

1 MATTHEW J. MATERN (SBN 159798)  
2 AUBRY WAND (SBN 281207)  
3 Matern Law Group  
4 1230 Rosecrans Avenue, Suite 200  
5 Manhattan Beach, California 90266  
6 Telephone: (310) 531-1900  
7 Facsimile: (310) 531-1901

8 MICHAEL RUBIN (SBN 80618)  
9 BARBARA J. CHISHOLM (SBN 224656)  
10 MATTHEW J. MURRAY (SBN 271461)  
11 Altshuler Berzon LLP  
12 177 Post Street, Suite 300  
13 San Francisco, California 94108  
14 Telephone: (415) 421-7151  
15 Facsimile: (415) 362-8064  
16 E-mail: mrubin@altshulerberzon.com  
17 bchisholm@altshulerberzon.com  
18 mmurray@altshulerberzon.com

19 JOSEPH M. SELLERS  
20 (*pro hac vice*)  
21 ABIGAIL E. SHAFROTH  
22 (*pro hac vice*)  
23 Cohen Milstein Sellers & Toll, PLLC  
24 1100 New York Ave NW, Suite 500  
25 Washington, DC 20005  
26 Telephone: (202) 408-4600  
27 Facsimile: (202) 408-4699  
28 E-mail: jsellers@cohenmilstein.com  
ashafroth@cohenmilstein.com

1 Attorneys for Plaintiffs MARIA SANCHEZ,  
2 DAVID CRUZ, INES MENDEZ MERINO,  
3 and JONATHAN VALENTIN, on behalf of  
4 themselves and all others similarly situated

5 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
6 COUNTY OF LOS ANGELES — CENTRAL CIVIL WEST

7 MARIA SANCHEZ, DAVID CRUZ, INES  
8 MENDEZ MERINO, and JONATHAN  
9 VALENTIN, as individuals, and on behalf of all  
10 others similarly situated,

11 Plaintiffs,

12 vs.

13 MCDONALD'S RESTAURANTS OF  
14 CALIFORNIA, INC., a California corporation;  
15 MCDONALD'S OF CULVRI-SEPULVEDA, a  
16 business entity of unknown form; and DOES 1  
17 through 100, inclusive,

18 Defendants.

19 ) Case No. BC499888  
20 ) [Hon. Jane L. Johnson]

21 ) **CLASS ACTION**  
22 ) **THIRD AMENDED COMPLAINT**

- 23 ) 1. Failure to Pay All Wages When Due  
24 ) 2. Failure to Provide Required Meal Periods  
25 ) 3. Failure to Provide Required Rest Breaks  
26 ) 4. Failure to Pay Overtime Wages  
27 ) 5. Failure to Pay Minimum Wage  
28 ) 6. Failure to Pay All Wages Due to  
Discharged and Quitting Employees  
1 ) 7. Failure to Maintain Required Records  
2 ) 8. Failure to Furnish Accurate Itemized  
3 ) Wage Statements  
4 ) 9. Failure to Indemnify Employees for  
5 ) Necessary Expenditures  
6 ) 10. Unfair and Unlawful Business Practices  
7 ) 11. Declaratory Judgment  
8 ) 12. Penalties under the Labor Code Private  
9 ) Attorneys General Act

10 ) **DEMAND FOR JURY TRIAL**

1 **INTRODUCTION**

2 1. This is a class action and representative action brought under California law by four  
3 individuals who are or were employed by Defendants MCDONALD’S RESTAURANTS OF  
4 CALIFORNIA, INC., and MCDONALD’S OF CULVR1-SEPULVEDA (along with the Doe  
5 defendants, collectively hereinafter “Defendants” or “McDonald’s”) to work in one or more of  
6 McDonald’s corporate-owned California fast food restaurants. Plaintiffs MARIA SANCHEZ,  
7 DAVID CRUZ, INES MENDEZ MERINO and JONATHAN VALENTIN bring this action on  
8 behalf of themselves and other similarly situated hourly non-exempt employees (hereinafter “crew  
9 members”) to recover the wages that McDonald’s stole – and is continuing to steal – from them in  
10 violation of California law. Plaintiffs also seek redress for McDonald’s wrongful schemes to hide  
11 and to cover up the extent of its wrongdoing by improperly altering records of hours worked and  
12 compensation owed; concealing, denying, and/or misrepresenting to the workers the amount of  
13 their earnings; and denying workers the opportunity to take legally mandated meal periods and rest  
14 breaks while also refusing to pay workers statutorily-required pay for all missed, late, and  
15 shortened meal periods and rest breaks.

16 2. Like other similarly situated crew members whom McDonald’s also employed  
17 during the applicable limitations period, Plaintiffs Sanchez, Cruz, Merino and Valentin spend or  
18 spent their workdays at McDonald’s restaurants filling orders, preparing and cooking food, and/or  
19 serving customers under stressful conditions that are worsened by McDonald’s insistence that each  
20 customer transaction must be completed within an unreasonably brief period of time and its  
21 requirement that at none of its restaurants may the ratio of labor costs to gross sales exceed a pre-  
22 determined fixed percentage at any time. McDonald’s closely monitors the labor cost/sales ratio at  
23 each of its restaurants, and knows and intends this requirement to have the regular and foreseeable  
24 consequence of encouraging its restaurant managers to obtain considerable off-the-clock and  
25 unpaid work, unpaid overtime, and uncompensated late or missed meal periods and rest breaks  
26 from its workers at the expense of those workers’ rights under California law.

27 3. McDonald’s is a multi-billion dollar global fast-food business. On information and  
28 belief, it operates more than 35,000 restaurants globally, including more than 1,300 restaurants in

1 California. Approximately 103 of these restaurants in California are owned and operated directly  
2 by McDonald's ("corporate restaurants"). This action involves wage theft and other violations of  
3 crew members' legal rights at McDonald's corporate restaurants throughout California.

4 4. Despite its vast revenues, McDonald's pays or paid Plaintiffs Sanchez, Cruz,  
5 Merino, and Valentin and other crew members only the minimum wage or slightly more than the  
6 minimum wage. In addition to the considerable corporate profit that McDonald's reaps by paying  
7 Plaintiffs Sanchez, Cruz, Merino, and Valentin and similarly situated crew members at or near the  
8 lowest amount per hour permitted by law, McDonald's also obtains increased and unlawful profits  
9 by depriving Plaintiffs Sanchez, Cruz, Merino, and Valentin and similarly situated crew members  
10 of compensation for work actually performed, in violation of California law, including by: altering  
11 or condoning the alteration of time records to deprive Plaintiffs Sanchez, Cruz, Merino, and  
12 Valentin and similarly situated crew members of pay for time they worked and overtime premiums  
13 they earned; requiring, suffering, or permitting Plaintiffs Sanchez, Cruz, Merino, and Valentin and  
14 similarly situated crew members to work off the clock without compensation; failing to pay legally  
15 required additional wages and penalties when McDonald's failed or fails to provide Plaintiffs  
16 Sanchez, Cruz, Merino, and Valentin and similarly situated crew members with full and timely  
17 meal periods and rest breaks; and failing to reimburse Plaintiffs Sanchez, Cruz, Merino, and  
18 Valentin and similarly situated crew members for expenses McDonald's required or requires them  
19 to incur.

20 5. Plaintiffs Sanchez, Cruz, Merino, and Valentin seek declaratory, compensatory and  
21 other statutorily available relief, and current employee Plaintiff Merino seeks injunctive relief, for  
22 themselves and the class of all current and former crew member employees of McDonald's  
23 corporate restaurants in California during the applicable limitations period ("Class Members") to  
24 compensate these low-wage workers for the wages McDonald's has stolen from them and to  
25 protect current and future McDonald's workers from being subjected to similar wage theft and  
26 unlawful working conditions perpetrated by this multi-billion dollar business.

#### 27 JURISDICTION AND VENUE

28 6. The Superior Court of the State of California has jurisdiction in this matter because

1 Defendants MCDONALD'S RESTAURANTS OF CALIFORNIA, INC., which on information  
2 and belief is a California corporation, and MCDONALD'S OF CULVRI-SEPULVEDA, which is  
3 a business entity of unknown form, and DOES 1 through 100, inclusive, each regularly conduct  
4 business in California. Further, no federal question is at issue because all Plaintiffs' claims are  
5 based solely on California law.

6 7. Venue is proper in this judicial district and the County of Los Angeles, California  
7 because Plaintiffs Sanchez, Cruz, and Valentin and other persons similarly situated performed  
8 work for Defendants in the County of Los Angeles, because Defendants maintain offices and  
9 facilities and transact business in the County of Los Angeles, and because Defendants' illegal wage  
10 theft policies and practices that are the subject of this action were applied, at least in part, to  
11 Plaintiffs Sanchez, Cruz, and Valentin and other persons similarly situated in the County of Los  
12 Angeles.

### 13 PARTIES

14 8. Plaintiff MARIA SANCHEZ was a fast-food restaurant worker who was employed  
15 by Defendants as a crew member at the McDonald's restaurant located at 4835 South Sepulveda  
16 Boulevard in Culver City, California, from approximately 2003 through 2012. Ms. Sanchez is a  
17 resident of the State of California. Before her employment at McDonald's ended, her wage rate  
18 was \$9.28 per hour.

19 9. Plaintiff DAVID CRUZ was a fast-food restaurant worker who was employed by  
20 Defendants as a crew member at the McDonald's corporate restaurant located at 12950 Foothill  
21 Boulevard in San Fernando, California, from approximately January 2013 through January 2014.  
22 Mr. Cruz is a resident of Pacoima, California. Before his employment at McDonald's ended, his  
23 wage rate was \$8.20 per hour.

24 10. Plaintiff INES MENDEZ MERINO is a fast-food restaurant worker who has been  
25 employed by Defendants as a crew member at the McDonald's corporate restaurant located at 1620  
26 Strobridge Avenue in Castro Valley, California, from approximately 2010 through the present.  
27 Ms. Merino is a resident of Hayward, California. Her wage rate is \$9.25 per hour.  
28

1           11.     Plaintiff JONATHAN VALENTIN was a fast-food restaurant worker who was  
2 employed by Defendants as a crew member at the McDonald's corporate restaurant located at 101  
3 W. Manchester Avenue in Los Angeles, California, from approximately October 2012 through  
4 approximately March 2014. Mr. Valentin is a resident of Los Angeles, California. Before his  
5 employment at McDonald's ended, his wage rate was \$8.15 per hour.

6           12.     Each of the Plaintiffs identified immediately above brings this lawsuit on her or his  
7 own behalf, on behalf of all similarly situated current and former McDonald's crew members  
8 employed by Defendants at corporate restaurants in the State of California, and on behalf of all  
9 aggrieved employees and the general public pursuant to California Labor Code §2698 et seq. and  
10 California Business & Professions Code §17200 et seq. Plaintiffs Sanchez, Cruz, Merino, and  
11 Valentin bring this class action to recover, among other things, wages and penalties for unpaid  
12 wages earned and due, including but not limited to: unpaid minimum wages; unpaid and  
13 improperly calculated overtime compensation; unpaid additional wages for late, missed and  
14 shortened meal periods and rest breaks; damages and penalties due for failure to maintain required  
15 records, to provide accurate itemized wage statements, and to indemnify employees for necessary  
16 expenditures and/or losses incurred in discharging their duties; and interest, attorneys' fees, costs,  
17 and expenses. In addition, current employee Plaintiff Merino seeks injunctive relief, former  
18 employee Plaintiff Sanchez seeks to recover unpaid wages due to discharged employees, and  
19 former employees Plaintiffs Cruz and Valentin seek to recover unpaid wages due to quitting  
20 employees.

21           13.     The proposed class these Plaintiffs seek to represent includes the following similarly  
22 situated individuals: All individuals currently or formerly employed by Defendants as crew  
23 members at one or more of Defendants' corporate (i.e., non-franchise) restaurants in California at  
24 any time within the period beginning four (4) years prior to the filing of this action on January 24,  
25 2013 and ending at the time this action proceeds to final judgment (the "Class Period"). Plaintiffs  
26 reserve the right to later name additional class representatives and to identify sub-classes and sub-  
27 class representatives as may be necessary and appropriate.

1           14.       Plaintiffs are informed and believe, and thereon allege, that Defendant  
2 MCDONALD'S RESTAURANTS OF CALIFORNIA, INC. is a California corporation that  
3 operates in California principally operating fast-food restaurants and providing restaurant and  
4 related services; and that at all relevant times, Defendant McDonald's Restaurants of California,  
5 Inc. has done business in California and committed the unlawful acts alleged in this Complaint.

6           15.       Plaintiffs are informed and believe, and thereon allege, that Defendant  
7 MCDONALD'S OF CULVR1-SEPULVEDA is a business entity of unknown form that conducts  
8 business in the State of California; and that MCDONALD'S OF CULVR1-SEPULVEDA  
9 maintains offices and facilities and conducts business in the County of Los Angeles, State of  
10 California.

11          16.       The true names and capacities of DOES 1 through 100, inclusive, are unknown to  
12 Plaintiffs at this time, and Plaintiffs therefore sue such DOE Defendants under fictitious names.  
13 Plaintiffs are informed and believe, and thereon allege, that each Defendant designated as a DOE is  
14 in some manner responsible for the occurrences alleged herein, and that all Plaintiffs' and Class  
15 Members' injuries and damages, as alleged herein, were proximately caused by the conduct of such  
16 DOE Defendants. Plaintiffs will seek leave of the Court to amend this complaint to allege the true  
17 names and capacities of such DOE Defendants when ascertained.

18          17.       All Defendants are collectively referred to herein as "McDonald's" or  
19 "Defendants."

20          18.       At all relevant times herein, Defendants were the joint employers of Plaintiffs  
21 Sanchez, Cruz, Merino, and Valentin and Class Members. Plaintiffs are informed and believe, and  
22 thereon allege, that at all times material to this complaint Defendants were the alter egos, divisions,  
23 affiliates, integrated enterprises, joint employers, subsidiaries, parents, principals, related entities,  
24 coconspirators, authorized agents, partners, joint venturers, and/or guarantors, actual or ostensible,  
25 of each other. Each Defendant was completely dominated by his, her or its co-Defendant, and each  
26 was the alter ego of the other.

27          19.       At all relevant times herein, Plaintiffs Sanchez, Cruz, Merino, and Valentin and  
28 Class Members were employed by Defendants under employment agreements that were partly

1 written, partly oral, and partly implied. Plaintiffs are informed and believe, and thereon allege, that  
2 in perpetrating the acts and omissions alleged herein, Defendants acted pursuant to, and in  
3 furtherance of, their policies and practices of not paying Plaintiffs Sanchez, Cruz, Merino, and  
4 Valentin and Class Members all wages earned and due, through methods and schemes which  
5 include, but are not limited to, altering time records in a manner that results in failure to pay for all  
6 time Plaintiffs Sanchez, Cruz, Merino, and Valentin and Class Members actually worked; failing to  
7 pay overtime premiums to Plaintiffs Sanchez, Cruz, Merino, and Valentin and Class Members;  
8 failing to provide rest breaks and meal periods as required by law to Plaintiffs Sanchez, Cruz,  
9 Merino, and Valentin and Class Members; requiring, permitting or suffering Plaintiffs Sanchez,  
10 Cruz, Merino, and Valentin and Class Members to work off the clock; failing to properly maintain  
11 records regarding Plaintiffs Sanchez, Cruz, Merino, and Valentin and Class Members; failing to  
12 provide accurate itemized statements for each pay period to Plaintiffs Sanchez, Cruz, Merino, and  
13 Valentin and Class Members; and failing to properly compensate Plaintiffs Sanchez, Cruz, Merino,  
14 and Valentin and Class Members for necessary expenditures, in violation of the California Labor  
15 Code and the applicable IWC Wage Order.

16 20. Plaintiffs are informed and believe, and thereon allege, that each and every act and  
17 omission alleged herein was performed by, and/or attributable to, all Defendants, each acting as  
18 agents and/or employees of, and/or under the direction and control of, each of the other  
19 Defendants, and that said acts and failures to act were within the course and scope of said agency,  
20 employment, and/or direction and control.

21 21. As a direct and proximate result of the unlawful actions of Defendants, Plaintiffs  
22 Sanchez, Cruz, Merino, and Valentin and Class Members have suffered, and continue to suffer,  
23 losses of earnings in amounts as yet unascertained, but subject to proof at trial, and within the  
24 jurisdiction of this Court.

#### 25 **FACTUAL ALLEGATIONS**

26 22. Plaintiffs are informed and believe, and thereon allege, that McDonald's operates  
27 approximately 103 corporately owned (i.e., non-franchise) fast food restaurants throughout  
28 California. In each of these corporate restaurants, McDonald's employs low-wage crew members

1 who perform a variety of duties, including but not limited to working as cashiers, taking food  
2 orders from customers at the counter and at the drive through, serving and presenting food to  
3 customers, stocking supplies, preparing and cooking food, and cleaning the restaurant.

4 23. McDonald's maintains tight control over its restaurants and requires each of its  
5 restaurants to operate in a manner that reduces labor costs while satisfying strict criteria for the  
6 timing of customer service, food production, and other restaurant functions.

7 24. McDonald's has a policy and practice of curtailing labor costs and requiring its  
8 restaurants to limit labor costs to no more than a predetermined percentage of its gross sales.  
9 Whenever during the course of a workday or other time period a particular restaurant's labor costs  
10 exceed that percentage, McDonald's requires its restaurant managers take prompt steps to reduce  
11 labor costs.

12 25. McDonald's limits labor costs not only by paying crew members low wages that are  
13 at or near the minimum wage, but also by maintaining, encouraging and approving policies that  
14 deny Plaintiffs Sanchez, Cruz, Merino, and Valentin and Class Members their full and timely  
15 wages when due.

16 26. As a result of the policies and practices described below, time that Plaintiffs  
17 Sanchez, Cruz, Merino, and Valentin and Class Members worked or work routinely did not or does  
18 not appear on their pay stubs, and McDonald's unlawfully failed or fails to compensate Plaintiffs  
19 Sanchez, Cruz, Merino, and Valentin and Class Members for all the time they have worked or for  
20 their missed, untimely, and shortened rest breaks and meal periods.

21 **Missed, Late and Shortened Meal Periods and Rest Breaks**

22 27. McDonald's maintained and maintains a policy and practice of providing rest breaks  
23 and meal periods to Plaintiffs Sanchez, Cruz, Merino, and Valentin and Class Members in such a  
24 manner that Plaintiffs Sanchez, Cruz, Merino, and Valentin and Class Members did not or do not  
25 receive timely and full rest breaks and meal periods, and McDonald's failed or fails to pay required  
26 additional wages when Plaintiffs Sanchez, Cruz, Merino, and Valentin and Class Members were  
27 not or are not provided timely and full rest breaks and meal periods.  
28



1           28.     McDonald's managers determined or determine when Plaintiffs Sanchez, Cruz,  
2 Merino, and Valentin and Class Members could or may take rest breaks and meal periods.  
3 Plaintiffs Sanchez, Cruz, Merino, and Valentin and Class Members were not or are not permitted to  
4 take a rest break or meal period without first being told by a manager they may do so.

5           29.     McDonald's has a policy and practice of not providing a second duty-free 30-minute  
6 meal period or a third 10-minute rest break to crew members when they work for periods of more  
7 than ten hours. Plaintiff Cruz and Class Members have worked more than ten hours without  
8 receiving a second duty-free 30-minute meal period or a third 10-minute rest break.

9           30.     Plaintiffs are informed and believe, and thereon allege, that McDonald's has a  
10 policy that provides that no employee is entitled to a second rest break until after working more  
11 than six and a half hours on a shift. Plaintiffs are informed and believe, and thereon allege, that  
12 pursuant to this policy McDonald's has failed and continues to fail to provide Plaintiffs Sanchez,  
13 Cruz, Merino, and Valentin and Class Members with a second ten-minute rest break on shifts  
14 between six and six and a half hours long.

15          31.     McDonald's has a policy and practice of not permitting crew members to take rest  
16 breaks and meal periods when the corporate restaurants are busy. Restaurant managers have not  
17 permitted Plaintiffs Sanchez, Cruz, Merino, and Valentin to take rest breaks and meal periods when  
18 the restaurants were busy.

19          32.     McDonald's managers have a policy and practice of providing crew members with  
20 rest breaks that are less than ten minutes in length and meal periods that are less than 30 minutes in  
21 length; and Plaintiffs Sanchez, Cruz, Merino, and Valentin and Class Members have routinely  
22 received rest breaks that are less than ten minutes in length and meal periods that are less than 30  
23 minutes in length.

24          33.     Plaintiffs are informed and believe, and thereon allege, that McDonald's managers  
25 have a practice of adjusting the punch records of Plaintiffs Sanchez, Cruz, Merino, and Valentin  
26 and Class Members to falsely reflect that Plaintiffs Sanchez, Cruz, Merino, and Valentin and Class  
27 Members received full ten-minute rest breaks and full 30-minute meal periods when they did not.  
28

1           34.     On information and belief, McDonald's maintains several policies and practices  
2 related to provision of meal periods and rest breaks to Plaintiffs Sanchez, Cruz, Merino, and  
3 Valentin and Class Members that routinely result in rest breaks and meal periods being untimely,  
4 including but not limited to the following:

5                 a.     McDonald's has a written policy regarding rest breaks applicable to crew  
6 members, including Plaintiffs Sanchez, Cruz, Merino, and Valentin and Class Members, that  
7 makes no reference to the timing of required rest breaks.

8                 b.     McDonald's managers have a policy and practice of providing crew members,  
9 including Sanchez, Cruz, Merino, and Valentin and Class Members, with their first ten-minute rest  
10 breaks after more than four hours of work.

11                c.     McDonald's managers have a policy and practice of requiring crew members,  
12 including Plaintiffs Sanchez, Cruz, Merino, and Valentin and Class Members, when they work  
13 shifts that entitle them to a second ten-minute rest break, to take their second ten-minute rest break  
14 toward the end or at the very end of their shift.

15                d.     McDonald's managers have a policy and practice of requiring crew members,  
16 including Plaintiffs Sanchez, Cruz, and Valentin and Class Members, to combine a ten-minute rest  
17 break with a 30-minute meal period.

18                e.     Plaintiffs are informed and believe, and thereon allege, that McDonald's  
19 required or requires Plaintiffs Sanchez, Cruz, Merino, and Valentin and Class Members to take late  
20 rest breaks and meal periods or to combine rest breaks and meal periods in order to minimize the  
21 need to schedule coverage for crew members who are on breaks and to keep labor costs low.

22           35.     Even though McDonald's time records generally record the exact times of crew  
23 member breaks (subject to the problems discussed below in paragraphs 36-43) and thus  
24 McDonald's has full knowledge of when Plaintiffs Sanchez, Cruz, Merino, and Valentin and Class  
25 Members have not received or are not receiving meal periods and rest breaks in compliance with  
26 California law because the meal periods or rest breaks are missed, late, or too short, McDonald's  
27 has a policy and practice of failing to pay Plaintiffs Sanchez, Cruz, Merino, and Valentin and Class  
28 Members one hour of additional pay at their regular rate for each day in which they are not

1 provided a full and timely rest break or meal period for the reasons discussed in paragraphs 27-34  
2 or for any other reason.

### 3 **Alteration of Time Records**

4 36. McDonald's maintains a computer system that enables it to closely monitor data  
5 about labor and sales in each of its restaurants, in part by collecting information regarding each  
6 employee's hours, including punch-in and punch-out times, and pay rates, and McDonald's does in  
7 fact closely monitor data about labor and sales in each of its restaurants in this manner.

8 37. Plaintiffs are informed and believe, and thereon allege, that McDonald's through its  
9 computer system also tracks sales in each of McDonald's restaurants and can and does provide  
10 real-time information to McDonald's managers regarding the relationship of labor costs to sales.  
11 On information and belief, McDonald's directs its restaurant managers that labor costs may not  
12 exceed a certain percentage of sales, and has programmed its computer system to alert managers  
13 when labor costs exceed the specified percentage.

14 38. Plaintiffs Sanchez, Cruz, Merino, and Valentin and Class Members in McDonald's  
15 corporate restaurants were or are required to punch in at the beginning of their shifts and to punch  
16 out at the end of their shifts. They were or are also generally required to punch out at the  
17 beginning and to punch back in at the end of each meal period and rest break.

18 39. McDonald's computer system records all Plaintiffs' and Class Members' punch-in  
19 and punch-out times. McDonald's uses such records for generating payroll.

20 40. Plaintiffs are informed and believe, and thereon allege, that:

21 a. The McDonald's computer system calculates and informs restaurant managers  
22 when a crew member's punch-in and punch-out times entitle that crew member to premium pay for  
23 overtime hours worked, and when a crew member has not received a full or timely rest break or  
24 meal period.

25 b. McDonald's managers are able to—and routinely do—alter the punch-in and  
26 punch-out times of crew members in McDonald's computer system.

27 c. McDonald's computer system records and reflects alterations to crew members'  
28 punch-in and punch-out times.

1           d. McDonald's and its managers at the corporate restaurants where Plaintiffs  
2 Sanchez, Cruz, Merino, and Valentin and Class Members are or have been employed have a  
3 pattern, policy, and practice of altering the contemporaneously recorded punch-in and punch-out  
4 times of crew members in order to change time entries that, if not changed, would demonstrate that  
5 a crew member did not receive a legally required meal period or rest break, or that a crew member  
6 worked time that would be subject to overtime pay requirements.

7           e. McDonald's has been aware of, intended, and condoned the practice and policy  
8 of altering Plaintiffs Sanchez's, Cruz's, Merino's, and Valentin's and Class Members' time records  
9 in a manner that causes those time records to not accurately reflect the hours worked by Plaintiffs  
10 Sanchez, Cruz, Merino, and Valentin and Class Members; indeed, the computerized records of  
11 crew members' punches are accessible to and monitored by managers throughout McDonald's  
12 hierarchy.

#### 13                           **Failure to Correct Inaccurate Time Records Causing Reduced Pay**

14           41. McDonald's computer system records every crew member's first-time punch entry  
15 on a shift as a punch-in and any second punch entry as a punch-out, and will alternate thereafter  
16 between punch-ins and punch-outs until the computer system is reset.

17           42. McDonald's restaurants reset their computer systems during the overnight shifts.  
18 Following each such reset, the next attempt by a crew member to punch-out is recorded by the  
19 McDonald's computer system as a punch-in.

20           43. Plaintiffs are informed and believe, and thereon allege, that McDonald's follows a  
21 policy or practice of failing to properly correct these problems with its time records and entering  
22 punch times that understate the hours actually worked by crew members. Plaintiffs Cruz, Merino,  
23 and Valentin are informed and believe, and thereon allege, that hours they and other Class  
24 Members worked on overnight shifts were not accurately recorded and compensated as a result of  
25 the overnight computer system reset. On information and belief, as result of this policy and  
26 practice, McDonald's failed or fails to pay Plaintiffs Cruz, Merino, and Valentin and Class  
27 Members who worked or work overnight shifts for all hours they worked or work.  
28

1 **Five-Hour Shift Rule**

2 44. McDonald's maintains a policy and practice of scheduling crew members for five-  
3 hour shifts and then requiring them to punch out shortly before the end of the five-hour shift.

4 45. McDonald's further maintains a policy and practice of requiring crew members who  
5 work the full five-hour shifts for which they are scheduled and who fail to clock out before five  
6 hours have elapsed on the clock to take 30-minute unpaid meal periods after their five-hour shift, to  
7 then punch back in at the end of the 30 minutes, and to punch back out after waiting one or two  
8 minutes ("five-hour rule"). This policy effectively requires crew members who fail to punch out  
9 early from their five-hour shifts to wait at or near the workplace for an additional 30 minutes,  
10 without being paid, and before being permitted to go home. Plaintiffs Cruz and Valentin have been  
11 required to take a 30-minute "meal" period after working slightly more than five hours as a result  
12 of the "five-hour rule."

13 46. Plaintiffs are informed and believe, and thereon allege, that McDonald's did not  
14 and does not pay crew members who are required to take a 30-minute unpaid meal period at the  
15 end of a five hour shift as a result of the "five-hour rule" for the period of time between when they  
16 punch back in and when they punch back out again after the mandatory 30-minute unpaid meal  
17 period described in paragraph 45.

18 47. McDonald's did not and does not inform Plaintiffs Sanchez, Cruz, Merino, and  
19 Valentin and Class Members that they may waive an unpaid, 30-minute meal period when they  
20 have worked exactly five hours or a few minutes more than five hours.

21 48. Although a meal period is untimely when it does not commence within a crew  
22 member's first five hours of work (and so triggers a requirement under California law to pay an  
23 additional hour of wages at the employee's regular rate), McDonald's has a policy and practice of  
24 not paying Plaintiffs Sanchez, Cruz, Merino, and Valentin and Class Members an additional hour  
25 of pay when it knows that they have worked more than five hours without a meal period, and  
26 instead required or requires crew members who work more than five hours to take an unpaid meal  
27 period before being permitted to go home. Plaintiffs Cruz and Valentin have been required, as a  
28

1 result of the five-hour rule, to stay for a late, unpaid 30-minute meal period, and were not paid an  
2 additional hour of wages at their regular rate of pay.

3 49. Plaintiffs are informed and believe, and thereon allege, that pursuant to McDonald's  
4 policy and practice, McDonald's has given crew members written and verbal warnings for seeking  
5 to leave at the end of their five-hour shifts and not to wait until the end of an unpaid 30-minute  
6 period to punch out and leave work.

7 50. McDonald's five-hour rule, as described in paragraphs 44-49, is punitive in nature  
8 and penalizes crew members who work their full scheduled shifts on the clock. The policy is used  
9 to discourage crew members from working their full scheduled shifts on the clock and to require  
10 crew members to punch out shortly before the end of their five-hour shifts and then to complete  
11 their work off the clock to avoid being required to stay and wait through a 30-minute unpaid meal  
12 period. Plaintiff Valentin has worked off the clock to avoid being required to stay through a 30-  
13 minute unpaid meal period pursuant to the "five-hour rule."

14 51. McDonald's five-hour rule, as described in paragraphs 44-49, also causes every  
15 crew member affected by this rule to work a split shift as defined by California law, yet  
16 McDonald's fails to pay any such affected worker the one-hour split shift minimum wage premium  
17 required by California law. By requiring workers on five-hour shifts to take a punitive 30-minute  
18 meal period against the workers' will if they fail to punch out before working a full five hours, and  
19 then to punch back in after 30 minutes and then punch out again for a second time, McDonald's is  
20 requiring those workers to punch in for two different periods of work that are separated by a period  
21 that is not a bona meal period or rest break, because it is imposed against the employees' will in a  
22 situation in which the employee can legally waive the break, and is imposed to benefit  
23 McDonald's, rather than the employee. Not only has McDonald's failed to pay the mandatory  
24 additional hour of pay required under California law for late meal periods whenever it enforces its  
25 five-hour rule by requiring crew members to take a punitive 30-minute break after they have  
26 worked for five or more hours, but McDonald's has also failed to pay the mandatory additional  
27 hour of minimum wage required under California law to crew members, including Plaintiffs Cruz  
28 and Valentin, who worked a split shift under the circumstances described above.

1 **Off-the-Clock Work**

2 52. Defendants have required, suffered, or permitted Plaintiffs Sanchez, Cruz, Merino,  
3 and Valentin and Class Members to perform substantial amounts of unpaid off-the-clock work in  
4 violation of California law.

5 53. McDonald’s managers require, suffer, or permit crew members to perform work  
6 when they are not punched in on McDonald’s computer system. McDonald’s managers have  
7 routinely required, suffered, or permitted Plaintiffs Sanchez, Cruz, Merino, and Valentin to  
8 perform work before punching into the computer system to begin their shifts, while punched out of  
9 the computer system during a meal period or rest break or while traveling between stores, or after  
10 punching out of the computer system to complete tasks before leaving the restaurant, or while  
11 waiting for crew members who are scheduled to work the next shift to arrive and begin work.

12 54. Plaintiffs are informed and believe, and thereon allege, that McDonald’s restaurant  
13 managers require crew members to engage in off-the-clock work in order to maintain low “labor”  
14 numbers in the McDonald’s computer system and to avoid recording overtime hours, while  
15 maintaining expected service levels and service speeds during shifts and shift change-overs.

16 55. All of the unpaid work that McDonald’s required, suffered, or permitted Plaintiffs  
17 Sanchez, Cruz, Merino, and Valentin and Class Members to perform has benefitted Defendants,  
18 enabling them to keep labor costs lower, both in absolute terms and as a percentage of sales.

19 **Failure to Pay Overtime Rates**

20 56. Plaintiffs Sanchez, Cruz, Merino, and Valentin and Class Members who have  
21 worked more than eight hours per day or more than 40 hours per week have not received timely  
22 legally required premium pay for hours worked in excess of eight per day or 40 per week.

23 57. Plaintiffs are informed and believe, and on that basis allege, that the McDonald’s  
24 computer system alerts McDonald’s managers when a crew member’s recorded punch-in and  
25 punch-out times indicate that the crew member has worked overtime, and notifies the managers  
26 that this is an “overtime violation.”

27 58. Plaintiffs are informed and believe, and on that basis allege, that McDonald’s  
28 managers have a policy and practice of altering Plaintiff Sanchez’s, Cruz’s, Merino’s, and

1 Valentin's and Class Members' recorded hours in the McDonald's computer system so as to  
2 eliminate, move to another date, or otherwise alter recorded overtime hours worked to avoid  
3 McDonald's obligation to pay overtime premiums as required by California law.

4 **Failure to Keep Accurate Records and Provide Accurate Itemized Wage Statements**

5 59. As a result of the policies and practices described above, McDonald's has not and  
6 does not keep accurate records of, or provide to Plaintiffs Sanchez, Cruz, Merino, and Valentin and  
7 Class Members accurate itemized wage statements reflecting, all time that Plaintiffs Sanchez, Cruz,  
8 Merino, and Valentin and Class Members work or their proper wage rates, including but not  
9 limited to overtime rates applicable to all hours that Plaintiffs Sanchez, Cruz, Merino, and Valentin  
10 and Class Members work.

11 **Failure to Pay All Wages When Due for Discharged and Quitting Employees**

12 60. McDonald's terminated Plaintiff Sanchez in or around June 2012 yet McDonald's  
13 failed to provide her with her final paycheck until two weeks after the date of her termination.  
14 When Plaintiff Sanchez was terminated, a McDonald's manager told Ms. Sanchez that her final  
15 paycheck would not be ready until the next pay period, which was two weeks later. McDonald's  
16 did not give Ms. Sanchez any option to receive her final paycheck another way or tell her she could  
17 provide specific mailing instructions for the paycheck.

18 61. Plaintiff Cruz quit his employment in or around January 2014. He provided  
19 McDonald's approximately two weeks' notice, and well more than 72 hours, of his intention to  
20 quit. Plaintiff Cruz went to the McDonald's restaurant where he worked on his final day but was  
21 not provided his final paycheck. He called McDonald's twice after his final day to ask for his final  
22 paycheck, but McDonald's still has not provided his final check.

23 62. Plaintiff Valentin quit his employment in or around March 2014.

24 63. Plaintiffs are informed and believe, and thereon allege, that McDonald's has a  
25 policy and practice of failing to provide terminated crew members all wages due to them  
26 immediately upon termination at the place of discharge; and that McDonald's has a policy and  
27 practice of failing to provide all wages due to crew members who quit their employment, either (a)  
28 immediately at the time and place of quitting, for crew members who give at least 72 hours' notice



1 of their intention to quit, or (b) not later than 72 hours after quitting, either at the restaurant or  
2 through the mail to a mailing address designated by the crew member, for all other crew members.

3 **Failure to Reimburse Necessary Expenses**

4 64. McDonald's required or requires that Plaintiffs Sanchez, Cruz, Merino, and  
5 Valentin and Class Members wear McDonald's uniforms as a condition of employment.  
6 McDonald's provided or provides a limited number of uniforms to Plaintiffs Sanchez, Cruz,  
7 Merino, and Valentin and Class Members, yet has implemented no policy or practice that provides  
8 for the maintenance of these uniforms. Consequently, Plaintiffs Sanchez, Cruz, Merino, and  
9 Valentin and Class Members have been required to incur expenses and to spend unpaid time to  
10 maintain their uniforms themselves. Because McDonald's runs a food service business, the  
11 uniforms of Plaintiffs Sanchez, Cruz, Merino, and Valentin and Class Members regularly become  
12 extremely dirty over time and necessitate special and/or frequent cleaning. McDonald's has a  
13 policy and practice of failing to reimburse Plaintiffs Sanchez, Cruz, Merino, and Valentin and  
14 Class Members for the reasonable expenses they have incurred in maintaining their uniforms, and  
15 of failing to pay them for the time they must spend maintaining their uniforms.

16 **CLASS ACTION ALLEGATIONS**

17 65. This action is appropriately suited for a Class Action because:

18 a. The potential class is significant, and, on information and belief, includes  
19 thousands of current and former McDonald's employees across California. Joinder of all current  
20 and former employees individually would be impractical.

21 b. This action involves common questions of law and fact to the potential class  
22 because the action focuses on McDonald's systematic unlawful payroll practices, including but not  
23 limited to: McDonald's failure to pay Plaintiffs and Class Members all wages when due pursuant to  
24 California Labor Code §§204, 206, and 223 and IWC Wage Order No. 5-2001, §§3 and 4;  
25 McDonald's failure to provide Plaintiffs and Class Members with proper meal periods or to pay for  
26 missed, shortened or late meal period wages pursuant to California Labor Code §§226.7, 510, and  
27 512 and IWC Wage Order No. 5-2001, §11; McDonald's failure to provide Plaintiffs and Class  
28 Members with proper rest breaks or to pay for missed, shortened or late rest break wages pursuant

1 to California Labor Code §§226.7 and 512, and IWC Wage Order No. 5-2001, §12; McDonald's  
2 failure to pay Plaintiffs and Class Members all overtime wages due pursuant to California Labor  
3 Code §§510, 1194, and 1198, and IWC Wage Order No. 5-2001, §3; McDonald's failure to provide  
4 Plaintiffs and Class Members with complete and accurate wage statements pursuant to California  
5 Labor Code §226 and IWC Wage Order No. 5-2001, §7; McDonald's failure to maintain records  
6 for Plaintiffs and Class Members as required under California Labor Code §§226 and 1174 and  
7 IWC Wage Order No. 5-2001, §7; McDonald's failure to pay Plaintiffs Sanchez, Cruz, and  
8 Valentin and former employee Class Members all wages due to discharged and/or quitting  
9 employees pursuant to California Labor Code §§201, 202, and 203; McDonald's failure to pay  
10 Plaintiffs and Class Members the applicable minimum wage for all hours worked pursuant to  
11 California Labor Code §§1194 and 1197 and IWC Wage Order No. 5-2001, §4; and McDonald's  
12 failure to indemnify Plaintiffs and Class Members for necessary expenditures incurred in the  
13 discharge of their job duties in violation of Cal. Labor Code §§221, 450, and 2802 and IWC Wage  
14 Order No. 5-2001, §9.

15           c. Plaintiff Merino is currently employed, and Plaintiffs Sanchez, Cruz, and  
16 Valentin were employed, by McDonald's as crew members at all times during the Class Period.  
17 The claims of Plaintiffs Sanchez, Cruz, Merino, and Valentin are typical of the class of  
18 McDonald's crew members because McDonald's operates a chain of fast-food restaurants  
19 throughout the State of California, which are all under common ownership and control and  
20 maintain uniform operations, including the "McDonald's System." McDonald's has applied  
21 uniform wage and hour policies and practices—as challenged herein—at each of its California  
22 corporate restaurant locations at all times during the Class Period, including the restaurants worked  
23 at by Plaintiffs Sanchez, Cruz, Merino, and Valentin, and has subjected all crew members in the  
24 proposed class, including Plaintiffs Sanchez, Cruz, Merino, and Valentin, to identical violations of  
25 the California Labor Code, the applicable IWC wage order, and the California Business and  
26 Professions Code.

27           d. Plaintiffs Sanchez, Cruz, Merino, and Valentin are able to fairly and adequately  
28 protect the interests of all members of the class because it is in all Plaintiffs' best interests to

1 prosecute the claims alleged herein to obtain full compensation due to the class for all services  
2 rendered and hours worked and to obtain injunctive relief to protect the class from further wage  
3 and hour violations going forward. Counsel for Plaintiffs have the requisite resources and ability to  
4 prosecute this case as a class action and are experienced labor and employment attorneys who have  
5 successfully litigated other cases involving similar issues, including in class actions.

6 e. This suit is properly maintained as a class action under C.C.P. §382 because  
7 McDonald's has implemented a series of unlawful schemes that are generally applicable to the  
8 class, making it appropriate to issue final injunctive relief and corresponding declaratory relief with  
9 respect to the class as a whole. This suit is also properly maintained as a class action because the  
10 common questions of law and fact predominate over any questions affecting only individual  
11 members of the class. For all these and other reasons, a class action is superior to other available  
12 methods for the fair and efficient adjudication of the controversy set forth in this Complaint.

13 **FIRST CAUSE OF ACTION**  
14 **Wage Theft – Failure to Pay All Wages When Due**  
15 **[Cal. Labor Code §§204, 206, 223, 1194, 1194.5 1195.5;**  
16 **IWC Wage Order No. 5-2001, §§3, 4]**  
17 **(Brought by Plaintiffs Sanchez, Cruz, Merino, and Valentin**  
18 **on behalf of Themselves and the Plaintiff Class**  
19 **Against All Defendants)**

20 66. Plaintiffs incorporate herein by specific reference, as though fully set forth, the  
21 allegations in paragraphs 1 through 65.

22 67. At all times relevant herein, as part of McDonald's illegal payroll policies and  
23 practices to deprive their crew members all wages earned and due, McDonald's has failed and  
24 continues to fail to pay Plaintiffs Sanchez, Cruz, Merino, and Valentin and Class Members all  
25 wages when they are due. These illegal policies and practices include but are not limited to the  
26 following:

27 a. Altered and Inaccurate Records of Punch Times. McDonald's has failed and  
28 continues to fail to pay Plaintiffs Sanchez, Cruz, Merino, and Valentin and Class Members for all  
hours worked by following a policy and practice of encouraging, permitting, and/or ratifying  
managers or supervisors routinely to edit or delete time recorded in McDonald's computerized  
records by the punch-in and punch-out system and by failing to accurately record all hours worked

1 and meal periods and rest breaks taken by crew members, including but not limited to while the  
2 computer system is off. These policies and practices have resulted in McDonald's paying Plaintiffs  
3 Sanchez, Cruz, Merino, and Valentin and Class Members for less time than they have actually  
4 worked, and at times have resulted in McDonald's failure to pay Plaintiffs Sanchez, Cruz, Merino,  
5 and Valentin and Class Members for overtime they have earned by working more than eight hours  
6 in a day and/or more than 40 hours in a week.

7           b. Off-the-Clock Work. In addition, McDonald's has followed and continues to  
8 follow a policy and practice of requiring, suffering, or permitting Plaintiffs Sanchez, Cruz, Merino,  
9 and Valentin and Class Members to perform uncompensated work off the clock. McDonald's has  
10 failed and continues to fail to pay Plaintiffs Sanchez, Cruz, Merino, and Valentin for time spent  
11 working before punching in, for time spent working while punched out for a meal period or rest  
12 break or while traveling between stores, or for time spent working after punching out, including but  
13 not limited to time spent continuing to perform regular work duties while waiting for another  
14 employee to arrive to work the next shift, performing other tasks that needed to be completed but  
15 were not or are not completed during the shift, or completing tasks after punching out to avoid  
16 staying for a punitive unpaid 30-minute "meal" period pursuant to the "five-hour rule" described in  
17 paragraphs 44-51.

18           c. Minimum Wages, Overtime, and Missed Meal Period and Rest Break Premium  
19 Wages. As alleged in the Second through Fifth Claims for Relief below and incorporated by  
20 reference here, Defendants have followed and continue to follow a policy and practice of failing to  
21 pay Plaintiffs Sanchez, Cruz, Merino, and Valentin and Class Members additional wages due for  
22 missed, untimely, or shortened meal periods and rest breaks, overtime compensation, and minimum  
23 wages, thereby failing to pay Plaintiffs Sanchez, Cruz, Merino, and Valentin and Class Members  
24 all wages due for all hours worked.

25           68. Through McDonald's conduct described above, and through its failure to properly  
26 pay minimum wages, overtime compensation, and missed break premium wages to Plaintiffs  
27 Sanchez, Cruz, Merino, and Valentin and Class Members as alleged herein, McDonald's has  
28 violated and continues to violate Labor Code §§204, 206, and 1195.5, which require employers,

1 including McDonald's, to pay their employees their full wages when due, and Labor Code §223,  
2 which prohibits employers, including McDonald's, from secretly paying a lower wage than  
3 required by statute or contract.

4 69. McDonald's has committed and continues to commit the acts alleged herein  
5 knowingly and willfully.

6 70. As a proximate result of McDonald's unlawful actions and omissions, Plaintiffs  
7 Sanchez, Cruz, Merino, and Valentin and Class Members have been damaged in an amount  
8 according to proof at trial, and seek all wages earned and due, plus interest thereon.

9 71. McDonald's conduct described herein violates California Labor Code §§204, 510,  
10 1194, 1198 and IWC Wage Order No. 5-2001, §§3 and 4. Therefore, pursuant to California Labor  
11 Code §§200, 210, 558, 1194, 1197.1, and other applicable provisions under the California Labor  
12 Code and IWC Wage Orders, Plaintiffs Sanchez, Cruz, Merino, and Valentin and Class Members  
13 are entitled to recover the unpaid balance of wages owed to them by McDonald's, plus interest,  
14 penalties, attorneys' fees, expenses, and costs of suit. Pursuant to California Labor Code §1194.5,  
15 Plaintiff Merino and current McDonald's employee Class Members, who are low-wage workers for  
16 whom McDonald's failure to pay wages for all hours worked when due creates substantial  
17 hardship, are also entitled to preliminary and permanent injunctive relief against further violations  
18 of these laws and wage orders.

19 **SECOND CAUSE OF ACTION**

20 **Failure to Provide Required Meal Periods or Pay Missed Meal Period Wages**  
21 **[Cal. Labor Code §§226.7, 510, 512, 1194, 1194.5, 1197, 1198;**  
22 **IWC Wage Order No. 5-2001, §11]**  
23 **(Brought by Plaintiffs Sanchez, Cruz, Merino, and Valentin**  
24 **on behalf of Themselves and the Plaintiff Class**  
25 **Against All Defendants)**

26 72. Plaintiffs incorporate herein by specific reference, as though fully set forth, the  
27 allegations in paragraphs 1 through 71.

28 73. During the Class Period, as part of McDonald's illegal payroll policies and practices  
to deprive their non-exempt employees all wages earned and due, McDonald's has failed to  
provide and continues to fail to provide Plaintiffs Sanchez, Cruz, Merino, and Valentin and Class  
Members full and timely meal periods, and has failed to provide and continues to fail to provide

1 missed meal period wages when they receive no, late, or shortened meal periods, in violation of  
2 California Labor Code §§226.7, 512 and IWC Order No. 5-2001, §11.

3 74. Specifically, McDonald's has followed and continues to follow a policy and practice  
4 of requiring, suffering, or permitting Plaintiffs Sanchez, Cruz, Merino, and Valentin and Class  
5 Members to work for periods in excess of 5 hours without providing them a full timely bona fide  
6 meal period of not less than 30 minutes.

7 75. In addition, McDonald's has followed and continues to follow a policy and practice  
8 of requiring, suffering, or permitting crew members to work for periods in excess of 10 hours  
9 without providing them a second meal period of not less than 30 minutes. Plaintiff Cruz and other  
10 Class Members who have worked for periods in excess of 10 hours were not provided a second  
11 meal period of not less than 30 minutes during such shifts.

12 76. When Plaintiffs Sanchez, Cruz, Merino, and Valentin and Class Members received  
13 or receive meal periods, these meal periods often have been, and continue to be, late, short and/or  
14 interrupted. McDonald's restaurants are frequently busy and McDonald's has implemented and  
15 continues to implement a policy and practice of understaffing its restaurants, including but not  
16 limited to understaffing all Plaintiffs' and Class Members' positions as crew members.  
17 McDonald's has permitted and continues to permit Plaintiffs Sanchez, Cruz, Merino, and Valentin  
18 and Class Members to take breaks only when told to do so by their managers. McDonald's also  
19 has prohibited and continues to prohibit Plaintiffs Sanchez, Cruz, Merino, and Valentin and Class  
20 Members from taking breaks when the restaurant is busy. Through these and other policies and  
21 practices, Plaintiffs Sanchez, Cruz, Merino, and Valentin and Class Members regularly have been  
22 denied, and continue to be denied, the opportunity to take a full, uninterrupted, and timely meal  
23 period as required under the California Labor Code §§226.7, 512, and IWC Wage Order No.  
24 5-2001, §11.

25 77. McDonald's has further violated and continues to violate California Labor Code  
26 §§226.7 and IWC Wage Order No. 5-2001, §11 by failing to compensate Plaintiffs Sanchez, Cruz,  
27 Merino, and Valentin and Class Members who are not provided with a timely and full 30-minute  
28 meal period, in accordance with the applicable wage order, one additional hour of compensation at

1 each employee's regular rate of pay for each workday that a timely and full meal period is not  
2 provided.

3 78. McDonald's has further violated and continues to violate California Labor Code  
4 §§226.7 and 512 and IWC Wage Order No. 5-2001, §11 by implementing and enforcing the "five-  
5 hour rule" described in paragraphs 44-51. Specifically, McDonald's has followed and continues to  
6 follow a policy or practice whereby, when crew members are scheduled to work five hours and in  
7 fact work exactly five hours or slightly more than five hours on the clock, McDonald's forces them  
8 to take a punitive "meal period," requiring them to punch out after the five hours or slightly more  
9 than five hours of work for an unpaid 30-minute "break" and then to punch back in for a brief time  
10 period before punching out again. By strictly enforcing and implementing this five-hour rule,  
11 McDonald's has failed and continues to fail to provide timely meal periods or late meal period pay  
12 in violation of California Labor Code §§226.7 and 512 and IWC Wage Order No. 5-2001, §11,  
13 because these punitive meal periods begin after more than five hours of work. Plaintiffs Cruz and  
14 Valentin have had late meal periods beginning after more than five hours on a five-hour shift  
15 because of the "five-hour rule."

16 79. McDonald's has committed and continues to commit the acts alleged herein  
17 knowingly and willfully.

18 80. As a proximate result of the aforementioned violations, Plaintiffs Sanchez, Cruz,  
19 Merino, and Valentin and Class Members have been damaged in an amount according to proof at  
20 trial, and seek all wages earned and due, interest, penalties, expenses, and costs of suit. Pursuant to  
21 California Labor Code §1194.5, Plaintiff Merino and current employee Class Members, who are  
22 low-wage workers for whom McDonald's failure to provide full and timely meal periods or to pay  
23 the requisite amount when required meal periods are missed creates substantial hardship, are also  
24 entitled to preliminary and permanent injunctive relief against further violations of the meal period  
25 laws and wage orders.

26 //

27 //

28 //





1 the end of their scheduled shifts, thereby violating California Labor Code §226.7 and IWC Wage  
2 Order No. 5-2001, §12.

3 85. McDonald's has further violated and continues to violate California Labor Code  
4 §226.7 and IWC Wage Order No. 5-2001, §12 by failing to pay Plaintiffs Sanchez, Cruz, Merino,  
5 and Valentin and Class Members who were not provided with a timely, full 10-minute rest break,  
6 in accordance with the applicable wage order, one additional hour of compensation at each  
7 employee's regular rate of pay for each workday that a full and timely rest break was not provided.

8 86. McDonald's has committed and continues to commit the acts alleged herein  
9 knowingly and willfully.

10 87. As a proximate result of the aforementioned violations, Plaintiffs Sanchez, Cruz,  
11 Merino, and Valentin and Class Members have been damaged in an amount according to proof at  
12 trial, and seek all wages earned and due, interest, penalties, expenses, and costs of suit. Pursuant to  
13 California Labor Code §1194.5, Plaintiff Merino and current employee Class Members, who are  
14 low-wage workers for whom McDonald's failure to provide required rest breaks or pay the  
15 requisite amount when required rest breaks are missed creates substantial hardship, are also entitled  
16 to preliminary and permanent injunctive relief against further violations of the rest break laws and  
17 wage orders.

18  
19 **FOURTH CAUSE OF ACTION**

**Failure to Pay Overtime Wages**

20 **[Cal. Labor Code §§510, 1194, 1194.5, 1198; IWC Wage Order No. 5-2001, §3]**

21 **(Brought by Plaintiffs Sanchez, Cruz, Merino, and Valentin**

**on behalf of Themselves and the Plaintiff Class**

22 **Against All Defendants)**

23 88. Plaintiffs incorporate herein by specific reference, as though fully set forth, the  
24 allegations in paragraphs 1 through 87.

25 89. Pursuant to California Labor Code §§510, 1194, and IWC Wage Order No. 5-2001,  
26 §3, McDonald's is required to compensate crew members for all overtime, which is calculated at  
27 one and one-half times the regular rate of pay for all hours worked in excess of eight hours per day  
28 and/or forty hours per week, and for the first eight hours on the seventh consecutive workday, with

1 double time for all hours worked in excess of twelve hours in any workday and for all hours  
2 worked in excess of eight hours on the seventh consecutive day of work in any workweek.

3 90. Plaintiffs Sanchez, Cruz, Merino, and Valentin and Class Members are current and  
4 former non-exempt employees entitled to the protections of California Labor Code §§510, 1194,  
5 and IWC Wage Order No. 5-2001. During the Class Period, McDonald's has failed and continues  
6 to fail to compensate Plaintiffs Sanchez, Cruz, Merino, and Valentin and Class Members for all  
7 overtime hours worked as required under the foregoing provisions of the California Labor Code  
8 and IWC Wage Order by failing to pay overtime at one and one-half or double the regular rate of  
9 pay as provided by California Labor Code §§510, 1194, and IWC Wage Order No. 5-2001, §3.

10 91. Additionally, McDonald's has failed and continues to fail to pay Plaintiffs Sanchez,  
11 Cruz, Merino, and Valentin and Class Members for all overtime hours, including but not limited to,  
12 on information and belief: hours that McDonald's requires, permits, or suffers them to work off the  
13 clock; hours that McDonald's alters or removes; or hours McDonald's moves in its payroll records  
14 from one day to another to avoid overtime rates.

15 92. McDonald's has committed and continues to commit the acts alleged herein  
16 knowingly and willfully.

17 93. In violation of California law, McDonald's has knowingly and willfully refused to  
18 perform its obligations to compensate Plaintiffs Sanchez, Cruz, Merino, and Valentin and Class  
19 Members for all overtime wages earned and all hours worked. As a proximate result, Plaintiffs  
20 Sanchez, Cruz, Merino, and Valentin and Class Members have suffered, and continue to suffer,  
21 substantial losses related to the use and enjoyment of such wages, lost interest on such wages, and  
22 expenses and attorneys' fees in seeking to compel McDonald's to fully perform its obligations  
23 under state law, all to their respective damages in amounts according to proof at time of trial, and  
24 within the jurisdiction of this Court.

25 94. McDonald's conduct described herein violates California Labor Code §§510, 1194,  
26 1198 and IWC Wage Order No. 5-2001, §3. Therefore, pursuant to California Labor Code §§200,  
27 203, 226, 558, 1194, 1197.1, and other applicable provisions under the California Labor Code and  
28 IWC Wage Orders, Plaintiffs Sanchez, Cruz, Merino, and Valentin and Class Members are entitled

1 to recover the unpaid balance of wages owed to them by McDonald's, plus interest, penalties,  
2 attorneys' fees, expenses, and costs of suit. Pursuant to California Labor Code §1194.5, Plaintiff  
3 Merino and current employee Class Members, who are low-wage workers for whom McDonald's  
4 failure to pay required overtime creates substantial hardship, are also entitled to preliminary and  
5 permanent injunctive relief against further violations of these laws and wage orders.

6  
7 **FIFTH CAUSE OF ACTION**  
8 **Failure to Pay Minimum Wages**  
9 **[Cal. Labor Code §§1182.12, 1194, 1194.2, 1194.5, 1197, 1198;**  
10 **IWC Wage Order No. 5-2001, §4]**  
11 **(Brought by Plaintiffs Sanchez, Cruz, Merino, and Valentin**  
12 **on behalf of Themselves and the Plaintiff Class**  
13 **Against All Defendants)**

14 95. Plaintiffs incorporate herein by specific reference, as though fully set forth, the  
15 allegations in paragraphs 1 through 94.

16 96. Pursuant to California Labor Code §§1194, 1197, and IWC Wage Order No. 5-  
17 2001, §4, payment to an employee of less than the applicable minimum wage for all hours worked  
18 in a payroll period is unlawful. IWC Wage Order No. 5-2011, §4(C) further requires all  
19 employers, including McDonald's, to pay an employee one hour's pay at the minimum wage in  
20 addition to the employee's pay for that workday when an employee works a split shift.

21 97. During the Class Period, McDonald's has failed and continues to fail to pay  
22 Plaintiffs Sanchez, Cruz, Merino, and Valentin and Class Members minimum wages for all hours  
23 worked, including but not limited to hours McDonald's requires, permits, or suffers Plaintiffs  
24 Sanchez, Cruz, Merino, and Valentin and Class Members to work off the clock, or hours worked  
25 that McDonald's alters or removes in its computer system.

26 98. In addition, McDonald's "five-hour rule" described in paragraphs 44-51 has resulted  
27 and continues to result in crew members working split shifts when McDonald's requires them to  
28 clock out for 30 minutes at the end of their shifts, then clock back in and clock out again shortly  
thereafter. These punitive 30-minute periods are not bona fide meal periods or rest breaks.  
McDonald's has had and continues to have a policy and practice of failing to pay crew members  
one hour's pay at minimum wage when they work these split shifts as a result of the "five-hour  
rule," in violation of IWC Wage Order No. 5-2001, §4(c). Plaintiffs Cruz and Valentin have been

1 required to take a punitive 30-minute period after the end of a scheduled five-hour shift pursuant to  
2 the “five-hour rule” and have not been paid one hour’s pay at minimum wage as compensation for  
3 the resulting split shift.

4 99. McDonald’s has committed and continues to commit the acts alleged herein  
5 knowingly and willfully.

6 100. McDonald’s conduct described herein violates California Labor Code §§1194,  
7 1197, and IWC Wage Order No. 5-2001, §4. As a proximate result of the aforementioned  
8 violations, Plaintiffs Sanchez, Cruz, Merino, and Valentin and Class Members have been damaged  
9 in an amount according to proof at trial. Therefore, pursuant to California Labor Code §§200, 203,  
10 226, 558, 1194, 1197.1, and other applicable provisions under the Labor Code and IWC Wage  
11 Orders, Plaintiffs Sanchez, Cruz, Merino, and Valentin and Class Members are entitled to recover  
12 the unpaid balance of wages owed to them by McDonald’s, plus interest, penalties, attorneys’ fees,  
13 expenses, and costs of suit. Pursuant to California Labor Code §1194.5, Plaintiff Merino and  
14 current employee Class Members, who are low-wage workers for whom McDonald’s failure to pay  
15 required minimum wage for all hours worked creates substantial hardship, are also entitled to  
16 preliminary and permanent injunctive relief against further violations of these laws and wage  
17 orders.

18  
19 **SIXTH CAUSE OF ACTION**  
20 **Failure to Pay All Wages Due to Discharged and Quitting Employees**  
21 **[Cal. Labor Code §§201, 202, 203, 1194.5]**  
22 **(Brought by Plaintiffs Sanchez, Cruz, Merino, and Valentin**  
23 **on behalf of Themselves and the Plaintiff Class**  
24 **Against All Defendants)**

25 101. Plaintiffs incorporate herein by specific reference, as though fully set forth, the  
26 allegations in paragraphs 1 through 100.

27 102. Pursuant to California Labor Code §§201, 202, and 203, McDonald’s is required to  
28 pay all earned and unpaid wages to an employee who is discharged or quits. California Labor  
Code §201 mandates that if an employer discharges an employee, the employee’s wages accrued  
and unpaid at the time of discharge are due and payable immediately. California Labor Code §202  
mandates that if an employee quits, the employee’s wages accrued and unpaid at the time of

1 quitting are due and payable no later than 72 hours after the employee quits his or her employment,  
2 unless the employee provided at least 72 hours of previous notice of his or her intention to quit, in  
3 which case the wages are due immediately at the time of quitting.

4 103. California Labor Code §203 provides that if an employer willfully fails to pay, in  
5 accordance with California Labor Code §§201 and 202, any wages of an employee who is  
6 discharged or who quits, the employer is liable for waiting time penalties in the form of continued  
7 compensation to the employee at the same rate for up to 30 work days.

8 104. McDonald's terminated Plaintiff Sanchez in or around June 2012, yet McDonald's  
9 failed to provide Plaintiff Sanchez with her final paycheck until two weeks after the date of her  
10 termination thereby violating California Labor Code §§201, 202, and 203.

11 105. Plaintiff Cruz quit his employment in or around January 2014. Plaintiff Cruz gave  
12 McDonald's more than 72 hours' notice of his intention to quit, and he was present at the  
13 restaurant on his final day of employment, but he was not provided his final paycheck that day.  
14 Moreover, he called McDonald's twice after his final day to ask for his paycheck and McDonald's  
15 still did not provide him his final paycheck.

16 106. Plaintiff Valentin quit his employment in or around March 2014.

17 107. Plaintiffs are informed and believe, and thereon allege, that at all relevant times  
18 herein, as part of McDonald's illegal payroll policies and practices to deprive crew members of all  
19 wages earned and due, McDonald's has engaged and continues to engage in a policy and practice  
20 of willfully failing to provide final paychecks to Class Members who quit or are discharged within  
21 the time periods required by California Labor Code §§201, 202, and 203.

22 108. Additionally, because McDonald's has failed and continues to fail to properly  
23 compensate Plaintiffs Sanchez, Cruz, Merino, and Valentin and Class Members for all hours  
24 worked when due, overtime wages, minimum wages, and non-compliant meal periods and rest  
25 breaks, McDonald's also has willfully failed and continues to fail to pay accrued wages and other  
26 compensation to former employee Plaintiffs Sanchez, Cruz, and Valentin and discharged and  
27 quitting Class Members in accordance with California Labor Code §§201 and 202. As a result,  
28 Plaintiffs Sanchez, Cruz, and Valentin and former employee Class Members are entitled to all

1 available statutory penalties, including the waiting time penalties provided in California Labor  
2 Code §203, together with interest thereon, as well as other available remedies.

3 109. As a proximate result of McDonald's unlawful actions and omissions, Plaintiffs  
4 Sanchez, Cruz, and Valentin and former employee Class Members have been deprived of  
5 compensation in an amount according to proof at the time of trial, and are entitled to recovery of  
6 such amounts, plus interest thereon, and attorneys' fees and costs, pursuant to California Labor  
7 Code §1194. Pursuant to California Labor Code §1194.5, Plaintiff Merino and current employee  
8 Class Members, who are low-wage workers for whom McDonald's failure to pay required wages  
9 when due if and when they leave McDonald's employment would create substantial hardship, are  
10 also entitled to preliminary and permanent injunctive relief against further violations of California  
11 Labor Code §§201-203.

12  
13 **SEVENTH CAUSE OF ACTION**  
14 **Failure to Maintain Required Records**  
15 **[Cal. Labor Code §§ 226, 1174, 1194.5, 1198; IWC Wage Order No. 5-2001, § 7]**  
16 **(Brought by Plaintiffs Sanchez, Cruz, Merino, and Valentin**  
17 **on behalf of Themselves and the Plaintiff Class**  
18 **Against All Defendants)**

19 110. Plaintiffs incorporate herein by specific reference, as though fully set forth, the  
20 allegations in paragraphs 1 through 109.

21 111. During the Class Period, as part of McDonald's illegal payroll policies and practices  
22 to deprive Plaintiffs Sanchez, Cruz, Merino, and Valentin and Class Members of all wages earned  
23 and due, McDonald's has knowingly and intentionally failed and continues to fail to maintain  
24 records as required under California Labor Code §§226, 1174, and IWC Wage Order No. 5-2001,  
25 §7, including but not limited to the following records: total daily hours worked by each employee  
26 and the applicable regular and overtime rates of pay; all deductions; meal periods; time records  
27 showing when each employee begins and ends each work period; and accurate itemized statements.

28 112. McDonald's has failed and continues to fail to provide Plaintiffs Sanchez, Cruz,  
Merino, and Valentin and Class Members with clear and accurate itemized wage statements  
reflecting the actual hours worked and the applicable regular and overtime rates of pay associated  
with these hours worked.

1 113. Additionally, McDonald's has failed to provide Plaintiffs Sanchez, Cruz, Merino,  
2 and Valentin and Class Members with itemized wage statements identifying the name and/or  
3 address of the legal entity that was their employer as required under California Labor Code §226.

4 114. As a proximate result of McDonald's unlawful actions and omissions, Plaintiffs  
5 Sanchez, Cruz, Merino, and Valentin and Class Members have been and continue to be damaged in  
6 an amount according to proof at trial, and are entitled to all wages earned and due, plus interest  
7 thereon. Additionally, Plaintiffs Sanchez, Cruz, Merino, and Valentin and Class Members are  
8 entitled to all available statutory penalties, including but not limited to civil penalties pursuant to  
9 California Labor Code §§226(e), 226.3, and 1174.5, and an award of costs, expenses, and  
10 reasonable attorneys' fees, including but not limited to those provided in California Labor Code  
11 §226(e), as well as other available remedies. Pursuant to California Labor Code §1194.5, Plaintiff  
12 Merino and current employee Class Members, who are low-wage workers for whom McDonald's  
13 failure to maintain required accurate records of all hours worked and rates of pay creates  
14 substantial hardship, are also entitled to preliminary and permanent injunctive relief against further  
15 violations of these laws and wage orders.

16 **EIGHTH CAUSE OF ACTION**

17 **Failure to Furnish Accurate Itemized Wage Statements**  
18 **[Cal. Labor Code §§204, 226, 1194.5; IWC Wage Order No. 5-2001, §7]**  
19 **(Brought by Plaintiffs Sanchez, Cruz, Merino, and Valentin**  
20 **on behalf of Themselves and the Plaintiff Class**  
21 **Against All Defendants)**

22 115. Plaintiffs incorporate herein by specific reference, as though fully set forth, the  
23 allegations in paragraphs 1 through 114.

24 116. During the Class Period, McDonald's has routinely failed and continues to fail to  
25 provide Plaintiffs Sanchez, Cruz, Merino, and Valentin and Class Members with timely, accurate,  
26 and itemized wage statements in writing showing each employee's gross wages earned, total hours  
27 worked, all deductions made, net wages earned, the name and address of the legal entity or entities  
28 employing Plaintiffs Sanchez, Cruz, Merino, and Valentin and Class Members, and all applicable  
hourly rates in effect during each pay period and the corresponding number of hours worked at  
each hourly rate, in violation of California Labor Code §226 and IWC Wage Order No. 5-2001, §7.





1            121. California Labor Code §2802(a) requires an employer to indemnify an employee for  
2 all necessary expenditures or losses incurred by the employee in direct consequence of the  
3 discharge of his or her duties, or of his or her obedience to the directions of the employer.  
4 California Labor Code §221 makes it unlawful for employers to collect or receive from an  
5 employee any part of wages paid. California Labor Code §450 makes it unlawful for an employer  
6 to compel or coerce employees to purchase anything of value from the employer. IWC Wage  
7 Order 5-2001, §9(A), provides that if an employer requires a uniform or part of a uniform to be  
8 worn by an employee, the employer must provide and maintain the uniform, or pay for the  
9 maintenance of that uniform.

10            122. During the Class Period, McDonald's has knowingly and willfully failed and  
11 continues to fail to indemnify Plaintiffs Sanchez, Cruz, Merino, and Valentin and Class Members  
12 for all business expenses and/or losses incurred in direct consequence of the discharge of their  
13 duties while working under the direction of McDonald's, including but not limited to by failing to  
14 maintain uniforms McDonald's required and continues to require Plaintiffs Sanchez, Cruz, Merino,  
15 and Valentin and Class Members to wear. Although McDonald's has provided Plaintiffs Sanchez,  
16 Cruz, Merino, and Valentin and Class Members with a limited number of uniforms, McDonald's  
17 has implemented no policy that provides for the maintenance of these uniforms. Consequently,  
18 Plaintiffs Sanchez, Cruz, Merino, and Valentin and Class Members have been and continue to be  
19 required to maintain their uniforms themselves, without being compensated for the costs of such  
20 maintenance. As Defendants run a food service business, the uniforms of Plaintiff Sanchez, Cruz,  
21 Merino, and Valentin and Class Members regularly become extremely dirty over time and  
22 necessitate special and/or frequent cleaning. McDonald's has failed and continues to fail to  
23 reimburse Plaintiffs Sanchez, Cruz, Merino, and Valentin and Class Members for the time spent  
24 and the reasonable expenses they incur in maintaining their uniforms in violation of California  
25 Labor Code §2802 and IWC Wage Order No. 5-2001, §9(A).

26            123. By requiring Plaintiffs Sanchez, Cruz, Merino, and Valentin and Class Members to  
27 pay for work-related expenses without reimbursement, McDonald's, pursuant to its policy and  
28

1 practice, has willfully violated and continues to violate California Labor Code §§221, 450, and  
2 2802.

3 124. As a proximate result of McDonald's unlawful actions and omissions, Plaintiffs  
4 Sanchez, Cruz, Merino, and Valentin and Class Members have been damaged in an amount  
5 according to proof at trial, and seek reimbursement of all necessary expenditures, coerced  
6 payments, and unlawful deductions, plus interest thereon pursuant to California Labor Code §§221,  
7 450, and 2802(b). Additionally, Plaintiffs Sanchez, Cruz, Merino, and Valentin and Class  
8 Members are entitled to all available statutory penalties and an award of costs, expenses, and  
9 reasonable attorneys' fees, including those provided in California Labor Code §2802(c), as well as  
10 other available remedies. Pursuant to California Labor Code §1194.5, Plaintiff Merino and current  
11 employee Class Members, who are low-wage workers for whom McDonald's failure to reimburse  
12 necessary business expenses creates substantial hardship, are also entitled to preliminary and  
13 permanent injunctive relief against further violations of the laws and wage orders alleged herein.

14  
15 **TENTH CAUSE OF ACTION**  
16 **Unfair and Unlawful Business Practices**  
17 **[Cal. Bus. & Prof. Code §17200 et seq.]**  
18 **(Brought by Plaintiffs Sanchez, Cruz, Merino, and Valentin**  
19 **on behalf of Themselves and the Plaintiff Class**  
20 **Against All Defendants)**

21 125. Plaintiffs incorporate herein by specific reference, as though fully set forth, the  
22 allegations in paragraphs 1 through 124.

23 126. Each and every one of McDonald's acts and omissions in violation of the California  
24 Labor Code and/or the applicable IWC Wage Order as alleged herein, including but not limited to  
25 McDonald's wage theft through failure to pay all wages when due; McDonald's failure and refusal  
26 to provide required meal periods or to pay required wages when meal periods are missed, late, or  
27 shortened; McDonald's failure and refusal to provide required rest breaks or to pay required wages  
28 when rest breaks are missed, late, or shortened; McDonald's failure and refusal to pay overtime  
compensation; McDonald's failure and refusal to pay minimum wages; McDonald's failure and  
refusal to pay all wages due to discharged and quitting employees; McDonald's failure and refusal  
to furnish accurate itemized wage statements; McDonald's failure and refusal to maintain required

1 records; and McDonald's failure and refusal to indemnify Plaintiffs Sanchez, Cruz, Merino, and  
2 Valentin and Class Members for necessary expenditures and/or losses incurred in discharging their  
3 duties, constitutes an unfair and unlawful business practice under California Business and  
4 Professions Code §17200 et seq.

5 127. McDonald's violations of California wage and hour laws constitute a business  
6 practice because McDonald's aforementioned acts and omissions have been done repeatedly over a  
7 significant period of time, and in a systematic manner, to the detriment of Plaintiffs and Class  
8 Members.

9 128. McDonald's has avoided and continues to avoid payment of wages, overtime wages,  
10 minimum wages, meal periods, rest breaks, and other benefits as required by the California Labor  
11 Code, the California Code of Regulations, and the applicable IWC Wage Order. Further,  
12 McDonald's has failed and continues to fail to record, report, and pay the correct sums of  
13 assessment to the state authorities under the California Labor Code and other applicable  
14 regulations.

15 129. As a result of McDonald's unfair and unlawful business practices, McDonald's has  
16 reaped and continues to reap unfair and illegal profits during the Class Period at the expense of  
17 Plaintiffs Sanchez, Cruz, Merino, and Valentin, Class Members, and members of the public.  
18 McDonald's should be made to disgorge its ill-gotten gains and to restore them to Plaintiffs  
19 Sanchez, Cruz, Merino, and Valentin and Class Members.

20 130. McDonald's unfair and unlawful business practices entitle Plaintiff Merino and  
21 current employee Class Members to seek preliminary and permanent injunctive relief, and entitle  
22 Plaintiffs Sanchez, Cruz, Merino, and Valentin and Class Members to seek equitable relief  
23 including but not limited to orders that McDonald's account for, disgorge, and restore to Plaintiffs  
24 Sanchez, Cruz, Merino, and Valentin and Class Members the wages and other compensation  
25 unlawfully withheld from them. Plaintiffs Sanchez, Cruz, Merino, and Valentin and Class  
26 Members are entitled to restitution of all monies to be disgorged from McDonald's in an amount  
27 according to proof at the time of trial.  
28

**ELEVENTH CAUSE OF ACTION**  
**Declaratory Judgment**  
**[Cal. C.C.P. §1060 et seq.]**  
**(Brought by Plaintiffs Sanchez, Cruz, Merino, and Valentin**  
**on behalf of Themselves and the Plaintiff Class**  
**Against All Defendants)**

131. Plaintiffs incorporate herein by specific reference as though fully set forth the allegations in paragraphs 1 through 130.

132. An actual controversy has arisen and now exists between the parties relating to the legal rights and duties of the parties as set forth above, for which Plaintiffs Sanchez, Cruz, Merino, and Valentin desire a declaration of rights and other relief available pursuant to the California Declaratory Judgment Act, C.C.P. §1060 et seq.

133. A declaratory judgment is necessary and proper in that Plaintiffs Sanchez, Cruz, Merino, and Valentin contend that McDonald's has committed and continues to commit the violations set forth above and McDonald's, on information and belief, will deny that it has done so and/or that it will continue to do so.

**TWELFTH CAUSE OF ACTION**  
**Representative Action for Civil Penalties**  
**[Cal. Labor Code §§2698-2699.5]**  
**(Brought by Plaintiffs Sanchez, Cruz, Merino, and Valentin on behalf of Themselves,**  
**all similarly situated current and former McDonald's employees, and the Public**  
**Against All Defendants)**

134. Plaintiffs incorporate herein by specific reference as though fully set forth the allegations in paragraphs 1 through 133.

135. Plaintiffs Sanchez, Cruz, Merino, and Valentin are each an "aggrieved employee" within the meaning of California Labor Code §2699(c), and are each a proper representative to bring a civil action on behalf of himself or herself and other current and former employees of McDonald's pursuant to the procedures specified in California Labor Code §2699.3, because Plaintiffs Sanchez, Cruz, Merino, and Valentin are or were employed by McDonald's and the alleged violations of the California Labor Code were committed against Plaintiffs Sanchez, Cruz, Merino, and Valentin and continue to be committed against Plaintiff Merino.

136. Pursuant to the California Private Attorneys General Act of 2004 ("PAGA"), Labor Code §§2698-2699.5, Plaintiffs Sanchez, Cruz, Merino, and Valentin seek to recover civil

1 penalties, including but not limited to penalties under California Labor Code §§2699, 210, 225.5,  
2 226.3, 558, 1174.5, 1197.1, 1199, and IWC Wage Order No. 5-2001, § 20, from McDonald's in a  
3 representative action for the violations set forth above, including but not limited to violations of  
4 California Labor Code §§201, 202, 203, 204, 226, 226.7, 510, 512, 1174, 1194, 1197, 1198, and  
5 2802. Plaintiffs Sanchez, Cruz, Merino, and Valentin are also entitled to an award of reasonable  
6 attorneys' fees and costs pursuant to California Labor Code §2699(g)(1).

7 137. Pursuant to California Labor Code §2699.3, Plaintiff Sanchez, on behalf of herself  
8 and all Class Members, including Plaintiffs Cruz, Merino and Valentin, gave written notice by  
9 certified mail to the California Labor and Workforce Development Agency ("LWDA") and  
10 McDonald's of the specific provisions of the California Labor Code and IWC Wage Orders alleged  
11 to have been violated, including the facts and theories to support the alleged violations. Within  
12 thirty-three (33) calendar days of the postmark date of Plaintiff Sanchez's notice letter, which  
13 expired before the original complaint in this action was filed in January 2013, the LWDA did not  
14 provide notice to Plaintiff Sanchez that it intended to investigate the alleged violations.

15 138. Further, on March 13, 2014, before filing the Second Amended Complaint in this  
16 action, Plaintiffs Sanchez, Cruz, Merino and Valentin, on behalf of themselves and all Class  
17 Members, gave an additional written notice by certified mail to the LWDA and McDonald's of the  
18 specific provisions of the California Labor Code and IWC Wage Orders alleged to have been  
19 violated, including the facts and theories to support the alleged violations. That letter included a  
20 copy of, and incorporated by reference, the entire Second Amended Complaint. Within thirty-three  
21 (33) calendar days of the postmark date of Plaintiff's second notice letter, the LWDA did not  
22 provide notice to Plaintiffs that it intended to investigate the alleged violations.

23 139. Therefore, Plaintiffs have complied with all of the requirements set forth in  
24 California Labor Code §2699.3 to pursue a representative action under PAGA.

25 //

26 //

27 //

28 //

1 **PRAYER FOR RELIEF**

2 **WHEREFORE**, Plaintiffs Sanchez, Cruz, Merino, and Valentin, individually and on behalf  
3 of all other persons similarly situated, respectfully pray for relief against all Defendants, and each  
4 of them, as follows:

- 5 1. For compensatory damages in an amount to be ascertained at trial;
- 6 2. For restitution of all monies due to Plaintiffs Sanchez, Cruz, Merino, and Valentin and  
7 Class Members, as well as disgorged profits from the unfair and unlawful business practices of  
8 McDonald's;
- 9 3. For meal period and rest break compensation pursuant to California Labor Code §226.7  
10 and IWC Wage Order No. 5-2001;
- 11 4. For liquidated damages pursuant to California Labor Code §1194.2;
- 12 5. For preliminary and permanent injunctive relief on behalf of Plaintiff Merino enjoining  
13 McDonald's from violating the relevant provisions of the California Labor Code and the IWC  
14 Wage Orders, and from engaging in the unfair and unlawful business practices complained of  
15 herein;
- 16 6. For waiting time penalties for Plaintiffs Sanchez, Cruz, and Valentin and former  
17 employee Class Members pursuant to California Labor Code §203;
- 18 7. For statutory and civil penalties according to proof, including but not limited to all  
19 penalties authorized by the California Labor Code §§210, 225.5, 226(e), 226.3, 1174.5, 1197.1, and  
20 2699;
- 21 8. For interest on the unpaid wages at 10% per annum pursuant to California Labor Code  
22 §§218.6, 1194, 2802, California Civil Code §§3287, 3288, and/or any other applicable provision  
23 providing for pre-judgment interest;
- 24 9. For reasonable attorneys' fees and costs pursuant to California Labor Code §§218.5,  
25 226, 1194, 2802, and 2699, and California Code of Civil Procedure §1021.5, and/or any other  
26 applicable provisions providing for attorneys' fees and costs;
- 27 10. For declaratory relief;
- 28 11. For an order requiring and certifying this action as a class action;

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

12. For an order appointing Plaintiffs Sanchez, Cruz, Merino, and Valentin as class representatives, and Plaintiffs' counsel as class counsel; and


13. For such further relief that the Court may deem just and proper.

DATED: June 6, 2014

Respectfully submitted,  
  
MATTHEW J. MATERN  
AUBRY WAND  
Matern Law Group

MICHAEL RUBIN  
BARBARA J. CHISHOLM  
MATTHEW J. MURRAY  
Altshuler Berzon LLP

JOSEPH M. SELLERS  
ABIGAIL E. SHAFROTH  
~~Cohen Milstein Sellers & Toll, PLLC~~

By:   
Matthew J. Matern  
Attorneys for Plaintiffs

**DEMAND FOR JURY TRIAL**

1  
2 Plaintiffs Sanchez, Cruz, Merino, and Valentin, on behalf of themselves and all others  
3 similarly situated, hereby demand a jury trial with respect to all issues triable of right by jury.

4  
5 DATED: June 6, 2014

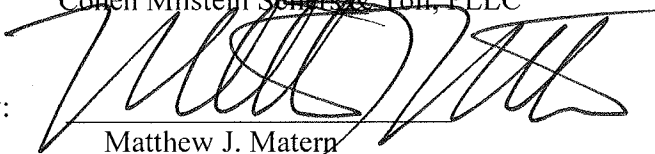
Respectfully submitted,

6 MATTHEW J. MATERN  
7 AUBRY WAND  
8 Matern Law Group

9 MICHAEL RUBIN  
10 BARBARA J. CHISHOLM  
11 MATTHEW J. MURRAY  
12 Altshuler Berzon LLP

13 JOSEPH M. SELLERS  
14 ABIGAIL E. SHAFROTH  
15 Cohen Milstein Sellers & Toll, PLLC

16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28



Matthew J. Matern  
Attorneys for Plaintiffs



**PROOF OF SERVICE**

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years, and not a party to this action. My business address is 1230 Rosecrans Avenue, Suite 200, Manhattan Beach, California 90266.

On June 6, 2014, I served the following document or documents:

**THIRD AMENDED COMPLAINT**

**By electronic service (via electronic filing service provider).** I caused the documents to be electronically transmitted to Case Anywhere, an electronic filing service provider, at [www.caseanywhere.com](http://www.caseanywhere.com), pursuant to the Court's Electronic Case Management Order governing the matter titled *Maria Sanchez, et al. v. McDonald's Restaurants of California, Inc., et al.*, mandating electronic service. The transmission was reported as complete and without error to the addresses as stated on the attached service list.

GIBSON DUNN & CRUTCHER LLP Catherine A. Conway, Esq. Jesse A. Cripps, Esq. Neta Levanon, Esq. 333 South Grand Avenue Los Angeles, California 90071 Telephone: (213) 229-7000 Facsimile: (213) 229-7520 Email: <a href="mailto:cconway@gibsondunn.com">cconway@gibsondunn.com</a> <a href="mailto:jcripps@gibsondunn.com">jcripps@gibsondunn.com</a> <a href="mailto:nlevanon@gibsondunn.com">nlevanon@gibsondunn.com</a>	Attorneys for Defendant McDonald's Restaurants of California, Inc.
--	--

ALTSHULER BERZON LLP Michael Rubin, Esq. Barbara J. Chisholm, Esq. Matthew J. Murray, Esq. 177 Post Street, Suite 300 San Francisco, California 94108 Telephone: (415) 421-7151 Facsimile: (415) 362-8064 E-mail: <a href="mailto:mrubin@altshulerberzon.com">mrubin@altshulerberzon.com</a> <a href="mailto:bchisholm@altshulerberzon.com">bchisholm@altshulerberzon.com</a> <a href="mailto:mmurray@altshulerberzon.com">mmurray@altshulerberzon.com</a>	Attorneys for Plaintiffs Maria Sanchez, David Cruz, Ines Mendez Merino, and Jonathan Valentin, on behalf of themselves and all others similarly situated
--	--

1 COHEN MILSTEIN SELLERS & TOLL,  
2 PLLC  
3 Joseph M. Sellers, Esq.  
4 Abigail E. Shafroth, Esq.  
5 1100 New York Ave NW, Suite 500  
6 Washington, DC 20005  
7 Telephone: (202) 408-4600  
8 Facsimile: (202) 408-4699  
9 E-mail: jsellers@cohenmilstein.com  
10 ashafroth@cohenmilstein.com

Attorneys for Plaintiffs Maria Sanchez, David Cruz, Ines Mendez Merino, and Jonathan Valentin, on behalf of themselves and all others similarly situated

11 I declare under penalty of perjury under the laws of the State of California that the  
12 foregoing is true and correct. Executed on June 6, 2014 at Manhattan Beach, California.

13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  


Aubry Wand