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11 Juan Figueroa

12 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**  
13 **COUNTY OF LOS ANGELES**

14 Juan Figueroa, individually,  
15 Plaintiff,

16 v.

17 Dave's Hot Chicken, LLC, a California Limited  
18 Liability Company, and DOES 1 through 50,  
19 inclusive,  
20 Defendants.

Case No. **20STCV21795**  
**COMPLAINT**

1. Private Attorneys General Act, Cal. Lab. Code  
§ 2698 et seq.

**DEMAND FOR JURY TRIAL**

1. Plaintiff Juan Figueroa, individually, brings this action against Defendants Dave's Hot Chicken, LLC and DOES 1 through 50, inclusive.

***PARTIES***

2. Plaintiff is, and at all times relevant to this action was, a resident of Los Angeles County, California.

3. Plaintiff is informed and believes, and based thereon alleges, that Defendant Dave's Hot Chicken, LLC is a Limited Liability Company organized under the laws of the State of California.

4. Plaintiff does not know the true names of Defendants Does 1 through 50, inclusive, and therefore sues them by those fictitious names. The names, capacities, and relationships of Defendants Does 1 through 50, inclusive, will be alleged by amendment to this Complaint when the same are known to Plaintiff.

5. Plaintiff is informed and believes and on that basis alleges, that at all times mentioned in this Complaint, each Defendant was acting as the agent, employee, partner, co-conspirator or joint venture of each of the remaining Defendants, and was acting in concert with each remaining Defendant in doing the things herein alleged, and, at all times, was acting within the course and scope of such agency, employment, partnership, joint venture, or concert of action.

6. Dave's Hot Chicken, LLC and Does 1 through 50, inclusive, are collectively referred to hereafter as “Defendants.”

## ***JURISDICTION AND VENUE***

7. The amount of damages sought herein is greater than \$25,000. Hence this case is within the unlimited jurisdiction of this Court.

8. This Court has jurisdiction over Dave's Hot Chicken, LLC because at all times relevant, it is and was authorized to transact, and is transacting business in Los Angeles County, California.

9. Venue is proper in this Court pursuant to Code of Civil Procedure § 395, because the acts, events, and omissions complained of herein occurred in Los Angeles County, California.

## GENERAL ALLEGATIONS

10. On information and belief, Defendant is a food services company specializing in Nashville-style hot chicken.

1           11. Plaintiff was employed as a cook in Defendant's Hollywood location from on or about  
2 August 14, 2019 through October 15, 2019.

3           12. Throughout his employment, Defendants failed to provide Plaintiff with written notice  
4 that sets forth the amount of paid sick leave available, or paid time off leave in lieu of sick leave, for  
5 use on either the Plaintiff's itemized wage statement or in a separate writing provided on the  
6 designated pay date with Plaintiff's payment of wages.

7           13. Plaintiff is informed and believes that there are many other employees of Defendants who  
8 were not provided with written notice that sets forth the amount of paid sick leave available, or paid  
9 time off leave in lieu of sick leave, for use on either their itemized wage statement or in a separate  
10 writing provided on the designated pay date with their payment of wages.

11           14. Plaintiff is informed and believes that Defendants' pervasive disregard for Labor Code  
12 regulations governing employees affected all of Defendants' employees in the same manner.

13           15. Pursuant to section 2699.3(a) of the Labor Code, on or about January 27, 2020, Plaintiff  
14 gave notice to the California Labor and Workforce Development Agency ("LWDA") of the specific  
15 provisions of the Labor Code alleged to have been violated by Defendants, including the facts and  
16 theories set forth herein through the LWDA's online Notice of Claims intake form. That same day,  
17 Plaintiff gave written notice by certified mail to Defendants of the specific provisions of the Labor  
18 Code alleged to have been violated by Defendants. A true and correct copy of the Notice of Claim sent  
19 to Defendants and LWDA is attached hereto as **Exhibit A**. No notice of cure by Defendants and no  
20 notice of investigation was received from the LWDA in the statutorily required 65-day period since  
21 mailing of the notice of the action. Thus, Plaintiffs file this action as a "Representative Action" as  
22 specifically permitted and authorized by Labor Code section 2699.

23                                   ***FIRST CAUSE OF ACTION***

24                                   *Private Attorneys General Act*

25                                   *Cal. Lab. Code § 2698 et seq.*

26                   *(On Behalf of Plaintiff, Aggrieved Employees, and California Labor and Workforce Development*  
27                                   *Agency Against All Defendants)*

28           16. Plaintiff re-pleads, re-alleges, and incorporates by reference each and every allegation set

1     forth in this Complaint.

2             17.    On or about January 27, 2020, pursuant to *California Labor Code* §§2699(a) and 2699.3,  
3     Plaintiffs provided notice in writing, via the California Labor Workforce Development Agency's  
4     ("LWDA") website and via U.S. mail with a check for \$75, to the LWDA, and to all Defendants via  
5     certified mail, that Plaintiff intends to assert PAGA claims pursuant to section 2699(a) on his own  
6     behalf, and in a representative capacity on behalf of other current or former employees, for  
7     Defendants' violations of specified provisions of the California Labor Code. A true and correct copy  
8     of the notice is attached hereto as Exhibit "A" and thereby incorporated by reference herein.

9             18.    As a result of the acts alleged above, Plaintiff brings this action on his own behalf, and in  
10    his representative capacity on behalf of other current or former aggrieved employees, for penalties  
11    pursuant to *California Labor Code* §2699 for Defendants' violations of the enumerated *California*  
12    *Labor Code* sections, including, but not limited to §§ 246 and 226.

13            19.    Pursuant to California Labor Code §2699, Plaintiff is entitled to be awarded  
14    twenty-five (25%) percent of all penalties due under California law, in addition to interest, attorney's fees  
15    and costs.

16            20.    The Court should award seventy-five (75%) percent of all penalties due under California  
17    law to the State of California.

18            21.    Plaintiff seeks civil penalties pursuant to PAGA for violations of the following Labor  
19    Code provisions:

- 20            a.     Failure to provide accurate itemized wage statements in violation of Labor Code  
21                    section 226(a); and  
22            b.     Failure to provide written notice that sets forth the amount of paid sick leave  
23                    available, or paid time off leave an employer provides in lieu of sick leave, in  
24                    violation of Labor Code section 246(i).

25            22.    With respect to violations of Labor Code section 226(a), Labor Code section 226.3  
26    imposes a civil penalty in addition to any other penalty provided by law of two hundred fifty dollars  
27    (\$250) per aggrieved employee for the first violation, and one thousand dollars (\$1,000) per aggrieved  
28    employee for each subsequent violation of Labor Code § 226(a).

1           23. With respect to violations of Labor Code § 246(i), Labor Code § 248.5(e) provides  
2 applicable penalties.

3           24. Labor Code § 2699 *et seq* imposes a civil penalty of one hundred dollars (\$100) per pay  
4 period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period,  
5 per aggrieved employee for subsequent violations for all Labor Code provisions which a civil penalty  
6 is not specifically provided.

7           25. Plaintiff is an Aggrieved Employee under PAGA because he was employed by  
8 Defendants during the applicable statutory period and suffered one or more of the Labor Code  
9 violations set forth in this Complaint. Specifically, he was not provided with accurate wage  
10 statements, or a written notice that sets forth the amount of paid sick leave available, or paid time off  
11 leave in lieu of sick leave, for use on either the Plaintiff's itemized wage statement or in a separate  
12 writing provided on the designated pay date with Plaintiff's payment of wages.

13           26. Plaintiff seeks to recover on behalf of himself, on behalf of the State, and on behalf of all  
14 current and former aggrieved employees of Defendants, the civil penalties provided by PAGA, plus  
15 reasonable attorney's fees and costs in this representative action.

16           27. No response was provided from the LWDA to Plaintiff's Notice of Claim. Plaintiff  
17 therefore has exhausted all administrative procedures required of her under Labor Code sections 2698,  
18 2699, and 2699.3, and, as a result, he is justified as a matter of right in bringing a civil-penalties cause  
19 of action under PAGA.

20           28. PAGA provides in relevant part:

21                   [A]ny provision of th[e Labor C]ode that provides for a civil penalty to be  
22 assessed and collected by the Labor and Workforce Development Agency  
23 or any of its departments, divisions, commissions, boards, agencies, or  
24 employees for a violation of th[e Labor C]ode[] may . . . be recovered  
25 through a civil action brought by an aggrieved employee on behalf of  
himself or herself and other current or former employees pursuant to the  
procedures specified in [s]ection 2699.3.

26 *Id.* § 2699(a).

27           29. Labor Code section 558 states:  
28

Any employer . . . who violates a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages.

*Id.* § 558(a).

30. Moreover, section 558 confirms that "[w]ages recovered pursuant to this section shall be paid to the affected employee" and that "civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law." *Id.* § 558(a)(3), (c).

31. PAGA similarly provides:

(f) For all provisions of this [C]ode except those for which a civil penalty is provided, there is established a civil penalty for a violation of these provisions, as follows: . . . the civil penalty is one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation. . . .

(g)(1) . . . . Any employee who prevails in any action shall be entitled to an award of reasonable attorney's fees and costs, including any filing fee.

*Id.* § 2699(f), (g)(1).

32. Plaintiff and other employees of Defendants who worked in California are aggrieved employees. They were or are employed by Defendants, and each of them, and the violations alleged herein were committed against them. Plaintiff brings this action on behalf of himself and all other current and former aggrieved employees.

33. The State of California LWDA, Plaintiff and aggrieved employees are, therefore, entitled to collect civil penalties, interest, attorneys' fees, and costs according to proof.

1 ***PRAYER FOR RELIEF***

2 WHEREFORE, Plaintiff, individually and on behalf of the aggrieved employees,  
3 respectfully requests the following relief:

- 4 1. For an award of civil penalties pursuant to PAGA;  
5 2. For an award of reasonable attorneys' fees and costs pursuant to California Labor Code  
6 section 2699(g) and/or other applicable law;  
7 3. Pre-judgment and post-judgment interest as provided by law; and  
8 4. For an award of any other and further legal and equitable relief as the Court deems just  
9 and proper.

10  
11 Dated: June 9, 2020

JAURIGUE LAW GROUP

12 *Michael Jaurigue*

13 \_\_\_\_\_  
14 Michael J. Jaurigue  
15 Ryan A. Stubbe  
16 *Attorneys for Plaintiff*  
17 Juan Figueroa  
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Dated: June 9, 2020

Michael Jaurigue

Michael Jaurigue  
Ryan A. Stubbe  
*Attorney for Plaintiff*  
Juan Figueroa

# Exhibit A



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Tel (818) 630-7280 | Toll-Free (855) JLG-LAW1 | Fax (888) 879-1697 | [www.jlglawyers.com](http://www.jlglawyers.com)

January 27, 2020

**Via Online Filing:**

California Labor and Workforce Development Agency  
ATTN: PAGA Administrator  
1515 Clay Street, Suite #801  
Oakland, CA 94612

**Via Certified Mail & Email:**

Tristan A. Mullis, Esq.  
[tmullis@pettitkohn.com](mailto:tmullis@pettitkohn.com)  
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5901 W. Century Boulevard, Suite #1100  
Los Angeles, CA 90045

Re: **Juan Figueroa v. Dave's Hot Chicken, LLC**  
***Notice of Claims Under Private Attorney General Act***

Dear Agency:

This letter serves as a claim under the California Private Attorney General Act of California – Labor Code Section 2698 et. seq. (“PAGA”)

Claimant Juan Figueroa seeks payment of penalties from Dave’s Hot Chicken, LLC (“Respondent”) on behalf of himself and all other employees similarly situated. Claimant intends to seek civil penalties, attorneys fees, costs and other available relief for violations of the California Labor Code, which are recoverable under PAGA. Claimant seeks relief on behalf of himself, the State of California, and other persons who were employed by Respondent in California, who were not provided with accurate wage statements and were not provided with a writing showing the balance of their paid sick leave, as well as other violations outlined herein (“Aggrieved Employees”). This letter is sent in compliance with the notice and reporting requirements of California Labor Code section 2699.3.

### **Factual Background**

Claimant Juan Figueroa was hired by Respondent, Dave's Hot Chicken, LLC, as a full time cook on August 2, 2019. Claimant was separated from Respondent in October 2019.

Due to Respondent's policies and payroll practices, Respondent failed to provide Claimant and other Aggrieved Employees with accurate wage statements in compliance with California law, as the wage statements issued to Claimant and other Aggrieved Employees failed to comply with Labor Code section 246(i) by not providing Claimant and Other Aggrieved Employees with written notice that sets forth the amount of paid sick leave available, or paid time off leave in lieu of sick leave, for use on either the employee's itemized wage statement described in Section 226 or in a separate writing provided on the designated pay date with the employee's payment of wages.

### **Violation of California Labor Code §§ 226(a)**

California Labor Code section 226(a) requires employers to make, keep and provide true, accurate, and complete employment records. Respondent has not provided Claimant and other Aggrieved Employees with properly itemized wage statements. Labor Code section 226(e) provides that if an employer fails to comply with providing an employee with properly itemized wages statements as set forth in 226(a), then the employee is entitled to recover the greater of all actual damages or \$50.00 for the initial pay period in which a violation occurs and \$100 per employee for each violation in any subsequent pay period, not to exceed \$4,000. Further, Labor Code section 226.3 provides that any employer who violates section 226(a) shall be subject to a civil penalty in the amount of \$250 per employee per violation in an initial citation and \$1,000 per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage statement or fails to keep the required records pursuant to Section 226(a).

During the relevant time period, Respondent has knowingly and intentionally provided Claimant and other Aggrieved Employees with uniform, incomplete, and inaccurate wage statements.

Because Respondent failed to provide accurate information on wage statements, Claimant and other Aggrieved Employees have been prevented from verifying, solely from information on the wage statements themselves, that they were paid correctly and in full and the amount of sick leave accrued and available for their use.

Claimant and other Aggrieved Employees are entitled to recover penalties, attorney's fees, costs, and interest thereon pursuant to Labor Code sections 226(e), 226.3, and/or 2699(a), (f)-(g).

### **Violation of Labor Code 246**

Labor Code section 246(i) requires employers to provide employees with written notice that sets forth the amount of paid sick leave available, or paid time off leave an employer provides in lieu of sick leave, for use on either the employee's itemized wage statement described in Section 226 or in a separate writing provided on the designated pay date with the employee's payment of wages. The wage statements issued to Claimant and other Aggrieved Employees utterly failed to include the information required by Labor Code section 246, nor did Claimant and other Aggrieved Employees receive a separate writing with the required information.

Claimant and other Aggrieved Employees are entitled to recover penalties, attorney's fees, costs, and interest thereon pursuant to Labor Code sections 2246, 248.5, and/or 2699(a), (f)-(g).

### **Attorneys' Fees, Costs, Interest and Penalties**

Labor Code sections 218.5, 218.6, 226(e), 1194, 1194.2 and 2699 et seq. give employees the right to recover in a civil action the unpaid balance of the full amount of minimum wages, regular wages, overtime compensation, damages, liquidated damages and penalties, including interest thereon, reasonable attorneys' fees and costs of suit. Pursuant to Labor code section 2699 et seq. Aggrieved Employees are entitled to collect 25% of the penalty assessment and 100% of the underpaid wages. Accordingly, Respondent is liable for these items in addition to the unpaid wages. Claimant has already incurred in actual damages, cost and attorneys' fees and will continue to incur costs because of Respondent's unlawful actions.

The facts and claims contained herein are based on the information available at the time of this writing. Therefore, if through discovery and/or expert review, Claimant becomes aware of additional claims, he reserves the right to revise these facts and/or add any new claims by amending this claim letter, or by adding applicable causes of action and additional representatives in the complaint for damages.

Based on the foregoing, Claimant wishes to bring a representative action under PAGA on behalf of himself and the State of California, as well as on behalf of all other Aggrieved Employees. Claimant requests that the agency investigate the above allegations and provide notice of the allegations pursuant to PAGA's provisions. Alternatively, Claimant requests that the agency inform him if it does not intend to investigate these violations so that he may proceed with his lawsuit including the violations discussed in this letter.

Concurrently with the online filing of this letter, Claimant will remit the \$75.00 filing fee to the LWDA. Please direct all future notices under PAGA to our office. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Jaurigue". The signature is fluid and cursive, with the first name "Michael" and last name "Jaurigue" clearly distinguishable.

Michael Jaurigue