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ISABELLA KLUGH, on behalf of the
State of California and all
Aggrieved employees as a Private
Attorney General

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES**

ISABELLA KLUGH, an individual, on behalf
of the State of California and all aggrieved
employees as a Private Attorney General

Plaintiff,

vs.

HILLSTONE RESTAURANT GROUP, INC.,
a Delaware corporation, and DOES 1-50,
inclusive,

Defendants.

Case No.:

REPRESENTATIVE ACTION

**COMPLAINT FOR CIVIL PENALTIES
FOR VIOLATION OF THE PRIVATE
ATTORNEYS GENERAL ACT OF 2004,
Cal. Labor Code §2698 *et seq.***

Plaintiff ISABELLA KLUGH (“Plaintiff”), on behalf of herself and the people of the State of California and as an “aggrieved employee” under the Cal. Labor Code Private Attorneys General Act of 2004, §2698 *et seq.* (“PAGA”), through her counsel of record, Koul Law Firm, and files this PAGA representative action complaint seeking damages and other relief for violations of California law and as grounds for her action, Plaintiff alleges as follows:

1 **NATURE OF THE ACTION**

2 1. This is a representative action, pursuant to Labor Code §2699 *et seq.*, on behalf of the
3 following individuals: All persons who have been employed as a non-exempt, hourly employee of
4 HILLSTONE RESTAURANT GROUP, INC., (hereinafter “HILLSTONE”) in the state of
5 California who worked one or more pay periods since one (1) year prior to the date of the letter
6 sent to the Labor Workforce Development Agency and Defendants giving notice of these PAGA
7 claims and continuing to the present. (hereafter “aggrieved employees”)

8 2. HILLSTONE failed to comply with California Labor Code requirements due to erroneous,
9 willful and intentional employment practices and policies. Prior to bringing this PAGA action,
10 Plaintiff provided notice of the claims pursuant to §2698 *et. seq.*, to the Labor and Workforce and
11 Development Agency (“LWDA”) as illustrated by the attached Exhibit. The LWDA has not
12 provided any notice to Plaintiff following the exhaustion of the required notice period required by
13 2699.3(a)(2)(B). Accordingly, Plaintiff now brings this Complaint for civil penalties under the
14 Private Attorneys General Act (“PAGA”), Labor Code §2698 *et seq.*

15 3. Plaintiff worked as an employee of Defendant HILLSTONE, a Delaware domestic entity,
16 which owns and operates numerous restaurant chains throughout California, including Houston’s
17 Restaurant, where Plaintiff worked.

18 **JURISDICTION AND VENUE**

19 4. Venue is proper in this judicial district because Defendant conducts business in this county
20 and each Defendant has legal obligations to Plaintiff and many of the aggrieved employees in this
21 case that arose in this county.

22 5. The statutory penalties sought by Plaintiff exceed the minimal jurisdictional limits of the
23 Superior Court and will be established according to proof at trial. Based on information,
24 investigation and analysis, Plaintiff alleges that the amount in controversy, including claims for
25 monetary damages, penalties and attorney’s fees is more than twenty-five thousand dollars
26 (\$25,000).

27 6. The California Superior Court has jurisdiction in this matter because Plaintiff is a resident
28 of California and Defendants are incorporated in and/or qualified to do business in California and

1 regularly conduct business in California. Further, there is no federal question at issue as the claims
2 herein are based solely on California law.

3 **PARTIES**

4 7. Plaintiff ISABELLA KLUGH is a resident of the State of California and lives in Los
5 Angeles County, State of California. Plaintiff was employed as an hourly, nonexempt employee
6 of Defendant until August 19, 2019, earning approximately \$14.25 per hour.

7 8. Defendant HILLSTONE RESTAURANT GROUP, INC., is a corporation doing business
8 in California with the capacity to sue and to be sued, and doing business, in the county of Los
9 Angeles, State of California, with a principal place of business at 2710 E. Camelback Road, Ste
10 200, Phoenix, AZ 85016, with 5 (five) or more employees.

11 9. Plaintiff is unaware of the true names, capacities, relationships, and extent of participation
12 in the conduct alleged herein, of the Defendants sued as DOES 1 through 50, but is informed and
13 believes and thereon alleges that said Defendants are legally responsible for the wrongful conduct
14 alleged herein and therefore sues these Defendants by such fictitious names, Plaintiff will amend
15 this complaint when their true names and capabilities are ascertained.

16 10. Plaintiff is informed and believes and thereon alleges that each Defendants, directly or
17 indirectly, or through agents or other persons, employed Plaintiff and aggrieved employees of the
18 representative class, and exercised control over their wages, hours, and working conditions.
19 Plaintiff is informed and believes and thereon alleges that each Defendant acted in all respects
20 pertinent to this action as the agent of the other Defendants, carried out a joint scheme, business
21 plan or policy in all respects pertinent hereto, and the acts of each Defendant is legally attributable
22 to the other Defendants.

23 **PAGA REPRESENTATIVE ACTION ALLEGATIONS**

24 11. This is a representative action, pursuant to Labor Code §2698 *et seq.*, on behalf of the
25 following individuals: All persons who are employed or have been employed as an hourly,
26 nonexempt employee of Defendants in the state of California who worked one or more pay periods
27 since one (1) year prior to the date of the letter sent to the Labor Workforce Development Agency
28

1 and Defendants giving notice of these PAGA claims and continuing to the present. (hereafter
2 “aggrieved employees”).

3 12. During the relevant time-period, Defendants committed various violations of the California
4 Labor Code as alleged below in more detail. Defendants enforce multiple policies that violate state
5 law, which are intended to increase profits to the detriment of aggrieved employees.

6 13. This representative action represents numerous aggrieved hourly employees, most of
7 whom earn at or near minimum wage.

8 14. This action is ideally suited and manageable as a PAGA representative action. The
9 identities of the aggrieved employees can be ascertained by reviewing existing business records.
10 For example, the identities of the aggrieved employees who were not timely paid all wages owed
11 can be ascertained by reviewing Defendants’ timecards and wage statements. Documentary
12 evidence in Defendants’ possession identifies both the employee and the damages owed. The
13 identities of the aggrieved employees who did not receive timely wage statements can be
14 determined by reviewing the wage statements themselves.

15 15. Defendants, and each of them, have committed the following violations of the California
16 Labor Code:

17 **Failure to Timely Pay All Wages Owed**

18 **(Cal. Lab. Code §§201-203, 204, 256, and 2698 *et seq.*)**

19 16. At the conclusion of Plaintiff’s employment, Plaintiff was not paid in a timely fashion all
20 wages due, as required by Labor Code §203. Other aggrieved employees who separated from the
21 company, whether voluntary or involuntary, were also denied payment of wages in a timely
22 manner, including overtime, as required by §203.

23 17. In this case, Plaintiff voluntarily separated from employment with Defendants. Her last day
24 worked was August 19, 2019. Her final check was dated August 26, 2019, and the envelope was
25 postmarked August 29, 2019. Plaintiff received her final check on August 31, 2019, a full 12 days
26 after her last day worked. Defendants pay their California employees on a weekly basis. When
27 Plaintiff separated from employment, instead of paying her final wages within 72 hours as required
28 under Labor Code section 202, Defendants simply waited until the next regular pay date to issue

1 final wages. This company-wide practice is common and has impacted hundreds of California
2 aggrieved employees who no longer work for Defendants.

3 18. As set forth above, due to Defendants' unlawful employment practices, Defendants
4 knowingly and willfully failed to pay all compensation, including overtime and penalty wages,
5 due and owing to Plaintiff and other separated aggrieved employees as required under Labor Code
6 sections 201-203.

7 19. Pursuant to §§203 and 256, Plaintiff and aggrieved employees are now also entitled to
8 recover up to thirty (30) days of wages due to Defendants' "willful" failure to comply with the
9 statutory requirements of §§201 and 202 of the Labor Code.

10 20. As a result of these practices Defendants have violated §§201-204 and 256. Defendants are
11 liable for civil penalties pursuant to Cal. Lab. Code § 2698 *et. seq.* Plaintiff also seeks attorneys'
12 fees and costs pursuant to Labor Code §2699(g)(1).

13 **FIRST CAUSE OF ACTION**

14 **Against All Defendants for Violation of the Private Attorneys General Act ("PAGA")**

15 **(California Labor Code §2699 *et seq.*)**

16 21. Plaintiff reasserts and incorporates the paragraphs referenced above as if fully set forth
17 herein.

18 22. Plaintiff and her non-exempt, hourly coworkers are "aggrieved employees" under PAGA,
19 as they were employed by Defendants during the applicable statutory period and suffered one or
20 more of the Labor Code violations set forth herein. Accordingly, they seek to recover on behalf of
21 themselves and all other current and former aggrieved employees of Defendants, the civil penalties
22 provided by PAGA, plus reasonable attorneys' fees and costs.

23 23. Plaintiff seeks to recover the PAGA civil penalties through a representative action
24 permitted by PAGA and the California Supreme Court in *Arias v. Superior Court* (2009) 46 Cal.
25 4th 969. Therefore, class certification of the PAGA claims brought herein is not required.

26 24. As more fully set forth above and expressly incorporated herein, Plaintiff seeks civil
27 penalties pursuant to PAGA for violations of the following Labor Code provisions: failure to
28 timely pay all wages owed in violation of Labor Code §§201-204, 2698 *et seq.*

1 25. Labor Code section 203 provides that an employee's wages shall continue as a penalty
2 from when they first become due at the same rate until paid for up to 30 days when an employer
3 willfully fails to timely pay all earned and unpaid wages in accordance with Labor Code section
4 201 or 202.

5 26. Labor Code §2698 *et seq.* imposes a civil penalty of one hundred dollars (\$100) per pay
6 period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay
7 period, per aggrieved employee for subsequent violations for all Labor Code provisions for which
8 a civil penalty is not specifically provided.

9 27. Plaintiff and the other current and former employees of Defendants are aggrieved
10 employees. They were or are employed by Defendants, and each of them, and the violations alleged
11 herein were committed against them. Plaintiff brings this action on behalf of herself, the State of
12 California, and all other current and former aggrieved employees.

13 28. At the time of each violation, Defendants employed five or more employees.

14 29. As a result of the aforesaid wrongful and illegal conduct of Defendants, and each of them,
15 Plaintiff and aggrieved employees are entitled to civil penalties in an amount to be determined at
16 trial, pre-judgment interest, costs and attorneys' fees.

17 30. Plaintiff has complied with all procedural requirements of Labor Code §2699.3 prior to
18 filing this Complaint. By the attached notice letter, submitted online to the Labor and Workforce
19 Development Agency ("LWDA") and served by certified mail upon Defendant, Plaintiff through
20 counsel notified the LWDS and Defendants of the specific Labor Code that Defendants have
21 violated. The LWDS did not respond to Plaintiff's notice within the statutory timeframe, and
22 Plaintiff has therefore exhausted administrative remedies. Pursuant to Labor Code §2699.3,
23 Plaintiff may now pursue his PAGA claims in this action.

24 **PRAYER FOR RELIEF**

25 WHEREFORE, Plaintiff, individually and on behalf of the State of California and all
26 aggrieved employees, prays for judgement against Defendants as follows:

27 1. An award of civil penalties pursuant to Labor Code §203 and/or 2698 *et seq.*, in an amount
28 to be determined at trial, but at least the jurisdictional amount of this Court;

2. An award of reasonable attorneys' fees and costs pursuant to California Labor Code §2699(g) and/or other applicable Labor Code sections and laws;
3. Pre-judgement and post-judgement interest as provided by law; and
4. Such other and further relief that the Court may deem just and proper.

DATED: March 26, 2020

KOUL LAW FIRM



Nazo Koulloukian, Esq.
Attorneys for Plaintiff
ISABELLA KLUGH

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EXHIBIT “A”



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January 17, 2020

Via E-filing:

California Labor & Workforce
Development Agency
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102

Via Certified U.S. Mail:

Hillstone Restaurant Group, Inc.
2710 E. Camelback Road, Suite 200
Phoenix, AZ 85016

Re: PAGA Notice Pursuant to California Labor Code §2699
Claimant: Isabella Klugh
Employer: Hillstone Restaurant Group, Inc.

Dear Sir or Madam:

Isabella Klugh has retained Nazo Koulloukian, Esq. of the Koul Law Firm to represent her, and all other aggrieved employees, for wage and hour claims against her former employer, Hillstone Restaurant Group, Inc. (hereafter “Employer.”)

Founded in 1977, Employer now owns numerous restaurant chains throughout California, including Houston’s restaurants. (<https://hillstone.com/>) Claimant worked at Employer’s Houston’s restaurant located at 1550 Rosecrans Ave., Manhattan Beach, CA, as a server until she resigned on August 19, 2019.

Employer has violated, and/or has caused to be violated, several Labor Code provisions and it is therefore liable for civil penalties under Cal. Labor Code §2698 *et seq.* We request that your agency investigate the claims alleged below, or permit claimants to seek civil penalties under the Private Attorney General Act (“PAGA”), Labor Code §2698 *et seq.*, on behalf of the Labor and Workforce and development Agency (“LWDA”) and the State of California in a representative action. This letter will serve as notice of these allegations pursuant to Cal. Lab. Code §2699.3.

Failure to Timely Pay All Wages Owed
(Cal. Lab. Code §§201-203, 204, 256, and 2698 et seq.)

Failure to Pay Wages Due Upon Termination

Labor Code section 201 states, in pertinent part, “If an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately.”

Labor Code section 202 states, in pertinent part, “If an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.”

Labor Code section 203 provides that an employee’s wages shall continue as a penalty from when they first become due at the same rate until paid for up to 30 days when an employer willfully fails to timely pay all earned and unpaid wages in accordance with Labor Code section 201 or 202.

Labor Code section 256, in pertinent part, provides that a civil penalty shall be imposed in an amount not exceeding 30 days pay as waiting time under the terms of Section 203.

Claimant’s last day worked was August 19, 2019. Her final check was dated August 26, 2019, and the envelope was postmarked August 29, 2019. Claimant received her final check on August 31, 2019, a full 12 days after her last day worked. Employer pays its California employees on a weekly basis. When Claimant separated from employment, instead of paying Claimant her final wages within 72 hours as required under Labor Code section 202, Employer simply waited until the next regular pay date to issue final wages. This company-wide practice is common and has impacted hundreds of California aggrieved employees who no longer work for Employer.

Employer willfully failed to pay Claimant and aggrieved employees all wages due and owing upon separation of employment by furnishing Claimant and aggrieved employees with a final check after the required time periods set forth in Labor Code sections 201 and/or 202. Accordingly, Claimant, on behalf of herself and aggrieved employees, will pursue civil penalties and all available remedies to the extent allowed by law for the alleged violations.

Conclusion

Employer has violated a number of California wage and hour laws. Claimant respectfully requests that the agency investigate the above allegations and hereby provides notice of the allegations pursuant to PAGA's provisions. Alternatively, Claimant requests that the agency inform her if it does not intend to investigate these violations so that she may pursue these claims as a representative action in civil court.

Sincerely,



Nazo Koulloukian, Esq.
Attorney for Claimants