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

KHAWLA MAJDOUB, individually, and on
behalf of all others similarly situated,

Plaintiff,

vs.

ARGENT HOTEL MANAGEMENT, LLC, a
limited liability company; **HIGHGATE
HOTELS, L.P.**, a limited partnership; and **DOES
1 through 10**, inclusive,

Defendants

**ENDORSED
FILED**
San Francisco County Superior Court

APR 20 2020

CLERK OF THE COURT
BY: ANGELICA SUNGA
Deputy Clerk

CGC-20-584191

Case No.:

**PAGA REPRESENTATIVE ACTION
COMPLAINT:**

1. Civil Penalties Under PAGA [Cal. Lab.
Code § 2699, et seq.]

DEMAND FOR JURY TRIAL

BY FAX

1 Plaintiff Khawla Majdoub (“Plaintiff”), based upon facts that either have evidentiary
2 support or are likely to have evidentiary support after a reasonable opportunity for further
3 investigation and discovery, alleges as follows:

4 **INTRODUCTION & PRELIMINARY STATEMENT**

5 1. Plaintiff brings this action against Defendant Argent Hotel Management, LLC,
6 Highgate Hotels, L.P., and Does 1 through 10 (Argent Hotel Management, LLC, Highgate
7 Hotels, L.P., and Does 1 through 10 are collectively referred to as “Defendants”) for civil
8 penalties under the Private Attorneys General Act of 2004, California Labor Code §§ 2698 *et*
9 *seq.* (“PAGA”) stemming from Defendants’ failure to pay for all hours worked (including
10 minimum wages, straight time wages, and overtime wages), failure to provide meal periods,
11 failure to authorize and permit rest periods, failure to maintain accurate records of hours worked
12 and meal periods, failure to timely pay all wages to terminated employees, and failure to furnish
13 accurate wage statements.

14 2. For over 50 years, California’s courts and legislature have recognized that this
15 State’s wage-and-hour laws serve a compelling public interest of fostering a stable job market.
16 Wages are not ordinary debts. Because of the economic position of the average worker and his
17 or her family, it is essential to the public welfare that employers obey the wage-and-hour laws so
18 that employees are promptly paid the minimum/overtime wages that the Legislature has required
19 for employees. So fundamental are California’s wage-and-hour laws that the Legislature has
20 criminalized certain types of violations. In extending extra protection to deter violations of these
21 underlying statutes—since Plaintiff is not seeking general and/or special damages, restitution or
22 other damages other than civil penalties—California has enacted the PAGA to permit an
23 individual to bring an action on behalf of himself and on behalf of others for PAGA penalties
24 only, which is the precise and sole nature of this action.

25 3. All California employees during the relevant statutes of limitations who are or
26 were harmed by Defendant’s illegal practices are “Aggrieved Employees.”

27 4. Plaintiff brings this action against Defendants seeking only to recover penalties for
28 himself, on behalf of all Aggrieved Employees that worked for Defendants, and on behalf of the

1 State of California. Plaintiff does not seek to recover anything other than penalties as permitted
2 by California Labor Code Section 2699 at this time. To the extent that statutory violations are
3 mentioned for wage violations, Plaintiff does not seek underlying general and/or special damages
4 for those violations, but simply penalties as permitted by California Labor Code Section 2699,
5 declaratory relief, and injunctive relief for himself and all aggrieved employees as permitted by
6 the PAGA.

7 5. Defendants own/owned and operate/operated an industry, business, and
8 establishment within the State of California, including San Francisco County. As such, and
9 based upon all the facts and circumstances incident to Defendants' business in California,
10 Defendants are subject to the California Labor Code, Wage Orders issued by the Industrial
11 Welfare Commission ("IWC"), and the California Business & Professions Code.

12 6. Despite these requirements, throughout the statutory period Defendants
13 maintained a systematic, company-wide policy and practice of:

- 14 (a) Failing to pay employees for all hours worked, including all minimum
15 wages, straight time wages, and overtime wages in compliance with the
16 California Labor Code and IWC Wage Orders;
 - 17 (b) Failing to provide employees with timely and duty-free meal periods in
18 compliance with the California Labor Code and IWC Wage Orders, failing
19 to maintain accurate records of all meal periods taken or missed, and
20 failing to pay an additional hour's pay for each workday a meal period
21 violation occurred;
 - 22 (c) Failing to authorize and permit employees to take timely and duty-free rest
23 periods in compliance with the California Labor Code and IWC Wage
24 Orders, and failing to pay an additional hour's pay for each workday a rest
25 period violation occurred;
 - 26 (d) Failing to maintain accurate records of the hours employees worked;
- 27
28

- (e) Willfully failing to pay employees all meal period, rest period, minimum wages, straight time wages, and overtime wages due within the time period specified by California law when employment terminates; and
- (f) Failing to provide employees with accurate, itemized wage statements containing all the information required by the California Labor Code and IWC Wage Orders.

7. On information and belief, Defendants, and each of them were on actual and constructive notice of the improprieties alleged herein and intentionally refused to rectify their unlawful policies. Defendants' violations, as alleged above, during all relevant times herein were willful and deliberate.

8. At all relevant times, Defendants were and are legally responsible for all of the unlawful conduct, policies, practices, acts and omissions as described in each and all of the foregoing paragraphs as the employer of Plaintiff and the Aggrieved Employees. Further, Defendants are responsible for each of the unlawful acts or omissions complained of herein under the doctrine of "respondeat superior".

THE PARTIES

A. Plaintiff

9. Plaintiff Khawla Majdoub is a California resident that worked for Defendants in the State of California as a server from approximately October 2000 to October 2019.

B. Defendants

10. Plaintiff is informed and believes, and based upon that information and belief alleges, that Defendant Argent Hotel Management, LLC is:

- (a) A Delaware limited liability company with its principal places of business in San Francisco, California.
- (b) A business entity conducting business in numerous counties throughout the State of California, including in San Francisco County; and
- (c) The former employer of Plaintiff, and the current and/or former employer of the putative Class. Argent Hotel Management, LLC suffered and

permitted Plaintiff and the Class to work, and/or controlled their wages, hours, or working conditions.

11. Plaintiff is informed and believes, and based upon that information and belief alleges, that Defendant Highgate Hotels, L.P. is:

- (a) A Delaware limited partnership with its principal places of business in San Francisco, California.
- (b) A business entity conducting business in numerous counties throughout the State of California, including in San Francisco County; and
- (c) The former employer of Plaintiff, and the current and/or former employer of the putative Class. Highgate Hotels, L.P. suffered and permitted Plaintiff and the Class to work, and/or controlled their wages, hours, or working conditions.

12. Plaintiff does not know the true names or capacities of the persons or entities sued herein as Does 1-10, inclusive, and therefore sues said Defendants by such fictitious names. Each of the Doe Defendants was in some manner legally responsible for the damages suffered by Plaintiff and the Aggrieved Employees as alleged herein. Plaintiff will amend this complaint to set forth the true names and capacities of these Defendants when they have been ascertained, together with appropriate charging allegations, as may be necessary.

13. At all times mentioned herein, the Defendants named as Does 1-10, inclusive, and each of them, were residents of, doing business in, availed themselves of the jurisdiction of, and/or injured a significant number of the Plaintiff and the Aggrieved Employees in the State of California.

14. Plaintiff is informed and believes and thereon alleges that at all relevant times each Defendant, directly or indirectly, or through agents or other persons, employed Plaintiff and the other Aggrieved Employees, and exercised control over their wages, hours, and working conditions. Plaintiff is informed and believes and thereon alleges that, at all relevant times, each Defendant was the principal, agent, partner, joint venturer, officer, director, controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest and/or predecessor in

1 interest of some or all of the other Defendants, and was engaged with some or all of the other
2 Defendants in a joint enterprise for profit, and bore such other relationships to some or all of the
3 other Defendants so as to be liable for their conduct with respect to the matters alleged below.
4 Plaintiff is informed and believes and thereon alleges that each Defendant acted pursuant to and
5 within the scope of the relationships alleged above, that each Defendant knew or should have
6 known about, and authorized, ratified, adopted, approved, controlled, aided and abetted the
7 conduct of all other Defendants.

8 **ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

9 15. Plaintiff Khawla Majdoub worked for Defendants in the State of California as a
10 server from October 2000 to October 2019. During this time, Defendants classified Plaintiff as
11 non-exempt and typically scheduled Plaintiff to work 4 to 5 days per workweek, and in excess of
12 8 hours each workday.

13 16. Throughout Plaintiff's employment, Defendants committed numerous labor code
14 violations under state law. As discussed below, Plaintiff's experience working for Defendants
15 was typical and illustrative.

16 17. Throughout the statutory period, Defendants failed to pay Plaintiff for all hours
17 worked (including minimum wages and overtime compensation), failed to provide Plaintiff with
18 uninterrupted meal periods, failed to authorize and permit Plaintiff to take uninterrupted rest
19 periods, failed to maintain accurate records of the hours Plaintiff worked, failed to timely pay all
20 final wages to Plaintiff when Defendants terminated Plaintiff's employment, and failed to furnish
21 accurate wage statements to Plaintiff. As discussed below, Plaintiff's experience working for
22 Defendants was typical and illustrative.

23 18. Throughout the statutory period, Defendants maintained a policy and practice of
24 failing to pay Plaintiff and the Aggrieved Employees for all hours worked, including overtime.
25 Specifically, Plaintiff and the Aggrieved Employees were required to work off-the-clock each
26 workday. For example, Plaintiff and the Aggrieved Employees clocked into work each workday
27 before their scheduled shift, and typically clocked out after the scheduled shift, but Plaintiffs and
28 the Aggrieved Employees were not paid for these additional minutes. Further, Defendants

1 regularly used a system of time rounding in a manner that resulted, over a period of time, in
2 failing to compensate Plaintiff and the Aggrieved Employees properly for all the time they
3 actually worked, even though the realities of Defendants' operations are such that it is possible,
4 practical, and feasible to count and pay for work time to the minute. Accordingly, Defendants
5 frequently paid Plaintiff and the Aggrieved Employees less than all their work time. Some of
6 this unpaid work also should have been paid at the overtime rate. In maintaining this practice of
7 failing to pay for all time worked, Defendants failed to maintain accurate records of the hours
8 Plaintiff and the Aggrieved Employees worked.

9 19. Throughout the statutory period, Defendants have wrongfully failed to provide
10 Plaintiff and the Aggrieved Employees with legally compliant meal periods. Defendants
11 regularly, but not always, required Plaintiff and the Aggrieved Employees to work in excess of
12 five consecutive hours a day without providing a 30-minute, continuous and uninterrupted, duty-
13 free meal period for every five hours of work, or without compensating Plaintiff and the
14 Aggrieved Employees for meal periods that were not provided by the end of the fifth hour of
15 work or tenth hour of work. Defendants did not adequately inform Plaintiff and the Aggrieved
16 Employees of their right to take a meal period by the end of the fifth hour of work, or, for shifts
17 greater than 10 hours, by the end of the tenth hour of work. Moreover, Defendants did not have
18 adequate written policies or practices providing meal periods for Plaintiff and the Aggrieved
19 Employees, nor did Defendants have adequate policies or practices regarding the timing of meal
20 periods. Accordingly, Defendants' policy and practice was to not provide meal periods to
21 Plaintiff and the Aggrieved Employees in compliance with California law.

22 20. Throughout the statutory period, Defendants have wrongfully failed to authorize
23 and permit Plaintiff and the Aggrieved Employees to take timely and duty-free rest periods.
24 Defendants regularly, but not always, required Plaintiff and the Aggrieved Employees to work in
25 excess of four consecutive hours a day without Defendants authorizing and permitting them to
26 take a 10-minute, continuous and uninterrupted, rest period for every four hours of work (or
27 major fraction of four hours), or without compensating Plaintiff and the Aggrieved Employees
28 for rest periods that were not authorized or permitted. Accordingly, Defendants' policy and

1 practice was to not authorize and permit Plaintiff and the Aggrieved Employees to take rest
2 periods in compliance with California law.

3 21. Throughout the statutory period, Defendants willfully failed and refused to timely
4 pay Plaintiff and the Aggrieved Employees at the conclusion of their employment all wages,
5 including overtime wages, meal period premium wages, and rest period premium wages.

6 22. During the statutory period, Defendants failed to furnish Plaintiff and the
7 Aggrieved Employees with accurate, itemized wage statements showing all applicable hourly
8 rates, and all gross and net wages earned (including wages for meal periods that were not
9 provided in accordance with California law, wages for rest periods that were not authorized and
10 permitted to take in accordance with California law, and correct wages earned for hours worked).
11 As a result of these violations of California Labor Code § 226(a), the Plaintiff and the Aggrieved
12 Employees suffered injury because, among other things:

- 13 (a) the violations led them to believe that they were not entitled to be paid
14 minimum wages, overtime wages, meal period premium wages, and rest
15 period premium wages, even though they were entitled;
 - 16 (b) the violations led them to believe that they had been paid the minimum,
17 overtime, meal period premium, and rest period premium wages to which
18 they were entitled, even though they had not been;
 - 19 (c) the violations led them to believe they were not entitled to be paid
20 minimum, overtime, meal period premium, and rest period premium wages
21 at the correct California rate even though they were;
 - 22 (d) the violations led them to believe they had been paid minimum, overtime,
23 meal period premium, and rest period premium wages at the correct
24 California rate even though they had not been;
 - 25 (e) the violations hindered them from determining the amounts of minimum,
26 overtime, meal period premium, and rest period premium wages owed to
27 them;
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- 1 (f) in connection with their employment before and during this action, and in
2 connection with prosecuting this action, the violations caused them to have
3 to perform mathematical computations to determine the amounts of wages
4 owed to them, computations they would not have to make if the wage
5 statements contained the required accurate information;
- 6 (g) by understating the wages truly due them, the violations caused them to
7 lose entitlement and/or accrual of the full amount of Social Security,
8 disability, unemployment, and other governmental benefits;
- 9 (h) the wage statements inaccurately understated the wages, hours, and wages
10 rates to which Plaintiff and the Aggrieved Employees were entitled, and
11 Plaintiff and the Aggrieved Employees were paid less than the wages and
12 wage rates to which they were entitled.

13 Thus, Plaintiff and the Aggrieved Employees are owed the amounts provided for in California
14 Labor Code § 226(e).

15
16 **FIRST CAUSE OF ACTION**

17 **(Against all Defendants for Civil Penalties Under the Private Attorneys General Act of**
18 **2004, Cal. Lab. Code § 2698 et seq.)**

19 23. Plaintiff incorporates by reference and re-alleges all preceding paragraphs as
20 though fully set forth herein.

21 24. At all times herein mentioned, Defendants were subject to the Labor Code of the
22 State of California and the applicable Industrial Welfare Commission Orders.

23 25. California Labor Code § 2699(a) specifically provides for a private right of action
24 to recover penalties for violations of the Labor Code: “Notwithstanding any other provision of
25 law, any provision of this code that provides for a civil penalty to be assessed and collected by
26 the Labor and Workforce Development Agency or any of its departments, divisions,
27 commissions, boards, agencies, or employees, for a violation of this code, may, as an alternative,
28 be recovered through a civil action brought by an aggrieved employee on behalf of himself or

1 herself and other current or former employees pursuant to the procedures specified in Section
2 2699.3.”

3 26. Plaintiff has exhausted his administrative remedies pursuant to California Labor
4 Code § 2699.3. On February 11, 2020, she gave written notice by online filing to the Labor and
5 Workforce Development Agency and by certified mail to Defendants of the specific provisions
6 of the Labor Code that Defendants have violated against Plaintiff and current and former
7 aggrieved employees, including the facts and theories to support the violations. Plaintiff also
8 paid the filing fee shortly after February 11, 2020. Plaintiff’s PAGA case number is LWDA-
9 CM-772250-20.

10 27. The statute of limitations is tolled while a plaintiff exhausts his/her administrative
11 remedies with California’s Labor and Workforce Development Agency (LWDA) prior to suit,
12 which is required by the statute. (*See* Cal. Lab. Code § 2699.3(d).)

13 28. More than 65 days has elapsed since Plaintiff provided notice, but the Labor and
14 Workforce Development Agency has not indicated that it intends to investigate Defendants’
15 Labor Code violations discussed in the notice. Accordingly, Plaintiff may commence a civil
16 action to recover penalties under Labor Code § 2699 pursuant to § 2699.3 for the violations of
17 the Labor Code described in this Complaint. These penalties include, but are not limited to,
18 penalties under California Labor Code §§ 210, 226.3, 1197.1, and 2699(f)(2).

19 29. In addition, Plaintiff seeks penalties for Defendants’ violation of California Labor
20 Code § 1174(d). Pursuant to California Labor Code § 1174.5, any person, including any entity,
21 employing labor who willfully fails to maintain accurate and complete records required by
22 California Labor Code § 1174 is subject to a penalty under § 1174.5. Pursuant to the applicable
23 IWC Order § 7(A)(3), every employer shall keep time records showing when the employee
24 begins and ends each work period. Meal periods, and total hours worked daily shall also be
25 recorded. Additionally, pursuant to the applicable IWC Order § 7(A)(5), every employer shall
26 keep total hours worked in the payroll period and applicable rates of pay.

27 30. During the time period of employment for Plaintiff and the Aggrieved Employees,
28 Defendants failed to maintain records pursuant to the Labor Code and IWC Orders by failing to

1 maintain accurate records showing meal periods, and accurate records showing when employees
2 begin and end each work period. Defendants' failure to provide and maintain records required by
3 the Labor Code IWC Wage Orders deprived Plaintiff and the Aggrieved Employees the ability to
4 know, understand and question the accuracy and frequency of meal periods, and the accuracy of
5 their hours worked stated in Defendants' records. Therefore, Plaintiff and the Aggrieved
6 Employees had no way to dispute the resulting failure to pay wages, all of which resulted in an
7 unjustified economic enrichment to Defendants. As a direct result, Plaintiff and the Aggrieved
8 Employees have suffered and continue to suffer, substantial losses related to the use and
9 enjoyment of such wages, lost interest on such wages and expenses and attorney's fees in seeking
10 to compel Defendants to fully perform its obligation under state law, all to their respective
11 damage in amounts according to proof at trial. Because of Defendants' knowing failure to
12 comply with the Labor Code and applicable IWC Wage Orders, Plaintiff and the Aggrieved
13 Employees have also suffered an injury in that they were prevented from knowing,
14 understanding, and disputing the wage payments paid to them.

15 31. Based on the conduct described in this Complaint, Plaintiff is entitled to an award
16 of civil penalties on behalf of himself, the State of California, and similarly Aggrieved
17 Employees of Defendants. The exact amount of the applicable penalties, in all, is in an amount
18 to be shown according to proof at trial. These penalties are in addition to all other remedies
19 permitted by law.

20 32. In addition, Plaintiff seeks an award of reasonable attorney's fees and costs
21 pursuant to Labor Code § 2699(g)(1), which states, "Any employee who prevails in any action
22 shall be entitled to an award of reasonable attorney's fees and costs."

23 **PRAYER FOR RELIEF**

24 Plaintiff, on behalf of all similarly aggrieved employees, prays for relief and judgment
25 against Defendants, jointly and severally, as follows:

26 1. That the Court declare, adjudge and decree that Defendants violated the California
27 Labor Code by failing to pay wages for all hours worked (including minimum, straight time, and
28 overtime wages), failing to provide meal periods, failing to authorize and permit rest periods,

1 failing to furnish accurate wage statements, and failing to maintain accurate records of all hours
2 worked and meal periods;

3 2. An award of civil penalties on behalf of himself and all similarly aggrieved
4 employees pursuant to PAGA;

5 3. Pre-judgment and post-judgment interest at the maximum rate allowed;

6 4. Attorneys' fees and costs reasonably incurred;

7 5. Injunctive and declaratory relief to the extent allowed by PAGA; and

8 6. Such other and further relief that the Court deems proper.

9
10 Dated: April 17, 2020

Respectfully submitted,

11 MOON & YANG, APC

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13 By: 

Kane Moon

Allen Feghali

Attorneys for Plaintiff

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16 **DEMAND FOR JURY TRIAL**

17 Plaintiff demands a trial by jury as to all causes of action triable by jury.

18
19 Dated: April 17, 2020

MOON & YANG, APC

20
21 By: 

Kane Moon

Allen Feghali

Attorneys for Plaintiff