**Affirmative Defenses**

Defendant further alleges the following affirmative defenses to the purported causes of action in the Complaint, without conceding that they bear the burden of proof or persuasion as to any one of them, as follows:

**FIRST AFFIRMATIVE DEFENSE**

**(Unlawful Delegation of Executive Authority)**

Plaintiffs PAGA claim is barred to the extent private actions seeking PAGA penalties manifest an unlawful delegation of executive authority.

**SECOND AFFIRMATIVE DEFENSE**

**(Employees Breach of Contract)**

Defendant alleges the existence of a valid and enforceable contract, which bars or limits Plaintiff and the purported aggrieved employees from obtaining relief; Defendant further alleges Plaintiff and the purported aggrieved employees breached the contract which likewise bars or limits them from obtaining relief.

**THIRD AFFIRMATIVE DEFENSE**

**(Employees Are Not Aggrieved Employees)**

Plaintiff purported PAGA cause of action is barred to the extent it seeks to recover penalties on behalf of individuals who are not “aggrieved employees.”

**FOURTH AFFIRMATIVE DEFENSE**

**(Penalties Beyond Initial Violation)**

The purported PAGA cause of action is barred to the extent Plaintiff and the purported aggrieved employees seek penalties beyond the “initial” violation described in California Labor Code section 2699 and/or any other applicable California Labor Code provision.

**FIFTH AFFIRMATIVE DEFENSE**

**(Reservation of Defenses)**

Because Plaintiffs Complaint is couched in conclusory terms, Defendant cannot fully anticipate all defense that may be applicable to this action. Accordingly, Defendant reserves the right to assert additional defenses, if and to the extent such defenses are later found applicable.

**SIXTH AFFIRMATIVE DEFENSE**

**(Reimbursement of Business Expenses)**

To the extent Plaintiff and the purported aggrieved employees were employees, which Defendant expressly denies, Plaintiffs and the purported aggrieved employees’ claims under Labor Code section 221 are barred, in whole or in part, because, at all relevant times, Defendant reimbursed its employees for the costs of expenses incurred in the discharge of their duties and/or did not otherwise require them to bear such costs.

**SEVENTH AFFIRMATIVE DEFENSE**

**(Plaintiffs Lack Standing)**

Plaintiffs Complaint as a whole, and each purported cause of action alleged therein, is barred in whole or in part because Plaintiff lacks standing to bring and maintain the instant action on behalf of the purported aggrieved employees.

**EIGHTH AFFIRMATIVE DEFENSE**

**(Unclean Hands)**

Plaintiff and the purported aggrieved employees come to this Court with unclean hands, and are therefore barred from recover under this Complaint, or any cause of action therein.

**NINTH AFFIRMATIVE DEFENSE**

**(Reasonable Deduction)**

To the extent Plaintiff and the purported aggrieved employees were employees, which Defendant expressly denies, Plaintiffs and the purported aggrieved employees’ claims under Labor Code sections 221 are barred, in whole or in part, because the IWC Wage Orders specifically permit an employer to make a reasonable deduction and/or obtain reimbursement from an employee for losses and shortages caused by an employee’s dishonest or willful act or gross negligence.

**TENTH AFFIRMATIVE DEFENSE**

**(Doctrine of In Pari Delicto)**

To the extent Plaintiff and the purported aggrieved employees were employees, which Defendant expressly denies, Plaintiffs and the purported aggrieved employees’ claims are barred, in whole or in part, by the doctrine of in pari delicto due to the conduct of Plaintiff and the purported aggrieved employees, including but not limited to their voluntary waiver of the meal periods and rest breaks that they were provided the opportunity to take, and their voluntary decision not to request reimbursement for any expenses they incurred.

**ELEVENTH AFFIRMATIVE DEFENSE**

**(Unknown Hours Worked)**

Defendant is informed and believes, and thereon allege, that Plaintiff and the purported aggrieved employees are barred, or at least limited, by the doctrine of unknown hours worked.

**TWELFTH AFFIRMATIVE DEFENSE**

**(Offset)**

Defendant is entitled to an offset for amounts Plaintiff and the purported aggrieved employees owe Defendant for receipt of any wages, remuneration, and/or other benefits to which they are not entitled and/or did not earn, or to which they would not be entitled as employees, including to an offset against any damages allegedly incurred or restitution or penalties sought by Plaintiff and the purported aggrieved employees for the value of the goods that Plaintiff and the purported aggrieved employees received in connection with their purchases.

**THIRTEENTH AFFIRMATIVE DEFENSE**

**(Same Claim)**

Plaintiffs Complaint, and each purported cause of action alleged therein, is barred, in whole or in part, to the extent that Plaintiff or any purported aggrieved employees previously have pursued the same claim in any court or administrative forum.

**FOURTEENTH AFFIRMATIVE DEFENSE**

**(Fails to State Valid Claim for Attorneys Fees)**

Plaintiffs Complaint, and each purported cause of action alleged therein, fails to state a valid claim for attorneys’ fees against Defendant.

**FIFTEENTH AFFIRMATIVE DEFENSE**

**(Double Penalties in Violation of Due Process)**

Plaintiffs PAGA claim is barred pursuant to the United States Constitution and the California Constitution to the extent Labor Code section 2698 et seq. imposes double penalties and violates the due process rights of Defendant.

**SIXTEENTH AFFIRMATIVE DEFENSE**

**(No Injury Suffered)**

To the extent Plaintiff and the purported aggrieved employees were employees, which Defendant expressly denies, Plaintiffs and the purported aggrieved employees’ claims are barred, in whole or in part, because Plaintiff and the purported aggrieved employees did not suffer injury as a result of a knowing and intentional failure by their claimed and alleged employer to comply with Labor Code section 226(a).

**SEVENTEENTH AFFIRMATIVE DEFENSE**

**(Good Faith)**

Plaintiff’s Complaint, and each purported cause of action alleged therein, is barred because any conduct complained of against Defendant and its agents, if any, was just and proper exercise of management discretion undertaken for a fair and honest reason regulated by good faith under the circumstances then existing.

**EIGHTEENTH AFFIRMATIVE DEFENSE**

**(Fails to State Facts Sufficient to Constitute a Cause of Action For Penalties)**

Plaintiff’s Complaint, and each purported cause of action alleged therein, fails to state facts sufficient to constitute a cause of action against Defendant that would support an award of penalties and/or punitive damages.

**NINETEENTH AFFIRMATIVE DEFENSE**

**(Failure to State Cause of Action)**

Plaintiffs Complaint as a whole, and each purported cause of action alleged therein, fails to state facts sufficient to constitute a cause of action against Defendant upon which relief may be granted.

**TWENTIETH AFFIRMATIVE DEFENSE**

**(Statute of Limitations)**

Plaintiffs Complaint as a whole, and each purported cause of action alleged therein, is barred in whole or in part by the applicable statute of limitations, including but not limited to, Code of Civil Procedure Section 240.

**TWENTY-FIRST AFFIRMATIVE DEFENSE**

**(Excessive Fines Violates Due Process)**

Plaintiffs PAGA claim is barred pursuant to the Eighth Amendment of the United State Constitution and Article I, Section 17, of the California Constitution because the penalties impose excessive fines and violates the due process rights of Defendant.

**TWENTY-SECOND AFFIRMATIVE DEFENSE**

**(Employees Not Employed by Defendant)**

Plaintiffs Complaint, and each purported cause of action contained therein, is barred because Plaintiffs and the purported aggrieved employees were not employed by Defendant.

**TWENTY-THIRD AFFIRMATIVE DEFENSE**

**(Estoppel)**

Plaintiffs Complaint, and each purported cause of action alleged therein, is barred because Plaintiff and the purported aggrieved employees are estopped by their own conduct to claim any right to damages or any relief against Defendant.

**TWENTY-FOURTH AFFIRMATIVE DEFENSE**

**(Laches)**

Plaintiffs Complaint, and each purported cause of action therein, is barred by the doctrine of laches, because Plaintiff and the purported aggrieved employees delayed inexcusably and unreasonably in pursuing any alleged claims, causing substantial prejudice to Defendant.

**TWENTY-FIFTH AFFIRMATIVE DEFENSE**

**(Failure to Exhaust Administrative Remedies)**

Plaintiffs PAGA claim is barred because Plaintiffs failed to exhaust administrative remedies that are a precondition to suit under PAGA.

**TWENTY-SIXTH AFFIRMATIVE DEFENSE**

**(Bona Fide Dispute)**

Defendant is informed and believes, and thereon alleges, that there exists a bona fide dispute as to whether any additional compensation is actually due to Plaintiff and the purported aggrieved employees, and if so, the amount thereof.

**TWENTY-SEVENTH AFFIRMATIVE DEFENSE**

**(Waiver)**

Plaintiffs Complaint, and each purported cause of action alleged therein, is barred by the doctrine of waiver.

**TWENTY-EIGHTH AFFIRMATIVE DEFENSE**

**(Not an Aggrieved Employee)**

Plaintiffs PAGA claim is barred because she is not aggrieved employee as that term is defined in Labor Code section 2699(c).

**TWENTY-NINTH AFFIRMATIVE DEFENSE**

**(Unconstitutionally Vague and Ambiguous)**

Plaintiffs PAGA claim is barred pursuant to the United States Constitution and the California Constitution because the standards governing the differentiation of employee from nonemployees are unconstitutionally vague and ambiguous, and therefore violates Defendant’s due process rights.

**THIRTIETH AFFIRMATIVE DEFENSE**

**(Hours Not Worked)**

Defendant alleges that the hours for which Plaintiff and the purported aggrieved employees claim they are entitled to were not “hours worked” within the meaning of the applicable state and federal laws, and that Plaintiff and the purported aggrieved employees are not entitled to any penalties, income or overtime compensation for these hours.

**THIRTY-FIRST AFFIRMATIVE DEFENSE**

**(Agreement to Arbitrate)**

Plaintiff’s Complaint, and each purported cause of action alleged therein, is barred because Plaintiff and the purported aggrieved employees have agreed to arbitrate all of the purported claims by way of an arbitration agreement, including but not limited to any claims for recovery of alleged “unpaid wages”.

**THIRTY-SECOND AFFIRMATIVE DEFENSE**

**(Independent Contractors Classification)**

Plaintiff and the purported aggrieved employees were properly classified as independent contractors under state and federal law and were thus exempt from state and federal minimum wage and overtime pay requirements.

**THIRTY-THIRD AFFIRMATIVE DEFENSE**

**(Purchases Not Necessary)**

To the extent Plaintiff and the purported aggrieved employees were employees, which Defendant expressly denies, Plaintiffs and the purported aggrieved employees’ claims under Labor Code section 2802 are barred, in whole or in part, because the purchases about which Plaintiff complains on behalf of herself and the purported aggrieved employees were not necessary.

**THIRTY-FOURTH AFFIRMATIVE DEFENSE**

[redacted]

**THIRTY-FIFTH AFFIRMATIVE DEFENSE**

[redacted]

**THIRTY-SIXTH AFFIRMATIVE DEFENSE**

[redacted]

**THIRTY-SEVENTH AFFIRMATIVE DEFENSE**

[redacted]

**THIRTY-EIGHTH AFFIRMATIVE DEFENSE**

**(Voluntary Waiver of Meal and Rest Periods)**

[redacted]

**THIRTY-NINETH AFFIRMATIVE DEFENSE**

**(Accord)**

[redacted]

**FORTEITH AFFIRMATIVE DEFENSE**

**(Expenses Are De Minimis)**

[redacted]

**FORTY-FIRST AFFIRMATIVE DEFENSE**

**(Good Faith Dispute)**

[redacted]

**FORTY-SECOND AFFIRMATIVE DEFENSE**

**(Preemption)**

[redacted]

**FORTY-THIRD AFFIRMATIVE DEFENSE**

**(Justification)**

[redacted]

**FORTY-FOURTH AFFIRMATIVE DEFENSE**

**(Voluntary Assumption of Risk)**

[redacted]

**FORTY-FIFTH AFFIRMATIVE DEFENSE**

**(Duplicative Recovery)**

[redacted]

**FORTY-SIXTH AFFIRMATIVE DEFENSE**

**(Ratification)**

[redacted]

**FORTY-SEVENTH AFIFIRMATIVE DEFENSE**

**(Contributory Negligence)**

[redacted]