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County of San Diego  
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**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SAN DIEGO**

JESUS ARAMBURO and TACHINA  
GARRETT, individually and on behalf of all  
others similarly situated,

Plaintiffs,

vs.

JACKSONS FOOD STORES, INC.; JACKSON  
ENERGY LOGISTICS, LLC; and DOES 1  
through 50, inclusive,

Defendants.

Case No. 37-2023-00009655-CU-OE-CTL

*Assigned to the Hon. Marcella O. McLaughlin  
Department C-72*

**CLASS ACTION**

**THIRD AMENDED CLASS AND  
REPRESENTATIVE ACTION  
COMPLAINT**

1. Failure to All Wages Owed
2. Meal Period Violations
3. Rest Period Violations
4. Paid Sick Leave Violations
5. Untimely Payment of Wages
6. Wage Statement Violations
7. Waiting Time Penalties
8. Unfair Competition
9. Failure to Reimburse Employee Expenses
10. Civil Penalties under the Private Attorneys  
General Act (Labor Code §§ 2698 *et seq.*)

*- Remanded from Federal Court -*

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1 Plaintiffs JESUS ARAMBURO and TACHINA GARRETT, individually and on behalf of all  
2 others similarly situated and the State of California under the Private Attorneys General Act  
3 (“Plaintiffs”) bring this THIRD AMENDED CLASS AND REPRESENTATIVE ACTION  
4 COMPLAINT against Defendants JACKSONS FOOD STORES, INC. and JACKSON ENERGY  
5 LOGISTICS, LLC; and DOES 1 through 50, inclusive (collectively “Defendants” or “Jacksons Food  
6 Stores”), alleging as follows:

7 **INTRODUCTION**

8 1. This is a class and representative action filed for wage and hour violations of the  
9 California Labor Code against Jacksons Food Stores, which owns and operates gas station  
10 convenience stores across San Diego County and the State of California.

11 2. Jacksons Food Stores underpaid Plaintiffs and class members by failing to include  
12 bonuses in the “regular rate” used to calculate and pay overtime, sick wages and meal/rest period  
13 premiums. Moreover, Jacksons Food Stores failed to provide and authorize fully compliant meal and  
14 rest periods or pay premium pay in lieu thereof.

15 3. Additionally, Jacksons Food Stores did not adequately provide employee  
16 reimbursements for necessary employment related expenses, nor did Defendants provide suitable  
17 seating in connection with their employment, in violation of Labor Code § 2802.

18 4. Further, Defendants failed, on a company-wide basis, to provide written notice to  
19 Plaintiffs and other aggrieved employees that lists the requisite information set forth in Labor Code  
20 section 2810.5(a)(1)(A)-(C).

21 5. As a result, Jacksons Food Stores is liable to Plaintiffs and class members for the  
22 underlying wages, interest and penalties, including waiting time, late payment of wages, and wage  
23 statement penalties, in amounts according to proof.

24 **JURISDICTION & VENUE**

25 6. Jurisdiction of this action is proper in this Court under Article VI, Section 10 of the  
26 California Constitution as the causes of action are premised upon violations of California law.

27 7. The monetary damages and restitution sought exceed the minimal jurisdiction limits of  
28 the Superior Court.



1 manner for the acts and omissions alleged herein. This Complaint may be amended to reflect their  
2 true names and capacities once ascertained.

3 16. Upon information and belief, Defendants in this action are employers, co-employers,  
4 joint employers, and/or part of an integrated employer enterprise, as each of the Defendants exercised  
5 control over the wages, hours, and working conditions of the employees, suffered and permitted them  
6 to work, and otherwise engaged them as employees under California law.

7 17. Upon information and belief, at least some of the Defendants have common ownership,  
8 common management, interrelationship of operations, and centralized control over labor relations and  
9 are therefore part of an integrated enterprise and thus jointly and severally responsible for the acts and  
10 omissions alleged herein, including pursuant to Labor Code sections 558, 558.1, and 1197.1.

11 18. Upon information and belief, Defendants acted in all respects pertinent to this action as  
12 an alter-ego, agent, servant, joint employer, joint venturer, co-conspirator, partner, in an integrated  
13 enterprise, or in some other capacity on behalf of all other co-defendants, such that the acts and  
14 omissions of each defendant may be legally attributable to all others.

15 **CLASS ALLEGATIONS**

16 19. This action is brought individually and on behalf of the following class pursuant to  
17 Code of Civil Procedure section 382:

- 18 a. All current and former non-exempt employees who worked for Defendants in  
19 California at any time from four years (plus the additional 178-day statutory  
20 tolling period under Emergency Rule 9) prior to the filing of this action through  
21 date of class certification.

22 20. Plaintiffs reserve the right to establish various subclass definitions as appropriate at the  
23 class certification stage, according to proof.

24 21. The class is ascertainable and shares a well-defined community of interest in this  
25 litigation:

- 26 a. Numerosity: The class is estimated to exceed 50 individuals, although the  
27 precise membership of the entire class is unknown at this time. The class is so  
28 numerous that joinder of all class members is impracticable. The identities of

1 class members is ascertainable by inspection of Defendants' employment and  
2 payroll records.

3 b. Typicality: Plaintiffs' claims are typical of the claims of the other class  
4 members. They were subject to the same policies and practices of Defendants,  
5 which resulted in losses to the class. Proof of common unlawful business  
6 practices, which Plaintiffs experienced, will establish the right of the class to  
7 recover on the causes of action alleged herein.

8 c. Adequacy: Plaintiffs are adequate class representatives; will take all necessary  
9 steps to protect the class members' interests adequately and fairly; have no  
10 interest antagonistic to other class members; and are represented by attorneys  
11 who have substantial experience prosecuting, defending, resolving, and  
12 litigating wage and hour class, collective, and representative actions in  
13 California state and federal courts.

14 d. Superiority: A class action is superior to other means for adjudicating this  
15 dispute. Individual joinder is impractical. Class treatment will allow for  
16 common issues to be resolved in a single forum, simultaneously, and without  
17 duplication of effort and expense.

18 e. Public Policy Considerations: Certification of this lawsuit as a class action  
19 advances the State of California's strong public interest in ensuring its  
20 approximately millions of employed residents are properly paid the wages they  
21 earned for the hours they worked. Class actions provide a mechanism for  
22 enforcement of labor laws and allow for vindication of employee rights by  
23 unnamed class members.

24 22. Common questions of law and fact as to the class members predominate over questions  
25 affecting only individual members. The common questions of law and fact exist as to whether the  
26 employment policies and practices formulated by Defendants and applied to the class members  
27 constitute violate California law.

1 **GENERAL ALLEGATIONS**

2 23. Defendants failed to provide fully compliant meal periods to Plaintiffs and class  
3 members and failed to pay meal period premiums at the regular rate, as required by Labor Code section  
4 226.7.

5 24. Plaintiffs and class members experienced missed, late, short, and interrupted meal  
6 periods due to understaffing and in order to keep up with the high demands of the job. When Plaintiffs  
7 and class members experienced these noncompliant meal periods, they were entitled to a meal period  
8 premium at the regular rate of pay.

9 25. For premiums that were paid, Defendants underpaid Plaintiffs and class members who  
10 earned a meal period premium in the same pay period where they earned a store bonus (or other non-  
11 excludable forms of remuneration) because these premiums were not paid at the “regular rate of  
12 compensation” as the premiums paid did not factor in all forms of remuneration including  
13 commissions, bonuses, or other types of remuneration.

14 26. Plaintiffs’ records show Defendants instead elected to pay class members at an  
15 approximate blended rate between the “Regular Hourly” rate and the “Regular Nightshift” rate  
16 (calculated by taking the average of the two rates) rather than the regular rate of pay. An illustrative  
17 example of this regular rate of pay violation is found on Plaintiff Aramburo’s wage statement from  
18 the pay period 9/24/2022 to 9/30/2022.

19 27. The failure to pay meal period premiums at the regular rate resulted in an underpayment  
20 of meal period premium wages pursuant to Labor Code § 226.7’s obligation to pay premiums at the  
21 “regular rate of compensation,” rather than a lesser hourly rate. *See Ferra v. Loews Hollywood Hotel,*  
22 *LLC* (2021) 11 Cal. 5th 858, 862.

23 28. Defendants committed the same regular rate of pay violations against Plaintiffs and  
24 other class members as a matter of common payroll administration and company policy in a manner  
25 susceptible to common proof.

26 29. Similarly, Defendants failed to authorize and permit compliant rest periods and failed  
27 to pay rest period premiums at the regular rate as required by Labor Code section 226.7.  
28

1           30.     Plaintiffs and class members experienced interrupted and missed rest periods due to  
2 understaffing by Defendants and due to Defendants’ unlawful policies. This practice was particularly  
3 heightened during night shifts where class members were not afforded to duly take all 10-minute rest  
4 periods.

5           31.     On information and belief, Defendants had a policy and practice of not paying rest  
6 period premiums to employees who were unauthorized from taking rest periods. To the extent  
7 Defendants ever paid a rest period premium, Defendants violated Labor Code section 226.7 because  
8 such premiums were not paid at the correct regular rate of compensation to class members, which  
9 would have factored in bonuses and other forms of compensation. Defendants maintained a policy  
10 and practice of failing to consistently provide premiums when due to Plaintiffs and class members.  
11 This includes a failure to provide second meal periods or premium compensation in lieu thereof. For  
12 work completed during uncompensated 30-minute meal periods, Defendants failed to pay class  
13 members at least the lawful minimum wage for those hours worked.

14           32.     Based on Defendants non-complaint policy and practice of miscalculating and  
15 underpaying the regular rate of pay applicable to overtime and other premiums, Plaintiffs allege the  
16 rest period premiums were equally deficient with respect to payments made to the class members.

17           33.     Defendants failed to pay Plaintiffs and class members overtime at the “regular rate of  
18 pay” because they failed to include “store bonuses,” incentive pay, and other forms of remuneration  
19 into the overtime rate.

20           34.     For each overtime hour worked during the period in which Plaintiffs and the class  
21 members earned store bonuses or other forms of non-excludable remuneration, Defendants should  
22 have (but failed to) pay overtime “at a rate of no less than ***one and one-half the regular rate of pay***  
23 for an employee” and “***twice*** the regular rate of pay” for double time hours as required by the plain  
24 language of Labor Code section 510(a) and the IWC Wage Orders.

25           35.     An illustrative example of the overtime regular rate of pay violation is found on  
26 Plaintiff Aramburo’s wage statement from the pay period 9/17/2022 to 9/23/2022. Plaintiff  
27 Aramburo’s overtime rates were calculated based on 1.5x Plaintiff Aramburo’s approximate blended  
28



1 rate, but failed to factor in the bonus Plaintiff Aramburo earned and Defendants failed to pay overtime  
2 at a 1.5x (or 2x, as applicable) multiple of the regular rate of pay.

3 36. The failure to pay overtime at the regular rate resulted in an underpayment of overtime  
4 wages pursuant to Labor Code § 510's obligation to pay overtime at one and one-half times the regular  
5 rate of pay.

6 37. Defendants committed the same regular rate of pay violations against Plaintiffs and  
7 other class members as a matter of common payroll administration and company policy in a manner  
8 susceptible to common proof.

9 38. Based on Defendants' noncompliance with the regular rate of pay requirements  
10 applicable to overtime and meal/rest period premiums, Plaintiffs allege on information and belief that  
11 the regular rate miscalculation equally applied to paid sick leave with respect to the class, resulting in  
12 underpayments of paid sick leave wages.

13 39. The failure to calculate and pay paid sick leave at one of the lawful rates set forth in  
14 Labor Code § 246(1)(1)-(3) and 247 *et seq.*, 248 *et seq.* was applied as a matter of common policy and  
15 practice to class members in those pay period where they earned additional payments, commissions,  
16 bonuses, and other forms of non-excludable remuneration and also paid sick leave.

17 40. Defendants had a policy and practice of paying Plaintiffs and, on information and  
18 belief, class members at the incorrect rate of pay for the shifts they worked. Defendants offered  
19 Plaintiffs and class members different rates for day and night shifts, where night shifts were paid at a  
20 higher rate.

21 41. Specifically, Plaintiff Aramburo noticed and informed Defendants he was being  
22 underpaid as he was being paid day rates for night shifts. On information and belief, Defendants failed  
23 to pay Plaintiffs and class members all wages at the correct rate for all night shifts they completed  
24 during their employment.

25 42. Furthermore, Defendants failed to provide suitable seating and resting facilities for  
26 class members to use during their meal and rest periods. Despite maintaining the capacity to do so,  
27 Defendants failed to provide suitable resting facilities and suitable seating when doing so would have  
28 not interfered with the duties of class members.

1           43. Defendants also failed to pay all overtime and minimum wages owed to Plaintiffs and  
2 class members because all hours worked were not recorded. During the relevant time period,  
3 Defendants had a pattern and practice of limiting overtime and chronic understaffing which led  
4 Plaintiff Garrett and other class members to work off-the-clock after their scheduled shifts and on their  
5 days off. Plaintiffs and class members also worked through meal periods.

6           44. Defendants' failure to pay regular and overtime, paid sick leave, and premium  
7 payments each period or upon separation of employment, rendered the payments untimely and subject  
8 to civil penalties for the violations committed against the class members under Labor Code §§ 201  
9 through 203.

10           45. Furthermore, Defendants failed to provide accurate itemized wage statements to the  
11 class members each pay period as a result of these policies and practices.

12           46. Specifically, Defendants violated Labor Code section 226(a)(1) and (5) by not listing  
13 the correct "gross wages earned" or "net wages earned" on those statements because the amounts listed  
14 failed to include and account for the unpaid meal and rest period premiums Plaintiffs and class  
15 members earned but were not paid.

16           47. Likewise, in violation of Labor Code section 226(a)(9), Defendants failed to state on  
17 employee statements each pay period the applicable hourly rates and the number of hours worked at  
18 that rate, as Defendants failed to pay all wages and premiums owed to employees watch pay period  
19 (i.e., overtime, sick pay, meal and rest period premiums). The amounts and rates stated are instead  
20 depreciated and underpaid, resulting in an inaccurate reflection to the pay stub. These violations result  
21 in further liability under Labor Code § 1174.5 for failing to maintain all required employee records.

22           48. These wage statement violations created significant confusion among Plaintiffs and  
23 other class members with respect to what amounts were owed and paid, at what rates, the number of  
24 hours worked, and how those amounts were or should be calculated. The wage statements reflect a  
25 false statement of earnings and concealed the underlying problems of underpayments of employee  
26 wages.

27           49. Additionally, Defendants failed to comply with the Labor Code § 2802's requirement  
28 to reimburse employees for necessary and reasonable business expenses, including uniforms and cell

1 phones. Defendants failed to provide reimbursement for employee uniforms or laundering of  
2 employee uniforms, a monthly stipend or reimbursement for the use of personal cell phones for work  
3 purposes, or for the cost of certifications necessary for employment. Instead, class members bore the  
4 cost of these requirements, without reimbursement. Plaintiffs allege Defendants failed to maintain a  
5 lawful reimbursement policy.

6 50. Further, Defendants knew or should have known that Defendants had a duty to  
7 provide Plaintiffs and other aggrieved employees with written notice of the material terms of their  
8 employment with Defendants as required by the California Wage Theft Prevention Act, but failed  
9 to do so.

10 51. Plaintiffs are informed, believe, and allege that Defendants' acts and omissions have  
11 knowingly and intentionally caused harm to Plaintiffs and the Class. Plaintiffs are informed, believes,  
12 and alleges that Defendants have engages in systemic violations of the Labor Code and IWC Wage  
13 Order by maintaining practices, policies, and customs that are inconsistent with their obligations under  
14 California Law.

### 15 **FIRST CAUSE OF ACTION**

#### 16 **FAILURE TO PAY ALL WAGES OWED**

#### 17 **Violation of Labor Code §§ 510, 1182.12, 1194, 1194.2 and 1197, 1197.1, 1194, and 1198**

18 52. All outside paragraphs of this Complaint are incorporated into this section.

19 53. This cause of action is brought pursuant to the IWC Wage Orders and Labor Code  
20 §§ 204, 510, 558, 1194, and 1198, which require non-exempt employees be timely paid overtime  
21 wages all overtime hours worked, and which further provide a private right of action for an employer's  
22 failure to pay all overtime compensation for overtime hours worked.

23 54. Furthermore, This cause of action is brought pursuant to the IWC Wage Orders and  
24 Labor Code §§ 1182.12, 1194, 1194.2, 1197, 1197.1 and 1198 and the IWC Wage Orders (the "Hours  
25 and Days of Work" and "Minimum Wages" sections of the applicable orders), which require non-  
26 exempt employees be timely paid at least the state or local minimum wage (if higher) for each hour of  
27 work, and further provide a private right of action for an employer's failure to pay all minimum wages  
28 (plus liquidated damages).



1 violation of Labor Code sections 226.7, 512, 558, 1198 and the IWC Wage Orders (the “Meal Periods”  
2 sections of the applicable orders).

3 61. Further, Defendants willfully failed in their affirmative obligation to consistently pay  
4 Plaintiffs and class members one additional hour of pay at the respective regular rate of compensation  
5 for each workday that a fully compliant meal period was not provided, in violation of Labor Code  
6 sections 226.7, 512, 558, and 1198 and the IWC Wage Orders (the “Meal Periods” sections of the  
7 applicable orders).

8 62. Plaintiffs and class members are entitled to recover to the full amount of the meal period  
9 premiums owed, in addition to interest, statutory and civil penalties, and attorneys’ fees, and costs to  
10 the extent permitted by law.

11 **THIRD CAUSE OF ACTION**

12 **REST PERIOD VIOLATIONS**

13 **Violation of Labor Code §§ 226.7, 516, and 1198**

14 63. All outside paragraphs of this Complaint are incorporated into this section.

15 64. This cause of action is brought pursuant to the IWC Wage Orders and Labor Code  
16 §§ 226.7, 516, and 1198, which require non-exempt employees be authorized to take complaint rest  
17 periods (or rest period premiums in lieu thereof), and which further provide a private right of action  
18 for an employer’s failure to lawfully provide all rest periods and/or pay rest period premiums at the  
19 lawful regular rate of compensation.

20 65. Defendants willfully failed in their affirmative obligation to consistently authorize and  
21 permit Plaintiffs and class members to receive compliant, duty-free rest periods of not less than ten  
22 (10) minutes for every four hours worked (or major fraction thereof) in violation of Labor Code  
23 sections 226.7, 516, 558, and 1198 and the IWC Wage Orders (the “Rest Periods” sections of the  
24 applicable orders).

25 66. Further, Defendants willfully failed in their affirmative obligation to consistently pay  
26 Plaintiffs and class members one additional hour of pay at the respective regular rate of compensation  
27 for each workday that a fully compliant rest period was not provided, in violation of Labor Code  
28 sections 226.7, 516, 558, and 1198 and the IWC Wage Orders.

1 **FOURTH CAUSE OF ACTION**

2 **FAILURE TO PAY ALL PAID SICK LEAVE WAGES**

3 **Violation of Labor Code §§ 200, 218, 246 *et seq.***

4 67. All outside paragraphs of this Complaint are incorporated into this section.

5 68. Defendants knowingly and intentionally failed in their affirmative obligation to pay  
6 sick leave wages to Plaintiffs and the Paid Sick Leave Class in violation of Labor Code section 246  
7 *et seq.* Paid sick leave earnings constitute wages for purposes of California wage and hour law.  
8 (*Murphy v. Kenneth Cole Productions, Inc.* (2007) 40 Cal.4th 1094, 1103 [“Courts have recognized  
9 that ‘wages’ also include those benefits to which an employee is entitled as a part of his or her  
10 compensation, including money, room, board, clothing, vacation pay, and sick pay”].)

11 69. Labor Code section 246(1) governs how Defendants were required to calculate paid sick  
12 leave:

13 [A]n employer shall calculate paid sick leave using any of the following calculations:

14 (1) Paid sick time for nonexempt employees shall be calculated in the same  
15 manner as the regular rate of pay for the workweek in which the employee uses  
16 paid sick time, whether or not the employee actually works overtime in that  
17 workweek.

18 (2) Paid sick time for nonexempt employees shall be calculated by dividing the  
19 employee’s total wages, not including overtime premium pay, by the  
20 employee’s total hours worked in the full pay periods of the prior 90 days of  
21 employment.

22 (3) Paid sick time for exempt employees shall be calculated in the same manner  
23 as the employer calculates wages for other forms of paid leave time.

24 70. Defendants failed to pay Plaintiffs and the Paid Sick Leave Class their paid sick leave  
25 wages at one of the lawful rates set forth in the statute because Defendants failed to include in their  
26 sick leave calculation the additional remuneration received by Plaintiffs and the Paid Sick Leave Class.

27 71. Furthermore, to the extent the paid sick leave paid constitutes Covid-related paid sick  
28 leave, Defendants knowingly and intentionally failed in their affirmative obligation to pay Covid-19

1 Supplemental Sick Leave wages to the Paid Sick Leave Class at the correct rate in violation of Labor  
2 Code sections 246, 248.1, 248.2, and 248 *et seq.*

3 72. Pursuant to Labor Code section 248.1, Defendants were required to provide up to 80  
4 hours of Covid-19 Supplemental Paid Sick Leave to employees for the period of April 20, 2020 to  
5 December 31, 2020. Labor Code section 248.2 required Defendants to provide up to 80 hours of  
6 Covid-19 Supplemental Paid Sick Leave for the period of January 1, 2021 through at least September  
7 30, 2021. Labor Code section 248.6 extended Covid sick leave protections and requires employers to  
8 provide up to 80 hours of Covid-19 Supplemental Paid Sick Leave for the period of January 1, 2022  
9 to September 30, 2022, and may be extended thereafter.

10 73. Under Labor Code section 248.1, employees must be paid for Covid-19 Supplemental  
11 Paid Sick Leave at the highest of the following: (1) the regular rate of pay for the last pay period,  
12 (2) state minimum wage, (3) local minimum wage.

13 74. Under Labor Code section 248.2, non-exempt employees must be paid supplemental  
14 paid sick leave according to the highest of the following four methods:

15 (I) Calculated in the same manner as the regular rate of pay for the workweek in which  
16 the covered employee uses COVID-19 supplemental paid sick leave, whether or not  
17 the employee actually works overtime in that workweek.

18 (II) Calculated by dividing the covered employee's total wages, not including  
19 overtime premium pay, by the employee's total hours worked in the full pay periods  
20 of the prior 90 days of employment.

21 (III) The state minimum wage.

22 (IV) The local minimum wage to which the covered employee is entitled.

23 75. Labor Code section 248.6 requires employers to pay supplemental sick leave using  
24 either method (I) or (II), as identified above.

25 76. On information and belief, Defendants failed to pay Covid-19 Supplemental Sick  
26 Leave in the manner described above because Defendants failed to include in their sick leave  
27 calculation the additional remuneration received by the Paid Sick Leave Class.

77. As a result, Defendants violated the Labor Code and are liable to Plaintiffs and the Paid Sick Leave Class for underpaid sick leave wages, in addition to interest, attorneys' fees, and costs.

**FIFTH CAUSE OF ACTION**

**UNTIMELY PAYMENT OF WAGES**

**Violation of Labor Code §§ 204, 210, 218**

78. All outside paragraphs of this Complaint are incorporated into this section.

79. This cause of action is brought pursuant to the IWC Wage Orders and Labor Code §§ 204, 204b, and 210 which require non-exempt employees be timely paid all wages owed each pay period, and which further provide a private right of action for an employer's failure to comply with this obligation. Labor Code § 218 authorizes individuals to sue directly for wages and penalties due under these sections, including Labor Code § 210(c)'s statutory late payment penalties.

80. Defendants willfully failed in their affirmative obligation to timely pay all wages, including paid sick leave and meal and rest premiums, earned by Plaintiffs and class members twice during each calendar month on days designated in advance by the employer as regular paydays (for employees paid on a non-weekly basis) and on the regularly-scheduled weekly payday weekly employees, if any, in violation of Labor Code sections 204 and 204b and the IWC Wage Orders (the "Minimum Wages" sections of the applicable orders).

81. Plaintiffs and class members are entitled to recover the full amount of the unpaid wages, in addition to a statutory penalty in the amount of \$100 for the initial violation for each failure to pay each employee and \$200 for all subsequent violations and for all willful or intentional violations for each failure to pay each employee, plus 25 percent of the amount unlawfully withheld under provided in Labor Code § 210, in addition to interest, attorneys' fees, and costs to the extent permitted by law.

**SIXTH CAUSE OF ACTION**

**WAGE STATEMENT AND RECORDKEEPING VIOLATIONS**

**Violation of Labor Code §§ 226, 1174, and 1198**

82. All outside paragraphs of this Complaint are incorporated into this section.

83. This cause of action is brought by the Wage Statement Subclass pursuant to Labor Code § 226(a) which requires non-exempt employees be provided accurate itemized wage statements each



1 pay period, and which further provide a private right of action for an employer's failure to comply  
2 with this obligation.

3 84. Defendants knowingly and intentionally failed in their affirmative obligation provide  
4 accurate itemized wage statements to Plaintiffs and class members resulting in injury to Plaintiffs and  
5 class members. Specifically, the wage statements issued to Plaintiffs and class members did not  
6 accurately state each pay period all of the information required by Labor Code § 226(a)(1)-(9).

7 85. Defendants' unlawful acts and omissions deprived Plaintiffs and class members of  
8 accurate itemized wage statements, causing confusion and concealing wage and premium  
9 underpayments.

10 86. Defendants also failed to maintain accurate payroll records pursuant to Labor Code  
11 section 1174 (d) due to the inaccurate wage statements. Further, Defendants willfully failed to  
12 maintain accurate payroll records for Plaintiffs and class members showing the daily hours worked  
13 and wages paid thereto as a result of failing to record off-the-clock hours that they worked. Defendants  
14 further failed to keep accurate records pursuant to Labor Code section 1198, which requires that  
15 employers keep accurate time records showing when employees begin and end each work period.

16 87. As a result, Plaintiffs and class members are entitled to recover the statutory penalty of  
17 \$50 per employee for the initial pay period in which a violation occurred and \$100 per employee for  
18 each violation in a subsequent pay period, up to an aggregate penalty of \$4,000 per employee, in  
19 addition to interest, attorneys' fees, and costs to the extent permitted by law, including under Labor  
20 Code section 226(e).

21 **SEVENTH CAUSE OF ACTION**

22 **WAITING TIME PENALTIES**

23 **Violation of Labor Code §§ 201 *et seq.***

24 88. All outside paragraphs of this Complaint are incorporated into this section.

25 89. This cause of action is brought by the Waiting Time Class pursuant to Labor Code  
26 §§ 201 through 203, which require an employer to timely pay all wages earned upon termination of  
27 employment, and which further provide a private right of action to recover statutory waiting time  
28

1 penalties each day an employer fails to comply with this obligation, up to a maximum of 30 days  
2 wages.

3 90. Defendants willfully failed and continue to fail in their affirmative obligation to pay all  
4 wages earned and unpaid to Plaintiffs and members of the Waiting Time Class immediately upon  
5 termination of employment or within 72 hours thereafter for employees who did not provide at least  
6 72 hours prior notice of his or her intention to quit, and further failed to pay those sums for 30 days  
7 thereafter in violation of Labor Code sections 201 through 203 and the IWC Wage Orders.

8 91. Plaintiffs and the Waiting Time Class are entitled to recover to a waiting time penalty  
9 for a period of up to 30 days, in addition to interest, attorneys' fees, and costs to the extent permitted  
10 by law.

11 **EIGHTH CAUSE OF ACTION**

12 **UNFAIR COMPETITION**

13 **Violation of Business and Professions Code §§ 17200 *et seq.***

14 92. All outside paragraphs of this Complaint are incorporated into this section.

15 93. Defendants have engaged and continue to engage in unfair and/or unlawful business  
16 practices in the State of California in violation of California Business and Professions Code § 17200  
17 by committing the foregoing wage and hour violations alleged throughout this Complaint.

18 94. Defendants' dependance on these unfair and/or unlawful business practices deprived  
19 Plaintiffs and continue to deprive other class members of compensation to which they are legally  
20 entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage to  
21 Defendants over competitors who have been and/or are currently employing workers in compliance  
22 with California's wage and hour laws. These failures constitute unlawful, deceptive, and unfair  
23 business acts and practices in violation of Business and Professions Code section 17200 *et seq.*

24 95. Plaintiffs are victims of Defendants' unfair and/or unlawful conduct alleged in this  
25 Complaint, and Plaintiffs, as individuals and on behalf of others similarly situated, seek full restitution  
26 of the moneys as necessary and according to proof to restore all monies withheld, acquired, and/or  
27 converted by Defendants pursuant to Business and Professions Code §§ 17203 and 17208.

1 96. Plaintiffs do not have an adequate remedy at law for past or future violations, to the  
2 extent the statute of limitations on each of the alleged causes of action do not extend to the four year  
3 limitation provided under the UCL or to the extent the underlying Labor Code and IWC Wage Order  
4 violations do not provide a private right of action.

5 97. Plaintiffs and class members are entitled to injunctive relief against Defendants,  
6 restitution, and other equitable relief to return all funds over which Plaintiffs and class members have  
7 an ownership interest and to prevent future damage and the public interest under Business and  
8 Professions Code § 17200 *et seq.* Plaintiffs and class members are further entitled to recover interest,  
9 attorneys' fees, and costs to the extent permitted by law, including under Code of Civil Procedure  
10 § 1021.5.

11 **NINTH CAUSE OF ACTION**

12 **FAILURE TO REIMBURSE BUSINESS EXPENSES**

13 **Violation of Labor Code § 2802**

14 98. All outside paragraphs of this Complaint are incorporated into this section.

15 99. Defendants willfully failed in their affirmative obligation to reimburse Plaintiffs and a  
16 reimbursement subclass for all necessary expenditures, losses, expenses, and costs incurred by them  
17 in direct discharge of the duties of their employment, in violation of Labor Code section 2802. For  
18 example, Defendants required Plaintiffs and class members to utilize their personal mobile devices,  
19 including cell phones and data, for their job duties but failed to reimburse them for the cost of their  
20 work-related mobile device and/or mobile data expenses. Defendants also failed to reimburse Plaintiff  
21 Garrett and class members for the cost of obtaining required certifications for continued employment,  
22 including training and/or examination fees. Further, Defendants required Plaintiffs and class members  
23 to wear uniforms bearing the company logo but failed to provide sufficient uniforms to wear for their  
24 shifts throughout the week, forcing Plaintiffs and class members to incur laundering expenses for the  
25 upkeep of their uniform.

26 100. Defendants' unlawful acts and omissions deprived Plaintiffs and class members of  
27 lawful reimbursements for business expenses in amounts to be determined at trial. Plaintiffs and class  
28 members are entitled to recover the amount unreimbursed expenses of Plaintiffs and class members in

1 addition to interest, attorneys' fees, and costs to the extent permitted by law, including under Labor  
2 Code section 2802.

3 **TENTH CAUSE OF ACTION**

4 **CIVIL PENALTIES UNDER THE PRIVATE ATTORNEYS GENERAL ACT**

5 **Violation of Labor Code §§ 2698 *et seq.***

6 **(By Plaintiffs on Behalf of the State and the Aggrieved Employees Against All Defendants)**

7 101. All outside paragraphs of this Complaint are incorporated into this section.

8 102. Plaintiffs bring this cause of action as a proxy for the State of California on behalf of  
9 the following "aggrieved employees" pursuant to the Private Attorneys General Act ("PAGA"),  
10 codified as Labor Code section 2698 *et seq.*:

11 a. All current and former non-exempt employees who worked for Defendants in  
12 California at any time from one year prior to the postmark date of Plaintiff  
13 Aramburo's initial PAGA notice through date of trial.

14 103. Plaintiffs reserve the right to amend, supplement, or add to this description of the  
15 aggrieved employees, according to proof.

16 104. The State of California, via the Labor and Workforce Development Agency  
17 ("LWDA"), is the real party in interest in this action with respect to this cause of action. (*Kim v. Reins*  
18 *Int'l California, Inc.* (2020) 9 Cal. 5th 73, 81 [The "government entity on whose behalf the plaintiff  
19 files suit is always the real party in interest."])

20 105. Labor Code section 2699(a) provides: "Notwithstanding any other provision of law,,  
21 any provision of this code that provides for a civil penalty to be assessed and collected by the Labor  
22 and Workforce Development Agency or any of its departments, divisions, commissions, boards,  
23 agencies, or employees, for a violation of this code, may, as an alternative, be recovered through a civil  
24 action brought by an aggrieved employee on behalf of himself or herself and other current or former  
25 employees pursuant to the procedures specified in Section 2699.3. "

26 106. Labor Code section 2699(f) provides: "For all provisions of this code except those for  
27 which a civil penalty is specifically provided, there is established a civil penalty for a violation of these  
28 provisions, as follows: ... (2) If, at the time of the alleged violation, the person employs one or more

1 employees, the civil penalty is one hundred dollars (\$100) for each aggrieved employee per pay period  
2 for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for  
3 each subsequent violation.”

4 107. Any allegations regarding violations of the IWC Wage Orders are enforceable as  
5 violations of Labor Code section 1198, which states: “[t]he employment of any employee for longer  
6 hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.”

7 108. Labor Code section 2699.3 sets forth the procedure for commencing an action for civil  
8 penalties under the PAGA.

9 109. On or about March 1, 2023, Plaintiff Aramburo paid the requisite PAGA filing fee and  
10 provided written notice (by online electronic filing with the LWDA and by certified mail to  
11 Defendants) of Defendants’ alleged Labor Code violations, including the facts and theories to support  
12 the alleged violations. Plaintiff Aramburo subsequently amended the PAGA Notice to add additional  
13 facts and allegations.

14 110. On or about June 2, 2023, Plaintiff Garrett paid the requisite PAGA filing fee and  
15 provided written notice (by online electronic filing with the LWDA and by certified mail to  
16 Defendants) of Defendants’ alleged Labor Code violations, including the facts and theories to support  
17 the alleged violations.

18 111. A true and correct copy of Plaintiff Aramburo’s written PAGA notice, entitled “Notice  
19 of Labor Code Violations” is attached hereto as Exhibit 1 and incorporated by reference as though  
20 fully set forth herein (the “Aramburo PAGA notice”).

21 112. A true and correct copy of Plaintiff Garrett’s written PAGA notice is attached hereto  
22 as Exhibit 2 and incorporated by reference as though fully set forth herein (the “Garrett PAGA notice”)  
23 (collectively with the Aramburo PAGA Notice, the “PAGA notices”).

24 113. To date, neither Plaintiffs nor Plaintiffs’ counsel have received a response to Plaintiffs’  
25 written PAGA notices from the LWDA.

26 114. Within 33 calendar days of the postmark date of the notices sent by Plaintiffs, neither  
27 Plaintiffs nor Plaintiffs’ counsel have received written notice by certified mail from any defendant  
28 providing a description of any actions taken to cure the alleged violations.

1           115. Now that at least 65 days have passed from Plaintiffs notifying Defendants of these  
2 violations, without notice of cure from Defendants or notice from the LWDA of its intent to investigate  
3 the alleged allegations and issue the appropriate citations to Defendants, Plaintiffs have exhausted all  
4 prerequisites and commenced this civil action under Labor Code section 2699 *et seq.*

5           116. As set forth in the Aramburo PAGA notice, as amended, attached as Exhibit 1 and  
6 incorporated into this Complaint, Defendants committed the following violations and are liable for all  
7 corresponding civil penalties:

- 8           a. ***Unpaid Hours Worked/Minimum Wage.*** Violation of Labor Code §§ 1194, 1197,  
9           1198; IWC Wage Orders.
- 10           b. ***Unpaid Overtime.*** Violation of Labor Code §§ 510, 1194, 1198; IWC Wage  
11           Orders.
- 12           c. ***Unpaid Paid Sick Leave.*** Violation of Labor Code §§ 246 through 248.7.
- 13           d. ***Unpaid Meal Period Premium Wages.*** Violation of Labor Code §§ 226.7, 512,  
14           1198; IWC Wage Orders.
- 15           e. ***Unpaid Rest Period Premium Wages.*** Violation of Labor Code §§ 226.7, 516,  
16           1198; IWC Wage Orders.
- 17           f. ***Failure to Provide Suitable Seating and Resting Facilities.*** Violation of Labor  
18           Code §§ 1198; IWC Wage Orders.
- 19           g. ***Untimely Payment of Wages During Employment.*** Violation of Labor Code §§  
20           204, 204b, 210.
- 21           h. ***Untimely Payment of Wages Upon Separation of Employment.*** Violation of  
22           Labor Code §§ 201, 202, 203, 256.
- 23           i. ***Non-Compliant Wage Statements.*** Violation of Labor Code §§ 226, 226.3.
- 24           j. ***Failure to Maintain Accurate Records.*** Violation of Labor Code § 1174; IWC  
25           Wage Orders.
- 26           k. ***Unreimbursed Employee Expenses.*** Violation of Labor Code §§ 2802, 2804.
- 27           l. ***Unlawful Employment Condition.*** Violation of Labor Code § 432.5.

1           117. As set forth in the Garrett PAGA notice attached as Exhibit 2 and incorporated into this  
2 Complaint, Defendants committed the following violations and are liable for all corresponding civil  
3 penalties:

- 4           a. Violation of Labor Code sections 510 and 1198, and the applicable IWC Wage Order  
5 for Defendants' failure to compensate Plaintiff Garrett and other aggrieved employees  
6 with all required overtime pay, as alleged herein;
- 7           b. Violation of Labor Code sections 226.7, 510, and 1198, and the applicable IWC Wage  
8 Order for Defendants' failure to include all forms of remuneration in the "regular rate"  
9 of pay as required by law for purposes of paying overtime wages and/or meal and rest  
10 period premiums, to Plaintiff Garrett and other aggrieved employees, as alleged herein;
- 11           c. Violation of Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198, and the  
12 applicable IWC Wage Order for Defendants' failure to compensate Plaintiff Garrett  
13 and other aggrieved employees with at least minimum wages for all hours worked, as  
14 alleged herein;
- 15           d. Violation of Labor Code sections 226.7, 512(a), 516, and 1198, and the applicable IWC  
16 Wage Order for Defendants' failure to provide Plaintiff Garrett and other aggrieved  
17 employees with meal periods, as alleged herein;
- 18           e. Violation of Labor Code sections 226.7, 516, and 1198, and the applicable IWC Wage  
19 Order for Defendants' failure to authorize and permit Plaintiff Garrett and other  
20 aggrieved employees to take rest periods, as alleged herein;
- 21           f. Violation of Labor Code sections 226(a) and 1198, and the applicable IWC Wage Order  
22 for failure to provide accurate and complete wage statements to Plaintiff Garrett and  
23 other aggrieved employees, as alleged herein;
- 24           g. Violation of Labor Code sections 1174(d) and 1198, and the applicable IWC Wage  
25 Order for failure to maintain payroll records, as alleged herein;
- 26           h. Violation of Labor Code sections 201 and 202 for failure to pay all earned wages upon  
27 termination, as alleged herein;
- 28

- 1 i. Violation of Labor Code section 204 for failure to pay all earned wages during  
2 employment, as alleged herein;
- 3 j. Violation of Labor Code sections 246 and 248.6 for failure to properly calculate the  
4 sick leave rate paid to Plaintiff Garrett and other aggrieved employees and for failure  
5 to provide written notice of paid sick leave to Plaintiff Garrett and other aggrieved  
6 employees, as alleged herein;
- 7 k. Violation of Labor Code section 1198 and the applicable IWC Wage Order for failure  
8 to provide suitable resting facilities to Plaintiff Garrett and other aggrieved employees,  
9 as alleged herein;
- 10 l. Violation of Labor Code section 1198 for failing to provide suitable seating to Plaintiff  
11 Garrett and other aggrieved employees, as alleged herein;
- 12 m. Violation of Labor Code section 2802 for failure to reimburse Plaintiff Garrett and  
13 other aggrieved employees for all business expenses necessarily incurred, as alleged  
14 herein; and
- 15 n. Violation of Labor Code section 2810.5(a)(1)(A)-(C) for failure to provide written  
16 notice of information material to Plaintiff Garrett's and other aggrieved employees'  
17 employment with Defendants, as alleged herein.

18 118. At all relevant times herein, California's Wage Theft Prevention Act was enacted to  
19 ensure that employers provide employees with basic information material to their employment  
20 relationship at the time of hiring, and to ensure that employees are given written and timely notice of  
21 any changes to basic information material to their employment. Codified at California Labor Code  
22 section 2810.5, the Wage Theft Prevention Act provides that at the time of hiring, an employer must  
23 provide written notice to employees containing basic and material payroll information, including,  
24 among other things, the rate(s) of pay and basis thereof, whether paid by the hour, shift, day, week,  
25 salary, piece, commission, or otherwise, including any rates for overtime, the regular payday  
26 designated by the employer, and any allowances claims as part of the minimum wage, including meal  
27 or lodging allowances. Labor Code § 2810.5(a)(1)(A)-(C).





- 1 m. For reasonable attorneys' fees and costs of suit, including expert fees, to the extent  
2 permitted by law, including (without limitation) under Labor Code §§ 218.5, 226,  
3 1194, 2802, 2699, and Code of Civil Procedure section 1021.5; and  
4 n. For such other relief the Court deems just and proper.

5  
6 Dated: February 26, 2024

***Ferraro Vega Employment Lawyers, Inc.***

7 *s/ Nicholas J. Ferraro*

8 Nicholas J. Ferraro

9 *Attorneys for Plaintiff Jesus Aramburo*

10  
11 Dated: February 26, 2024

**CAPSTONE LAW APC**

12  
13 *s/ Roxanna Tabatabaeepour*

14 Roxanna Tabatabaeepour

15 Ryan Tish

Alexander Wallin

16 *Attorneys for Plaintiff Tachina Garrett*

**EXHIBIT 1**

**Jesus Aramburo's Amended Notice of Labor Code Violations**

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**FERRARO VEGA**  
SAN DIEGO EMPLOYMENT LAWYERS

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**ATTORNEYS AT LAW**  
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San Diego, California 92108

619-693-7727  
619-350-6855 fax  
[ferrarovega.com](http://ferrarovega.com)

September 19, 2023

**AMENDED NOTICE OF LABOR CODE VIOLATIONS**  
**CALIFORNIA LABOR CODE SECTIONS 2698 *et seq.***

**VIA CERTIFIED U.S. MAIL**  
*- Electronic Return Receipt -*

**Jacksons Food Stores, Inc.**  
3450 E Commercial Court  
Meridian, Idaho 83642

**Jackson Energy Logistics, LLC.**  
3540 E Commercial Court  
Meridian, Idaho 83642

*- PAGA Notice & Filing Fee -*  
Submitted electronically to the Labor and  
Workforce Development Agency

Dear LWDA Officer and Company Representatives:

This letter serves as written notice under Labor Code section 2699.3 on behalf of **JESUS ARAMBURO** (“Plaintiff(s)”) and all other “aggrieved employees” of the following “Defendant(s)”:

**JACKSONS FOOD STORES, INC.; JACKSON ENERGY LOGISTICS, LLC**

Defendant(s) shall mean and include the foregoing in addition to any other related employer entities, individuals under Labor Code sections 558 and 558.1, and all others who may be later added upon further investigation and discovery as liable employers.

This office serves as legal counsel for Plaintiff. If the California Labor and Workforce Development Agency (“LWDA”) does not investigate the facts, allegations, and violations set forth in this notice within the statutorily prescribed 65-day period under Labor Code section 2699.3, Plaintiff intends to commence a civil action against Defendants as a proxy and agent of the State of California under the Private Attorneys General Act (“PAGA”). “PAGA allows an ‘aggrieved employee’—a person affected by at least one Labor Code violation committed by an employer—to pursue penalties for all the Labor Code violations committed by that employer.” *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal. App. 5th 745, 751; *Kim v. Reins International California, Inc.* (2020) 9 Cal. 73, 79.

Through this notice, Plaintiff requests that Defendants complete an internal investigation and audit of the wage and hour and employment practices at issue and make a good faith effort to correct any violations. Plaintiff attempts to identify the non-compliant policies and practices affecting the aggrieved employees so that the parties may resolve the underlying damages and penalties in a settlement approved by the Superior Court of California under Labor Code section 2699(k). Defendants are notified that any attempt to resolve this case be conducted in coordination with Plaintiff's counsel to protect the interests of Plaintiff, the aggrieved employees, and the State of California via the LWDA. This settlement attempt is in compliance with relevant California law. *Graham v. Daimler Chrysler Corp.* (2004) 24 Cal. 4th 553, 561.

### **- BACKGROUND -**

Defendants employed Plaintiff during the PAGA Period in the positions of Cashier and Customer Sales Representative from about August 2021 to October 2022. During their employment Plaintiff and the other aggrieved employees were subject to the wage and hour and employment protections set forth in the California Labor Code and IWC Wage Orders.

Through this notice, Plaintiff informs the LWDA of the Labor Code violations set forth herein. The “aggrieved employees” include Plaintiff and the following individuals:

All current and former non-exempt employees who worked for Defendants in the State of California during one-year period preceding the date of this notice through the current date and the date of trial in any pending action (the “aggrieved employees” and the “PAGA Period”).

Plaintiff reserves the right to expand or narrow the definition of the “aggrieved employees” in the forthcoming civil action. Furthermore, Plaintiff seeks all recoverable civil penalties for Defendants' violations and reserves the right to supplement this notice as further investigation is completed and further facts, witnesses, and violations are uncovered.

### **- PAGA CLAIMS -**

#### **Unpaid Meal Period Premium Wages Violation of Labor Code §§ 226.7, 512, 1198; IWC Wage Orders**

Defendants violated Labor Code sections 226.7, 512, and 1198, along with the related sections of the IWC Wage Orders with respect to the aggrieved employees.

Labor Code section 512 and the IWC Wage Orders require that employers provide an uninterrupted 30-minute meal period after no more than five hours of work and a second meal period after no more than 10 hours of work. *See Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal. 4th 1004, 1049. Labor Code section 226.7 requires that if a meal period is late, missed,

short, or interrupted, the employer must pay one additional hour of pay at the employee's "regular rate" of compensation. *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal. 5th 858, 862 ("We hold that the terms are synonymous: "regular rate of compensation" under section 226.7(c), like "regular rate of pay" under section 510(a), encompasses all nondiscretionary payments, not just hourly wages"). "[T]ime records showing noncompliant meal periods raise a rebuttable presumption of meal period violations, including at the summary judgment stage." *Donohue v. AMN Services, LLC* (2021) 11 Cal. 5th 58, 61. Labor Code section 1198 renders "employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]" unlawful. The IWC Wage Orders, including Section 11 (Meal Periods), further require one uninterrupted 30-minute meal period after no more than five hours of work and a second meal period after no more than 10 hours of work and an additional hour of pay at the employee's regular rate of compensation for each workday that a compliant meal period is not provided. Pursuant to Section 11(A) of the IWC Wage Orders, the California Supreme Court has held that the on-duty meal period exception is "exceedingly narrow" and applies only when (1) "the nature of the work prevents the employee from being relieved of all duty" and (2) *both* "the employer and employee have agreed, in writing, to the on-duty meal period." *Augustus v. AMB Security Services, Inc.* (2016) 2 Cal. 5th 257, 266-276 (emphasis added). If these two requirements are not met, then the employer owes the employee one hour of premium pay for each non-compliant meal period taken under the purported on-duty meal arrangement. *Naranjo v. Spectrum Security Services, Inc.* (2019) 40 Cal. 5th 444, 459.

Plaintiff and other employees experienced missed, late, short, and interrupted meal periods due to understaffing and to keep up with the high demand of the job. When Plaintiff and other aggrieved employees experienced these missed, late, short, and interrupted meal periods, Defendants failed to pay meal period premiums at the regular rate as required by Labor Code section 226.7.

To the extent paid, Defendants underpaid Plaintiff and other aggrieved employees who earned a meal period premium in the same pay period where they earned a store bonus (or other non-excludable forms of remuneration). These premiums were not paid at the "regular rate of compensation" as the premiums paid did not factor in all forms of remuneration including commissions, bonuses, or other types of remuneration, instead electing to pay aggrieved employees at an approximate of the base blended rate.

An illustrative example of the regular rate of pay violation is found on Plaintiff's wage statement below:

|                            | Current<br>9/24/2022 - 9/30/2022 |         |            |
|----------------------------|----------------------------------|---------|------------|
|                            | Hours/Units                      | Rate    | Amount     |
| <b>Earnings</b>            | 50.00                            |         | \$1,169.48 |
| Regular Hourly             | 18.70                            | 16.7500 | \$313.22   |
| Regular Nightshift         | 21.30                            | 17.5000 | \$372.75   |
| Holiday Worked             |                                  |         |            |
| Sick                       |                                  |         |            |
| COVID SPSL Posi            |                                  |         |            |
| Overtime                   | 2.68                             | 25.3178 | \$67.94    |
| Overtime                   | 1.32                             | 26.0678 | \$34.32    |
| OT Nightshift              |                                  |         |            |
| Retro OT - No Hours        |                                  |         |            |
| Bonus                      |                                  |         |            |
| Store Bonus                |                                  |         | \$273.55   |
| Year Bonus                 |                                  |         |            |
| Retro Base - No Hours      |                                  |         |            |
| FLSA OT                    |                                  |         | \$4.80     |
| Meal Penalty               | 6.00                             | 17.1495 | \$102.90   |
| Meal Penalty               |                                  |         |            |
| Retro - Overtime           |                                  |         |            |
| Retro - Regular Hourly     |                                  |         |            |
| Retro - Regular Nightshift |                                  |         |            |
| Bereavement                |                                  |         |            |

**Extract from Plaintiff's Wage Statement from the Pay Period 9/24/2022-9/30/2022**

Plaintiff's records show that Plaintiff earned a \$273.55 bonus in the same period he earned 6 one-hour meal premium payments. Defendants failed to pay meal premiums at the lawful rate by electing to pay an approximate of the blended rate rather than at the regular rate of pay. Plaintiff was paid \$17.1495 which is an approximate number of the blended rate between the "Regular Hourly" and "Regular Nightshift" rates (calculated by the taking the average of the two rates). Defendants failed to pay Plaintiff his meal period premium at the regular rate of pay, which in this pay period was approximately \$23.96 (or higher). The failure to pay meal period premiums at the regular rate resulted in an underpayment of meal period premium wages pursuant to Labor Code § 226.7's obligation to pay premiums at the "regular rate of compensation," rather than the base hourly rate. *See Ferrera v. Loews Hollywood Hotel, LLC* (2021) 11 Cal. 5th 858, 862. Defendants similarly failed to consistently provide, and compensate for, deficient second meal periods.

Defendants committed the same regular rate of pay violations against Plaintiff and other aggrieved employees as a matter of common payroll administration and company policy in a manner susceptible to common proof.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

**Unpaid Hours Worked/Minimum Wage**  
**Violation of Labor Code §§ 1194, 1197, 1198; IWC Wage Orders**

Defendants violated Labor Code sections 1194, 1197, and 1198, along with the California Minimum Wage Order, the applicable local minimum wage ordinances, and the "Hours and

Days of Work” and “Minimum Wages” sections of the applicable IWC Wage Orders with respect to the aggrieved employees.

Labor Code section 1194 renders it unlawful for an employee to receive less than the legal minimum wage for hours worked in California. Labor Code section 1197 further mandates that “[t]he minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a lower wage than the minimum so fixed is unlawful.” Labor Code section 1198 renders “employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]” unlawful. The California Minimum Wage Order and the applicable sections of the IWC Wage Orders further require payment of minimum wages for all hours worked. The “Minimum Wages” sections of the applicable IWC Wage Order provide that “[e]very employer shall pay to each employee, on the established payday for the period involved, not less than the applicable minimum wage for all hours worked in the payroll period, whether the remuneration is measured by time, piece, commission, or otherwise.” The foregoing California wage laws require payment of “not less than the applicable minimum wage *for all hours worked* in the payroll period” and California law does not allow averaging of pay over the hours worked in the pay period, even if the total pay results in an average above the minimum wage. *Armenta v. Osmose, Inc.* (2005) 135 Cal. App. 3d 314, 324.

Defendants failed to pay Plaintiff and the aggrieved employees at the lawful minimum wage rate for all hours worked, resulting in unpaid minimum wages. Plaintiff and aggrieved employees often suffered deficient meal periods where the employees worked through part or all of their uncompensated meal periods. During this on-duty portion of the employees’ meal period, Defendants failed to pay Plaintiff and aggrieved employees at least the lawful minimum wage for those hours worked.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code sections 558 (\$50/\$100), 1197.1 (\$100/\$250), 1199 / “Penalties” section of the IWC Wage Orders (\$50/\$100), and 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

**Unpaid Rest Period Premium Wages**  
**Violation of Labor Code §§ 226.7, 516, 1198; IWC Wage Orders**

Defendants violated Labor Code sections 226.7, 516, and 1198, and the related sections of the IWC Wage Orders with respect to Plaintiff and the aggrieved employees.

Labor Code sections 226.7 and 516 and the IWC Wage Orders require that employers authorize and permit an uninterrupted 10-minute rest period for each four-hour period (or major fraction thereof) that an employee works. Labor Code section 226.7 requires that if a rest period is non-compliant, the employer must pay one additional hour of pay at the employee’s “regular rate” of compensation. *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11



Cal. 5th 858, 862 (“We hold that the terms are synonymous: “regular rate of compensation” under section 226.7(c), like “regular rate of pay” under section 510(a), encompasses all nondiscretionary payments, not just hourly wages”). Labor Code section 1198 renders “employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]” unlawful. The IWC Wage Orders, including Section 12 (Rest Periods), further require one uninterrupted 10-minute rest period for each four-hour period (or major fraction thereof) worked and an additional hour of pay at the employee’s regular rate of compensation for each workday that a compliant rest period is not authorized or permitted.

Plaintiff and other employees experienced interrupted and missed rest periods due to understaffing by the Defendants and because of Defendants unlawful policies. When Plaintiff and other aggrieved employees experienced these missed and interrupted rest periods, Defendants failed to pay rest period premiums at the regular rate as required by Labor Code section 226.7. This practice was particularly heightened during night shifts where aggrieved employees were not afforded coverage to duly take all 10-minute rest breaks.

On information and belief, Defendants had a policy and practice of not paying rest period premiums to employees who were unable to take rest periods. To the extent Defendants ever paid a rest period premium, Defendants violated Labor Code section 226.7 because such premiums were not paid at the correct regular rate of compensation to aggrieved employees, which would have factored in bonuses and other forms of compensation. As discussed throughout this correspondence, Defendants had a non-compliant policy and practice of miscalculating and underpaying the regular rate of pay applicable to overtime and other premiums. Based on this practice, Plaintiff alleges the rest period premiums were equally deficient with respect to payments made to the aggrieved employees.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

**Suitable Seating Violations**  
**Violation of Labor Code §§ 1198; IWC Wage Orders**

When employees are not engaged in the active duties of their employment and the nature of the work requires standing, an adequate number of suitable seats shall be placed in reasonable proximity to the work area and employees shall be permitted to use such seats when it does not interfere with the performance of their duties, including during rest and recover periods. California Labor Code section 1198 provides that: “The maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for

longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful and provides for civil penalties.

Here, Defendants failed to provide suitable seating and resting facilities for aggrieved employees to use during their meal and rest periods. Despite maintaining the capacity to do so, Defendants failed to provide suitable resting facilities and suitable seating, furthering aggrieved employees' inability to take uninterrupted, timely, off-duty meal and rest periods.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code section 2699 (\$100/\$200) and the IWC Wage Orders per violation per pay period per employee, along with all other civil penalties permitted by law.

**Unpaid Overtime**  
**Violation of Labor Code §§ 510, 1194, 1198; IWC Wage Orders**

Defendants violated Labor Code sections 510, 1194, and 1198, along with the “Hours and Days of Work” sections of the applicable IWC Wage Orders with respect to the aggrieved employees.

Labor Code section 510 requires “[a]ny work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee;” and “any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee;” and “any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.” Labor Code section 1194 renders it unlawful for an employee to receive less than the legal overtime rate for overtime hours worked in California. Labor Code section 1198 renders “employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]” unlawful. The IWC Wage Orders further require payment of overtime wages for all overtime hours worked, including the “Hours and Days of Work” sections.

Defendants failed to pay Plaintiff and the aggrieved employees overtime wages and the lawful rate of pay for overtime hours worked, resulting in unpaid overtime wages.

When Plaintiff and other aggrieved employees worked overtime, Defendants failed to pay overtime at the “regular rate of pay.” Defendants paid Plaintiff and other aggrieved employees “Store Bonuses” and other forms of remuneration that Defendants failed to include in the overtime rate when employees worked overtime hours. Defendants paid overtime to Plaintiff and the aggrieved employees at a rate less than 1.5x the regular rate which would have factored in remuneration payments. For each overtime hour worked during the period in which Plaintiff and the aggrieved employees earned store bonuses, or other forms of non-excludable

remuneration. Defendants should have (but failed to) pay overtime “at a rate of no less than *one and one-half the regular rate of pay* for an employee” and “*twice* the regular rate of pay” for double time hours are required by the plain language of Labor Code section 510(a) and the IWC Wage Orders.

An illustrative example of the regular rate of pay violation is found on Plaintiff’s wage statement below:

|                            | Current<br>9/17/2022 - 9/23/2022 |         |                   |
|----------------------------|----------------------------------|---------|-------------------|
|                            | Hours/Units                      | Rate    | Amount            |
| <b>Earnings</b>            | <b>54.28</b>                     |         | <b>\$1,369.82</b> |
| Regular Hourly             | 2.33                             | 16.7500 | \$39.08           |
| Regular Nightshift         | 37.67                            | 17.5000 | \$659.17          |
| Holiday Worked             |                                  |         |                   |
| Sick                       |                                  |         |                   |
| COVID SPSL Posi            |                                  |         |                   |
| Overtime                   | 0.55                             | 25.4776 | \$14.01           |
| Overtime                   | 7.73                             | 26.2276 | \$202.83          |
| OT Nightshft               |                                  |         |                   |
| Retro OT - No Hours        |                                  |         |                   |
| Bonus                      |                                  |         |                   |
| <b>Store Bonus</b>         |                                  |         |                   |
| Year Bonus                 |                                  |         | \$350.00          |
| Retro Base - No Hours      |                                  |         |                   |
| FLSA OT                    |                                  |         |                   |
| Meal Penalty               | 6.00                             | 17.4550 | \$104.73          |
| Meal Penalty               |                                  |         |                   |
| Retro - Overtime           |                                  |         |                   |
| Retro - Regular Hourly     |                                  |         |                   |
| Retro - Regular Nightshift |                                  |         |                   |
| Bereavement                |                                  |         |                   |

**Extract from Plaintiff’s Wage Statement from the Pay Period 9/17/2022 to 9/23/2022**

Plaintiff’s records show that Plaintiff was paid a store bonus of \$350.00 in the same period he worked overtime. Plaintiff’s overtime rates were calculated based on 1.5x Plaintiff’s approximate blended rate, but failed to factor in the bonus Plaintiff earned in the amount of \$350. As such, Defendants failed to pay overtime at a 1.5x (or 2x, as applicable) multiple of the regular rate of pay. The failure to pay overtime at the regular rate resulted in an underpayment of meal period premium wages pursuant to Labor Code § 510’s obligation to pay overtime at one and one-half times the regular rate of pay.

Defendants committed the same regular rate of pay violations against Plaintiff and other aggrieved employees as a matter of common payroll administration and company policy in a manner susceptible to common proof.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code sections 558 (\$50/\$100), 1199 / “Penalties” section of the IWC Wage Orders) (\$50/\$100), and 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

**Unpaid Paid Sick Leave**  
**Violation of Labor Code §§ 246 through 248.7**

Defendants violated Labor Code sections 246 through 248.7 with respect to the aggrieved employees.

Labor Code section 246 requires employers to provide paid sick leave to its workforce on the terms set forth in the statute. Employers must comply with the accrual, use, and notice provisions of Labor Code sections 246, 246.5, 247, and must further ensure that they maintain the paid sick leave records required by Labor Code section 247.5. Employers have the option of providing 24 hours of paid sick leave to employees or to allow employees to accrue paid sick leave each pay period. If an employer chooses the accrual method, employees must accrue sick leave at a rate of one hour for every thirty hours worked in a given pay period as set forth in Labor Code section 246(b)(1). Under the accrual method, employees must begin accruing paid sick leave at the commencement of employment.

Employers must pay sick leave in accordance with one of the three permissible methods provided in Labor Code section 246(l): (1) “the same manner as the regular rate of pay for the workweek;” (2) “by dividing the employee’s total wages, not including overtime premium pay, by the employee’s total hours worked in the full pay periods of the prior 90 days;” or (3) “for exempt employee ... in the same manner as the employer calculates wages for other forms of paid leave time.” Labor Code sections 248.6 and 248.7 similarly require paid sick leave to be paid at a regular rate-based calculation in excess of the base hourly rate and at the lawful accrual rate.

Under Labor Code section 246(i), employers must provide employees “with written notice of the amount of paid sick leave available ... for use on either the employee’s itemized wage statement ... or in a separate writing provided on the designated pay date with the employee’s payment of wages.”

To the extent aggrieved employees earned paid sick leave, Defendants violated Labor Code section 246(l) because sick leave was not paid at the lawful regular rate of pay throughout the relevant period. The lawful regular rate of pay must factor in bonuses, commissions, and all other forms of non-excludable remuneration. Based on Defendants’ noncompliance with the regular rate of pay requirements applicable to overtime and meal /rest period premiums, Plaintiff alleges on information and belief that the regular rate miscalculation equally applied to paid sick leave with respect to the aggrieved employees, resulting in underpayments.

The failure to calculate and pay paid sick leave at one of the lawful rates set forth in Labor Code § 246(l)(1)-(3) and 247 *et seq.* was applies as a matter of common policy and practice to aggrieved employees in those periods where they earned additional payments, commissions, bonuses, or other forms of non-excludable remuneration and also paid sick leave.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

**Untimely Payment of Wages During Employment**  
**Violation of Labor Code §§ 204, 204b, 210**

Defendants violated Labor Code sections 204 and/or 204b and 210, as applicable, with respect to Plaintiff and the aggrieved employees.

Labor Code section 204(a) requires payment of “all wages” for non-exempt employees at least twice each calendar month. Labor Code section 204(d) states all wages due must be paid “not more than seven calendar days following the close of the payroll period.” Labor Code section 204b applies to employees paid on a weekly basis and also requires the payment for all labor within the required pay periods. Labor Code section 210 provides “every person who fails to pay the wages of an employee as provided in Section ... 204 ... shall be subject to a civil penalty” of \$100 for an initial violation and \$200 plus 25% of the amount unlawfully withheld for a subsequent violation.

First, Defendants had a policy and practice of paying Plaintiff and, on information and belief, other aggrieved employees at the incorrect rate of pay for the shifts they worked. Defendants offered Plaintiff and aggrieved employees different rates for day and night shifts, where night shifts were to be paid out at a higher rate.

On multiple occasions, Plaintiff noticed and informed Defendants he was being underpaid as he was being paid day rates for night shifts. On information and belief, Defendants failed to pay Plaintiff and other aggrieved employees all wages at the correct rate for all night shifts they completed during their employment.

Second, because Defendants failed to pay all wages and premiums in each pay period in which such wages were earned at the lawful rate, Defendants violated Labor Code section 204 and/or 204b (for weekly employees, as applicable). Defendants violated Labor Code sections 204 and 204b by failing to pay all wages, sick leave, and premiums owed on the regular pay days scheduled each pay period within seven calendar days of the close of the payroll period, as a result of the policies and practices set forth in this notice. Indeed, Defendants failed to pay all premiums, overtime, regular, sick leave, and other earnings on time each pay day.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, and Labor Code section 210 (\$100/\$200) per violation per pay period, along with all other civil penalties permitted by law.

**Untimely Payment of Wages Upon Separation of Employment**  
**Violation of Labor Code §§ 201, 202, 203, 256**

Defendants violated Labor Code sections 201, 202, and 203 with respect to the aggrieved employees by failing to pay all wages and premiums owed upon termination of employment.

Labor Code section 201 requires that if an employer fires an employee, the wages must be paid immediately. Labor Code section 202 requires that if an employee quits without providing 72 hours' notice, his or her wages must be paid no later than 72 hours thereafter. Labor Code section 202 states that if an employee provides 72 hours' notice, the final wages are payable upon his or her final day of employment. Labor Code section 203 requires an employer who fails to comply with Labor Code sections 201 or 202 to pay a waiting time penalty for each employee, up to a period of 30 days additional compensation.

Defendants failed to pay all wages and premiums owed to aggrieved employees during their employment as set forth in this notice, and also failed to timely pay those amounts to departing employees upon separation of employment. Defendants did not pay waiting time penalties for the late payments. As a result, Defendants violated Labor Code sections 201, 202, and 203.

As a result, Plaintiff may recover civil penalties on behalf of aggrieved employees and the State of California as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

**Non-Compliant Wage Statements**  
**Violation of Labor Code §§ 226, 226.3**

Defendants violated Labor Code sections 226(a) and 226.3 with respect to the aggrieved employees by failing to furnish itemized wage statements each pay period that accurately list all information required by Labor Code section 226(a)(1) through (9).

Labor Code section 226(a) requires an employer to furnish wage statements to employees semimonthly or at the time of each payment of wages, "an accurate itemized statement in writing showing:" (1) gross wages earned, (2) total hours worked, (3) the number of piece rate units earned and applicable piece-rate in effect, (4) all deductions, (5) net wages earned, (6) the inclusive dates of the pay period, (7) the name of the employee and last four digits of SSN or an EIN, (8) the name and address of the legal name of the employer, and (9) all applicable hourly rates in effect during the pay period and the number of hours worked at each hourly rate by the employee.

Defendants failed to provide accurate itemized wage statements to the aggrieved employees each pay period as a result of the policies and practices set forth in this notice. Defendants violated Labor Code section 226(a)(1) and (5) by not listing the correct "gross wages earned" or "net wages earned," as the employees earned wages and premiums that were not paid,

resulting in an inaccurate reflection, and recording of “gross wages earned” on those wage statements. Likewise, in violation of Labor Code section 226(a)(9), Defendants failed to state on employee wage statements each pay period the applicable hourly rates in effect and the number of hours worked at that rate, as Defendants failed to pay all wages and premiums owed to employees. The amounts stated are instead depreciated and underpaid, resulting in an inaccurate reflection on the pay stub.

Defendants violated Labor Code section 226(a)(2) by failing to accurately list employees’ “total hours worked,” as the wage statements did not accurately include uncompensated time. Plaintiff and other aggrieved employees worked due to Defendants policy and practice of requiring employees to work off-the-clock during uncompensated meal periods.

Plaintiff and other aggrieved employees cannot promptly and easily determine from the wage statement alone the wages paid or earned without reference to other documents or information. Indeed, these wage statement violations are significant because they sow confusion among Plaintiff and other aggrieved employees with respect to what amounts were owed and paid, at what rates, the number of hours worked, and how those amounts were or should be calculated. The wage statements reflect a false statement of earnings and concealed the underlying problems and underpayments of employee wages.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code sections 226.3 (\$250/\$1,000) and 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

### **Unreimbursed Employee Expenses** **Violation of Labor Code §§ 2802, 2804**

Defendants violated Labor Code section 2802 with respect to the aggrieved employees by failing to reimburse the aggrieved employees for all necessary expenditures or losses incurred as part of their job duties.

Labor Code section 2802 requires an employer to “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.” *See, e.g., Espinoza v. West Coast Tomato Growers, LLC*, 2016 WL 4468175 at \*4, n.2 (S.D. Cal. Aug. 24, 2016, No. 14-CV-2984 W (KSC)).

Labor Code section 2804 affirms that “[a]ny contract or agreement, express or implied, made by any employee to waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive any employee or his personal representative of any right or remedy to which he is entitled under the laws of this State.”

Defendants required Plaintiff and the aggrieved employees to incur costs for work-related purposes without full reimbursement. In direct consequence of their job duties, Plaintiff and the aggrieved employees unavoidably and necessarily incurred these losses, expenditures, costs, and as a matter of policy and practice. Defendants expected Plaintiff and aggrieved employees to utilize their personal cell phone to complete necessary work tasks, and to provide themselves with the required uniforms. Defendants did not provide reimbursement for the use of personal cell phones, the cost of necessary certifications, employee uniforms or the laundering of employee uniforms. Instead, Plaintiff and aggrieved employees bore the cost of these requirements, without reimbursement.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

**Failure to Maintain Accurate Records**  
**Violation of Labor Code § 1174; IWC Wage Orders**

Defendants violated Labor Code sections 1174 and the IWC Wage Orders by failing to maintain accurate employee payroll records with respect to Plaintiff and other aggrieved employees.

Labor Code section 1174 requires that employers maintain accurate “payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments.” Section 7(A) of the IWC Wage Orders, which may be enforced through Labor Code section 1198, mandates similar recordkeeping obligations.

Because of the policies and practices set forth in this notice, including the failure to accurately account for wages earned or hours worked, Defendants failed to accurately maintain records in accordance with Labor Code section 1174 and the IWC Wage Orders.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code section 1174.5 (\$500) and 2699 (\$100/\$200), along with all other civil penalties permitted by law.

**Unlawful Employment Condition**  
**Violation of Labor Code § 432.5**

Defendants violated Labor Code section 432.5 with respect to Plaintiff and other aggrieved employees by requiring that they agree to an unlawful term or condition in writing during their employment.

Labor Code section 432.5 states that “[n]o employer, or agent, manager, superintendent, or officer thereof, shall require any employee or applicant for employment to agree, in writing,



to any term or condition which is known by such employer, or agent, manager, superintendent, or officer thereof to be prohibited by law.”

As identified in this PAGA Notice, Defendants have subjected Plaintiff and aggrieved employees to a series of unlawful employment conditions, which violate California law. As such, Defendants are liable for civil penalties.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

**Attorneys’ Fees and Costs**  
**Labor Code § 2699(g)**

Plaintiff has been compelled to retain the services of counsel to protect the interests of other aggrieved employees and the State of California. Plaintiff continues to incur attorneys’ fees and costs, which are recoverable under California law, including Labor Code section 2699(g).

**- LITIGATION HOLD NOTICE -**

This letter imposes a duty upon all defendants and their respective employees, officers, directors, executives, attorneys, human resource and payroll personnel, accountants, and other agents to preserve all physical and electronic evidence, including electronically stored information and emails, which relate to the employment of Plaintiff and the aggrieved employees specified in this notice. Evidence includes, but is not limited to, Defendants’ written employment and payroll policies and handbooks; the aggrieved employees’ personnel files and payroll records, such as paystubs, time records, wage statements, compensation reports, as well as the underlying electronically data in Excel or similar format. Memoranda and internal and external correspondence relating to the subject matter of this notice shall also be maintained. Failure to preserve and retain relevant evidence may constitute spoliation of evidence and result in an adverse inference or sanctions.

If you have any questions regarding the scope your obligations to preserve evidence, please consult your legal counsel and always err on the side of caution. Periodic or regularly scheduled purges or deletions of information covered by this hold must be suspended immediately.

**- CONCLUSION -**

If the LWDA does not pursue enforcement, Plaintiff intends to bring representative claims on behalf of the State of California and the aggrieved employees seeking civil penalties for

violations of the Labor Code and the IWC Wage Orders, along with attorneys' fees, costs, interest, and other appropriate relief.

Please advise if the LWDA intends to investigate any of the factual or legal allegations set forth in this notice. Defendants may contact Plaintiff's counsel with any questions regarding this letter or the forthcoming lawsuit.

Sincerely,

A handwritten signature in blue ink that reads "Nicholas J. Ferraro". The signature is written in a cursive, flowing style.

Nicholas J. Ferraro

Cc Plaintiff Jesus Aramburo

**EXHIBIT 2**

**Tachina Garrett's Notice of Labor Code Violations**

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June 2, 2023

VIA ONLINE SUBMISSION

California Labor & Workforce Development Agency  
ATTN: PAGA Administrator  
(<https://dir.tfaforms.net/308>)

Subject: *Tachina Garrett v. Jacksons Food Stores, Inc., et al.*

Dear PAGA Administrator:

This office represents Tachina Garrett in connection with her claims under the California Labor Code. Ms. Garrett was an employee of JACKSONS FOOD STORES, INC. and/or JACKSON ENERGY LOGISTICS, LLC. For the purpose of this letter, Ms. Garrett collectively refers to these entities as “JACKSONS.”

The employers may be contacted directly at the addresses below:

JACKSONS FOOD STORES, INC.  
3450 E COMMERCIAL CT  
MERIDIAN, ID 83642

JACKSON ENERGY LOGISTICS, LLC  
3450 E COMMERCIAL CT  
MERIDIAN, ID 83642

Ms. Garrett intends to seek civil penalties, attorney’s fees, costs, and other available relief for violations of the California Labor Code, which are recoverable under sections 2698, *et seq.*, the Labor Code Private Attorneys General Act of 2004 (“PAGA”). Ms. Garrett seeks relief on behalf of herself, the State of California, and other persons who are or were employed by JACKSONS in California as a non-exempt, hourly paid employee and who received at least one wage statement (“aggrieved employees”). This letter is sent in compliance with the notice and reporting requirements of California Labor Code section 2699.3.

JACKSONS employed Ms. Garrett as a non-exempt Customer Service Representative from approximately September 2021 to October 2022. Ms. Garrett worked at JACKSONS’s convenience store located in Antioch, California. During her employment, Ms. Garrett typically worked five (5) to eight (8) hours or more per day and five (5) days per week. Ms. Garrett’s job duties included, without limitation, restocking the store, completing inventory audits, assisting customers in store and at the gas pumps, cashiering, scanning incoming orders, and taking out the trash.

JACKSONS has committed one or more of the following Labor Code violations against Ms. Garrett, the facts and theories of which follow, making her an “aggrieved employee” pursuant to California Labor Code section 2699(c):<sup>1</sup>

**JACKSONS’s Company-Wide and Uniform Payroll and HR Practices**

JACKSONS FOOD STORES, INC. is a Nevada corporation, while JACKSON ENERGY LOGISTICS, LLC is an Idaho limited liability company. JACKSONS owns and operates a chain of gas station convenience stores with over 30 locations in California. Upon information and belief, JACKSONS maintains a single, centralized Human Resources (HR) department at its corporate headquarters in La Meridian, Idaho, for all non-exempt, hourly paid employees working for JACKSONS in California, including Ms. Garrett and other aggrieved employees. At all relevant times, JACKSONS issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Ms. Garrett and other aggrieved employees, regardless of their location or position.

Upon information and belief, JACKSONS maintains a centralized Payroll department at its corporate headquarters in Meridian, Idaho, which processes payroll for all non-exempt, hourly paid employees working for JACKSONS in California, including Ms. Garrett and other aggrieved employees. Further, JACKSONS issues the same formatted wage statements in the same manner for all non-exempt, hourly paid employees working in California, including Ms. Garrett and other aggrieved employees, irrespective of their location, position, or manner in which each employee’s employment ended. In other words, JACKSONS utilized the same methods and formulas when calculating wages due to Ms. Garrett and other aggrieved employees in California.

**Violation of California Labor Code §§ 510 and 1198 – Unpaid Overtime**

California Labor Code sections 510 and 1198 and the applicable Industrial Welfare Commission (“IWC”) Wage Order require employers to pay employees working more than eight (8) hours in a day or more than forty (40) hours in a workweek at the rate of time-and-one-half (1 ½) times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek. The applicable IWC Wage Order further provides that employers are required to pay employees working more than twelve (12) hours in a day overtime compensation at a rate of two (2) times their regular rate of pay. An employee’s regular rate of pay includes all remuneration for employment paid to, or on behalf of, the employee, including nondiscretionary bonuses and incentive pay. Moreover, when an employee is paid two or more rates by the same employer during the workweek, the regular rate is the “weighted average” determined by dividing the employee’s total earnings for the workweek, including earnings during overtime hours, by the total hours worked during the workweek, including the overtime hours.

JACKSONS willfully failed to pay all overtime wages owed to Ms. Garrett and other aggrieved employees. During the relevant time period, Ms. Garrett and other aggrieved employees were not paid overtime premiums for all of the hours they worked in excess of eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40) hours in a week, because all hours that they worked were not recorded.

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<sup>1</sup> These facts, theories, and claims are based on Ms. Garrett’s experience and counsel’s review of those records currently available relating to Ms. Garrett’s employment. Discovery conducted in litigation of wage and hour claims such as these often reveals additional claims that the aggrieved employee was not initially aware of (because the aggrieved employee was not aware of the law’s requirements, the employer misinformed its employee of the law’s requirements, or because the employer effectively hid the violations). Thus, Ms. Garrett reserves the right to supplement this letter with additional facts, theories, and claims if she becomes aware of them subsequent to the submission of this letter.

First, during the relevant time period, JACKSONS had, and continues to have, a company-wide policy of strictly staffing its store locations based on the labor hours allocated by each location's labor or payroll budget set by corporate. This practice of labor budgeting and/or limited payroll allocation has resulted in chronic understaffing and a lack of adequate meal period coverage, because there were too few employees on duty to handle the workload. JACKSONS also had a practice of failing to schedule meal periods at all, which further caused Ms. Garrett and other aggrieved employees to not be relieved of their duties for compliant meal periods. As a result of this lack of meal period coverage, Ms. Garrett and other aggrieved employees were not always afforded uninterrupted 30-minute meal periods during shifts when they were entitled to receive a meal period. For example, Ms. Garrett and other aggrieved employees were required to work through meal periods or had their meal periods interrupted and/or cut short due to lack of coverage. JACKSONS did not pay Ms. Garrett and other aggrieved employees for the time they continued to perform tasks during meal periods.

Second, during the relevant period, JACKSONS had, and continues to have, a company-wide policy of discouraging and impeding other aggrieved employees from recording hours worked that were outside of their scheduled shifts in order to limit the amount of overtime employees could accrue. This policy of limiting overtime, coupled with JACKSONS's use of labor budgets and understaffing (*see supra*), led other aggrieved employees to work off-the-clock after their scheduled shifts. For example, after clocking out from their shifts, other aggrieved employees were sometimes required to stay to restock the cooler. Thus, JACKSONS failed to track this time spent working after scheduled shifts, and other aggrieved employees received no compensation for this time.

JACKSONS knew or should have known that, as a result of these company-wide practices and/or policies, Ms. Garrett and other aggrieved employees were performing their assigned duties off-the-clock during meal periods and/or after their shifts, and were suffered or permitted to perform work for which they were not paid. Because Ms. Garrett and other aggrieved employees sometimes worked shifts of eight (8) hours a day or more, or forty (40) hours a week or more, some of this off-the-clock work qualified for overtime premium pay.

Furthermore, JACKSONS did not pay Ms. Garrett and other aggrieved employees the correct overtime rates for the recorded overtime hours that they generated. In addition to an hourly wage, JACKSONS paid Ms. Garrett and other aggrieved employees incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. JACKSONS also paid Ms. Garrett and other aggrieved employees two or more hourly wage rates during the workweek, including a higher rate for night shifts, denoted as "Regular NightShi" or "Regular NightShift" on wage statements. However, in violation of the California Labor Code, JACKSONS failed to incorporate all remunerations, including incentive pay and/or nondiscretionary bonuses, or the second, higher rate of pay into the calculation of the regular rate of pay for purposes of calculating the overtime wage rates. Therefore, during times when Ms. Garrett and other aggrieved employees worked overtime and received these other forms of pay, JACKSONS failed to pay all overtime wages by paying a lower overtime rate than required.

For example, JACKSONS paid Ms. Garrett and other aggrieved employees nondiscretionary bonuses which were listed on Ms. Garrett's and other aggrieved employees' wage statements as "New Hire Bonus," "Store Bonus," and "Mystery Shop." During pay periods that Ms. Garrett and other aggrieved employees were paid overtime wages, JACKSONS did not incorporate the nondiscretionary bonuses into Ms. Garrett's and other aggrieved employees' regular rate of pay and, as a result, paid them at incorrect and lower rates of pay for overtime hours worked. Specifically, JACKSONS paid Ms. Garrett and other aggrieved employees 1.5 times their hourly rate of pay instead of 1.5 times their regular rate of pay. JACKSONS's failure to properly calculate the overtime rates of pay based on all remuneration paid has resulted in an underpayment of overtime wages to Ms. Garrett and other aggrieved employees on a company-wide basis.

JACKSONS's failure to pay Ms. Garrett and other aggrieved employees the balance of overtime compensation, as required by California law, violates the provisions of California Labor Code sections 510 and 1198. Ms. Garrett and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

**Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 – Unpaid Minimum Wages**

California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 require employers to pay employees the minimum wage fixed by the IWC. The payment of a lesser wage than the minimum so fixed is unlawful. Compensable work time is defined in IWC Wage Order No. 7-2001 as “the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.” Cal. Code Regs. tit. 8, § 11070(2)(G) (defining “Hours Worked”).

As set forth above, during the relevant time period, due to JACKSONS's policies and/or practices of utilizing a labor budget, understaffing its locations, and failing to schedule meal periods, Ms. Garrett and other aggrieved employees were impeded from taking all uninterrupted meal periods to which they were entitled and were required to work off-the-clock during meal periods and/or were otherwise not relieved of all duties during unpaid meal periods. Further, as also stated above, JACKSONS's company-wide practice and/or policy of utilizing labor budgets and limiting overtime accrual led to the failure to compensate other aggrieved employees for their time spent working off-the-clock after scheduled shifts.

Thus, JACKSONS did not pay minimum wages for all hours worked by Ms. Garrett and other aggrieved employees. To the extent that these off-the-clock hours did not qualify for overtime premium payment, JACKSONS did not pay at least minimum wages for those hours worked off-the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198.

Accordingly, JACKSONS regularly failed to pay at least minimum wages to Ms. Garrett and other aggrieved employees for all of the hours they worked in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Ms. Garrett and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 1197.1 and/or 2699(a), (f)-(g).

**Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 – Failure to Provide Meal Periods**

California Labor Code sections 226.7, 512(a), 516, and 1198 and the applicable IWC Wage Order require employers to provide meal periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. Pursuant to Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order, an employer may not require, cause or permit an employee to work for a period of more than five (5) hours per day without providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee. Under California law, first meal periods must start after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (2012). Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order also require employers to provide a second meal period of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1) additional hour of pay at the employee's regular rate, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

As stated, JACKSONS had, and continues to have, company-wide policies and/or practices of understaffing its stores due to labor budgeting and/or limited payroll allocation, which resulted in a lack of meal period coverage and prevented Ms. Garrett and other aggrieved employees from taking all timely, uninterrupted meal periods to which they were entitled. Further, as also stated, JACKSONS had a company-wide practice and/or policy of failing to schedule meal periods, which further caused Ms. Garrett and other aggrieved employees to not be relieved of their duties for compliant meal periods. As a result, Ms. Garrett and other aggrieved employees have had to work through all or part of their meal periods, had their meal periods interrupted, and/or had to wait extended periods of time before taking meal periods. For example, approximately once per month, Ms. Garrett would take her meal periods late, after having worked in excess of five (5) hours into her shift, because there was nobody to relieve her to take a meal period. Further, Ms. Garrett sometimes missed her meal periods entirely at least three (3) times during her employment, and had her meal periods interrupted at least four (4) times due to the other employee needing her assistance at the register.

Moreover, JACKSONS did not provide Ms. Garrett and other aggrieved employees with second 30-minute meal periods on days that they worked in excess of ten (10) hours in one day. For example, during the relevant time period, Ms. Garrett worked at least one shift in excess of 10 hours in one day but did not take a second meal period. Ms. Garrett and other aggrieved employees did not sign valid meal period waivers on days that they were entitled to meal periods and were not relieved of all duties.

At all times mentioned herein, JACKSONS knew or should have known that as a result of its policies, Ms. Garrett and other aggrieved employees were not actually relieved of all duties to take timely, uninterrupted meal periods. JACKSONS further knew or should have known that it did not pay Ms. Garrett and other aggrieved employees meal period premiums when meal periods were late, interrupted, shortened, and/or missed.

Furthermore, JACKSONS engaged in a company-wide practice and/or policy of not paying all meal period premiums owed when compliant meal periods are not provided. Because of this practice and/or policy, Ms. Garrett and other aggrieved employees have not received premium pay for all missed, late, and interrupted meal periods. Alternatively, to the extent that JACKSONS did pay Ms. Garrett and other aggrieved employees for missed, late, and interrupted meal periods, JACKSONS did not pay Ms. Garrett and other aggrieved employees at the correct rate of pay for premiums because JACKSONS systematically failed to include all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, or a second, higher rate of pay, in the regular rate of pay.

Accordingly, JACKSONS failed to provide all meal periods in violation of California Labor Code sections 226.7, 512(a), 516, and 1198. Ms. Garrett and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

### **Violation of California Labor Code §§ 226.7, 516, and 1198 – Failure to Authorize and Permit Rest Periods**

California Labor Code sections 226.7, 516, and 1198 and the applicable IWC Wage Order require employers to provide rest periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC. The applicable IWC Wage Order provides that "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period" and that the "rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof" unless the total daily work time is less than three and one-half (3 ½) hours.



To comply with its obligation to authorize and permit rest periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer must “relinquish any control over how employees spend their break time, and relieve their employees of all duties—including the obligation that an employee remain on call. A rest period, in short, must be a period of rest.” *Augustus, et al. v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 273 (2016).

During the relevant time period, JACKSONS regularly failed to authorize and permit Ms. Garrett and other aggrieved employees to take a ten (10) minute rest period per each four (4) hour period worked or major fraction thereof. As with meal periods, JACKSONS’s company-wide policies and/or practices of labor budgeting and/or limited payroll allocation and understaffing resulted in a lack of rest period coverage and prevented Ms. Garrett and other aggrieved employees from being relieved of all duty in order to take compliant rest periods. JACKSONS also failed to schedule rest periods, which further led to Ms. Garrett and other aggrieved employees not being authorized and permitted to take rest periods.

Furthermore, upon information and belief, JACKSONS maintained a company-wide on-premises rest period policy, which effectively required that Ms. Garrett and/or other aggrieved employees remain on JACKSONS’s premises during their rest periods. Because Ms. Garrett and/or other aggrieved employees were restricted from leaving the premises during rest periods, they were denied the ability to use their rest periods freely for their own purposes, such as running personal errands. Thus, JACKSONS effectively maintained control over Ms. Garrett and/or other aggrieved employees during rest periods.

As a result of JACKSONS’s practices and policies, Ms. Garrett and other aggrieved employees worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without receiving all uninterrupted 10-minute rest periods to which they were entitled. For example, throughout her employment, Ms. Garrett regularly had to forego her rest periods at least twice per week.

JACKSONS also has engaged in a company-wide practice and/or policy of not paying all rest period premiums owed when compliant rest periods are not authorized or permitted. Because of this practice and/or policy, Ms. Garrett and other aggrieved employees have not received premium pay for all missed rest periods. Alternatively, to the extent that JACKSONS did pay Ms. Garrett and other aggrieved employees one (1) additional hour of premium pay for missed rest periods, JACKSONS did not pay Ms. Garrett and other aggrieved employees at the correct rate of pay for premiums because JACKSONS failed to include all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, or a second, higher rate of pay, in the regular rate of pay.

Accordingly, JACKSONS failed to authorize and permit all rest periods in violation of California Labor Code sections 226.7, 516, and 1198. Ms. Garrett and other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

**Violation of California Labor Code §§ 226(a), 1174(d), and 1198 – Non-Compliant Wage Statements and Failure to Maintain Accurate Payroll Records**

California Labor Code section 226(a) requires employers to make, keep and provide true, accurate, and complete employment records. JACKSONS has not provided Ms. Garrett and other aggrieved employees with properly itemized wage statements. Labor Code section 226(e) provides that if an employer fails to comply with providing an employee with properly itemized wage statements as set forth in 226(a), then the employee is entitled to recover the greater of all actual damages or \$50 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not to exceed \$4,000. Further, Labor Code section 226.3 provides that any employer who violates section 226(a) shall be subject to a civil penalty in the amount of \$250 per employee per violation in an initial

citation and \$1,000 per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage statement or fails to keep the required records pursuant to Section 226(a).

During the relevant time period, JACKSONS has knowingly and intentionally provided Ms. Garrett and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. For example, JACKSONS issued uniform wage statements to Ms. Garrett and other aggrieved employees that fail to correctly list: gross wages earned; total hours worked; net wages earned; and all applicable hourly rates in effect during the pay period, including rates of pay for overtime wages, meal and rest period premiums, and/or paid sick leave, and the corresponding number of hours worked at each hourly rate. Specifically, JACKSONS violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

Because JACKSONS did not record the time Ms. Garrett and other aggrieved employees spent working off-the-clock and deducted time from their records for meal periods that were missed and/or interrupted (and therefore time for which they should have been paid), JACKSONS did not list the correct amount of gross wages and net wages earned by Ms. Garrett and other aggrieved employees, in compliance with section 226(a)(1) and section 226(a)(5), respectively. For the same reason, JACKSONS failed to accurately list the total number of the hours worked by Ms. Garrett and other aggrieved employees, in violation of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay period and the corresponding accurate number of hours worked at each hourly rate, in violation of section 226(a)(9).

Also, because JACKSONS did not calculate Ms. Garrett's and other aggrieved employees' regular rate of pay correctly for purposes of paying overtime wages, meal and rest period premiums, and/or paid sick leave, JACKSONS did not list the correct amount of gross wages in compliance with section 226(a)(1) and did not list the correct amount of net wages in violation of section 226(a)(5). JACKSONS also failed to correctly list all applicable hourly rates in effect during the pay period, namely, correct rates of pay for overtime wages, meal and rest period premiums, and/or paid sick leave, in violation of section 226(a)(9).

The wage statement deficiencies also include, without limitation, failing to list the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; failing to list all deductions; failing to list the inclusive dates of the period for which aggrieved employees were paid; failing to list the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number; failing to list the name and address of the legal entity that is the employer; and/or failing to state all hours worked as a result of not recording or stating hours worked off-the-clock.

California Labor Code section 1174(d) provides that “[e]very person employing labor in this state shall . . . [k]eep a record showing the names and addresses of all employees employed and the ages of all minors” and “[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. . . .” Labor Code section 1174.5 provides that employers are subject to a \$500 civil penalty if they fail to maintain accurate and complete records as required by section 1174(d). During the relevant time period, and in violation of Labor Code section 1174(d), JACKSONS willfully failed to maintain accurate payroll records for Ms. Garrett and other aggrieved employees showing the daily hours they worked and the wages paid thereto as a result of failing to record the off-the-clock hours that they worked.

California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Order. Section 1198 further provides that “[t]he employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.” Pursuant

to the applicable IWC Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period. During the relevant time period, JACKSONS engaged in company-wide practices and/or policies of failing to record actual hours worked, and thereby failed to keep accurate records of work period and meal period start and end times for Ms. Garrett and other aggrieved employees in violation of section 1198. Furthermore, in light of JACKSONS's failure to provide Ms. Garrett and other aggrieved employees with second 30-minute meal periods to which they were entitled, JACKSONS kept no records of meal start and end times for second meal periods.

Because JACKSONS failed to provide the correct net and gross wages earned, applicable rates of pay, and number of total hours worked on wage statements, Ms. Garrett and other aggrieved employees have been prevented from verifying, solely from information on the wage statements themselves, that they were paid correctly and in full. Instead, Ms. Garrett and other aggrieved employees have had to look to sources outside of the wage statements themselves and reconstruct time records to determine whether in fact they were paid correctly and the extent of underpayment, thereby causing them injury.

Ms. Garrett and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f)-(g).

#### **Violation of California Labor Code § 204 – Failure to Timely Pay Wages During Employment**

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. Alternatively, California Labor Code section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

During the relevant time period, JACKSONS failed to pay Ms. Garrett and other aggrieved employees all wages due to them, including, but not limited to, overtime wages, minimum wages, meal and rest period premiums, and/or sick leave pay, within any time period specified by California Labor Code section 204.

Ms. Garrett and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 210 and/or 2699(a), (f)-(g).

#### **Violation of California Labor Code §§ 201 and 202 – Failure to Timely Pay Final Wages Upon Termination**

California Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (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.

On information and belief, JACKSONS has a company-wide practice and/or policy of paying departing employees their final wages late, instead of adhering to the time requirements set forth in Labor Code

sections 201 and 202. For example, JACKSONS terminated Ms. Garrett on or about October 15, 2022; however, JACKSONS did not provide Ms. Garrett with her final pay until about October 19, 2022. Thus, JACKSONS failed to pay Ms. Garrett her final wages immediately, in violation of California Labor Code section 201.

Additionally, JACKSONS willfully failed to pay Ms. Garrett and other aggrieved employees who are no longer employed by JACKSONS all their earned wages, including, but not limited to, overtime wages, minimum wages, meal and rest period premiums, and/or sick leave pay, either at the time of discharge, or within seventy-two (72) hours of their leaving JACKSONS's employ.

Ms. Garrett and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 256 and/or 2699(a), (f)-(g).

### **Violation of California Labor Code §§ 246 and 248.6 – Failure to Properly Calculate Paid Sick Leave and Provide Written Notice of Paid Sick Leave**

At all relevant times herein, California Labor Code sections 245.5, 246, 246.5, 247, 247.5, 248.5, and 249 provide employees who have worked in California for 30 or more days from the commencement of employment with paid sick days, to be accrued at least one hour for every 30 hours worked. Labor Code section 246(i) provides that an employer must provide an employee with written notice that sets forth the amount of paid sick leave available, or paid time off that an employer provides in lieu of sick leave, for use on either the employee's itemized wage statement or in a separate written statement provided on the designated pay date with the employee's wages. Further, Labor Code section 246(l) provides that an employer shall calculate paid sick leave by using one of two calculations: 1) "[p]aid sick time for nonexempt employees shall be calculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek[;]" or 2) "[p]aid sick time for nonexempt employees shall be calculated by dividing the employee's total wages, not including overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of employment."

At all relevant times herein, California Labor Code section 248.6 provides covered employees with COVID-19 supplemental paid sick leave. Effective through December 31, 2022, Labor Code section 248.6(d) provides that COVID-19 supplemental paid sick leave shall be set forth separately from paid sick days and that an "employer shall provide an employee with written notice that sets forth the amount of COVID-19 supplemental paid sick leave that the employee has used through the pay period in which it was due to be paid on either the employee's itemized wage statement . . . or in a separate written statement provided on the designated pay date with the employee's payment of wages. The employer shall list zero hours used if a worker has not used any COVID-19 supplemental paid sick leave." Further, Labor Code section 248.6(b)(3)(A) provides that each hour of COVID-19 supplemental paid sick leave shall be compensated at a rate equal to the following: 1) "[c]alculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek[;]" or 2) "[c]alculated by dividing the employee's total wages, not including overtime premium pay, by the employee's total nonovertime hours worked in the full pay periods occurring within the prior 90 days of employment; provided that, for nonexempt employees paid by piece rate, commission or other method that uses all hours to determine the regular rate of pay, total wages, not including overtime premium pay, shall be divided by all hours, to determine the correct amount of COVID-19 supplemental paid sick leave under this subdivision."

During the relevant time period, on information and belief, JACKSONS did not pay Ms. Garrett and other aggrieved employees the correct sick leave rates of pay. First, JACKSONS failed to correctly use either method of calculation under Labor Code section 246(l) to determine Ms. Garrett's and other aggrieved employees' sick leave rates of pay. For example, Ms. Garrett's paystub for the pay period August 13

through August 19, 2022, indicates that she was paid a “Regular Hourly” rate of \$18.50, a “Regular Nightshift” rate of \$19.25, an “Overtime” rate of \$27.8094, and a “Meal Penalty” rate of \$18.50. However, the four (4) hours of “Sick” time is only paid at a rate of only \$17.50 per hour, despite the fact that the regular rate of pay for the workweek in which Ms. Garrett used the paid sick time must have been at least \$18.50 per hour and, for the prior 90 days of employment, her hourly rate of pay had been at least \$18.50 per hour. Therefore, on information and belief, during times when Ms. Garrett and other aggrieved employees took sick leave, JACKSONS failed to pay all sick leave benefits by paying a lower sick leave pay rate than required. Specifically, JACKSONS paid Ms. Garrett and other aggrieved employees sick leave based on the wrong hourly rate of pay.

Second, as stated, in addition to an hourly wage, JACKSONS paid Ms. Garrett and other aggrieved employees incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. As stated, JACKSONS also paid Ms. Garrett and other aggrieved employees two or more rates during the workweek, including a higher rate for night shifts, denoted as “Regular NightShi” or “Regular NightShift” on paystubs. However, in violation of the California Labor Code, JACKSONS failed to incorporate all remunerations, including incentive pay and/or nondiscretionary bonuses, or the second, higher rate of pay into the calculation of the regular rate of pay for purposes of calculating the sick leave pay rate. Therefore, during times when Ms. Garrett and other aggrieved employees took sick leave and received these other forms of pay, JACKSONS failed to pay all sick leave benefits by paying a lower sick leave pay rate than required. Specifically, JACKSONS paid Ms. Garrett and other aggrieved employees sick leave based on their hourly rate of pay instead of their regular rate of pay.

Moreover, during the relevant time period, JACKSONS failed, on a company-wide basis, to provide Ms. Garrett and other aggrieved employees with written notice on all wage statements that listed the amount of COVID-19 supplemental paid sick leave used by them.

JACKSONS’s failure to properly calculate the sick leave rates of pay based on all remuneration paid has resulted in an underpayment of sick leave benefits to Ms. Garrett and other aggrieved employees on a company-wide basis in violation of Labor Code sections 246(l) and 248.6(b)(3)(A). Moreover, JACKSONS’ systematic failure to provide written notice of COVID-19 supplemental paid sick leave benefits to Ms. Garrett and other aggrieved employees is in violation of Labor Code section 248.6(d).

Ms. Garrett and other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon, pursuant to Labor Code sections 248.5 and/or 2699(a), (f)-(g).

**Violation of California Labor Code § 1198 and California Code of Regulations Title 8, Section 11070 Subdivision 13(B) – Failure to Provide Suitable Resting Facilities**

California Labor Code section 1198 makes it illegal to employ an employee under conditions of labor that are prohibited by the applicable IWC Wage Order. California Labor Code section 1198 requires that “. . . the standard conditions of labor fixed by the commission shall be the . . . standard conditions of labor for employees. The employment of any employee . . . under conditions of labor prohibited by the order is unlawful.” California Code of Regulations, Title 8, section 11070(13)(B) provides that “[s]uitable resting facilities shall be provided in an area separate from the toilet rooms and shall be available to employees during work hours.”

JACKSONS’s California store locations are generally similar in their layout and design and there was, and continues to be, space that allows for a resting facility that employees may use to cease work and recover during meal or rest periods. JACKSONS could have provided Ms. Garrett and other aggrieved employees with a suitable resting facility within all of its store locations, with reasonable or no modification, but instead denied, and continues to deny, employees suitable areas to rest (e.g., a breakroom with seats). As a result, Ms. Garrett and other aggrieved employees were forced to adjust to

areas not conducive to resting, such as standing to use shelving in lieu of a table or searching for areas outside of the store which are not designated or reserved for their rest.

JACKSONS did not provide Ms. Garrett and other aggrieved employees with suitable resting facilities during their work hours, particularly during meal or rest periods. In other words, during the times when Ms. Garrett and other aggrieved employees were legally allowed to forgo assigned tasks, as in during a meal or rest period, JACKSONS denied them any area within its store locations to cease work and recover. Moreover, JACKSONS did not inform Ms. Garrett and other aggrieved employees of their rights to suitable resting facilities under California law.

As a result of JACKSONS's company-wide failure to provide suitable resting facilities in its store locations, Ms. Garrett and other aggrieved employees were forced to adjust to areas not conducive to resting or search for facilities outside their stores to cease work and recover. JACKSONS's failure to provide suitable resting facilities to Ms. Garrett and other aggrieved employees violates California Labor Code section 1198 and IWC Wage Order No. 7-2001, subdivision 13(B).

Ms. Garrett and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, and seek injunctive relief to bring JACKSONS into compliance with California's resting facilities requirements, pursuant to Labor Code sections 1194.5 and/or 2699(a), (f)-(g).

**Violation of California Labor Code § 1198 and California Code of Regulations Title 8, Section 11070 Subdivision 14(A) – Failure to Provide Suitable Seating**

California Labor Code section 1198 makes it illegal to employ an employee under conditions of labor that are prohibited by the applicable IWC Wage Order. California Labor Code section 1198 requires that “. . . the standard conditions of labor fixed by the commission shall be the . . . standard conditions of labor for employees. The employment of any employee . . . under conditions of labor prohibited by the order is unlawful.” California Code of Regulations, Title 8, section 11070(14)(A) provides that “[a]ll working employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats.”

“The ‘nature of the work’ refers to an employee’s tasks performed at a given location for which a right to a suitable seat is claimed, rather than a ‘holistic’ consideration of the entire range of an employee’s duties anywhere on the jobsite during a complete shift. If the tasks being performed at a given location reasonably permit sitting, and provision of a seat would not interfere with performance of any other tasks that may require standing, a seat is called for.” *Kilby v. CVS Pharmacy, Inc.*, 368 P.3d 554, 558 (Cal. 2016). “Whether the nature of the work reasonably permits sitting is a question to be determined objectively based on the totality of the circumstances. An employer’s business judgment and the physical layout of the workplace are relevant but not dispositive factors. The inquiry focuses on the nature of the work, not an individual employee’s characteristics.” *Id.* The burden of proof to show suitable seating is not available is on the employer. *Id.* At 568. In other words, the employer must show that compliance is “infeasible because no suitable seating exists.” *See id.*

JACKSONS's California stores are generally similar in their layout and design and there was, and continues to be, space behind cash wraps to allow for the presence and use of a seat or stool by Ms. Garrett and other aggrieved employees (with reasonable or no modification to these work areas) during the performance of their work duties. JACKSONS could provide Ms. Garrett and other aggrieved employees with a seat or stool at its cash wraps, but instead denies employees seating and forces other aggrieved employees to stand throughout the day.

Ms. Garrett and other aggrieved employees spent a substantial portion of their day behind or at these cash wraps. The nature of the work of an employee performing cashier duties can reasonably be accomplished

from a seated position. However, as set forth herein, JACKSONS systematically, and on a company-wide basis, does not provide seats or stools at or near the cash wraps, forcing Ms. Garrett and other aggrieved employees to stand throughout their work shifts.

JACKSONS violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11070(14)(A) because Ms. Garrett and other aggrieved employees were not allowed to sit, even when the nature of the work would reasonably permit the use of seats, nor were they provided with suitable seats. JACKSONS's management did not inform Ms. Garrett and other aggrieved employees that they were allowed to sit down, provide any means for them to sit down, or mention any policy regarding sitting.

As a result of JACKSONS's company-wide policy and/or practice of prohibiting employees from sitting during their shifts and company-wide failure to provide suitable seating, Ms. Garrett and other aggrieved employees were forced to stand during shifts and denied seats. JACKSONS's failure to provide suitable seating to Ms. Garrett and other aggrieved employees violates California Labor Code section 1198 and IWC Wage Order No. 7-2001, subdivision 14(A).

Ms. Garrett and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, and seek injunctive relief to bring JACKSONS into compliance with California's seating requirements, pursuant to Labor Code sections 1194.5 and/or 2699(a), (f)-(g).

**Violation of California Labor Code § 1198 and California Code of Regulations Title 8, Section 11070 Subdivision 14(B) – Failure to Provide Suitable Seating**

California Labor Code section 1198 makes it illegal to employ an employee under conditions of labor that are prohibited by the applicable IWC Wage Order. California Labor Code section 1198 requires that “. . . the standard conditions of labor fixed by the commission shall be the . . . standard conditions of labor for employees. The employment of any employee . . . under conditions of labor prohibited by the order is unlawful.” California Code of Regulations, Title 8, section 11070(14)(B) provides that “[w]hen employees are not engaged in the active duties of their employment and the nature of the work requires standing, an adequate number of suitable seats shall be placed in reasonable proximity to the work area and employees shall be permitted to use such seats when it does not interfere with the performance of their duties.”

The IWC states that subdivision 14(B) applies during “lulls in operation” when an employee, while still on the job, is not then actively engaged in any duties. *Kilby v. CVS Pharmacy, Inc.*, 368 P.3d 554, 565 (Cal. 2016), citing IWC, 1976 Wage Orders, Summary of Basic Provisions, Seats. When taken together, an employee is entitled to a seat under subdivision 14(A) if his or her actual tasks at a discrete location make seated work feasible, while working there. *Id.* However, if other job duties take the employee to a different location where he or she must perform tasks requiring standing, the employee would be entitled to a seat under subdivision 14(B) during “lulls in operation.” *Id.*

JACKSONS's California stores are generally similar in their layout and design and there was, and continues to be, space near their work areas (with reasonable or no modification to these work areas) to allow for the presence and use of a seat or stool by Ms. Garrett and other aggrieved employees during lulls in operation. JACKSONS could have provided Ms. Garrett and other aggrieved employees with a seat or stool in its work areas, but instead denied, and continues to deny, employees seating, forcing them to stand throughout the day.

JACKSONS did not provide Ms. Garrett and other aggrieved employees with seats or stools in reasonable proximity to their work areas to allow them to use seats when it would not interfere with the performance of their duties for times when they were not engaged in active duties that require standing. In other

words, to the extent Ms. Garrett and other aggrieved employees engaged in duties in which the nature of the work required standing, JACKSONS denied them the use of seats nearby during lulls in their work duties. Moreover, JACKSONS did not inform Ms. Garrett and other aggrieved employees of their rights to a seat or stool under California law.

As a result of JACKSONS's company-wide policy and/or practice of prohibiting employees from sitting at any time, even when they were not engaged in active duties requiring standing, and company-wide failure to provide seats in reasonable proximity to their work areas, Ms. Garrett and other aggrieved employees were forced to stand during shifts and denied seats. JACKSONS's failure to provide suitable seating to Ms. Garrett and other aggrieved employees violates California Labor Code section 1198 and IWC Wage Order No. 7-2001, subdivision 14(B).

Ms. Garrett and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, and seek injunctive relief to bring JACKSONS into compliance with California's seating requirements, pursuant to Labor Code sections 1194.5 and/or 2699(a), (f)-(g).

### **Violation of California Labor Code § 2802 – Unreimbursed Business Expenses**

California Labor Code section 2802 requires employers to pay for all necessary expenditures and losses incurred by the employee in the performance of his or her job. The purpose of Labor Code section 2802 is to prevent employers from passing off their cost of doing business and operating expenses on to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144 (2014). The applicable wage order, IWC Wage Order No. 7-2001, provides that: "[w]hen tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft." IWC Wage Order No. 7-2001 further provides that: "[w]hen uniforms are required by the employer to be worn by the employee as a condition of employment, such uniforms shall be provided and maintained by the employer."

First, during the relevant time period, JACKSONS had a company-wide policy of requiring Ms. Garrett and other aggrieved employees to utilize their own personal mobile devices, including, but not limited to, cellular phones, and/or mobile data to carry out their job duties, but JACKSONS failed to reimburse them for the costs of their work-related mobile device expenses. For example, Ms. Garrett was required to download a mobile application on her personal cellular phone, "DayForce," and to regularly use her mobile data to view her scheduled shifts, timesheets, and paystubs and request time off. Ms. Garrett and other aggrieved employees were not compensated for the cost of the mobile data used to download and access the application. Further, Ms. Garrett and other aggrieved employees used their personal cellular phones to communicate with management via text messages regarding work-related matters and in order to take photos of theft incidents and send them to management for review and recordkeeping. Although JACKSONS required Ms. Garrett and other aggrieved employees to utilize their personal mobile devices and/or mobile data to carry out their work-related duties, JACKSONS failed to reimburse them for these costs.

Second, during the relevant time period, JACKSONS, on a company-wide basis, required that other aggrieved employees use their own personal vehicles to run company errands. For example, other aggrieved employees were required to use their personal vehicles and drive within a 2-mile radius of the store to conduct gas surveys (noting the gas prices at nearby gas stations). Although JACKSONS required other aggrieved employees to utilize their personal vehicles to carry out their work-related responsibilities, JACKSONS failed to reimburse them for their mileage or travel expenses.



Third, during the relevant time period, JACKSONS, on a company-wide basis, required Ms. Garrett and other aggrieved employees to obtain and pay for certain certifications, such as a ServSafe certificate, which were required for their continued employment, as well as associated costs such as training and/or examination fees. For example, Ms. Garrett complied with this requirement and spent approximately \$10.95 to obtain a ServSafe certificate, but, on information and belief, JACKSONS did not reimburse her for the costs of obtaining the certification. Thus, JACKSONS failed to reimburse Ms. Garrett and other aggrieved employees for the costs of obtaining these certifications, including training and/or examination fees.

Fourth, during the relevant time period, JACKSONS required Ms. Garrett and other aggrieved employees to wear uniforms bearing JACKSONS's company logo, including uniform t-shirts. However, JACKSONS did not provide its employees with sufficient uniforms to wear for their shifts throughout the week. For example, JACKSONS only provided Ms. Garrett with one (1) t-shirt at the time of hire. Because JACKSONS failed to provide Ms. Garrett and other aggrieved employees with an adequate number of uniform items in relation to their scheduled shifts, Ms. Garrett and other aggrieved employees had to wash their uniforms more frequently than they otherwise would do laundry, and incur expenses in doing so. For example, Ms. Garrett would spend approximately \$10 per week at the laundromat for the upkeep of her uniform. Thus, JACKSONS failed to maintain the uniforms it required Ms. Garrett and other aggrieved employees to wear during their shifts and forced them to incur the cost of maintaining employee uniforms.

JACKSONS could have provided Ms. Garrett and other aggrieved employees with the actual equipment for use on the job, such as company mobile devices and company vehicles, and an adequate number of uniforms or access to laundering services. Or, JACKSONS could have reimbursed employees for their mobile device usage, mileage, travel expenses, certification expenses, and laundering expenses or provided a uniform maintenance allowance. Instead, JACKSONS passed these operating costs off onto Ms. Garrett and other aggrieved employees. At all relevant times, Ms. Garrett did not earn at least two (2) times the minimum wage.

Thus, JACKSONS had, and continues to have, a company-wide policy and/or practice of not reimbursing employees for expenses necessarily incurred in violation of California Labor Code section 2802. Ms. Garrett and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

### **Violation of California Labor Code § 2810.5(a)(1)(A)-(C) – Failure to Provide Notice of Material Terms of Employment**

California's Wage Theft Prevention Act was enacted to ensure that employers provide employees with basic information material to their employment relationship at the time of hiring, and to ensure that employees are given written and timely notice of any changes to basic information material to their employment. Codified at California Labor Code section 2810.5, the Wage Theft Prevention Act provides that at the time of hiring, an employer must provide written notice to employees of the rate(s) of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, the regular payday designated by the employer, and any allowances claims as part of the minimum wage, including meal or lodging allowances. Effective January 1, 2015, an employer's written notice pursuant to section 2810.5 must also include a statement that the employee may accrue and use sick leave; has a right to request and use accrued paid sick leave; may not be terminated or retaliated against for using or requesting the use of accrued paid sick leave; and has the right to file a complaint against an employer who retaliates.

JACKSONS failed to provide Ms. Garrett and other aggrieved employees written notice that lists the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C). JACKSONS's failure to

provide Ms. Garrett and other aggrieved employees with written notice of basic information regarding their employment with JACKSONS is in violation of Labor Code section 2810.5.

Ms. Garrett and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

**California Labor Code § 558(a)**

California Labor Code section 558(a) provides “[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid. . . . (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid. . . .” Labor Code section 558(c) provides that “[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law.” JACKSONS, at all relevant times, was an employer or person acting on behalf of an employer(s) who violated Ms. Garrett’s and other aggrieved employees’ rights by violating various sections of the California Labor Code.

Accordingly, Ms. Garrett seeks the remedies set forth in Labor Code section 558 for herself, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 1194.5, 2699(a), 2699.3(a) and 2699.3(c), 2699.5, and 558, Ms. Garrett, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties and injunctive relief for herself, all other aggrieved employees, and the State of California against JACKSONS for violations of California Labor Code sections 201, 202, 204, 226(a), 226.7, 246, 248.6, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5.

Therefore, on behalf of all aggrieved employees, Ms. Garrett seeks all applicable penalties related to these violations of the California Labor Code pursuant to PAGA.

Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

Mao Shiokura  
Capstone Law APC  
1875 Century Park East, Suite 1000  
Los Angeles, CA 90067  
(310) 556-4811

Best Regards,



Mao Shiokura

Copy: JACKSONS FOOD STORES, INC. (via U.S. Certified Mail); JACKSON ENERGY LOGISTICS, LLC (via U.S. Certified Mail)

Capstone Law, APC  
1875 Century Park, East, 1000  
Los Angeles, CA. 90067



7022 2410 0000 2405 8580

Jackson Food Stores, Inc.  
3450 E. Commercial Ct.  
Meridian, ID 83642

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**OFFICIAL USE**

Certified Mail Fee: \_\_\_\_\_

Additional Services & Fees (check box, add fee as appropriate):  
 Return Receipt (hardcopy) \_\_\_\_\_  
 Return Receipt (electronic) \_\_\_\_\_  
 Certified Mail Restricted Delivery \_\_\_\_\_

Signature: GABRIEL V. JACKSON  
Postmark: \_\_\_\_\_

Jackson Food Stores, Inc.  
3450 E. Commercial Ct.  
Meridian, ID 83642

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**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece.

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature \_\_\_\_\_  Agent  
**X** \_\_\_\_\_  Addressee

B. Received by (Printed Name) \_\_\_\_\_ C. Date of Delivery \_\_\_\_\_

Is delivery address different from item 17?  Yes  
If YES, enter delivery address below:  No

Jackson Food Stores, Inc.  
3450 E. Commercial Ct.  
Meridian, ID 83642



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- Service Type
- Signature Restricted Delivery
  - Certified Mail®
  - Certified Mail Restricted Delivery
  - Collect on Delivery
  - Collect on Delivery Restricted Delivery
  - Priority Mail Express®
  - Registered Mail™
  - Registered Mail Restricted Delivery
  - Signature Confirmation™
  - Signature Confirmation Restricted Delivery

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|   |          |
|---|----------|
| <input checked="" type="checkbox"/> Return Receipt Electronic | \$ _____ |
| <input type="checkbox"/> Return Receipt (hardcopy)            | \$ _____ |
| <input type="checkbox"/> Certified Mail Restricted Delivery   | \$ _____ |

Signature: CARROLL W JACKSON

Postmark Here \_\_\_\_\_

**Jackson Energy Logistics, LLC**  
 3450 E. Commercial Ct.  
 Meridian, ID 83642

7022 2410 0000 2405 8573

Jackson Energy Logistics, LLC  
 3450 E. Commercial Ct.  
 Meridian, ID 83642

**SENDER: COMPLETE THIS SECTION**

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- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece.

Jackson Energy Logistics, LLC  
 3450 E. Commercial Ct.  
 Meridian, ID 83642

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  Agent  
 Addressee

B. Received by (Printed Name) \_\_\_\_\_ C. Date of Delivery \_\_\_\_\_

Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No

- Service Type
- |  |   |
|--|---|
| <input checked="" type="checkbox"/> Certified Mail®              | <input type="checkbox"/> Priority Mail Express®                     |
| <input type="checkbox"/> Certified Mail Restricted Delivery      | <input type="checkbox"/> Registered Mail™                           |
| <input type="checkbox"/> Collect on Delivery                     | <input type="checkbox"/> Registered Mail Restricted Delivery        |
| <input type="checkbox"/> Collect on Delivery Restricted Delivery | <input type="checkbox"/> Signature Confirmation™                    |
|  | <input type="checkbox"/> Signature Confirmation Restricted Delivery |



2 4550 8462 7706 2122 15 10 68

7022 2410 0000 2405 8573

if Restricted Delivery

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece,

**Jackson Food Stores, Inc.**  
**3450 E. Commercial Ct.**  
**Meridian, ID 83642**



2. Amount of Transfer from ~~Postage to the~~

7022 2410 0000 2405 8580

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

*[Handwritten Signature]*

Agent

Addressee

B. Received by (Printed Name)

*Lore Lutton*

C. Date of Delivery

*06/05*

Is delivery address different from item 1?  Yes

If YES, enter delivery address below:  No

Service Type

Adult Signature Restricted Delivery

Certified Mail®

Certified Mail Restricted Delivery

Collect on Delivery

Collect on Delivery Restricted Delivery

Priority Mail Express®

Registered Mail™

Registered Mail Restricted Delivery

Signature Confirmation™

Signature Confirmation Restricted Delivery

Restricted Delivery

(over \$500)