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

ANDRES GARCIA, individually and on  
behalf of all others similarly situated,

Plaintiff,

vs.

UNION CITY HOTEL MANAGEMENT  
CORPORATION, a New Mexico  
corporation; PACIFIC PEARL HOTELS  
LLC, a Delaware limited liability company;  
APMC HOTEL MANAGEMENT LLC, a  
New Mexico limited liability company; and  
DOES 1 through 20, inclusive,

Defendants.

DIANA VINALAY, individually and on  
behalf of all others similarly situated,

Plaintiff,

vs.

UNION CITY HOTEL MANAGEMENT  
CORPORATION; and DOES 1 through 20,  
inclusive,

Defendants.

Case No. 37-2019-00021268-CU-OE-CTL

*Assigned For All Purposes to the:  
Hon. Katherine A. Bacal  
Dept. 69*

**~~[PROPOSED]~~ ORDER TO CONSOLIDATE  
ACTIONS FOR ALL PURPOSES**

Case No. 37-2019-00021559-CU-OE-CTL

*Assigned for all purposes to:  
Hon. Judge Eddie C. Sturgeon  
Dept: C-67*

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**PROPOSED ORDER**

The Court, having reviewed the Parties' stipulation, and finding good cause therefore, **GRANTS** the Parties' request.

The *Garcia* Action (Case No. 37-2019-00021268-CU-OE-CTL) and the *Vinalay* Action (Case No. 30-2019-00021559-CU-OE-CTL) are hereby consolidated for all purposes. Plaintiffs' counsel will serve as co-lead counsel following consolidation of the actions..

The Clerk of the Court is directed to file a copy of this Order in Case Nos. Case No. 37-2019-00021268-CU-OE-CTL and Case No. 30-2019-00021559-CU-OE-CTL, but no further documents or copies thereof need to be filed in those actions.

The Consolidated Complaint, attached hereto as Exhibit A, is hereby deemed filed as of the date the Court signs this Order. Defendant's responsive pleading is due within 30 days of the date the Court signs this Order.

**IT IS SO ORDERED.**

Dated: 1/4/2021



Hon. Katherine A. Bacal  
JUDGE OF THE SUPERIOR COURT

# **EXHIBIT A**

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14 Attorneys for Plaintiffs ANDRES GARCIA, DIANA VINALAY,  
15 individually, and on behalf of all others similarly situated

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

18 ANDRES GARCIA, DIANA VINALAY,  
19 individually and on behalf of all others  
20 similarly situated,

21 Plaintiffs,

22 v.

23 UNION CITY HOTEL MANAGEMENT  
CORPORATION, a New Mexico corporation;  
24 PACIFIC PEARL HOTELS LLC, a Delaware  
limited liability company; APMC HOTEL  
25 MANAGEMENT LLC, a New Mexico limited  
liability company; and DOES 1 through 10,  
26 inclusive,

27 Defendants.  
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Case No. 37-2019-00021268-CU-OE-CTL

(Consolidated with  
Case No. 37-2019-00021559-CU-OE-CTL)

*Assigned for All Purposes to the Hon.  
Katherine A. Bacal, Dept. 69*

**CLASS ACTION**

**CONSOLIDATED CLASS AND  
REPRESENTATIVE ACTION  
COMPLAINT FOR:**

**1. FAILURE TO PAY ALL WAGES  
(LABOR CODE §§ 510, 1194, 1197, 1198;  
IWC WAGE ORDER 5-2001)**

**2. FAILURE TO PROVIDE REST  
PERIODS OR COMPENSATION IN LIEU**



I.

**INTRODUCTION AND FACTUAL BACKGROUND**

1  
2  
3 1. This is a Class Action and Representative Action, pursuant to Code of Civil Procedure  
4 § 382 and Labor Code § 2698 *et seq.*, on behalf of Plaintiffs and certain individuals who currently  
5 work or formerly worked for Defendants within the State of California.

6 2. From April 24, 2015 and continuing to the present (the “liability period”), Defendants  
7 have had a consistent policy of failing to pay all minimum and overtime wages due and owing to  
8 Plaintiffs and Class Members (as defined below) during the course of their employment; failing to  
9 provide legally compliant meal and rest periods or compensation in lieu thereof to Class Members;  
10 failing to provide accurately itemized wage statements to Class Members; failing to reimburse  
11 business expenses to Class Members; and failing to timely pay wages upon separation of employment  
12 to Class Members.

13 3. Plaintiffs, on behalf of themselves and members of the Class, bring this action pursuant  
14 to Labor Code §§ 201-203, 226, 226.7, 510, 512, 1194, 1194.2, 1197, 1198, and 2802 for all unpaid  
15 wages and premium wages, reimbursement of business expenses, civil and statutory penalties,  
16 interest, injunctive and other equitable relief, and reasonable attorneys’ fees and costs.

17 4. Plaintiffs, on behalf of themselves and members of the Class and pursuant to Business  
18 & Professions Code §§ 17200-17208, also seek injunctive relief, restitution, and disgorgement of all  
19 benefits Defendants enjoyed from their failure to pay all wages and failure to reimburse business  
20 expenses to Class Members.

21 5. Plaintiffs, on behalf of themselves and all aggrieved employees pursuant to Labor  
22 Code §§ 2698 *et seq.*, seeks civil penalties for Defendants’ various violations of the California Labor  
23 Code.

24 6. Venue is proper in this judicial district, pursuant to Code of Civil Procedure § 395.  
25 The Labor Code violations alleged against each Defendants herein arose in San Diego County,  
26 California.

27 ///

28 ///

1 **II.**

2 **PARTIES**

3 7. Plaintiff ANDRES GARCIA was employed by Defendants from July 2018 through  
4 November 2018 as a non-exempt employee in San Diego County, California.

5 8. Plaintiff DIANA VINALAY worked for Defendants from June 2011 through  
6 September 2018 as a non-exempt employee in San Diego County, California

7 9. During their work with Defendants, Plaintiffs were:

- 8 a. Willfully denied the payment of all minimum and overtime wages due;  
9 b. Willfully denied meal and rest breaks or compensation in lieu thereof;  
10 c. Willfully denied accurately itemized wage statements;  
11 d. Willfully denied the reimbursement of expenses incurred in the discharge of  
12 their duties and  
13 e. Denied the timely payment of wages upon separation of their employment.

14 **B. Defendants**

15 10. Defendant UNION CITY HOTEL MANAGEMENT CORPORATION is a New  
16 Mexico corporation. Defendant UNION CITY HOTEL MANAGEMENT CORPORATION  
17 employed Plaintiffs and Class Members throughout the State of California, including San Diego  
18 County, California.

19 11. Defendant PACIFIC PEARL HOTELS LLC is a Delaware limited liability company.  
20 Defendant PACIFIC PEARL HOTELS LLC employed Plaintiffs and Class Members throughout the  
21 State of California, including San Diego County, California.

22 12. Defendant APMC HOTEL MANAGEMENT LLC is a New Mexico limited liability  
23 company. Defendant APMC HOTEL MANAGEMENT LLC employed Plaintiffs and Class  
24 Members throughout the State of California, including San Diego County, California.

25 13. The true names and capacities, whether individual, corporate, associate, or otherwise,  
26 of Defendants sued herein as DOES 1 to 10, inclusive, are currently unknown to Plaintiffs, who  
27 therefore sues Defendants by such fictitious names under Code of Civil Procedure § 474. Plaintiffs  
28 are informed and believe, and based thereon allege, that each of the Defendants designated herein as

1 a DOE is legally responsible in some manner for the unlawful acts referred to herein. Plaintiffs will  
2 seek leave of court to amend this Complaint to reflect the true names and capacities of the Defendants  
3 designated hereinafter as DOES when such identities become known.

4 14. Plaintiffs are informed and believe, and based thereon allege, that each Defendant  
5 acted in all respects pertinent to this action as the agent of the other Defendants, carried out a joint  
6 scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendant are  
7 legally attributable to the other Defendants.

8 15. The Defendants named herein as DOE 1 through DOE 10 are and were persons acting  
9 on behalf of, or acting jointly with, Defendants, who violated, or caused to be violated, one or more  
10 provisions of the California Labor Code as alleged herein.

### 11 III.

#### 12 CLASS ACTION ALLEGATIONS

13 16. Plaintiffs bring this action on behalf of themselves and all others similarly situated as  
14 a Class Action pursuant to § 382 of the Code of Civil Procedure. Plaintiffs seek to represent the  
15 following class composed of and defined as follows (hereinafter, "Class Members"):

#### 16 THE CLASS

17 All California citizens currently or formerly employed by Defendants  
18 as non-exempt employees in the State of California from April 24, 2015  
19 to the date the class is certified ("Class").

20 17. Plaintiffs reserve the right under Rule 3.765, California Rules of Court, to amend or  
21 modify these class descriptions with greater specificity or further division into subclasses or limitation  
22 to particular issues.

23 19. This action has been brought and may properly be maintained as a class action under  
24 the provisions of § 382 of the Code of Civil Procedure because there is a well-defined community of  
25 interest in the litigation and the proposed Class is easily ascertainable.

#### 26 A. Numerosity

27 20. The potential members of the Class as defined are so numerous that joinder of all the  
28 members the Class is impracticable. While the precise number of members of the Class has not been



1 ascertained at this time, Plaintiffs are informed and believe, and based thereon allege, that Defendants  
2 currently employ, and during the relevant time periods employed, over 300 persons in the State of  
3 California who fall within the Class definition.

4 21. Accounting for employee turnover during the relevant period necessarily increases this  
5 number. Plaintiffs allege Defendants' employment records would provide information as to the  
6 number and location of members of the Class. Joinder of members of the Class is not practicable.

7 **B. Commonality**

8 22. There are questions of law and fact common to the Class that predominate over any  
9 questions affecting only individual Class Members. These common questions of law and fact include,  
10 without limitation:

- 11 a. Whether Defendants failed to pay Plaintiffs and Class Members all minimum  
12 and overtime wages due and owing during the course of their employment, in  
13 violation of Labor Code §§ 510 and 1194;
- 14 b. Whether Defendants failed to properly provide rest periods or compensation in  
15 lieu thereof to Plaintiffs and Class Members, in violation of Labor Code §  
16 226.7 and IWC Wage Order 5-2001;
- 17 c. Whether Defendants failed to properly provide meal periods or compensation  
18 in lieu thereof to Plaintiffs and Class Members, in violation of Labor Code §§  
19 226.7, 512 and IWC Wage Order 5-2001;
- 20 d. Whether Defendants failed to provide Plaintiffs and Class Members with  
21 accurately itemized wage statements, in accordance with Labor Code § 226(a)  
22 and (e);
- 23 e. Whether Defendants failed to timely pay Plaintiffs and members of the Class  
24 all wages due and owing at the separation of their employment, in violation of  
25 Labor Code §§ 201-203; and
- 26 f. Whether Plaintiffs and Class Members are entitled to equitable relief pursuant  
27 to Business & Professions Code § 17200 *et seq.*

28 ///

1 **C. Typicality**

2 23. The claims of the named Plaintiffs are typical of the claims of members of the Class.  
3 Plaintiffs and members of the Class sustained injuries and damages arising out of and caused by  
4 Defendants' common course of conduct in violation of laws, regulations that have the force and effect  
5 of law, and statutes as alleged herein.

6 **D. Adequacy of Representation**

7 24. Plaintiffs will fairly and adequately represent and protect the interests of members of  
8 the Class. Counsel who represents Plaintiffs are competent and experienced in litigating large  
9 employment class actions.

10 **E. Superiority of Class Action**

11 25. A class action is superior to other available means for the fair and efficient adjudication  
12 of this controversy. Individual joinder of all proposed members of the Class is not practicable, and  
13 questions of law and fact common to the proposed Class predominate over any questions affecting  
14 only individual members of the proposed Class. Each member of the proposed Class has been  
15 damaged and is entitled to recovery by reason of Defendants' illegal policies and/or practices.

16 26. Class action treatment will allow those similarly situated persons to litigate their  
17 claims in the manner that is most efficient and economical for the parties and the judicial system.  
18 Plaintiffs are unaware of any difficulties that are likely to be encountered in the management of this  
19 action that would preclude its maintenance as a class action.

20 **IV.**

21 **CAUSES OF ACTION**

22 **FIRST CAUSE OF ACTION**

23 **PLAINTIFFS AND THE CLASS AGAINST ALL DEFENDANTS**

24 **FAILURE TO PAY ALL MINIMUM AND OVERTIME WAGES**

25 **(LABOR CODE §§ 510, 1194, 1197, 1198 AND IWC WAGE ORDER 5-2001)**

26 27. Plaintiffs incorporate paragraphs 1 through 26 of this Complaint as though fully set  
27 forth herein.

1           28. Labor Code §§ 1194 and 1197 provide that the minimum wage for employees fixed  
2 by the IWC is the minimum wage to be paid to employees, and the payment of a lesser wage than the  
3 minimum so fixed is unlawful.

4           29. Labor Code § 1198 and the applicable IWC Wage Order provide that it is unlawful to  
5 employ persons without compensating them at a rate of pay either one and one-half (1½) or two (2)  
6 times the person's regular rate of pay, depending on the number of hours or days worked by the person  
7 on a daily or weekly basis.

8           30. California Labor Code § 510 codifies the right to overtime compensation at one and  
9 one-half (1½) times the regular hourly rate for hours worked in excess of eight (8) hours in a day or  
10 forty (40) hours in a week and for the first eight (8) hours worked on the seventh consecutive day of  
11 work, and overtime compensation at twice the regular hourly rate for hours worked in excess of twelve  
12 (12) hours in a day or in excess of eight (8) hours in a day on the seventh day of work in a workweek.

13           31. During the relevant time period, Defendants paid Plaintiffs and Class Members less  
14 than minimum wages when they failed to pay proper compensation for all hours worked, including  
15 time worked performed off-the-clock during meal periods. As such, Plaintiff and Class Members were  
16 not paid wages for all hours worked.

17           32. During the liability period, Defendants rounded down the hours reflected on Plaintiffs'  
18 and Class Members' time records to pay fewer hours than were actually worked. On a weekly basis,  
19 this rounding deprived them of significant hours worked. As such, they are not properly compensated  
20 for all hours worked and/or overtime hours worked over eight (8) in one workday and over forty (40)  
21 in one workweek.

22           33. As a result of the unlawful acts of Defendants in willfully failing to pay all minimum  
23 and overtime wages, Plaintiffs and members of the Class have been deprived of wages in amounts to  
24 be determined at trial, and are entitled to restitution and recovery of such amounts, plus interest  
25 thereon, attorneys' fees, and costs pursuant to Labor Code § 1194.

26           Wherefore, Plaintiffs and the Class they seek to represent request relief as described below.

27       ///

28       ///

V.

**SECOND CAUSE OF ACTION**

**PLAINTIFFS AND THE CLASS AGAINST ALL DEFENDANTS**

**FAILURE TO PROVIDE REST PERIODS OR COMPENSATION IN LIEU THEREOF**

**(LABOR CODE § 226.7 AND IWC WAGE ORDER 5-2001)**

34. Plaintiffs incorporate paragraphs 1 through 33 of this Complaint as though fully set forth herein.

35. Plaintiffs and Class Members are entitled to one hour of pay for each day that Defendants failed to properly provide one or more rest periods as set forth in Labor Code § 226.7 and IWC Wage Order 5-2001.

35. Defendants failed to provide Plaintiffs and Class Members proper rest periods, or compensation in lieu thereof, in violation of Labor Code § 226.7 and IWC Wage Order 5-2001. Due to the busy nature of their work schedules, Plaintiffs and Class Members were unable to always take, and not authorized to take, 10-minute rest periods for every four hours of work or major fraction thereof. When Plaintiffs and Class Members were able to take a rest period, they were oftentimes cut short due to the busy nature of their jobs. Plaintiffs and Class Members were also required to carry a two-way radio and respond to any calls during their rest periods and were unable to leave the work premises during their rest periods. This resulted in on-duty rest periods.

33. Pursuant to Labor Code § 226.7 and IWC Wage Order 5-2001, Plaintiffs seek the payment of all rest period compensation which they and Class Members are owed for four years preceding the filing of this Action, according to proof.

Wherefore, Plaintiffs and the Class they seek to represent request relief as described below.

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**VI.**

**THIRD CAUSE OF ACTION**

**PLAINTIFFS AND THE CLASS AGAINST ALL DEFENDANTS**

**FAILURE TO PROVIDE MEAL PERIODS OR COMPENSATION IN LIEU THEREOF**

**(LABOR CODE § 226.7 AND 512 AND IWC WAGE ORDER 5-2001)**

34. Plaintiffs incorporate paragraphs 1 through 33 of this Complaint as though fully set forth herein.

35. Plaintiffs and Class Members are entitled to one hour of pay for each day that Defendants failed to properly provide one or more meal periods as set forth in Labor Code § 226.7 and IWC Wage Order 5-2001.

36. Labor Code § 512(a) provides that 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.

37. Labor Code § 512(a) also provides that an employer may not employ an employee for a work period of more than ten (10) hours per day without providing the employee with a second meal period of not less than thirty (30) minutes, 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.

38. Defendants failed to provide Plaintiffs and Class Members proper meal periods, or compensation in lieu thereof, in violation of Labor Code §§ 226.7 and 512 and IWC Wage Order 5-2001. Plaintiffs and Class Members were routinely denied, and not authorized to take, an uninterrupted, 30-minute meal period for every shift worked that exceeded five hours in duration, and a second meal period when they worked shifts greater than ten hours, but were not paid premium wages of one hour's pay for each missed meal period. When Plaintiffs and Class Members were able to take their meal period, they were oftentimes late or cut short due to the busy nature of their jobs. Defendants also required Plaintiffs and Class Members to carry a two-way radio and respond to any

1 calls during their meal periods, resulting in an on-duty meal period. This violates Labor Code §§  
2 226.7 and 512.

3 39. Pursuant to Labor Code §§ 226.7 and 512 and IWC Wage Order 5-2001, Plaintiffs  
4 seek the payment of all meal period compensation which they and Class Members are owed for four  
5 years preceding the filing of this Action, according to proof.

6 Wherefore, Plaintiffs and the Class they seek to represent request relief as described below.

7 **VII.**

8 **FOURTH CAUSE OF ACTION**

9 **PLAINTIFFS AND THE CLASS AGAINST ALL DEFENDANTS**

10 **KNOWING AND INTENTIONAL FAILURE TO COMPLY WITH ITEMIZED**

11 **EMPLOYEE WAGE STATEMENT PROVISIONS**

12 **(LABOR CODE § 226(a), (e), (h))**

13 40. Plaintiffs incorporate paragraphs 1 through 39 of this Complaint as though fully set  
14 forth herein.

15 41. Section 226(a) of the California Labor Code requires Defendants to provide wage  
16 statements to employees. In those wage statements, Defendants must provide an accurate itemized  
17 statement in writing showing (1) gross wages earned, (2) total hours worked by the employee..., (3)  
18 the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-  
19 rate basis, (4) all deductions, provided that all deductions made on written orders of the employee  
20 may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period  
21 for which the employee is paid, (7) the name of the employee and only the last four digits of his or  
22 her social security number or an employee identification number other than a social security number,  
23 (8) the name and address of the legal entity that is the employer..., and (9) all applicable hourly rates  
24 in effect during the pay period and the corresponding number of hours worked at each hourly rate by  
25 the employee. Defendants have knowingly and intentionally failed to comply with Labor Code §  
26 226(a).

27 42. As stated above, Plaintiffs and Class Members were not paid all wages due, including  
28 premium wages for unauthorized meal and rest periods, and minimum and overtime wages due, as

1 stated above. As such, the wage statements provided by Defendants failed to accurately state all gross  
2 wages earned, in violation of Labor Code § 226(a)(1), total hours worked, in violation of Labor Code  
3 § 226(a)(2), net wages earned, in violation of Labor Code § 226(a)(5), and all applicable hourly rates  
4 in effect during the pay period and the corresponding number of hours worked at each rate, in  
5 violation of Labor Code § 226(a)(9). Separately, the wage statements issued to Plaintiffs and Class  
6 Members failed to set forth a rate for overtime rate, in violation of Labor Code § 226(a)(9). This  
7 information is not present on their wage statements. Also, separately, some of the wage statements  
8 issued to Plaintiffs and Class Members incorrectly list “Union City Hotel Mgmt Corp Double Tree  
9 Hotel San Diego Downtown” as the employing entity in violation of Labor Code § 226(a)(8).

10 43. As a consequence of Defendants’ willful conduct in failing to provide Class Members  
11 with accurate itemized wage statements, Plaintiffs and members of the Class have been injured  
12 because they have not been paid all wages due and/or were issued wage statements which do not  
13 reflect, and fail to state, all information required by Labor Code § 226(a). The missing information  
14 cannot be discerned at all from the face of the wage statements themselves. As a result, Plaintiffs and  
15 Class Members are entitled to penalties pursuant to Labor Code § 226(e) to recover the greater of all  
16 actual damages or \$50 for the initial pay period in which a violation occurs and \$100 per employee  
17 for each violation in a subsequent pay period, not exceeding an aggregate penalty of \$4,000 per  
18 employee, and are entitled to an award of costs and reasonable attorneys’ fees pursuant to Labor Code  
19 § 226(h).

20 Wherefore, Plaintiffs and the Class they seek to represent request relief as described below.

21 **VIII.**

22 **FIFTH CAUSE OF ACTION**

23 **PLAINTIFFS AND THE CLASS AGAINST ALL DEFENDANTS**

24 **FAILURE TO TIMELY PAY WAGES UPON SEPARATION EMPLOYMENT**

25 **(LABOR CODE §§ 201-203)**

26 44. Plaintiffs incorporate paragraphs 1 through 43 of this Complaint as though fully set  
27 forth herein.  
28









1 **EIGHTH CAUSE OF ACTION**

2 **PLAINTIFFS AND ALL AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS**

3 **PENALTIES PURSUANT TO LABOR CODE § 2698, ET SEQ.**

4 64. Plaintiffs incorporate paragraphs 1 through 63 of this Complaint as though fully set  
5 forth herein.

6 65. As a result of the acts alleged above, including the Labor Code violations set forth  
7 herein, Plaintiffs seek penalties pursuant to Labor Code § 2698 *et seq.*

8 Pursuant to Labor Code § 2699(a), any provision of the Labor Code that provides for a civil  
9 penalty to be assessed and collected by the Labor and Workforce Development Agency (“LWDA”)  
10 or any of its departments, divisions, commissions, boards, agencies or employees for violation of the  
11 code may, as an alternative, be recovered through a civil action brought by an aggrieved employee  
12 on behalf of himself or herself and other current or former employees pursuant to the procedures  
13 specified in Labor Code § 2699.3.

14 66. For all provisions of the Labor Code except those for which a civil penalty is  
15 specifically provided, Labor Code § 2699(f) imposes upon Defendant a penalty of one hundred dollars  
16 (\$100.00) for each aggrieved employee per pay period for the initial violation and two hundred dollars  
17 (\$200.00) for each aggrieved employee per pay period for each subsequent pay period in which  
18 Defendant violated these provisions of the Labor Code.

19 67. Defendants’ conduct violates numerous Labor Code sections, including, but not  
20 limited to, the following:

- 21 (a) Violation of Labor Code §§ 201-204, 210, 510, 1194, 1194.2, 1197 and 1198  
22 for failure to timely pay all earned wages (including minimum wages and  
23 overtime wages) owed to Plaintiff and other aggrieved employees during  
24 employment and upon separation of employment as herein alleged;
- 25 (b) Violation of Labor Code § 226.7 for failure to permit rest breaks to Plaintiff  
26 and other aggrieved employees and failure to pay premium wages for missed  
27 rest breaks as herein alleged;

- 1 (c) Violation of Labor Code §§ 226.7 and 512 for failure to provide meal periods  
2 to Plaintiff and other aggrieved employees and failure to pay premium wages  
3 for missed meal periods as herein alleged;
- 4 (d) Violation of Labor Code § 2802 for failure to reimburse all out of pocket  
5 expenses as herein alleged;
- 6 (e) Violation of Labor Code § 226 and 226.3 for failure to provide accurate  
7 itemized wage statements to Plaintiff and other aggrieved employees as herein  
8 alleged; and
- 9 (f) Violation of Labor Code §§ 1174 and 1174.5 for failure to maintain accurate  
10 and complete records showing, among other things, the hours worked daily  
11 by and the wages paid to aggrieved employees.

12 68. As set forth above, Defendants have violated numerous provisions of the Labor Code  
13 regulating hours and days of work as well as the IWC Wage Orders. Accordingly, Plaintiffs seek the  
14 remedies set forth in Labor Code § 558 for themselves, other aggrieved employees, and the State of  
15 California.

16 69. For each such violation, Plaintiffs and all Aggrieved Employees are entitled to  
17 penalties and other relief in an amount to be shown at the time of trial subject to the following formula:  
18 Pursuant to Labor Code § 2699(f), \$100 for each initial violation and \$200 for each subsequent  
19 violation of the Labor Code.

20 70. Penalties recovered will be allocated 75% to the Labor and Workforce Development  
21 Agency, and 25% to the affected employees.

22 71. On January 23, 2019 and on April 25, 2019, Plaintiffs sent letters, by online  
23 submission to the LWDA and by certified mail, return receipt requested, to Defendants setting forth  
24 the facts and theories of the violations alleged against Defendants, as prescribed by Labor Code §  
25 2698 *et seq.* Pursuant to Labor Code § 2699.3(a)(2)(A), no notice was received by Plaintiffs from  
26 the LWDA within sixty-five (65) calendar days of January 23, 2019 and April 25, 2019, respectively.  
27 Plaintiffs may therefore commence this action to seek civil penalties pursuant to Labor Code § 2698  
28 *et seq.*



1           12. For an order requiring Defendants to restore and disgorge all funds to each employee  
2 acquired by means of any act or practice declared by this Court to be unlawful, unfair or fraudulent  
3 and, therefore, constituting unfair competition under California Business and Professions Code §§  
4 17200, *et seq.*

5           13. For liquidated damages pursuant to California Labor Code § 1194.2

6           14. An award providing for payment of costs of suit;

7           15. An award of attorneys' fees;

8           16. For civil penalties pursuant to Labor Code § 2698 *et seq.* for Plaintiffs and all other  
9 Aggrieved Employees; and

10          17. Such other and further relief as this Court may deem just and proper.

11  
12 Dated: December 30, 2020

Respectfully submitted,

GAINES & GAINES  
A Professional Law Corporation

13  
14  
15 By: 

ALEX P. KATOFSKY  
DANIEL F. GAINES  
Attorney for Plaintiffs

16  
17  
18 AEGIS LAW FIRM, PC

19  
20 By: 

JESSICA L. CAMPBELL  
JOSEPH M. SZILAGYI  
Attorney for Plaintiffs


**DEMAND FOR JURY TRIAL**

Plaintiffs hereby demands a trial of their claims by jury to the extent authorized by law.


Dated: December 30, 2020

Respectfully submitted,

GAINES & GAINES  
A Professional Law Corporation

By:   
ALEX P. KATOFSKY  
DANIEL F. GAINES  
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AEGIS LAW FIRM, PC

By:   
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