages of the
7 employee shall continue as a penalty from the due date thereof at the
8 same rate until paid or until an action therefor is commenced; but
9 the wages shall not continue for more than 30 days.

10 102. The employment of PLAINTIFF and many CALIFORNIA CLASS members terminated
11 and DEFENDANTS has not tendered payment of wages, to these employees who missed meal and rest
12 breaks, as required by law.

13 103. Therefore, as provided by Cal Lab. Code § 203, on behalf of themselves and the members
14 of the CALIFORNIA CLASS whose employment has, PLAINTIFF demand up to thirty days of pay as
15 penalty for not paying all wages due at time of termination for all employees who terminated
16 employment during the LABOR CLASS PERIOD, and demands an accounting and payment of all
17 wages due, plus interest and statutory costs as allowed by law.

18 **EIGHTH CAUSE OF ACTION**

19 **For Failure to Reimburse Employees for Required Expenses**

20 **[Cal. Lab. Code § 2802]**

21 **(By PLAINTIFF and the CALIFORNIA CLASS and Against All Defendants)**

22 104. PLAINTIFF, and other members of the CALIFORNIA CLASS, reallege and incorporate
23 by this reference, as though fully set forth herein, the prior paragraphs of this Complaint.

24 105. Cal. Lab. Code § 2802 provides, in relevant part, that:

25 An employer shall indemnify his or her employee for all necessary
26 expenditures or losses incurred by the employee in direct consequence of
27 the discharge of his or her duties, or of his or her obedience to the directions
28

1 of the employer, even though unlawful, unless the employee, at the time of
2 obeying the directions, believed them to be unlawful.

3 106. From time-to-time during the LABOR CLASS PERIOD, DEFENDANTS violated Cal.
4 Lab. Code § 2802, by failing to indemnify and reimburse PLAINTIFF and the members of the
5 CALIFORNIA CLASS for required expenses incurred in the discharge of their job duties for
6 DEFENDANTS' benefit. DEFENDANTS failed to reimburse PLAINTIFF and the members of the
7 CALIFORNIA CLASS for expenses which included, but were not limited to, costs related to using their
8 personal cellular phone all on behalf of and for the benefit of DEFENDANTS. Specifically, PLAINTIFF
9 and the members of the CALIFORNIA CLASS were required by DEFENDANTS to use their personal
10 cell phones to execute their essential job duties on behalf of DEFENDANTS. DEFENDANTS' uniform
11 policy, practice and procedure was to not reimburse PLAINTIFF and the members of the CALIFORNIA
12 CLASS for expenses resulting from using their personal cellular phones for DEFENDANTS within the
13 course and scope of their employment for DEFENDANTS. These expenses were necessary to complete
14 their principal job duties. DEFENDANTS are estopped by DEFENDANTS' conduct to assert any
15 waiver of their expectation. Although these expenses were necessary expenses incurred by PLAINTIFF
16 and the members of the CALIFORNIA CLASS, DEFENDANTS failed to indemnify and reimburse
17 PLAINTIFF and the members of the CALIFORNIA CLASS for these expenses as an employer is
18 required to do under the laws and regulations of California.

19 107. PLAINTIFF therefore demands reimbursement on behalf of the members of the
20 CALIFORNIA CLASS for expenditures or losses incurred in the discharge their job duties and on behalf
21 of DEFENDANTS, or his/her obedience to the directions of DEFENDANT, with interest at the statutory
22 rate and costs under Cal. Lab. Code § 2802.

23 **NINTH CAUSE OF ACTION**

24 **VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT**

25 **(Cal. Lab. Code §§ 2698 et seq.)**

26 **(Alleged by PLAINTIFF against all Defendants)**

27 108. PLAINTIFF realleges and incorporates by this reference, as though fully set forth herein,
28 the prior paragraphs of this Complaint.

109. PAGA is a mechanism by which the State of California itself can enforce state labor laws through the employee suing under the PAGA who does so as the proxy or agent of the state's labor law enforcement agencies. An action to recover civil penalties under PAGA is fundamentally a law enforcement action designed to protect the public and not to benefit private parties. The purpose of the PAGA is not to recover damages or restitution, but to create a means of "deputizing" citizens as private attorneys general to enforce the Labor Code. In enacting PAGA, the California Legislature specified that "it was ... in the public interest to allow aggrieved employees, acting as private attorneys general to recover civil penalties for Labor Code violations ..." (Stats. 2003, ch. 906, § 1). Accordingly, PAGA claims cannot be subject to arbitration.

110. PLAINTIFF, and such persons that may be added from time to time who satisfy the requirements and exhaust the administrative procedures under the Private Attorney General Act, bring this Representative Action on behalf of the State of California with respect to themselves and all individuals who are or previously were employed by Defendant Eagle and/or Defendant Rambo and classified as non-exempt employees in California during the time period of [MM DD, YYYY] until the present (the "AGGRIEVED EMPLOYEES").

111. On [MM DD, YYYY], PLAINTIFF gave written notice by certified mail to the Labor and Workforce Development Agency (the "Agency") and the employer of the specific provisions of this code alleged to have been violated as required by Labor Code § 2699.3. See Exhibit #1, attached hereto and incorporated by this reference herein. The statutory waiting period for PLAINTIFF to add these allegations to the Complaint has expired. As a result, pursuant to Section 2699.3, PLAINTIFF may now commence a representative civil action under PAGA pursuant to Section 2699 as the proxy of the State of California with respect to all AGGRIEVED EMPLOYEES as herein defined.

112. The policies, acts and practices heretofore described were and are an unlawful business act or practice because Defendant (a) failed to properly record and pay PLAINTIFF and the other AGGRIEVED EMPLOYEES for all of the hours they worked, including minimum wage and overtime wages in violation of the Wage Order, (b) failed to provide meal and rest breaks, (c) failed to provide accurate itemized wage statements, (d) failed to reimburse for required business expenses, and (e) failed

to timely pay wages, all in violation of the applicable Labor Code sections listed in Labor Code §2699.5, including but not limited to Labor Code §§ 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 226, 226.2, 226.3, 226.7, 246, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.1, 1197.14, 1198, 1199, 2802, and the applicable Industrial Wage Order(s), and thereby gives rise to statutory penalties as a result of such conduct. PLAINTIFF hereby seeks recovery of civil penalties as prescribed by the Labor Code Private Attorney General Act of 2004 as the representative of the State of California for the illegal conduct perpetrated on PLAINTIFF and the other AGGRIEVED EMPLOYEES.

113. To the extent that any of the conduct and violations alleged herein did not affect PLAINTIFF during the PAGA PERIOD, PLAINTIFF seeks penalties for those violations that affected other AGGRIEVED EMPLOYEES. (*Carrington v. Starbucks Corp.* (2018) 30 Cal.App.5th 504, 519; See also *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal. App. 5th 745, 751 [“PAGA allows an “aggrieved employee”—a person affected by at least one Labor Code violation committed by an employer—to pursue penalties for all the Labor Code violations committed by that employer.”], Emphasis added, reh'g denied (June 13, 2018).)

PRAYER FOR RELIEF

WHEREFORE, PLAINTIFF prays for judgment against each DEFENDANTS, jointly and severally, as follows:

1. On behalf of the CALIFORNIA CLASS:

- A) That the Court certify the First Cause of Action asserted by the CALIFORNIA CLASS as a class action pursuant to Cal. Code of Civ. Proc. § 382;
- B) An order temporarily, preliminarily and permanently enjoining and restraining DEFENDANTS from engaging in similar unlawful conduct as set forth herein;
- C) An order requiring DEFENDANTS to pay all wages and all sums unlawfully withheld from compensation due to PLAINTIFF and the other members of the CALIFORNIA CLASS; and,
- D) Restitutionary disgorgement of DEFENDANTS' ill-gotten gains into a fluid fund for restitution of the sums incidental to DEFENDANTS' violations due to PLAINTIFF and to the other members of the CALIFORNIA CLASS.

1 E) That the Court certify the Second, Third, Fourth, Fifth, Sixth, Seventh, and Eighth Causes
2 of Action asserted by the CALIFORNIA CLASS as a class action pursuant to Cal. Code of Civ. Proc. §
3 382;

4 1. Compensatory damages, according to proof at trial, including compensatory
5 damages for overtime compensation due PLAINTIFF and the other members of the
6 CALIFORNIA CLASS, during the applicable CALIFORNIA CLASS PERIOD plus
7 interest thereon at the statutory rate;

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

13 3. Meal and rest period compensation pursuant to California Labor Code Section
14 226.7, 512 and the applicable WFE Wage Order;

15 4. For liquidated damages pursuant to California Labor Code Sections 1194.2 and
16 1197.

17 2. On behalf of the State of California and with respect to all AGGRIEVED EMPLOYEES:

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

20 3. On all claims:

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

22 B) Such other and further relief as the Court deems just and equitable; and,

23 C) An award of penalties, attorneys' fees and cost of suit, as allowable under the law,
24 including, but not limited to, pursuant to Labor Code §226, §1194, §2699 *et seq.*, and/or §2802.

25
26 Dated: _____

Respectfully Submitted,
JCL LAW FIRM, A.P.C.



By: _____
Jean-Claude Lapuyade
Attorneys for PLAINTIFF

DEMAND FOR JURY TRIAL

PLAINTIFF demands a jury trial on all issues triable to a jury.

Dated: _____

Respectfully Submitted,
JCL LAW FIRM, A.P.C.

By: _____
Jean-Claude Lapuyade
Attorney for PLAINTIFF

EXHIBIT