

JCL LAW FIRM, APC

Jean-Claude Lapuyade (State Bar #248676)
Sydney Castillo Johnson (State Bar #343881)
Perssia Razma (State Bar #351398)
John L. Nitti (State Bar #330752)
Carolina Faccin (State Bar #340855)
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
Telephone: (619) 599-8292
jlapuyade@jcl-lawfirm.com
scastillo@jcl-lawfirm.com
prazma@jcl-lawfirm.com
jnitti@jcl-lawfirm.com
cfaccin@jcl-lawfirm.com

ZAKAY LAW GROUP, APLC

Shani O. Zakay (State Bar #277924)
Jackland K Hom (State Bar #327243)
Jaclyn Joyce (State Bar #285124)
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
Telephone: (619) 255-9047
shani@zakaylaw.com
jackland@zakaylaw.com
jaclyn@zakaylaw.com

Attorneys for PLAINTIFF

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego
1/9/2026 4:49:26 PM

Clerk of the Superior Court
By M. Cruz ,Deputy Clerk

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

MIDORY MONTES, an individual, on behalf
of Plaintiff, and on behalf of all persons
similarly situated,

Plaintiff,

v.

EFFORT COLLECTIVE, LLC, d.b.a.
CAMPFIRE, a California limited liability
company; NONSTANDARD HOSPITALITY,
INC., a California corporation; JEUNE ET
JOLIE, LLC, a California limited liability
company; WILDLAND & LILO, LLC, d.b.a.
WILDLAND and d.b.a. LILO, a California
limited liability company; and DOES 1-50,
Inclusive,

Defendants.

Case No: 25CU028761N

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR:**

- 1) UNFAIR COMPETITION IN VIOLATION
OF CAL. BUS. & PROF. CODE §17200 *et*
seq;
- 2) FAILURE TO PAY MINIMUM WAGES IN
VIOLATION OF CAL. LAB. CODE §§
1194, 1197 & 1197.1;
- 3) FAILURE TO PAY OVERTIME WAGES
IN VIOLATION OF CAL. LAB. CODE §§
510, *et seq*;
- 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 PROVIDE WAGES WHEN DUE IN VIOLATION OF CAL. LAB. CODE §§ 201, 202 AND 203;
8) FAILURE TO REIMBURSE EMPLOYEES FOR REQUIRED EXPENSES IN VIOLATION OF CAL. LAB. CODE § 2802;
9) FAILURE TO PERMIT INSPECTION OF EMPLOYEE RECORDS IN VIOLATION OF CAL. LAB. CODE § 1198.5;
10) FAILURE TO PROVIDE GRATUITIES IN VIOLATION OF CAL. LAB. CODE § 351;
11) VIOLATIONS OF THE PRIVATE ATTORNEYS GENERAL ACT [LABOR CODE §§ 2698 ET SEQ.]

DEMAND FOR A JURY TRIAL

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

PRELIMINARY ALLEGATIONS

1. Defendant EFFORT COLLECTIVE, LLC, d.b.a. CAMPFIRE (“Defendant Campfire”) is a California limited liability company that at all relevant times mentioned herein conducted and continues to conduct substantial and regular business throughout California.

2. Defendant NONSTANDARD HOSPITALITY, INC. (“Defendant NSH”) is a California corporation that at all relevant times mentioned herein conducted and continues to conduct substantial and regular business throughout California.

3. Defendant JEUNE ET JOLIE, LLC (“Defendant Jeune”) is a California limited liability company that at all relevant times mentioned herein conducted and continues to conduct substantial and regular business throughout California.

///

1 4. Defendant WILDLAND & LILO, LLC, d.b.a. WILDLAND and d.b.a. LILO
2 (“Defendant Wildland & Lilo”) is a California limited liability company that at all relevant times
3 mentioned herein conducted and continues to conduct substantial and regular business throughout
4 California.

5 5. PLAINTIFF alleges there has existed a unity of interest and ownership between
6 DEFENDANTS such that any individuality and separateness between the entities has ceased and
7 all DEFENDANTS are referred to herein as “DEFENDANTS” and/or “DEFENDANT.”

8 6. PLAINTIFF alleges that DOES 1-50 are the partners, agents, owners, or managers
9 of DEFENDANTS at all relevant times. PLAINTIFF alleges there has existed a unity of interest
10 and ownership between Defendant Campfire, Defendant NSH, Defendant Jeune and Defendant
11 Wildland & Lilo such that any individuality and separateness between the entities has ceased.
12 Defendant Campfire, Defendant NSH, Defendant Jeune and Defendant Wildland & Lilo are
13 therefore alter egos of each other. Adherence to the fiction of the separate existence of
14 DEFENDANTS would permit an abuse of the corporate privilege, and would promote injustice by
15 protecting DEFENDANTS from liability for the wrongful acts committed by them.

16 7. Defendant Campfire, Defendant NSH, Defendant Jeune and Defendant Wildland &
17 Lilo were the joint employers of PLAINTIFF as evidenced by the documents issued to PLAINTIFF,
18 by the company PLAINTIFF performed work for respectively, and as these entities each exerted
19 control over the hours, wages and/or working conditions of PLAINTIFF, and are therefore jointly
20 responsible as employers for the conduct alleged herein as “DEFENDANTS.”

21 8. PLAINTIFF further alleges that DEFENDANTS are the alter egos of each other for
22 the following reasons:

- 23 a. On the California Secretary of State’s website (<https://businesssearch.sos.ca.gov/>)
24 Defendant Campfire, Defendant NSH, Defendant Jeune and Defendant Wildland &
25 Lilo have the same entity address and/or mailing address and/or Agent for Service
26 of Process and/or same Manager or Director.

27
28 ///

1 b. On information and belief Defendant Campfire, Defendant NSH, Defendant Jeune
2 and Defendant Wildland & Lilo utilize the same standardized employment forms
3 and issue the same employment policies and same pay stubs; and

4 c. On information and belief Defendant Campfire, Defendant NSH, Defendant Jeune
5 and Defendant Wildland & Lilo have an executive team which supervise and
6 manage the operations of all of DEFENDANTS' restaurants, supervised and
7 managed the finances of all of DEFENDANTS' restaurants, supervised and
8 managed the marketing of all of DEFENDANTS' restaurants, supervised and
9 managed the human resources of all of DEFENDANTS' restaurants, and supervised
10 and managed the food and beverage offerings at all of DEFENDANTS' restaurants.

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

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

18 11. PLAINTIFF further alleges that the failure to disregard the various corporate entities
19 would promote injustice.

20 12. Defendant Campfire, Defendant NSH, Defendant Jeune and Defendant Wildland &
21 Lilo were the joint employers of PLAINTIFF as evidenced by the documents issued to PLAINTIFF,
22 by the company PLAINTIFF performed work for respectively, and as these entities each exerted
23 control over the hours, wages and/or working conditions of PLAINTIFF, and are therefore jointly
24 responsible as employers for the conduct alleged herein as DEFENDANTS.

25 13. DEFENDANTS own and operate Restaurants in California, including in the County
26 of San Diego, where PLAINTIFF worked.

27 14. PLAINTIFF was employed by DEFENDANTS in California from November of
28 2024 to January of 2025, as a non-exempt employee, paid on an hourly basis, and entitled to the

1 legally required meal and rest periods and payment of minimum and overtime wages due for all
2 time worked.

3 15. PLAINTIFF reserves the right to seek leave to amend this First Amended complaint
4 to add new Plaintiffs, if necessary, in order to establish suitable representative(s) pursuant to *La*
5 *Sala v. American Savings and Loan Association* (1971) 5 Cal.3d 864, 872, and other applicable law.

6 16. PLAINTIFF brings this Class Action on behalf of PLAINTIFF and a California
7 class, defined as all persons who are or previously were employed by Defendant Campfire and/or
8 Defendant NSH and/or Defendant Jeune and/or Defendant Wildland & Lilo in California and
9 classified as non-exempt employees (the "CALIFORNIA CLASS") at any time during the period
10 beginning four (4) years prior to the filing of the original Complaint and ending on the date as
11 determined by the Court (the "CLASS PERIOD"). The amount in controversy for the aggregate
12 claim of the CALIFORNIA CLASS members is under five million dollars (\$5,000,000.00).

13 17. PLAINTIFF brings this Class Action on behalf of PLAINTIFF and a
14 CALIFORNIA CLASS in order to fully compensate the CALIFORNIA CLASS for their losses
15 incurred during the CLASS PERIOD caused by DEFENDANTS' uniform policy and practice
16 which failed to lawfully compensate these employees. DEFENDANTS' uniform policy and
17 practice alleged herein was an unlawful, unfair, and deceptive business practice whereby
18 DEFENDANTS retained and continue to retain wages due to PLAINTIFF and the other members
19 of the CALIFORNIA CLASS. PLAINTIFF and the other members of the CALIFORNIA CLASS
20 seek an injunction enjoining such conduct by DEFENDANTS in the future, relief for the named
21 PLAINTIFF and the other members of the CALIFORNIA CLASS who have been economically
22 injured by DEFENDANTS' past and current unlawful conduct, and all other appropriate legal and
23 equitable relief.

24 18. The true names and capacities, whether individual, corporate, subsidiary,
25 partnership, associate or otherwise of DEFENDANTS DOES 1 through 50, inclusive, are presently
26 unknown to PLAINTIFF who therefore sues these DEFENDANTS by such fictitious names
27 pursuant to California Civil Procedure Code Section 474. PLAINTIFF will seek leave to amend
28 this First Amended Complaint to allege the true names and capacities of DEFENDANTS DOES 1

1 through 50, inclusive, when they are ascertained. PLAINTIFF is informed and believes, and based
2 upon that information and belief alleges, that the DEFENDANTS named in this First Amended
3 Complaint, including DEFENDANTS DOES 1 through 50, inclusive, are responsible in some
4 manner for one or more of the events and happenings that proximately caused the injuries and
5 damages hereinafter alleged. The agents, servants and/or employees of DEFENDANTS and each
6 of them acting on behalf of DEFENDANTS acted within the course and scope of his, her or its
7 authority as the agent, servant and/or employee of DEFENDANTS, and personally participated in
8 the conduct alleged herein on behalf of the DEFENDANTS with respect to the conduct alleged
9 herein. Consequently, the acts of each DEFENDANTS are legally attributable to the other
10 DEFENDANTS and all DEFENDANTS are jointly and severally liable to PLAINTIFF and the
11 other members of the CALIFORNIA CLASS, for the loss sustained as a proximate result of the
12 conduct of the DEFENDANTS' agents, servants and/or employees.

13 19. DEFENDANTS were PLAINTIFF'S employers or persons acting on behalf of
14 PLAINTIFF'S employer, within the meaning of California Labor Code Section 558, who violated
15 or caused to be violated, a Section of Part 2, Chapter 1 of the California Labor Code or any
16 provision regulating hours and days of work in any order of the Industrial Welfare Commission
17 and, as such, are subject to civil penalties for each underpaid employee, as set forth in Labor Code
18 Section 558, at all relevant times.

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

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

27 22. PLAINTIFF and other members of the CALIFORNIA CLASS seek an injunction
28 enjoining such conduct by DEFENDANTS in the future, relief for the named PLAINTIFF and other

1 members of the CALIFORNIA CLASS who has been economically injured by DEFENDANTS’
2 past and current unlawful conduct, and all other appropriate legal and equitable relief.

3 **JURISDICTION AND VENUE**

4 23. This Court has jurisdiction over this Action pursuant to California Code of Civil
5 Procedure Section 410.10 and California Business and Professions Code Section 17203. This action
6 is brought as a Class Action on behalf of PLAINTIFF and similarly situated employees of
7 DEFENDANTS pursuant to California Code of Civil Procedure Section 382.

8 24. Venue is proper in this Court pursuant to California Code of Civil Procedure,
9 Sections 395 and 395.5, because DEFENDANTS operate in locations across California, employ
10 the CALIFORNIA CLASS across California, including in this county, and committed the wrongful
11 conduct herein alleged in this county against the CALIFORNIA CLASS.

12 **THE CONDUCT**

13 25. In violation of the applicable sections of the California Labor Code and the
14 requirements of the Industrial Welfare Commission (“IWC”) Wage Order, DEFENDANTS as a
15 matter of company policy, practice, and procedure, intentionally, knowingly, and systematically
16 failed to provide legally compliant meal and rest periods, failed to accurately compensate
17 PLAINTIFF and the other members of the CALIFORNIA CLASS for missed meal and rest periods,
18 failed to pay PLAINTIFF and the other members of the CALIFORNIA CLASS for all time worked,
19 failed to compensate PLAINTIFF and the other members of the CALIFORNIA CLASS for off-the-
20 clock work, failed to pay PLAINTIFF and the other members of the CALIFORNIA CLASS
21 overtime at the correct regular rate of pay, failed to compensate PLAINTIFF and the other members
22 of the CALIFORNIA CLASS meal and rest premiums at the regular rate of pay, failed to pay
23 PLAINTIFF and the other members of the CALIFORNIA CLASS redeemed sick pay at the regular
24 rate of pay, failed to reimburse PLAINTIFF and the other members of the CALIFORNIA CLASS
25 for business expenses, and failed to issue to PLAINTIFF and the other members of the
26 CALIFORNIA CLASS with accurate itemized wage statements showing, among other things, all
27 applicable hourly rates in effect during the pay periods and the corresponding amount of time
28 worked at each hourly rate. DEFENDANTS’ uniform policies and practices are intended to

1 purposefully avoid the accurate and full payment for all time worked as required by California law
2 which allows DEFENDANTS to illegally profit and gain an unfair advantage over competitors who
3 comply with the law. To the extent equitable tolling operates to toll claims by the CALIFORNIA
4 CLASS against DEFENDANTS, the CLASS PERIOD should be adjusted accordingly.

5 **A. Meal Period Violations**

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

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

1 meal period exception. When they were provided with meal periods, PLAINTIFF and other
2 CALIFORNIA CLASS members were, from time to time, required to remain on premises, on duty
3 and on call. DEFENDANTS' failure to provide PLAINTIFF and the CALIFORNIA CLASS
4 members with legally required meal breaks is evidenced by DEFENDANTS' business records. As
5 a result of their rigorous work schedules and DEFENDANTS' inadequate staffing, PLAINTIFF
6 and other members of the CALIFORNIA CLASS therefore forfeit meal breaks without additional
7 compensation and in accordance with DEFENDANTS' strict corporate policy and practice.

8 **B. Rest Period Violations**

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

23 **C. Unreimbursed Business Expenses**

24 29. DEFENDANTS as a matter of corporate policy, practice, and procedure,
25 intentionally, knowingly, and systematically failed to reimburse and indemnify the PLAINTIFF
26 and the other CALIFORNIA CLASS members for required business expenses incurred by the
27 PLAINTIFF and other CALIFORNIA CLASS members in direct consequence of discharging their
28 duties on behalf of DEFENDANTS. Under California Labor Code Section 2802, employers are

1 required to indemnify employees for all expenses incurred in the course and scope of their
2 employment. California Labor Code Section 2802 expressly states that "an employer shall
3 indemnify his or her employee for all necessary expenditures or losses incurred by the employee
4 in direct consequence of the discharge of his or her duties, or of his or her obedience to the
5 directions of the employer, even though unlawful, unless the employee, at the time of obeying the
6 directions, believed them to be unlawful."

7 30. In the course of their employment, DEFENDANTS required PLAINTIFF and other
8 CALIFORNIA CLASS members to incur personal expenses for the use of their personal cell
9 phones, vehicles, and for the maintenance of their work uniforms, as a result of and in furtherance
10 of their job duties. Specifically, PLAINTIFF and other CALIFORNIA CLASS members were
11 required to use their personal cell phones, vehicles, and maintain their work uniforms, in order to
12 perform work related tasks. However, DEFENDANTS unlawfully failed to reimburse
13 PLAINTIFF and other CALIFORNIA CLASS members for the use of their personal cell phones,
14 vehicles, and maintenance of their work uniforms. As a result, in the course of their employment
15 with DEFENDANTS, the PLAINTIFF and other CALIFORNIA CLASS members incurred
16 unreimbursed business expenses that included, but were not limited to, costs related to the use of
17 their personal cell phones, vehicles, and maintenance of their work uniforms, all on behalf of and
18 for the benefit of DEFENDANTS.

19 **D. Wage Statement Violations**

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

28 ///

1 32. From time to time during the CLASS PERIOD, when PLAINTIFF and other
2 CALIFORNIA CLASS members missed meal and rest breaks, or were paid inaccurately for missed
3 meal and rest period premiums, or were not paid for all hours worked, DEFENDANTS also failed
4 to provide PLAINTIFF and other CALIFORNIA CLASS members with complete and accurate
5 wage statements which failed to show, among other things, all deductions, the total hours worked
6 and all applicable hourly rates in effect during the pay period and the corresponding amount of time
7 worked at each hourly rate, correct rates of pay for penalty payments or missed meal and rest
8 periods.

9 33. In addition to the foregoing, DEFENDANTS, from time to time, failed to provide
10 PLAINTIFF and the CALIFORNIA CLASS Members with wage statements that comply with
11 California Labor Code Section 226.

12 34. As a result, DEFENDANTS issued PLAINTIFF and other CALIFORNIA CLASS
13 members with wage statements that violate California Lab. Code § 226(a)(1)-(9). Further,
14 DEFENDANTS' violations are knowing and intentional, and were not isolated due to an
15 unintentional payroll error due to clerical or inadvertent mistake.

16 **E. Off-the-Clock Work Resulting in Minimum Wage and Overtime Violations**

17 35. During the CLASS PERIOD, from time-to-time DEFENDANTS failed and
18 continues to fail to accurately pay PLAINTIFF and other members of the CALIFORNIA CLASS
19 for all hours worked.

20 36. During the CLASS PERIOD, from time-to-time DEFENDANTS required
21 PLAINTIFF and other members of the CALIFORNIA CLASS to perform pre-shift or post-shift
22 work, including but not limited to sending and receiving work-related communications and
23 completing required work-related quizzes for management. This resulted in PLAINTIFF and other
24 CALIFORNIA CLASS members having to work while off-the-clock.

25 37. DEFENDANTS directed and directly benefited from the undercompensated off-the-
26 clock work performed by PLAINTIFF and the other CALIFORNIA CLASS members.

27
28
///

1 38. DEFENDANTS controlled the work schedules, duties, and protocols, applications,
2 assignments, and employment conditions of PLAINTIFF and the other CALIFORNIA CLASS
3 members.

4 39. DEFENDANTS were able to track the amount of time PLAINTIFF and the other
5 members of the CALIFORNIA CLASS spent working; however, DEFENDANTS failed to
6 document, track, or pay PLAINTIFF and the other members of the CALIFORNIA CLASS all
7 wages earned and owed for all the work they performed.

8 40. PLAINTIFF and the other members of the CALIFORNIA CLASS were non-exempt
9 employees, subject to the requirements of the California Labor Code.

10 41. DEFENDANTS' policies and practices deprived PLAINTIFF and the other
11 CALIFORNIA CLASS members of all minimum regular, overtime, and double time wages owed
12 for the off-the-clock work activities. Because PLAINTIFF and the other members of the
13 CALIFORNIA CLASS typically worked over forty (40) hours in a workweek, and more than eight
14 (8) hours per day, DEFENDANTS' policies and practices also deprived them of overtime pay.

15 42. DEFENDANTS knew or should have known that PLAINTIFFS' and the other
16 CALIFORNIA CLASS members' off-the-clock work was compensable under the law.

17 43. As a result, PLAINTIFF and the other members of the CALIFORNIA CLASS
18 forfeited wages due to them for all hours worked at DEFENDANTS' direction, control, and benefit
19 for the time spent working while off-the-clock, including but not limited to sending and receiving
20 work-related communications and completing required work-related quizzes for management.
21 DEFENDANTS' uniform policy and practice to not pay PLAINTIFF and the members of the
22 CALIFORNIA CLASS wages for all hours worked in accordance with applicable law is evidenced
23 by DEFENDANTS' business records.

24 **F. Regular Rate Violation – Overtime, Double Time, Meal and Rest Period Premiums, and**
25 **Redeemed Sick Pay**

26 44. From time to time during the CLASS PERIOD, DEFENDANTS failed and
27 continues to fail to accurately calculate and pay PLAINTIFF and the other CALIFORNIA CLASS
28 members for their overtime and double time hours worked, meal and rest period premiums, and

1 redeemed sick pay. As a result, PLAINTIFF and the other CALIFORNIA CLASS members
2 forfeited wages due to them for working overtime without compensation at the correct overtime
3 and double time rates, meal and rest period premiums, and redeemed sick pay rates.
4 DEFENDANTS' uniform policy and practice not to pay the CALIFORNIA CLASS members at
5 the correct rate for all overtime and double time worked, meal and rest period premiums, and sick
6 pay in accordance with applicable law is evidenced by DEFENDANTS' business records.

7 45. State law provides that employees must be paid overtime at one-and-one-half times
8 their "regular rate of pay." PLAINTIFF and other CALIFORNIA CLASS members were
9 compensated at an hourly rate plus incentive pay that was tied to specific elements of an employee's
10 performance.

11 46. The second component of PLAINTIFF'S and other CALIFORNIA CLASS
12 members' compensation was DEFENDANTS' non-discretionary incentive program that paid
13 PLAINTIFF and other CALIFORNIA CLASS members incentive wages based on their
14 performance for DEFENDANTS. The non-discretionary bonus program provided all employees
15 paid on an hourly basis with bonus compensation when the employees met the various performance
16 goals set by DEFENDANTS.

17 47. However, from time to time, when calculating the regular rate of pay in those pay
18 periods where PLAINTIFF and other CALIFORNIA CLASS members worked overtime, double
19 time, paid meal and rest period premium payments, and/or redeemed sick pay, and earned non-
20 discretionary bonuses, DEFENDANTS failed to accurately include the non-discretionary bonus
21 compensation as part of the employee's "regular rate of pay" and/or calculated all hours worked
22 rather than just all non-overtime hours worked. Management and supervisors described the
23 incentive/bonus program to potential and new employees as part of the compensation package. As
24 a matter of law, the incentive compensation received by PLAINTIFF and other CALIFORNIA
25 CLASS members must be included in the "regular rate of pay." The failure to do so has resulted in
26 a systematic underpayment of overtime and double time compensation, meal and rest period
27 premium payments, and redeemed sick pay to PLAINTIFF and other CALIFORNIA CLASS
28 members by DEFENDANTS. Specifically, California Labor Code Section 246 mandates that paid

1 sick time for non-exempt employees shall be calculated in the same manner as the regular rate of
2 pay for the workweek in which the non-exempt employee uses paid sick time, whether or not the
3 employee actually works overtime in that workweek. DEFENDANTS' conduct, as articulated
4 herein, by failing to include the incentive compensation as part of the "regular rate of pay" for
5 purposes of sick pay compensation was in violation of California Labor Code Section 246, the
6 underpayment of which is recoverable under California Labor Code Sections 201, 202, 203, and/or
7 204.

8 48. In violation of the applicable sections of the California Labor Code and the
9 requirements of the Industrial Welfare Commission ("IWC") Wage Order, DEFENDANTS as a
10 matter of company policy, practice, and procedure, intentionally and knowingly failed to
11 compensate PLAINTIFF and the other members of the CALIFORNIA CLASS at the correct rate
12 of pay for all overtime and double time worked, meal and rest period premiums, and redeemed sick
13 pay as required by California law which allowed DEFENDANTS to illegally profit and gain an
14 unfair advantage over competitors who complied with the law. To the extent equitable tolling
15 operates to toll claims by the CALIFORNIA CLASS members against DEFENDANTS, the CLASS
16 PERIOD should be adjusted accordingly.

17 **G. Unlawful Deductions**

18 49. DEFENDANTS, from time-to-time, unlawfully deducted wages from
19 PLAINTIFF'S and CALIFORNIA CLASS members' pay without explanations and without
20 authorization to do so or notice to PLAINTIFF and the CALIFORNIA CLASS members. As a
21 result, DEFENDANTS violated Labor Code Section 221.

22 **H. Timekeeping Manipulation**

23 50. During the CLASS PERIOD, DEFENDANTS, from time-to-time, did not have an
24 immutable timekeeping system to accurately record and pay PLAINTIFF and other members of
25 the CALIFORNIA CLASS for the actual time PLAINTIFF and other members of the
26 CALIFORNIA CLASS worked each day, including regular time, overtime hours, sick pay, meal
27 and rest breaks. As a result, DEFENDANTS were able to and did in fact, unlawfully, and
28 unilaterally alter the time recorded in DEFENDANTS' timekeeping system for PLAINTIFF and

1 other members of the CALIFORNIA CLASS in order to avoid paying these employees for all
2 hours worked, applicable overtime compensation, applicable sick pay, missed meal breaks and
3 missed rest breaks.

4 51. As a result, PLAINTIFF and other members of the CALIFORNIA CLASS, from
5 time to time, forfeited time worked by working without their time being accurately recorded and
6 without compensation at the applicable pay rates.

7 52. The mutability of the timekeeping system also allowed DEFENDANTS to alter
8 employee time records by recording fictitious thirty (30) minute meal breaks in DEFENDANTS'
9 timekeeping system to create the appearance that PLAINTIFF and other members of the
10 CALIFORNIA CLASS clocked out for thirty (30) minute meal breaks when, in fact, the employees
11 were not provided an off-duty meal break at all times. This practice is a direct result of
12 DEFENDANTS' uniform policy and practice of denying employees uninterrupted thirty (30)
13 minute off-duty meal breaks each day or otherwise failing to compensate them for missed meal
14 breaks.

15 53. As a result, PLAINTIFF and the other members of the CALIFORNIA CLASS
16 forfeited wages due to them for all hours worked at DEFENDANTS' direction, control and benefit
17 for the time that the timekeeping system was inoperable. DEFENDANTS' uniform policy and
18 practice to not pay PLAINTIFF and the members of the CALIFORNIA CLASS wages for all hours
19 worked in accordance with applicable law is evidenced by DEFENDANTS' business records.

20 **I. Unlawful Rounding Practices**

21 54. During the CALIFORNIA CLASS PERIOD, DEFENDANTS did not have in place
22 an immutable timekeeping system to accurately record and pay PLAINTIFF and other
23 CALIFORNIA CLASS members for the actual time these employees worked each day, including
24 overtime hours. Specifically, DEFENDANTS had in place an unlawful rounding policy and
25 practice that resulted in PLAINTIFF and CALIFORNIA CLASS members being
26 undercompensated for all their time worked. As a result, DEFENDANTS were able to and did in
27 fact unlawfully and unilaterally round the time recorded in DEFENDANTS' timekeeping system
28 for PLAINTIFF and the members of the CALIFORNIA CLASS in order to avoid paying these

employees for all their time worked, including the applicable overtime compensation for overtime worked. As a result, PLAINTIFF and other CALIFORNIA CLASS members, from time to time, forfeited compensation for their time worked by working without their time being accurately recorded and without compensation at the applicable overtime rates.

55. Further, the mutability of DEFENDANTS' timekeeping system and unlawful rounding policy and practice resulted in PLAINTIFF and CALIFORNIA CLASS members' time being inaccurately recorded. As a result, from time to time, DEFENDANTS' unlawful rounding policy and practice caused PLAINTIFF and CALIFORNIA CLASS members to perform work as ordered by DEFENDANTS for more than five (5) hours during a shift without receiving an off-duty meal break.

J. Violations for Untimely Payment of Wages

56. Pursuant to California Labor Code Section 204, PLAINTIFF and the CALIFORNIA CLASS members were entitled to timely payment of wages during their employment. PLAINTIFF and the CALIFORNIA CLASS members, from time to time, did not receive payment of all wages, including, but not limited to, overtime wages, minimum wages, meal period premium wages, and rest period premium wages within the permissible time period.

57. Pursuant to California Labor Code Section 201, "If an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately." Pursuant to California Labor Code Section 202, if an employee 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." PLAINTIFF and the CALIFORNIA CLASS members were, from time to time, not timely provided the wages earned and unpaid at the time of their discharge and/or at the time of quitting, in violation of California Labor Code Sections 201 and 202.

58. As such, PLAINTIFF demands up to thirty days of pay as penalty for not timely paying all wages due at time of termination for all CALIFORNIA CLASS members whose employment ended during the CLASS PERIOD.

1 **K. Sick Pay Violations**

2 59. California Labor Code Section 246 (a)(1) mandates that “An employee who, on or
3 after July 1, 2015, works in California for the same employer for 30 or more days within a year
4 from the commencement of employment is entitled to paid sick days as specified in this section.”
5 Further, California Labor Code Sections 246(b)-(d) provide for the sick day accrual requirements.
6 From time to time, DEFENDANTS failed to have a policy or practice in place to provide
7 PLAINTIFF and other members of the CALIFORNIA CLASS with sick days and/or paid sick
8 leave. As of January 1, 2024, DEFENDANTS failed to adhere to the law in that they failed to
9 provide and allow employees to use at least 40 hours or five days of paid sick leave per year.

10 60. California Labor Code Section 246(i) requires an employer to furnish its employees
11 with written wage statements setting forth the amount of paid sick leave available. From time to
12 time, DEFENDANTS violated California Labor Code Section 246 by failing to furnish PLAINTIFF
13 and other members of the CALIFORNIA CLASS with wage statements setting forth the amount of
14 paid sick leave available.

15 **L. Failure to Provide Personnel Files**

16 61. On January 21, 2025, and March 5, 2025, PLAINTIFF caused written requests via
17 certified mail to be delivered to DEFENDANTS for PLAINTIFF’S personnel and employment
18 records, including but not limited to: (1) payroll records; (2) employment contracts; (3) itemized
19 pay stubs; and (4) PLAINTIFF’S complete employment file.

20 62. DEFENDANTS failed to provide and/or make available to PLAINTIFF their
21 personnel records, payroll records, employment contract, and entire employment file within thirty
22 (30) days of their requests stated above. In fact, as of the date of filing of this First Amended
23 Complaint, DEFENDANTS have still failed to pay PLAINTIFF the statutory penalty in the
24 amount of \$750. DEFENDANTS violated California Labor Code Section 1198.5 by failing to
25 respond and provide PLAINTIFF with their employment file. Section 1198.5 states that
26 employees (and former employees) have the right to inspect personnel records maintained by the
27 employer “related to the employee’s performance or to any grievance concerning the employee.”
28 Employers must allow inspection or copying within thirty (30) days of the request. PLAINTIFF

1 is now entitled to and requests injunctive relief to obtain compliance with California Labor Code
2 Section 1198.5, a statutory penalty, and an award of attorneys' fees and costs for bringing this
3 action.

4 **M. Tip Pooling**

5 63. During the CALIFORNIA CLASS period, pursuant to DEFENDANTS' company
6 policies and practices, PLAINTIFF and other CALIFORNIA CLASS Members were forced to
7 forfeit gratuities left for them by customers to DEFENDANTS' agents who provided no service
8 to the customers that resulted in the gratuity. DEFENDANTS routinely added gratuity tips and
9 service charges to its food and beverage bills. These gratuities and service charges reasonably
10 appear to be gratuities for the service staff. It is typical and customary in the hospitality industry
11 that establishments impose gratuity charges on the food and beverage bill. Thus, when customers
12 paid these charges, it is reasonable for them to have believed they were gratuities to be paid to the
13 service staff. Indeed, because many of these charges are depicted to customers, and the custom in
14 the food and beverage industry that gratuities are paid for food and beverage service, customers
15 paid these charges reasonably believing they were remitted to the service staff. However,
16 DEFENDANTS have not remitted the total proceeds of these gratuities to the non-managerial
17 employees who serve the food and beverages. Instead, DEFENDANTS have a policy and practice
18 of using a portion of these gratuities to pay managers or other non-service employees. As a result,
19 PLAINTIFF and CALIFORNIA CLASS Members have not received the total proceeds of the
20 gratuities, to which they are entitled to under California law.

21 64. DEFENDANTS are generally in the business of owning and operating a restaurant.
22 During the CALIFORNIA CLASS PERIOD, PLAINTIFF and other CALIFORNIA CLASS
23 Members were in the "chain of service" and earned gratuities based on their service for their
24 customers. However, PLAINTIFF and CALIFORNIA CLASS Members were forced to forfeit
25 portions of their gratuities, which said gratuities were kept by DEFENDANTS' employees who
26 were not in the chain of service from which the gratuity resulted. PLAINTIFF and other
27 CALIFORNIA CLASS Members contend that any gratuities kept by DEFENDANTS' non-service
28 employees were illegal and in violation of California law because PLAINTIFF and other

1 CALIFORNIA CLASS Members provided the service for to whom the gratuity should have been
2 paid.

3 65. California Labor Code § 351 establishes the requirements for an employer regarding
4 the payment of gratuities. Specifically, gratuities are the sole property of the employees. California
5 Labor Code § 351 expressly prohibits employers and their agents from collecting, taking, or
6 receiving any portion of a gratuity. California Labor Code § 350(e) defines the term “gratuity” as
7 including any money that has been paid or given or left for an employee by a patron of a business
8 over and above the actual amount due the business for services rendered or for goods, food, drink
9 or articles sold or served to such patron. Labor Code § 353 requires employers to keep accurate
10 records of all gratuities they receive, directly or indirectly.

11 66. Although tip pooling is not expressly prohibited by the Labor Code, employees who
12 mandate tip pooling must only distribute pooled tips to employees in the “chain of service.” By
13 distributing tips to employees who were not in the “chain of service,” DEFENDANTS have
14 violated and continue to violate the legal requirements for handling pooled tips.

15 67. Specifically, as to PLAINTIFF, PLAINTIFF was from time to time unable to take
16 off-duty meal and rest breaks and was not fully relieved of duty for their rest and meal periods.
17 PLAINTIFF was required to perform work as ordered by DEFENDANTS for more than five (5)
18 hours during a shift without receiving an off-duty meal break. Further, DEFENDANTS failed to
19 provide PLAINTIFF with a second off-duty meal period each workday in which they were required
20 by DEFENDANTS to work ten (10) hours of work. When DEFENDANTS provided PLAINTIFF
21 with a rest break, they required PLAINTIFF to remain on premises, on-duty and on-call for the
22 rest break. DEFENDANTS’ policy caused PLAINTIFF to remain on premises, on-call and on-
23 duty during what was supposed to be their off-duty meal periods. PLAINTIFF therefore forfeited
24 meal and rest breaks without additional compensation and in accordance with DEFENDANTS’
25 strict corporate policy and practice. Moreover, DEFENDANTS also provided PLAINTIFF with
26 paystubs that failed to comply with California Labor Code Section 226. Further, DEFENDANTS
27 also failed to reimburse PLAINTIFF for required business expenses related to the personal
28 expenses incurred for the use of their personal cell phone and personal vehicle, on behalf of and

1 in furtherance of their employment with DEFENDANTS. Additionally, DEFENDANTS failed to
2 provide and/or make available to PLAINTIFF their personnel records, payroll records,
3 employment contracts, and entire employment file within (30) days of all their requests on January
4 21, 2025, and March 5, 2025. To date, DEFENDANTS have not fully paid PLAINTIFF the
5 minimum, overtime and double time compensation still owed to them, or any penalty wages owed
6 to them under California Labor Code Section 203. The amount in controversy for PLAINTIFF
7 individually does not exceed the sum or value of \$75,000.

8 **CLASS ACTION ALLEGATIONS**

9 68. PLAINTIFF brings this Class Action on behalf of PLAINTIFF, and a California
10 class defined as all persons who are or previously were employed by Defendant Campfire and/or
11 Defendant NSH and/or Defendant Jeune and/or Defendant Wildland & Lilo in California and
12 classified as non-exempt employees (the “CALIFORNIA CLASS”) at any time during the period
13 beginning four (4) years prior to the filing of the original Complaint and ending on the date as
14 determined by the Court (the “CLASS PERIOD”).

15 69. PLAINTIFF and the other CALIFORNIA CLASS members have uniformly been
16 deprived of wages and penalties from unpaid wages earned and due, including but not limited to
17 unpaid minimum wages, unpaid overtime compensation, unpaid meal and rest period premiums,
18 illegal meal and rest period policies, failure to reimburse for business expenses, failure to
19 compensate for off-the-clock work, failure to provide accurate itemized wage statements, failure to
20 maintain required records, and interest, statutory and civil penalties, attorney’s fees, costs, and
21 expenses.

22 70. The members of the class are so numerous that joinder of all class members is
23 impractical.

24 71. Common questions of law and fact regarding DEFENDANTS’ conduct, including
25 but not limited to, off-the-clock work, unpaid meal and rest period premiums, failure to accurately
26 calculate the regular rate of pay for overtime compensation, failure to accurately calculate the
27 regular rate of compensation for missed meal and rest period premiums, failure to provide legally
28 compliant meal and rest periods, failure to reimburse for business expenses, failure to provide

1 accurate itemized wage statements, and failure to ensure they are paid at least minimum wage and
2 overtime, exist as to all members of the class and predominate over any questions affecting solely
3 any individual members of the class. Among the questions of law and fact common to the class are:

- 4 a. Whether DEFENDANTS maintained legally compliant meal period policies and
5 practices;
- 6 b. Whether DEFENDANTS maintained legally compliant rest period policies and
7 practices;
- 8 c. Whether DEFENDANTS failed to pay PLAINTIFF and the CALIFORNIA CLASS
9 members accurate premium payments for missed meal and rest periods;
- 10 d. Whether DEFENDANTS failed to pay PLAINTIFF and the CALIFORNIA CLASS
11 members accurate overtime wages;
- 12 e. Whether DEFENDANTS failed to pay PLAINTIFF and the CALIFORNIA CLASS
13 members at least minimum wage for all hours worked;
- 14 f. Whether DEFENDANTS failed to compensate PLAINTIFF and the CALIFORNIA
15 CLASS members for required business expenses;
- 16 g. Whether DEFENDANTS issued legally compliant wage statements;
- 17 h. Whether DEFENDANTS committed an act of unfair competition by systematically
18 failing to record and pay PLAINTIFF and the other members of the CALIFORNIA
19 CLASS for all time worked;
- 20 i. Whether DEFENDANTS committed an act of unfair competition by systematically
21 failing to record all meal and rest breaks missed by PLAINTIFF and other
22 CALIFORNIA CLASS members, even though DEFENDANTS enjoyed the benefit
23 of this work, required employees to perform this work and permits or suffers to
24 permit this work;
- 25 j. Whether DEFENDANTS committed an act of unfair competition in violation of
26 California Business and Professions Code Sections 17200, *et seq.* (the “UCL”), by
27 failing to provide the PLAINTIFF and the other members of the CALIFORNIA
28 CLASS with the legally required meal and rest periods.

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

3 73. PLAINTIFFS' claims are typical of the claims of the CALIFORNIA CLASS, and
4 PLAINTIFF has the same interests as the other members of the class.

5 74. PLAINTIFF will fairly and adequately represent and protect the interests of the
6 CALIFORNIA CLASS members.

7 75. PLAINTIFF retained able class counsel with extensive experience in class action
8 litigation.

9 76. Further, PLAINTIFF'S interests are coincident with, and not antagonistic to, the
10 interest of the other CALIFORNIA CLASS members.

11 77. There is a strong community of interest among PLAINTIFF and the members of the
12 CALIFORNIA CLASS to, inter alia, ensure that the combined assets of DEFENDANTS are
13 sufficient to adequately compensate the members of the CALIFORNIA CLASS for the injuries
14 sustained.

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

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

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

28 ///

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.

80. 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

Unlawful Business Practices

(Cal. Bus. and Prof. Code §§ 17200, *et seq.*)

(Alleged by PLAINTIFF and the CALIFORNIA CLASS against DEFENDANTS)

81. 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 First Amended Complaint.

82. DEFENDANTS are each a “person” as that term is defined under California Business and Professions Code Section 17021.

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

Any person who engages, has engaged, or proposes to engage in unfair competition may be enjoined in any court of competent jurisdiction. The court may make such orders or judgments, including the appointment of a receiver, as may be necessary to prevent the use or employment by any person of any practice which constitutes unfair competition, as defined in this chapter, or as may be necessary to restore to any person in interest any money or property, real or personal, which may have been acquired by means of such unfair competition. (Cal. Bus. & Prof. Code § 17203).

84. By the conduct alleged herein, DEFENDANTS have engaged and continues to engage in business practices which violate California law, including but not limited to, the applicable Wage Order(s), the California Code of Regulations and the California Labor Code including Sections 201, 202, 203, 204, 210, 226.7, 510, 512, 558, 1194, 1197, 1197.1, 1198, and

1 2802, for which this Court should issue declaratory and other equitable relief pursuant to California
2 Business and Professions Code Section 17203 as may be necessary to prevent and remedy the
3 conduct held to constitute unfair competition, including restitution of wages wrongfully withheld.

4 85. By the conduct alleged herein, DEFENDANTS' practices were unlawful and unfair
5 in that these practices violated public policy, were immoral, unethical, oppressively unscrupulous
6 or substantially injurious to employees, and were without valid justification or utility for which this
7 Court should issue equitable and injunctive relief pursuant to Section 17203 of the California
8 Business and Professions Code, including restitution of wages wrongfully withheld.

9 86. By the conduct alleged herein, DEFENDANTS' practices were deceptive and
10 fraudulent in that DEFENDANTS' uniform policy and practice failed to provide the legally
11 mandated meal and rest periods and the required amount of compensation for missed meal and rest
12 periods, failed to pay minimum and overtime wages owed, and failed to reimburse all necessary
13 business expenses incurred, due to a systematic business practice that cannot be justified, pursuant
14 to the applicable California Labor Code and Industrial Welfare Commission requirements in
15 violation of California Business and Professions Code Sections 17200, *et seq.*, and for which this
16 Court should issue injunctive and equitable relief, pursuant to California Business and Professions
17 Code Section 17203, including restitution of wages wrongfully withheld.

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

22 88. By the conduct alleged herein, DEFENDANTS' practices were also unfair and
23 deceptive in that DEFENDANTS' uniform policies, practices and procedures failed to provide
24 mandatory meal and/or rest breaks to PLAINTIFF and the CALIFORNIA CLASS members as
25 required by California Labor Code Sections 226.7 and 512.

26 89. Therefore, PLAINTIFF demands on behalf of PLAINTIFF and on behalf of each
27 CALIFORNIA CLASS member, one (1) hour of pay for each workday in which an off-duty meal
28 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.

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

91. By and through the unlawful and unfair business practices described herein, DEFENDANTS have obtained valuable property, money and services from PLAINTIFF and the other members of the CALIFORNIA CLASS, including earned wages for all time 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.

92. 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 California Business and Professions Code Sections 17200, *et seq.*

93. 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 have 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 time worked.

94. 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.

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

1 result of the unlawful and unfair business practices described herein, PLAINTIFF and the other
2 members of the CALIFORNIA CLASS have suffered and will continue to suffer irreparable legal
3 and economic harm unless DEFENDANTS are restrained from continuing to engage in these
4 unlawful and unfair business practices.

5 **SECOND CAUSE OF ACTION**

6 **Failure To Pay Minimum Wages**

7 **(Cal. Lab. Code §§ 1194, 1197 and 1197.1)**

8 **(Alleged by PLAINTIFF and the CALIFORNIA CLASS against DEFENDANTS)**

9 95. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and
10 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this First
11 Amended Complaint.

12 96. PLAINTIFF and the other members of the CALIFORNIA CLASS bring a claim for
13 DEFENDANTS' willful and intentional violations of the California Labor Code and the Industrial
14 Welfare Commission requirements for DEFENDANTS' failure to accurately calculate and pay
15 minimum wages to PLAINTIFF and CALIFORNIA CLASS members.

16 97. Pursuant to California Labor Code Section 204, other applicable laws and
17 regulations, and public policy, an employer must timely pay its employees for all hours worked.

18 98. California Labor Code Section 1197 provides the minimum wage for employees
19 fixed by the commission is the minimum wage to be paid to employees, and the payment of a less
20 wage than the minimum so fixed is unlawful.

21 99. California Labor Code Section 1194 establishes an employee's right to recover
22 unpaid wages, including minimum wage compensation and interest thereon, together with the costs
23 of suit.

24 100. DEFENDANTS maintained a uniform wage practice of paying PLAINTIFF and the
25 other members of the CALIFORNIA CLASS without regard to the correct amount of time they
26 work. As set forth herein, DEFENDANTS' uniform policy and practice was to unlawfully and
27 intentionally deny timely payment of wages due to PLAINTIFF and the other members of the
28 CALIFORNIA CLASS.

1 101. DEFENDANTS' uniform pattern of unlawful wage and hour practices manifested,
2 without limitation, applicable to the CALIFORNIA CLASS as a whole, as a result of implementing
3 a uniform policy and practice that denies accurate compensation to PLAINTIFF and the other
4 members of the CALIFORNIA CLASS in regard to minimum wage pay.

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

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

14 104. During the CLASS PERIOD, PLAINTIFF and the other members of the
15 CALIFORNIA CLASS were paid less for time worked than they were entitled to, constituting a
16 failure to pay all earned wages.

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

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

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

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

20 **THIRD CAUSE OF ACTION**

21 **Failure To Pay Overtime Compensation**

22 **(Cal. Lab. Code §§ 204, 510, 1194 and 1198)**

23 **(Alleged by PLAINTIFF and the CALIFORNIA CLASS against DEFENDANTS)**

24 109. PLAINTIFF and the other members of the CALIFORNIA CLASS reallege and
25 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this First
26 Amended Complaint.

27 110. PLAINTIFF and the other members of the CALIFORNIA CLASS bring a claim for
28 DEFENDANTS' willful and intentional violations of the California Labor Code and the Industrial

1 Welfare Commission requirements for DEFENDANTS' failure to pay these employees for all
2 overtime worked including work performed in excess of eight (8) hours in a workday, and/or twelve
3 (12) hours in a workday, and/or forty (40) hours in any workweek.

4 111. Pursuant to California Labor Code Section 204, other applicable laws and
5 regulations, and public policy, an employer must timely pay its employees for all hours worked.

6 112. California Labor Code Section 510 provides that employees in California shall not
7 be employed more than eight (8) hours per workday and/or more than forty (40) hours per
8 workweek unless they receive additional compensation beyond their regular wages in amounts
9 specified by law.

10 113. California Labor Code Section 1194 establishes an employee's right to recover
11 unpaid wages, including minimum and overtime compensation and interest thereon, together with
12 the costs of suit. California Labor Code Section 1198 further states that the employment of an
13 employee for longer hours than those fixed by the Industrial Welfare Commission is unlawful.

14 114. During the CLASS PERIOD, PLAINTIFF and CALIFORNIA CLASS members
15 were required by DEFENDANTS to work for DEFENDANTS and were not paid for all the time
16 they worked, including overtime work.

17 115. DEFENDANTS' uniform pattern of unlawful wage and hour practices manifested,
18 without limitation, applicable to the CALIFORNIA CLASS as a whole, as a result of implementing
19 a uniform policy and practice that failed to accurately record overtime worked by PLAINTIFF and
20 other CALIFORNIA CLASS members and denied accurate compensation to PLAINTIFF and the
21 other members of the CALIFORNIA CLASS for overtime worked, including, the overtime work
22 performed in excess of eight (8) hours in a workday, and/or twelve (12) hours in a workday, and/or
23 forty (40) hours in any workweek.

24 116. In committing these violations of the California Labor Code, DEFENDANTS
25 inaccurately recorded overtime worked and consequently underpaid the overtime worked by
26 PLAINTIFF and other CALIFORNIA CLASS members. DEFENDANTS acted in an illegal
27 attempt to avoid the payment of all earned wages, and other benefits in violation of the California
28

1 Labor Code, the Industrial Welfare Commission requirements and other applicable laws and
2 regulations.

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

6 118. California Labor Code Section 515 sets out various categories of employees who are
7 exempt from the overtime requirements of the law. None of these exemptions are applicable to
8 PLAINTIFF and the other members of the CALIFORNIA CLASS. Further, PLAINTIFF and the
9 other members of the CALIFORNIA CLASS are not subject to a valid collective bargaining
10 agreement that would preclude the causes of action contained herein this First Amended Complaint.
11 Rather, PLAINTIFF brings this Action on behalf of PLAINTIFF and the CALIFORNIA CLASS
12 based on DEFENDANTS' violations of non-negotiable, non-waivable rights provided by the State
13 of California.

14 119. During the CLASS PERIOD, PLAINTIFF and the other members of the
15 CALIFORNIA CLASS were paid less for overtime worked than they were entitled to, constituting
16 a failure to pay all earned wages.

17 120. DEFENDANTS failed to accurately pay PLAINTIFF and the other members of the
18 CALIFORNIA CLASS overtime wages for the time they worked which was in excess of the
19 maximum hours permissible by law as required by California Labor Code Sections 510, 1194, and
20 1198, even though PLAINTIFF and the other members of the CALIFORNIA CLASS were
21 regularly required to work, and did in fact work overtime, and did in fact work overtime as to which
22 DEFENDANTS failed to accurately record and pay as evidenced by DEFENDANTS' business
23 records and witnessed by employees.

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

1 122. DEFENDANTS knew or should have known that PLAINTIFF and the other
2 members of the CALIFORNIA CLASS were undercompensated for their time worked.
3 DEFENDANTS systematically elected, either through intentional malfeasance or gross
4 nonfeasance, to not pay them for their labor as a matter of uniform company policy, practice and
5 procedure, and DEFENDANTS perpetrated this systematic scheme by refusing to pay PLAINTIFF
6 and the other members of the CALIFORNIA CLASS the correct overtime wages for their overtime
7 worked.

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

16 124. Therefore, PLAINTIFF and the other members of the CALIFORNIA CLASS request
17 recovery of overtime wages, according to proof, interest, statutory costs, as well as the assessment
18 of any statutory penalties against DEFENDANTS, in a sum as provided by the California Labor
19 Code and/or other applicable statutes. To the extent overtime compensation is determined to be
20 owed to the CALIFORNIA CLASS members who have terminated their employment,
21 DEFENDANTS' conduct also violates California Labor Code Sections 201 and/or 202, and
22 therefore these individuals are also be entitled to waiting time penalties under California Labor
23 Code 203, which penalties are sought herein. DEFENDANTS' conduct as alleged herein was
24 willful, intentional, and not in good faith. Further, PLAINTIFF and other CALIFORNIA CLASS
25 members are entitled to seek and recover statutory costs.

26
27
28 ///

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27

3

4

5
6
7

8
9
10
11
12
13
14
15
16
17
18
19
20
21

22
23
24
25
26

128. As a proximate result of the aforementioned violations, PLAINTIFF and 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

Failure To Provide Required Rest Periods

(Cal. Lab. Code §§ 226.7 & 512)

(Alleged by PLAINTIFF and the CALIFORNIA CLASS against DEFENDANTS)

129. 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 First Amended Complaint.

130. From time to time, PLAINTIFF and other CALIFORNIA CLASS members were 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. PLAINTIFF and other CALIFORNIA CLASS members were also not provided with one-hour wages *in lieu* thereof. As a result of their rigorous work schedules, PLAINTIFF and other CALIFORNIA CLASS members were periodically denied their proper rest periods by DEFENDANTS and DEFENDANTS' managers. In addition, DEFENDANTS failed to compensate PLAINTIFF and other CALIFORNIA CLASS members for their rest periods as required by the applicable Wage Order and Labor Code. As a result, DEFENDANTS' failure to provide PLAINTIFF and the CALIFORNIA CLASS members with all the legally required paid rest periods is evidenced by DEFENDANTS' business records.

131. DEFENDANTS further violated California Labor Code Sections 226.7 and the applicable IWC Wage Order by failing to compensate PLAINTIFF and CALIFORNIA CLASS members who were not provided a rest period, in accordance with the applicable Wage Order, one

1 additional hour of compensation at each employee's regular rate of pay for each workday that rest
2 period was not provided.

3 132. As a proximate result of the aforementioned violations, PLAINTIFF and
4 CALIFORNIA CLASS members have been damaged in an amount according to proof at trial, and
5 seek all wages earned and due, interest, penalties, expenses and costs of suit.

6 **SIXTH CAUSE OF ACTION**

7 **Failure To Provide Accurate Itemized Statements**

8 **(Cal. Lab. Code § 226)**

9 **(Alleged by PLAINTIFF and the CALIFORNIA CLASS against DEFENDANTS)**

10 133. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and
11 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this First
12 Amended Complaint.

13 134. California Labor Code Section 226 provides that an employer must furnish
14 employees with an "accurate itemized" statement in writing showing:

- 15 a. Gross wages earned,
- 16 b. total hours worked by the employee, except for any employee whose compensation
17 is solely based on a salary and who is exempt from payment of overtime under
18 subdivision (a) of Section 515 or any applicable order of the Industrial Welfare
19 Commission,
- 20 c. the number of piece-rate units earned and any applicable piece rate if the employee
21 is paid on a piece-rate basis,
- 22 d. all deductions, provided that all deductions made on written orders of the employee
23 may be aggregated and shown as one item,
- 24 e. net wages earned,
- 25 f. the inclusive dates of the period for which the employee is paid,
- 26 g. the name of the employee and his or her social security number, except that by
27 January 1, 2008, only the last four digits of his or her social security number of an
28

employee identification number other than social security number may be shown on the itemized statement,

h. the name and address of the legal entity that is the employer, and

i. all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

135. When DEFENDANTS did not accurately record PLAINTIFFS' and other CALIFORNIA CLASS members' missed meal and rest breaks, or were paid inaccurate missed meal and rest break premiums, or were not paid for all hours worked, DEFENDANTS violated California Labor Code Section 226 in that DEFENDANTS failed to provide PLAINTIFF and other CALIFORNIA CLASS members with complete and accurate wage statements which failed to show, among other things, all deductions, the accurate gross wages earned, net wages earned, the total hours worked and all applicable hourly rates in effect during the pay period and the corresponding amount of time worked at each hourly rate, and correct rates of pay for penalty payments or missed meal and rest periods.

136. In addition to the foregoing, DEFENDANTS failed to provide itemized wage statements to PLAINTIFF and members of the CALIFORNIA CLASS that complied with the requirements of California Labor Code Section 226(a)(1)-(9).

137. DEFENDANTS knowingly and intentionally failed to comply with California Labor Code Section 226(a)(1)-(9), causing injury and damages to PLAINTIFF and the other members of the CALIFORNIA CLASS. These damages include, but are not limited to, costs expended calculating the correct wages for all missed meal and rest breaks 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 California Labor Code Section 226, 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).

1 **SEVENTH CAUSE OF ACTION**

2 **Failure To Pay Wages When Due**

3 **(Cal. Lab. Code § 203)**

4 **(Alleged by PLAINTIFF and the CALIFORNIA CLASS against DEFENDANTS)**

5 138. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and
6 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this First
7 Amended Complaint.

8 139. California Labor Code Section 200 provides that:

9 As used in this article:

10 (d) "Wages" includes all amounts for labor performed by employees of every
11 description, whether the amount is fixed or ascertained by the standard of time,
task, piece, commission basis, or other method of calculation.

12 (e) "Labor" includes labor, work, or service whether rendered or performed under
13 contract, subcontract, partnership, station plan, or other agreement if the labor to
be paid for is performed personally by the person demanding payment.

14 140. California Labor Code Section 201 provides, in relevant part, that "If an employer
15 discharges an employee, the wages earned and unpaid at the time of discharge are due and payable
16 immediately."

17 141. California Labor Code Section 202 provides, in relevant part, that:

18 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
19 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
20 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
21 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
22 of the notice of quitting.

23 142. There was no definite term in PLAINTIFF'S or any CALIFORNIA CLASS
24 members' employment contract.

25 143. California Labor Code Section 203 provides:

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

1 144. The employment of PLAINTIFF and many CALIFORNIA CLASS members
2 terminated, and DEFENDANTS have not tendered payment of wages to these employees who
3 missed meal and rest breaks, as required by law.

4 145. Therefore, as provided by California Labor Code Section 203, on behalf of
5 themselves and the members of the CALIFORNIA CLASS whose employment has ended,
6 PLAINTIFF demands up to thirty (30) days of pay as penalty for not paying all wages due at time
7 of termination for all employees who terminated employment during the CLASS PERIOD and
8 demand an accounting and payment of all wages due, plus interest and statutory costs as allowed
9 by law.

10 **EIGHTH CAUSE OF ACTION**

11 **Failure To Reimburse Employees for Required Expenses**

12 **(Cal. Lab. Code §§ 2802)**

13 **(Alleged by PLAINTIFF and the CALIFORNIA CLASS against DEFENDANTS)**

14 146. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and
15 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this First
16 Amended Complaint.

17 147. California Labor Code Section 2802 provides, in relevant part, that:
18 An employer shall indemnify his or her employee for all necessary expenditures or
19 losses incurred by the employee in direct consequence of the discharge of his or her
20 duties, or of his or her obedience to the directions of the employer, even though
 unlawful, unless the employee, at the time of obeying the directions, believed them to
 be unlawful.

21 148. From time to time during the CLASS PERIOD, DEFENDANTS violated California
22 Labor Code Section 2802, by failing to indemnify and reimburse PLAINTIFF and the
23 CALIFORNIA CLASS members for required expenses incurred in the discharge of their job duties
24 for DEFENDANTS' benefit. DEFENDANTS failed to reimburse PLAINTIFF and the
25 CALIFORNIA CLASS members for expenses which included, but were not limited to, the use of
26 their personal cell phones, vehicles, and maintenance of work uniforms, all on behalf of and for
27 the benefit of DEFENDANTS. Specifically, DEFENDANTS required PLAINTIFF and other
28 CALIFORNIA CLASS members to use their personal cell phones, vehicles, and to maintain their

1 work uniforms, to execute their essential job duties on behalf of DEFENDANTS. DEFENDANTS’
2 uniform policy, practice and procedure was to not reimburse PLAINTIFF and the CALIFORNIA
3 CLASS members for expenses resulting from the use of their personal cell phones, vehicles, and
4 maintenance of their work uniforms, within the course and scope of their employment for
5 DEFENDANTS. These expenses were necessary to complete their principal job duties.
6 DEFENDANTS are estopped by DEFENDANTS’ conduct to assert any waiver of this expectation.
7 Although these expenses were necessary expenses incurred by PLAINTIFF and the CALIFORNIA
8 CLASS members, DEFENDANTS failed to indemnify and reimburse PLAINTIFF and the
9 CALIFORNIA CLASS members for these expenses as an employer is required to do under the
10 laws and regulations of California.

11 149. PLAINTIFF therefore demands reimbursement for expenditures or losses incurred
12 by them and the CALIFORNIA CLASS members in the discharge of their job duties for
13 DEFENDANTS, or their obedience to the directions of DEFENDANTS, with interest at the
14 statutory rate and costs under California Labor Code Section 2802.

15 **NINTH CAUSE OF ACTION**

16 **Failure To Permit Inspection of Employee Records**

17 **(Cal. Lab. § 1198.5)**

18 **(Alleged by PLAINTIFF and the CALIFORNIA CLASS against all Defendants)**

19 150. PLAINTIFF and the other members of the CALIFORNIA CLASS, reallege and
20 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this First
21 Amended Complaint.

22 151. Labor Code § 1198.5 states that employees (and former employees) have the right
23 to inspect personnel records maintained by the employer “related to the employee’s performance
24 or to any grievance concerning the employee.” Employers must allow inspection or copying
25 within thirty (30) days of the request.

26 152. On January 21, 2025, and March 5, 2025, PLAINTIFF caused written request via
27 certified mail to be delivered to DEFENDANTS for PLAINTIFF’S personnel and employment
28

1 records, including but not limited to: (1) payroll records; (2) employment contracts; (3) itemized
2 pay stubs; and (4) PLAINTIFF'S complete employment file.

3 153. DEFENDANTS failed to provide and/or make available to PLAINTIFF their
4 personnel records, payroll records, employment contract, and entire employment file within thirty
5 (30) days of their requests stated above. In fact, as of the date of filing of this First Amended
6 Complaint, DEFENDANT has still failed to pay PLAINTIFF the statutory penalty in the amount
7 of \$750.

8 154. PLAINTIFF is now entitled to and requests injunctive relief to obtain compliance
9 with Cal. Lab. Code Section 1198.5, a statutory penalty, and an award of attorneys' fees and costs
10 for bringing this action.

11 **TENTH CAUSE OF ACTION**

12 **FAILURE TO PAY STATUTORY GRATUITIES**

13 **(Cal. Lab. Code § 351 et seq.)**

14 **(Alleged by PLAINTIFF and the CALIFORNIA CLASS against all**
15 **Defendants)**

16 155. 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 First
18 Amended Complaint.

19 156. DEFENDANTS' conduct, as set forth above, in failing to remit to non-managerial
20 employees the total proceeds of gratuities added to customers' bills constitutes a violation of
21 California Labor Code Section 351. This violation is enforceable pursuant to the California Unfair
22 Competition Law, Cal. Bus. And Prof. Code 17200 et seq. DEFENDANTS' conduct constitutes
23 unlawful, unfair, and/or fraudulent business acts or practices, in that DEFENDANT has violated
24 California Labor Code Section 351 in not remitting to the non-managerial service employees the
25 total gratuities that were charged to customers.

26 157. As a proximate result of the aforementioned violations, PLAINTIFF and
27 CALIFORNIA CLASS Members have been damaged in an amount according to proof at trial,
28

1 including the loss of gratuities to which they were entitled. and seek all wages earned and due,
2 interest, penalties, expenses and costs of suit.

3 **ELEVENTH CAUSE OF ACTION**

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

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

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

7 158. PLAINTIFF realleges and incorporates by this reference, as though fully set forth
8 herein, the prior paragraphs of this First Amended Complaint.

9 159. PAGA is a mechanism by which the State of California itself can enforce state labor
10 laws through the employee suing under the PAGA who does so as the proxy or agent of the state's
11 labor law enforcement agencies. An action to recover civil penalties under PAGA is fundamentally
12 a law enforcement action designed to protect the public and not to benefit private parties. The
13 purpose of the PAGA is not to recover damages or restitution, but to create a means of "deputizing"
14 citizens as private attorneys general to enforce the Labor Code. In enacting PAGA, the California
15 Legislature specified that "it was ... in the public interest to allow aggrieved employees, acting as
16 private attorneys general to recover civil penalties for Labor Code violations ..." (Stats. 2003, ch.
17 906, § 1). Accordingly, PAGA claims cannot be subject to arbitration.

18 160. PLAINTIFF, and such persons that may be added from time to time who satisfy the
19 requirements and exhaust the administrative procedures under the Private Attorney General Act,
20 bring this individual PAGA and Representative Action on behalf of the State of California with
21 respect to himself and all non-exempt employees who worked for DEFENDANTS in California
22 during the time period of June 3, 2024, until the present (the "AGGRIEVED EMPLOYEES").

23 161. On June 3, 2025, PLAINTIFF gave written notice by certified mail to the Labor
24 and Workforce Development Agency ("LWDA") and the employer of the specific provisions of
25 this code alleged to have been violated as required by Labor Code § 2699.3. See Exhibit #1,
26 attached hereto and incorporated by this reference herein. The statutory waiting period for
27 Plaintiff to add these allegations to the Complaint has expired. As a result, pursuant to Section
28 2699.3, Plaintiff may now commence a representative civil action under PAGA pursuant to

1 Section 2699 as the proxy of the State of California with respect to all AGGRIEVED
2 EMPLOYEES as herein defined.

3 162. The policies, acts and practices heretofore described were and are an unlawful
4 business act or practice because DEFENDANTS (a) failed to provide PLAINTIFF and
5 AGGRIEVED EMPLOYEES legally required, compliant, and duty-free meal and rest breaks, (b)
6 failed to pay PLAINTIFF and AGGREIVED EMPLOYEES all minimum, sick pay, regular and
7 overtime wages, (c) failed to pay PLAINTIFF and AGGRIEVED EMPLOYEES at the correct
8 regular rate of pay, (d) failed to pay PLAINTIFF and AGGRIEVED EMPLOYEES within seven
9 (7) days of the close of payroll, (e) failed to pay PLAINTIFF and AGGRIEVED EMPLOYEES
10 for all time worked, (f) failed to maintain true and accurate records, (g) failed to reimburse for
11 required business expenses, (h) failed to permit inspection of PLAINTIFF's employee records,
12 (i) failed to provide accurate itemized wage statements, (j) failed to timely pay PLAINTIFF and
13 AGGRIEVED EMPLOYEES wages due during, and upon termination of employment, all in
14 violation of the applicable Labor Code sections listed in Labor Code §2699.5, including but not
15 limited to Labor Code §§ 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 221, 226, 226.2, 226.3,
16 226.7, 227.3, 246, 351, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.1, 1197.14, 1198,
17 1198.5, 1199, 2802, and 2804, and the applicable Industrial Wage Order(s), and thereby gives
18 rise to statutory penalties as a result of such conduct. PLAINTIFF hereby seeks recovery of civil
19 penalties as prescribed by the Labor Code Private Attorney General Act of 2004 as the
20 representative of the State of California for the illegal conduct perpetrated on PLAINTIFF and
21 the other AGGRIEVED EMPLOYEES.

22 For all provisions of the Labor Code for which civil penalty is not specifically provided, Labor
23 Code § 2699(f) imposes upon DEFENDANTS a penalty of one hundred dollars (\$100) for each
24 AGGRIEVED EMPLOYEE, including PLAINTIFF, per pay period for the initial violation and
25 up to two hundred dollars (\$200) for each AGGRIEVED EMPLOYEE, including PLAINTIFF,
26 per pay period for each subsequent violation. PLAINTIFF and the AGGRIEVED EMPLOYEES
27 are entitled to an award of reasonable attorney's fees and costs in connection with their claims for
28 civil penalties pursuant to Labor Code Section 2699(k)(1).

1 **PRAYER FOR RELIEF**

2 WHEREFORE, PLAINTIFF prays for a judgment against all DEFENDANTS, jointly and
3 severally, as follows:

4 1. On behalf of the CALIFORNIA CLASS:

- 5 a. That the Court certify the First Cause of Action asserted by the CALIFORNIA
6 CLASS as a class action pursuant to California Code of Civil Procedure Section 382;
7 b. An order temporarily, preliminarily and permanently enjoining and restraining
8 DEFENDANTS from engaging in similar unlawful conduct as set forth herein;
9 c. An order requiring DEFENDANTS to pay all overtime wages and all sums
10 unlawfully withheld from compensation due to PLAINTIFF and the other members
11 of the CALIFORNIA CLASS; and
12 d. Restitutionary disgorgement of DEFENDANTS' ill-gotten gains into a fluid fund
13 for restitution of the sums incidental to DEFENDANTS' violations due to
14 PLAINTIFF and to the other members of the CALIFORNIA CLASS.

15 2. On behalf of the CALIFORNIA CLASS:

- 16 a. That the Court certify the Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth,
17 Ninth, and Tenth Causes of Action asserted by the CALIFORNIA CLASS as a class
18 action pursuant to California Code of Civil Procedure Section 382;
19 b. Compensatory damages, according to proof at trial, including compensatory
20 damages for overtime compensation due to PLAINTIFF and the other members of
21 the CALIFORNIA CLASS, during the applicable CLASS PERIOD plus interest
22 thereon at the statutory rate;
23 c. Meal and rest period compensation pursuant to California Labor Code Sections
24 226.7, 512 and the applicable IWC Wage Order;
25 d. The greater of all actual damages or fifty dollars (\$50) for the initial pay period in
26 which a violation occurs and one hundred dollars (\$100) per each member of the
27 CALIFORNIA CLASS for each violation in a subsequent pay period, not exceeding
28 an aggregate penalty of four thousand dollars (\$4,000), and an award of costs for

violation of California Labor Code Section 226;

e. The wages of all terminated employees from the CALIFORNIA CLASS as a penalty from the due date thereof at the same rate until paid or until an action therefore is commenced, in accordance with California Labor Code Section 203.

f. The amount of the expenses PLAINTIFF and each member of the CALIFORNIA CLASS incurred in the course of their job duties, plus interest, and costs of suit.

3. On the Ninth Cause of Action

a. For an award of statutory damages as plead pursuant to Labor Code § 1198.5

b. For an injunction compelling production of Plaintiff's employment records pursuant to Labor Code §1198.5.

4. On behalf of the PLAINTIFF, the State of California and with respect to all AGGRIEVED EMPLOYEES: Recovery of civil penalties as prescribed by the Labor Code Private Attorneys General Act of 2004.

5. On all claims:

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

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

c. An award of penalties, attorneys' fees, and costs of suit, as allowable under the law, including and pursuant to, but not limited to, California Labor Code Sections 218.5, 226, 246 and/or 1194.

DATED: January 9, 2026

JCL LAW FIRM, APC
ZAKAY LAW GROUP, APLC

By: Carolina Faccin

Jean-Claude Lapuyade, Esq.

Sydney Castillo Johnson, Esq.

Perssia Razma, Esq.

John L. Nitti, Esq.

Carolina Faccin, Esq.

Shani O. Zakay, Esq.

Jackland Hom, Esq.

Attorneys for Plaintiff

///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DEMAND FOR A JURY TRIAL

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

DATED: January 9, 2026

**JCL LAW FIRM, APC
ZAKAY LAW GROUP, APLC**

By: Carolina Faccin

Jean-Claude Lapuyade, Esq.
Sydney Castillo Johnson, Esq.
Perssia Razma, Esq.
John L. Nitti, Esq.
Carolina Faccin, Esq.
Shani O. Zakay, Esq.
Jackland Hom, Esq.

Attorney for Plaintiff

EXHIBIT 1



5440 Morehouse Drive
Suite 3600
San Diego, CA 92121
619-599-8292
Fax 619-599-8291
Toll-Free 1-888-498-6999

June 3, 2025

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

Effort Collective, LLC. d.b.a. Campfire

c/o John W. Resnick
4205 Clearview Dr.
Carlsbad, CA 92008

Sent via Certified Mail and Return Receipt No. 9589 0710 5270 2308 6627 41

Nonstandard Hospitality, Inc.

c/o John Resnick
220 East Glaucus St.
Encinitas, CA 92024

Sent via Certified Mail and Return Receipt No. 9589 0710 5270 2308 6627 72

Jeune et Jolie, LLC.

c/o Kenneth C. Jones
401 West A Street, Suite 2600
San Diego, CA 92101

Sent via Certified Mail and Return Receipt No. 9589 0710 5270 2308 6627 58

Wildland & Lilo, LLC d.b.a. Wildland and d.b.a. Lilo

c/o Kenneth C. Jones
401 West A Street, Suite 2600
San Diego, CA 92101

Sent via Certified Mail and Return Receipt No. 9589 0710 5270 2308 6627 65

Re: Notice of Violations of California Labor Code Sections 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 221, 226, 226.2, 226.3, 226.7, 227.3, 246, 351, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.1, 1197.14, 1198, 1198.5, 1199, 2802, 2804, and Violation of Applicable Industrial Welfare Commission Wage Order(s), and Pursuant to California Labor Code Section 2699.5

Dear Sir/Madam:

This notice is being sent in compliance with California Labor Code Section 2699.3. Our offices represent Plaintiff MIDORY MONTES ("Plaintiff") and other aggrieved employees. Plaintiff was employed by Defendant EFFORT COLLECTIVE, LLC d.b.a. CAMPFIRE ("Defendant Campfire"), Defendant NONSTANDARD HOSPITALITY, INC. ("Defendant NSH"), Defendant JEUNE ET JOLIE, LLC ("Defendant JEUNE") and Defendant WILDLAND & LILO, LLC d.b.a.

WILDLAND and d.b.a. LILO (“Defendant Wildland & Lilo”) (hereinafter, collectively, “Defendants”) in California from November of 2024 through January of 2025 as an assistant server and worked at Defendants’ restaurant at 2725 State Street, Carlsbad, CA 92008. Plaintiff was employed by Defendants as a non-exempt employee, paid on an hourly basis, and entitled to payment of all wages and the legally required meal and rest breaks.

Plaintiff alleges that within the past year, Plaintiff personally suffered violations of the following Labor Code Sections as a result of Defendants’ failure to pay Plaintiff for all time worked, provide Plaintiff with compliant meal periods, provide Plaintiff with compliant rest periods, provide Plaintiff with accurate itemized wage statements that facially comply with the requirements provided for in Labor Code Section 226, furnish wages to Plaintiff with the frequency as set forth under Labor Code Section 204, and reimburse Plaintiff for necessary business expenses pursuant to Labor Code Sections 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 221, 226, 226.2, 226.3, 226.7, 227.3, 246, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.1, 1197.14, 1198, 1198.5, 1199, 2802, and 2804. These violations are actionable under California Labor Code Section 2699.3.

The information below provides notice to the Labor and Workforce Development Agency of the facts and theories supporting the alleged violations for the agency’s reference. If the agency needs any further information, please do not hesitate to ask.

Plaintiff seeks to represent a group of aggrieved employees defined as any person currently or formerly employed by Defendant Campfire and/or Defendant NSH and/or Defendant Jeune and/or Defendant Wildland & Lilo who performed work in California and against whom one or more of the alleged violations listed above were committed during the relevant claim period (“Aggrieved Employees”). Plaintiff believes this group to be comprised of all current and former non-exempt employees who performed work for Defendant Campfire and/or Defendant NSH and/or Defendant Jeune and/or Defendant Wildland & Lilo in California during the period beginning one year prior to the date of this Notice and continuing through the present.

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 and other Aggrieved Employees for missed meal and rest periods, failed to pay Plaintiff and other Aggrieved Employees for all time worked, failed to compensate Plaintiff and other Aggrieved Employees for off-the-clock work, failed to pay Plaintiff and other Aggrieved Employees overtime at the correct regular rate of pay, failed to compensate Plaintiff and other Aggrieved Employees meal and rest premiums at the regular rate of pay, failed to pay Plaintiff and other Aggrieved Employees redeemed sick pay at the regular rate of pay, failed to reimburse Plaintiff and other Aggrieved Employees for business expenses, and failed to issue to Plaintiff and other Aggrieved Employees 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.

Meal Period Violations: Pursuant to the Industrial Welfare Commission Wage Orders, Defendants were required to pay Plaintiff and the 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 last year, Defendants required Plaintiff and other Aggrieved Employees to work without paying them for all the time they were under Defendants' control. Specifically, Defendants required Plaintiff to work while clocked out during what was supposed to be Plaintiff's off-duty meal break. Indeed, there were many days where Plaintiff did not even receive a partial lunch. As a result, Plaintiff and other Aggrieved Employees forfeited minimum wage and overtime compensation 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 and other Aggrieved Employees for all time worked is evidenced by Defendants' business records.

During the last year, as a result of their rigorous work schedules and Defendants' inadequate staffing practices, Plaintiff and other 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 and other Aggrieved Employees were required to perform work as ordered by Defendants for more than five (5) hours during some shifts without receiving a meal break. Further, Defendants failed to provide Plaintiff and other 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. The nature of the work performed by Plaintiff and other Aggrieved Employees does not qualify for the limited and narrowly construed "on-duty" meal period exception. When they were provided with meal periods, Plaintiff and other Aggrieved Employees were, from time to time, required to remain on duty and on call. Defendants' failure to provide Plaintiff and other Aggrieved Employees with legally required meal breaks is evidenced by Defendants' business records. As a result of their rigorous work schedules and Defendants' inadequate staffing, Plaintiff and other Aggrieved Employees therefore forfeited meal breaks without additional compensation and in accordance with Defendants' strict corporate policy and practice.

Rest Period Violations: From time to time during the past year, Plaintiff and other Aggrieved Employees were also required to work in excess of four (4) hours without being provided ten (10) minute rest periods as a result of their rigorous work requirements and Defendants' inadequate staffing. Further, for the same reasons, these employees were from time to time 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 denied a first and second rest period of at least ten (10) minutes for some shifts worked of between six (6) and eight (8) hours, and from time to time denied a first, second and third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or more. When they were provided with rest breaks, Plaintiff and other Aggrieved Employees were, from time to time, required to remain on premises, on duty and/or on call, and not fully relieved of all duties. Plaintiff and other Aggrieved Employees were also not provided with one-hour wages in lieu thereof. As a result of their rigorous work schedules and Defendants' inadequate staffing, Plaintiff and other Aggrieved Employees were from time to time denied their proper rest periods by Defendants and Defendants' managers. For example, during the pay period of 01/13/25 – 01/17/25, Plaintiff was denied at least one rest period. Plaintiff contends that during her tenure working for Defendants, she was unable to take a compliant rest break. However, as evidenced by the example below, Defendants failed to pay Plaintiff a rest period premium.

Statement of Earnings For: Midory Montes				Effort Collective LLC dba Campfire	
Employee #: [REDACTED]	Department: 05	Period Begins: 1/13/2025	Check Date: 1/17/2025	10095 Mission Gorge Rd Ste 101	
Clock Number: [REDACTED]		Period End: 1/17/2025	Pay Type: Hourly	Santee, CA 92071-3888	
Company Id: FLORE	Federal Filing:	Exemptions:	Additional Tax:		
	State Filing:	Exemptions:	Additional Tax:		
Check Number	Check Amount	Gross Pay	Net Pay	Check Message	
738	\$206.42	\$226.46	\$206.42	Final	
EARNINGS		TAXES		DEDUCTIONS	
Description	Rate Hrs/Units	Dollars	Description	Current	Description Current
Hourly Regular	16.5000 8.27	136.46	SOC SEC EE	14.04	
Tips Paid		90.00	MED EE	3.28	
Overtime		0.00	FEDERAL WH	0.00	
Doubletime		0.00	CALIFORNIA WH	0.00	
			CALIFORNIA SDI	2.72	

Unreimbursed Business Expenses: Defendants as a matter of corporate policy, practice, and procedure, intentionally, knowingly, and systematically failed to reimburse and indemnify the Plaintiff and other Aggrieved Employees for required business expenses incurred by the Plaintiff and other Aggrieved Employees in direct consequence of discharging their duties on behalf of Defendants. Under California Labor Code Section 2802, employers are required to indemnify employees for all expenses incurred in the course and scope of their employment. California Labor Code Section 2802 expressly states that "an employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful."

Within the last year, in the course of their employment, Defendants required Plaintiff and other Aggrieved Employees to incur personal expenses as a result of and in furtherance of their job duties for the use of their personal cell phones, personal vehicles, and maintenance of their work uniforms. Specifically, Plaintiff and other Aggrieved Employees were required to incur personal expenses for the use of their personal cell phones, personal vehicles, and maintenance of their work uniforms in order to perform work related tasks. However, Defendants unlawfully failed to reimburse Plaintiff and other Aggrieved Employees for the personal expenses incurred for the use of their personal cell phones, personal vehicles, and for the maintenance of their work uniforms. As a result, in the course of their employment with Defendants, the Plaintiff and other Aggrieved Employees incurred unreimbursed business expenses that included, but were not limited to, costs related to the personal expenses incurred for the use of their personal cell phones, personal vehicles, and maintenance of their work uniforms, all on behalf of and for the benefit of Defendants. For example, during the pay period of 01/13/2025 to 01/17/2025, Defendants required Plaintiff to use Plaintiff's personal cell phone, personal vehicle, and incur personal expenses for the maintenance of Plaintiff's work uniform. However, as evidenced by the example below, Defendants failed to reimburse Plaintiff for the use of Plaintiff's personal cell phone, personal vehicle, and expenses incurred for the maintenance of her work uniform.

Statement of Earnings For: Midory Montes				Effort Collective LLC dba Campfire	
Employee #: [REDACTED]	Department: 05	Period Begins: 1/13/2025	Check Date: 1/17/2025	10095 Mission Gorge Rd Ste 101	
Clock Number: [REDACTED]		Period End: 1/17/2025	Pay Type: Hourly	Santee, CA 92071-3888	
Company Id: FLORE	Federal Filing:	Exemptions:	Additional Tax:		
	State Filing:	Exemptions:	Additional Tax:		
Check Number	Check Amount	Gross Pay	Net Pay	Check Message	
738	\$206.42	\$226.46	\$206.42	Final	
EARNINGS		TAXES		DEDUCTIONS	
*Not Included in Totals		Hrs/Units = Units (Units not included in Totals)			
Description	Rate	Hrs/Units	Dollars	Description	Current
Hourly Regular	16.5000	8.27	136.46	SOC SEC EE	14.04
Tips Paid			90.00	MED EE	3.28
Overtime			0.00	FEDERAL WH	0.00
Doubletime			0.00	CALIFORNIA WH	0.00
				CALIFORNIA SDI	2.72

Wage Statement Violations: California Labor Code Section 226 requires an employer to furnish its employees and accurate itemized wage 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. From time to time during the last year, when Plaintiff and other Aggrieved Employees missed meal and rest breaks, or were paid inaccurately for missed meal and rest period premiums, or were not paid for all hours worked, Defendants also failed to provide Plaintiff and other Aggrieved Employees with complete and accurate wage statements which failed to show, among other things, all deductions, the total hours worked and 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. Defendants also failed to provide Plaintiff and other Aggrieved Employees with complete and accurate wage statements that included all required elements listed above.

As a result, Defendants issued Plaintiff and other Aggrieved Employees with wage statements that violate California Labor Code Section 226. Further, Defendants' violations are knowing and intentional; they were not isolated due to an unintentional payroll error due to clerical or inadvertent mistake.

Off-the-Clock Work Resulting in Minimum Wage and Overtime Violations: During the last year, from time-to-time, Defendants failed and continue to fail to accurately pay Plaintiff and other Aggrieved Employees for all hours worked. During the last year, from time-to-time Defendants required Plaintiff and other Aggrieved Employees to perform pre-shift or post-shift work, including but not limited to taking quizzes while off the clock. This resulted in Plaintiff and other Aggrieved Employees having to work while off-the-clock. Defendants directly benefited from the undercompensated off-the-clock work performed by Plaintiff and other Aggrieved Employees. Defendants controlled the work schedules, duties, and protocols, applications, assignments, and employment conditions of Plaintiff and other Aggrieved Employees.

Defendants were able to track the amount of time Plaintiff and other Aggrieved Employees spent working; however, Defendants failed to document, track, or pay Plaintiff and other Aggrieved Employees all wages earned and owed for all the work they performed. Plaintiff and other Aggrieved Employees were non-exempt employees, subject to the requirements of the California Labor Code. Defendants' policies and practices deprived Plaintiff and other Aggrieved Employees of all minimum regular, overtime, and double time wages owed for the off-the-clock work activities. Because Plaintiff and other Aggrieved Employees typically worked over forty (40) hours in a workweek, and more than eight (8) hours per day, Defendants' policies and practices also deprived them of overtime pay.

Defendants knew or should have known that Plaintiff's and other Aggrieved Employees' off-the-clock work was compensable under the law. As a result, Plaintiff and other Aggrieved Employees forfeited wages due to them for all hours worked at Defendants' direction, control, and benefit for the time spent working while off-the-clock, including but not limited to, undergoing pre-shift and post-shift work. Defendants' uniform policy and practice to not pay Plaintiff and other Aggrieved Employees wages for all hours worked in accordance with applicable law is evidenced by Defendants' business records.

Regular Rate Violation – Overtime, Double Time, Meal and Rest Period Premiums, and Redeemed Sick Pay: From time to time during the last year, Defendants failed and continue to fail to accurately calculate and pay Plaintiff and other Aggrieved Employees for their overtime and double time hours worked, meal and rest period premiums, and redeemed sick pay. As a result, Plaintiff and other Aggrieved Employees forfeited wages due to them for working overtime without compensation at the correct overtime and double time rates, meal and rest period premiums, and redeemed sick pay rates. Defendants' uniform policy and practice not to pay Plaintiff and other Aggrieved Employees at the correct rate for all overtime and double time worked, meal and rest period premiums, and sick pay in accordance with applicable law is evidenced by Defendants' business records.

State law provides that employees must be paid overtime at one-and-one-half times their "regular rate of pay." Plaintiff and other Aggrieved Employees were compensated at an hourly rate plus incentive pay that was tied to specific elements of an employee's performance. The second component of Plaintiff's and other Aggrieved Employees' compensation was Defendants' non-discretionary incentive program that paid Plaintiff and other Aggrieved Employees incentive wages based on their performance for Defendants. The non-discretionary bonus program provided all employees paid on an hourly basis with bonus compensation when the employees met the various performance goals set by Defendants. However, from time to time, when calculating the regular rate of pay in those pay periods where Plaintiff and other Aggrieved Employees worked overtime, double time, paid meal and rest period premium payments, and/or redeemed sick pay, and earned non-discretionary bonuses, Defendants failed to accurately include the non-discretionary bonus compensation as part of the employee's "regular rate of pay" and/or calculated all hours worked rather than just all non-overtime hours worked. Management and supervisors described the incentive/bonus program to potential and new employees as part of the compensation package. As a matter of law, the incentive compensation received by Plaintiff and other Aggrieved Employees must be included in the "regular rate of pay." The failure to do so has resulted in a systematic underpayment of overtime and double time compensation, meal and rest period premium payments, and redeemed sick pay to Plaintiff and other Aggrieved Employees by Defendants.

Specifically, California Labor Code Section 246 mandates that paid sick time for non-exempt employees shall be calculated in the same manner as the regular rate of pay for the workweek in which the non-exempt employee uses paid sick time, whether or not the employee actually works overtime in that workweek. Defendants' conduct, as articulated herein, by failing to include the incentive compensation as part of the "regular rate of pay" for purposes of sick pay compensation was in violation of California Labor Code Section 246 the underpayment of which is recoverable under California Labor Code Sections 201, 202, 203, and/or 204.

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 and knowingly failed to compensate Plaintiff and other Aggrieved Employees at the correct rate of pay for all overtime and double time worked, meal and rest period premiums, and redeemed sick pay as required by California law which allowed Defendants to illegally profit and gain an unfair advantage over competitors who complied with the law.

Unlawful Deductions: During the last year, Defendants, from time-to-time, unlawfully deducted wages from Plaintiff and Aggrieved Employees' pay without explanations and without authorization to do so or notice to Plaintiff and the Aggrieved Employees. As a result, Defendants violated Labor Code Section 221.

Timekeeping Manipulation: During the last year, Defendants, from time-to-time, did not have an immutable timekeeping system to accurately record and pay Plaintiff and other Aggrieved Employees for the actual time Plaintiff and other Aggrieved Employees worked each day, including regular time, overtime hours, sick pay, meal and rest breaks. As a result, Defendants were able to and did in fact, unlawfully, and unilaterally alter the time recorded in Defendants' timekeeping system for Plaintiff and other Aggrieved Employees in order to avoid paying these employees for all hours worked, applicable overtime compensation, applicable sick pay, missed meal breaks and missed rest breaks. As a result, Plaintiff and other Aggrieved Employees, from time-to-time, forfeited time worked by working without their time being accurately recorded and without compensation at the applicable pay rates.

The mutability of the timekeeping system also allowed Defendants to alter employee time records by recording fictitious thirty (30) minute meal breaks in Defendants' timekeeping system so as to create the appearance that Plaintiff and other Aggrieved Employees clocked out for thirty (30) minute meal breaks when in fact the employees were not at all times provided an off-duty meal break. This practice is a direct result of Defendants' uniform policy and practice of denying employees uninterrupted thirty (30) minute off-duty meal breaks each day or otherwise compensating them for missed meal breaks. As a result, Plaintiff and other Aggrieved Employees forfeited wages due to them for all hours worked at Defendants' direction, control and benefit for the time the timekeeping system was inoperable. Defendants' uniform policy and practice to not pay Plaintiff and the Aggrieved Employees wages for all hours worked in accordance with applicable law is evidenced by Defendants' business records.

Unlawful Rounding Practices: During the last year, Defendants did not have in place an immutable timekeeping system to accurately record and pay Plaintiff and other Aggrieved Employees for the actual time these employees worked each day, including overtime hours. Specifically, Defendants

had in place an unlawful rounding policy and practice that resulted in Plaintiff and the Aggrieved Employees being undercompensated for all of their time worked. As a result, Defendants were able to and did in fact unlawfully and unilaterally round the time recorded in Defendants' timekeeping system for Plaintiff and the Aggrieved Employees in order to avoid paying these employees for all their time worked, including the applicable overtime compensation for overtime worked. As a result, Plaintiff and other Aggrieved Employees, from time to time, forfeited compensation for their time worked by working without their time being accurately recorded and without compensation at the applicable overtime rates.

Further, the mutability of Defendants' timekeeping system and unlawful rounding policy and practice resulted in Plaintiff's and the Aggrieved Employees' time being inaccurately recorded. As a result, from time to time, Defendants' unlawful rounding policy and practice caused Plaintiff and other Aggrieved Employees to perform work as ordered by Defendants for more than five (5) hours during a shift without receiving an off-duty meal break.

Untimely Payment of Wages: Pursuant to California Labor Code Section 204, Plaintiff and the Aggrieved Employees were entitled to timely payment of wages during their employment. Plaintiff and the Aggrieved Employees, from time to time, did not receive payment of all wages, including, but not limited to, overtime wages, minimum wages, meal period premium wages, and rest period premium wages within the permissible time period. Pursuant to California Labor Code Section 201, "If an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately." Pursuant to California Labor Code Section 202, if an employee 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." Plaintiff and the Aggrieved Employees were, from time to time, not timely provided the wages earned and unpaid at the time of their discharge and/or at the time of quitting, in violation of California Labor Code Sections 201 and 202. To date, Defendants have not fully paid PLAINTIFF the minimum, overtime and double time compensation still owed to them or any penalty wages owed to them under California Labor Code Section 203.

Sick Pay Violations: California Labor Code Section 246 (a)(1) mandates that "An employee who, on or after July 1, 2015, works in California for the same employer for 30 or more days within a year from the commencement of employment is entitled to paid sick days as specified in this section." Further, California Labor Code Sections 246(b)-(d) provide for the sick day accrual requirements. From time to time, including within the last year, Defendants failed to have a policy or practice in place that provided Plaintiff and other Aggrieved Employees with sick days and/or paid sick leave. As of January 1, 2024, Defendants failed to adhere to the law in that they failed to provide and allow employees to use at least 40 hours or five days of paid sick leave per year. California Labor Code Section 246(i) requires an employer to furnish its employees with written wage statements setting forth the amount of paid sick leave available. From time to time, including within the last year, Defendants violated California Labor Code Section 246 by failing to furnish Plaintiff and other Aggrieved Employees with wage statements setting forth the amount of paid sick leave available.

Personnel File Violations: On January 21, 2025, and March 5, 2025, Plaintiff caused written requests via certified mail to be delivered to Defendants for Plaintiff's personnel and employment records, including but not limited to: (1) payroll records; (2) employment contracts; (3) itemized

pay stubs; and (4) Plaintiff's complete employment file. Defendants failed to provide and/or make available to Plaintiff and other Aggrieved Employees their personnel records, payroll records, employment contract, and entire employment file within thirty (30) days of their requests stated above. In fact, as of the date of filing of this notice, Defendants have still failed to pay Plaintiff the statutory penalty in the amount of \$750. Defendants violated California Labor Code Section 1198.5 by failing to respond and provide Plaintiff with their employment file. Section 1198.5 states that employees (and former employees) have the right to inspect personnel records maintained by the employer "related to the employee's performance or to any grievance concerning the employee." Employers must allow inspection or copying within thirty (30) days of the request.

Tip Pooling: California Labor Code § 351 expressly prohibits employers and their agents from collecting, taking, or receiving any portion of a gratuity. California Labor Code § 350(e) defines the term "gratuity" as including any money that has been paid or given or left for an employee by a patron of a business over and above the actual amount due the business for services rendered or for goods, food, drink or articles sold or served to such patron. Labor Code § 353 requires employers to keep accurate records of all the gratuities they receive, directly or indirectly. Although tip pooling is not expressly prohibited by the Labor Code, employees who mandate tip pooling must only distribute pooled tips to employees in the "chain of service."

Defendants are generally in the business of owning and operating a restaurant. From time to time, within the last year, Plaintiff and other Aggrieved Employees were in the "chain of service" and earned gratuities based on their service for their customers. However, Plaintiff and other Aggrieved Employees were forced to forfeit portions of their gratuities, which said gratuities were kept by Defendants' employees who were not in the chain of service from which the gratuity resulted. Plaintiff and other Aggrieved Employees contend that any gratuities kept by Defendants' non-service employees were illegal and in violation of California law because Plaintiff and other Aggrieved Employees provided the service for to whom the gratuity should have been paid.

To the extent that entities and/or individuals are named and charged with violations of the Labor Code—making them liable on an individual basis as permitted by numerous Labor Code Sections including, but not limited to 558, 558.1, and 1197.1—Plaintiff reserves any and all rights to add, substitute, or change the name of employer entities and/or individuals responsible for the violations at issue.

Any further amendments and changes to this notice shall relate back to the date of this notice. Consequently, Defendants are on notice that Plaintiff continues their investigation, with the full intent to amend and/or change this notice, to add any undiscovered violations of any of the provisions of the California Labor Code—to the extent that are applicable to this case—and to change and/or add the identities of any entities and/or individuals responsible for the violations contained herein.

This notice is provided in compliance with California Labor Code Section 2699.3, *et seq.*

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 'JC Lapuyade', with a stylized flourish at the end.

Jean-Claude Lapuyade, Esq.