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CATALAN, individually and on behalf of
all other aggrieved employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE

DANIEL CATALAN, individually and on
behalf of all other aggrieved employees,

Plaintiff,

vs.

STACKED RESTAURANTS, LLC, a
California limited liability company; and DOES
1 through 50, inclusive,

Defendants.

CASE NO. 30-2020-01140884-CU-OE-CXC

**COMPLAINT FOR VIOLATION OF
THE CALIFORNIA LABOR CODE
PRIVATE ATTORNEYS GENERAL
ACT OF 2004**

[California Labor Code § 2698, et seq.]

DEMAND FOR JURY TRIAL

Assigned for all purposes to:

Judge Randall J. Sherman

Dept: CX105

1 Plaintiff DANIEL CATALAN (“PLAINTIFF”), individually and on behalf of all other
2 aggrieved employees, hereby alleges as follows:

3 **INTRODUCTION**

4 1. PLAINTIFF brings this action on behalf of himself and all other aggrieved
5 employees of defendants STACKED RESTAURANTS, LLC (“STACKED”), and DOES 1
6 through 50, inclusive (collectively, “DEFENDANTS”), in the State of California during the
7 relevant statutory period to recover penalties arising from DEFENDANTS’ failure to provide
8 employees meal and rest periods, failure to provide minimum and overtime wages for all hours
9 worked, failure to timely pay wages during employment and failure to pay wages due upon
10 separation, failure to maintain required records and failure to provide accurate itemized wage
11 statements.

12 **JURISDICTION AND VENUE**

13 2. The Superior Court of the State of California has jurisdiction in this matter because
14 PLAINTIFF is a resident of the State of California, and DEFENDANTS are qualified to do
15 business in California and regularly conduct business in California. Further, no federal question is at
16 issue because the claims are based solely on California law.

17 3. Venue is proper in this judicial district and the County of Orange, California
18 because DEFENDANTS maintain offices and facilities and transact business in the County of
19 Orange, and DEFENDANTS’ illegal policies and practices which are the subject of this action
20 were applied, at least in part, to PLAINTIFF and other aggrieved employees in the County of
21 Orange.

22 **THE PARTIES**

23 4. PLAINTIFF is a citizen and resident of the State of California. During the
24 relevant statutory period, PLAINTIFF was employed by DEFENDANTS in the State of California
25 as a non-exempt employee.

26 5. PLAINTIFF is informed and believes, and thereon alleges, that STACKED is, and
27 at all times relevant hereto was, a limited liability company organized and existing under the laws
28 of the State of California. PLAINTIFF is further informed and believes, and thereon alleges, that

1 STACKED is authorized to conduct business, and does conduct business, in the State of
2 California. Specifically, STACKED maintains offices and facilities, conducts business, and
3 engages in illegal policies and practices in the County of Orange.

4 6. The true names and capacities of DOES 1 through 50, inclusive, are unknown to
5 PLAINTIFF at this time, and PLAINTIFF therefore sues such DOE defendants under fictitious
6 names. PLAINTIFF is informed and believes, and thereon alleges, that each defendant
7 designated as a DOE is in some manner highly responsible for the occurrences alleged herein, and
8 that PLAINTIFF's and other aggrieved employees' injuries, as alleged herein, were proximately
9 caused by the conduct of such DOE defendants. PLAINTIFF will seek leave of court to amend
10 this Complaint to allege the true names and capacities of such DOE defendants when ascertained.
11 At all relevant times herein, DEFENDANTS were the joint employers of PLAINTIFF and other
12 aggrieved employees. PLAINTIFF is informed and believes, and thereon alleges, that at all times
13 material to this complaint DEFENDANTS were the alter egos, divisions, affiliates, integrated
14 enterprises, joint employers, subsidiaries, parents, principals, related entities, co-conspirators,
15 authorized agents, partners, joint venturers, and/or guarantors, actual or ostensible, of each other.
16 Each defendant was completely dominated by his, her or its co-defendant, and each was the alter
17 ego of the other.

18 7. At all relevant times, PLAINTIFF and other aggrieved employees were employed
19 by DEFENDANTS under employment agreements that were partly written, partly oral, and partly
20 implied. In perpetrating the acts and omissions alleged herein, DEFENDANTS, and each of
21 them, acted pursuant to, and in furtherance of, their policies and practices of not paying
22 PLAINTIFF and other aggrieved employees all wages earned and due, through methods and
23 schemes which include, but are not limited to, failing to provide meal periods; failing to authorize
24 and permit rest breaks; failing to pay minimum and overtime wages; failing to provide accurate
25 itemized statements; failing to maintain required records; and failing to compensate PLAINTIFF
26 and other aggrieved employees for necessary expenditures, in violation of the California Labor
27 Code and the applicable Industrial Welfare Commission ("IWC") Wage Order.

28

1 8. PLAINTIFF is informed and believes, and thereon alleges, that each and every one
2 of the acts and omissions alleged herein were performed by, and/or attributable to, all
3 DEFENDANTS, each acting as agents and/or employees, and/or under the direction and control
4 of each of the other defendants, and that said acts and failures to act were within the course and
5 scope of said agency, employment and/or direction and control.

6 **PAGA REPRESENTATIVE ACTION ALLEGATIONS**

7 9. Pursuant to the California Private Attorneys General Act of 2004 (“PAGA”), Labor
8 Code §§ 2698-2699.5, PLAINTIFF brings this action on behalf of himself and all current and
9 former non-exempt aggrieved employees of DEFENDANTS in the State of California at any time
10 within the period beginning one (1) year and sixty-five (65) days prior to the filing of this action,
11 and ending at the time this action settles or proceeds to final judgment (“PENALTY PERIOD”).

12 10. Pursuant to California Labor Code §§ 2699.3, PLAINTIFF gave written notice on
13 March 6, 2020 by online filing to the California Labor and Workforce Development Agency
14 (“LWDA”) and by certified mail to STACKED of the specific provisions of the California Labor
15 Code and IWC Wage Orders alleged to have been violated, including the facts and theories to
16 support the alleged violations. More than sixty-five (65) days have passed and the LWDA has
17 not provided notice to PLAINTIFF that it intends to investigate the alleged violations.

18 11. Therefore, PLAINTIFF has complied with all of the requirements set forth in
19 California Labor Code § 2699.3 to commence a representative action under PAGA.

20 **FACTUAL ALLEGATIONS**

21 **Failure to Provide Meal Periods**

22 **[Labor Code §§ 226.7, 512; IWC Wage Order No. 5-2001 § 11]**

23 12. During the PENALTY PERIOD, DEFENDANTS had, and continue to have, a
24 policy and practice of failing to provide PLAINTIFF and other aggrieved employees full and
25 timely meal periods as required by California Labor Code §§ 226.7 and 512 and IWC Wage
26 Order No. 5-2001 § 11.

27 13. As a result of DEFENDANTS’ policies and practices as alleged herein,
28 PLAINTIFF and other aggrieved employees regularly were denied, and continue to be denied, the

1 opportunity to take full, uninterrupted, and timely meal periods as required under California
2 Labor Code §§ 226.7 and 512 and IWC Wage Order No. 5-2001 § 11.

3 14. DEFENDANTS further violated, and continue to violate, California Labor Code §
4 226.7 and IWC Wage Order No. 5-2001 § 11 by failing to compensate PLAINTIFF and other
5 aggrieved employees who were not provided a meal period, in accordance with the applicable
6 Wage Order, one (1) additional hour of compensation at each employee's regular rate of pay for
7 each workday that a meal period was not provided.

8 **Failure to Authorize and Permit Rest Periods**

9 **[Labor Code § 226.7; IWC Wage Order No. 5-2001 § 12]**

10 15. During the PENALTY PERIOD, DEFENDANTS had, and continue to have, a
11 policy and practice of failing to authorize and permit PLAINTIFF and other aggrieved employees
12 to take rest breaks as required by California Labor Code § 226.7 and IWC Wage Order No. 5-
13 2001 § 12. As a result of DEFENDANTS' policies and practices as alleged herein, PLAINTIFF
14 and other aggrieved employees regularly were, and continue to be, denied the opportunity to take
15 full, uninterrupted, and timely rest periods as required under California Labor Code § 226.7 and
16 IWC Wage Order No. 5-2001 § 12.

17 16. DEFENDANTS further violated, and continue to violate, California Labor Code §
18 226.7 and IWC Wage Order No. 5-2001 § 12 by failing to pay PLAINTIFF and other aggrieved
19 employees who were not provided a rest period, in accordance with the applicable Wage Order,
20 one (1) additional hour of compensation at each employee's regular rate of pay for each workday
21 that a rest period was not provided.

22 **Failure to Pay Minimum Wages**

23 **[Labor Code §§ 1194, 1197; IWC Wage Order No. 5-2001 § 4]**

24 17. Pursuant to California Labor Code §§ 1194 and 1197 and IWC Wage Order No. 5-
25 2001 § 4, payment to an employee of less than the applicable minimum wage for all hours
26 worked in a payroll period is unlawful.

27 18. During the PENALTY PERIOD, DEFENDANTS failed, and continue to fail, to
28 pay PLAINTIFF and other aggrieved employees minimum wages for all hours worked by, among

1 other things: requiring, suffering or permitting PLAINTIFF and other aggrieved employees to
2 work off the clock; requiring, suffering or permitting PLAINTIFF and other aggrieved employees
3 to work through meal breaks without compensation; illegally and inaccurately recording time
4 worked by PLAINTIFF and other aggrieved employees; and other methods to be discovered.

5 **Failure to Pay Overtime Wages**

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

7 19. Pursuant to California Labor Code §§ 510 and 1194 and IWC Wage Order No. 5-
8 2001 § 3, DEFENDANTS are required to compensate PLAINTIFF and other aggrieved
9 employees for all overtime at a rate of one and one-half (1 ½) times the regular rate of pay for all
10 hours worked in excess of eight (8) hours per day and/or forty (40) hours per week, and for the
11 first eight (8) hours on the seventh consecutive workday and at a rate of twice the regular rate of
12 pay for all hours worked in excess of twelve (12) hours in any workday and for all hours worked
13 in excess of eight (8) hours on the seventh consecutive day of work in any workweek.

14 20. PLAINTIFF and other aggrieved employees are current and former non-exempt
15 employees entitled to the protections of California Labor Code §§ 510 and 1194 and IWC Wage
16 Order No. 5-2001. During the PENALTY PERIOD, DEFENDANTS failed, and continue to fail,
17 to compensate PLAINTIFF and other aggrieved employees for all overtime hours worked as
18 required under the foregoing provisions of the California Labor Code and IWC Wage Order by,
19 among other things: failing to pay overtime at one and one-half (1 ½) times or double the regular
20 rate of pay as provided by California Labor Code §§ 510 and 1194 and IWC Wage Order No. 5-
21 2001 § 3; requiring, suffering or permitting PLAINTIFF and other aggrieved employees to work
22 off the clock; requiring, suffering or permitting PLAINTIFF and other aggrieved employees to
23 work through meal breaks without compensation; illegally and inaccurately recording time in
24 which PLAINTIFF and other aggrieved employees worked; and other methods to be discovered.

25 **Failure to Timely Pay Wages During Employment**

26 **[Labor Code § 204]**

27 21. Pursuant to California Labor Code § 204, for all labor performed between the 1st
28 and 15th days of any calendar month, DEFENDANTS are required to pay their nonexempt

employees between the 16th and 26th day of the month during which the labor was performed. California Labor Code § 204 also provides that for all labor performed between the 16th and 26th days of any calendar month, DEFENDANTS are required to pay their nonexempt employees between the 1st and 10th day of the following calendar month. In addition, California Labor Code § 204 provides that all wages earned for labor in excess of the normal work period shall be paid no later than the payday of the next regular payroll period.

22. During the PENALTY PERIOD, DEFENDANTS failed, and continue to fail, to timely pay PLAINTIFF and other aggrieved employees all the wages for labor performed by the next regular payroll period as required by California Labor Code § 204.

Failure to Pay All Wages Due to Upon Separation

[Labor Code §§ 201, 202, 203]

23. Pursuant to California Labor Code §§ 201, 202, and 203, DEFENDANTS are required to pay all earned and unpaid wages to an employee who is discharged.

24. 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.

25. Pursuant to California Labor Code § 202, DEFENDANTS are required to pay all accrued wages due to an employee no later than 72 hours after the employee quits his or her employment, unless the employee provided 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or wages at the time of quitting.

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

27. During the PENALTY PERIOD, DEFENDANTS failed, and continue to fail, to pay accrued wages and other compensation to PLAINTIFF and other aggrieved employees in accordance with California Labor Code §§ 201 and 202.

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1 **Failure to Maintain Required Records**

2 **[Labor Code §§ 226, 1174; IWC Wage Order No. 5-2001 § 7]**

3 28. During the PENALTY PERIOD, as part of DEFENDANTS' illegal payroll
4 policies and practices to deprive PLAINTIFF and other aggrieved employees of all wages earned
5 and due, DEFENDANTS failed, and continue to fail, to maintain records as required under
6 California Labor Code §§ 226 and 1174 and IWC Wage Order No. 5-2001 § 7, including but not
7 limited to the following records: total daily hours worked by each employee; applicable rates of
8 pay; all deductions; meal periods; time records showing when each employee begins and ends
9 each work period; and accurate itemized statements.

10 **Failure to Furnish Accurate Itemized Wage Statements**

11 **[Labor Code § 226; IWC Wage Order No. 5-2001 § 7]**

12 29. During the PENALTY PERIOD, DEFENDANTS failed to provide PLAINTIFF
13 and other aggrieved employees with timely and accurate itemized wage statements in writing
14 showing each employee's gross wages earned, total hours worked, all deductions made, net
15 wages earned, the name and address of the legal entity or entities employing PLAINTIFF and
16 other aggrieved employees, and all applicable hourly rates in effect during each pay period and
17 the corresponding number of hours worked at each hourly rate, in violation of California Labor
18 Code § 226 and IWC Wage Order No. 5-2001 § 7.

19 **FIRST CAUSE OF ACTION**

20 **VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT**

21 **[Labor Code §§ 2698–2699.5]**

22 **(Against all DEFENDANTS)**

23 30. PLAINTIFF incorporates herein by specific reference, as though fully set forth, the
24 allegations in paragraphs 1 through 29.

25 31. PLAINTIFF is an “aggrieved employee” within the meaning of California Labor
26 Code § 2699(c), and a proper representative to bring a civil action on behalf of himself and other
27 current and former non-exempt employees of DEFENDANTS pursuant to the procedures
28 specified in California Labor Code § 2699.3, because PLAINTIFF was employed by

1 DEFENDANTS and one or more of the alleged violations of the California Labor Code were
2 committed against PLAINTIFF during the PENALTY PERIOD.

3 32. Pursuant to Labor Code §§ 2698–2699.5, PLAINTIFF seeks to recover civil
4 penalties for the violations set forth herein, including but not limited to violations of California
5 Labor Code §§ 201, 202, 204, 226, 221, 223, 226.7, 510, 512, 1174, 1194, 1197, and 1198.
6 PLAINTIFF and other aggrieved employees are also entitled to an award of reasonable attorneys’
7 fees and costs pursuant to California Labor Code § 2699(g)(1).

8 33. Pursuant to Labor Code § 2699(a), PLAINTIFF seeks civil penalties for
9 DEFENDANTS’ violations of Labor Code provisions for which a civil penalty is specifically
10 provided, including but not limited to the following:

- 11 a. Pursuant to Labor Code § 210, for violations of Labor Code § 204,
12 DEFENDANTS are subject to a civil penalty in the amount of one hundred
13 dollars (\$100) for the initial violation for each failure to pay each employee
14 and two hundred dollars (\$200) per employee for violations in subsequent
15 pay periods.
- 16 b. Pursuant to Labor Code § 226.3, for violations of Labor Code § 226(a),
17 DEFENDANTS are subject to a civil penalty in the amount of two hundred
18 and fifty dollars (\$250) per aggrieved employee for the initial pay period
19 where a violation occurs and one thousand dollars (\$1,000) per aggrieved
20 employee for violations in subsequent pay periods.
- 21 c. Pursuant to Labor Code § 558(a), “[a]ny employer or other person acting
22 on behalf of an employer who violates, or causes to be violated, a section
23 of this chapter or any provision regulating hours and days of work in any
24 order of the Industrial Welfare Commission,” including Labor Code §§ 510
25 and 512, shall be subject to a civil penalty, in addition to any other penalty
26 provided by law, of fifty dollars (\$50) for initial violations for each
27 underpaid employee for each pay period for which the employee was
28 underpaid and one hundred dollars (\$100) for each subsequent violation for

each underpaid employee for each pay period for which the employee was underpaid.

d. Pursuant to Labor Code § 1174.5, for violations of Labor Code § 1174(d), DEFENDANTS are subject to a civil penalty of five hundred dollars (\$500).

e. Pursuant to Labor Code § 1197.1, an employer who pays or causes to be paid to any employee a wage less than the minimum fixed by an order of the commission, shall be subject to a civil penalty as follows: for any initial violation that is intentionally committed, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee is underpaid; and for each subsequent violation of the same offense, two hundred fifty dollars (\$250) for each underpaid employee for each pay period for which the employee is underpaid regardless of whether the initial violation was intentionally committed.

34. Labor Code § 2699(f) provides that for all Labor Code violations for which a civil penalty is not specifically provided, the following civil penalties are established: 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. PLAINTIFF seeks such civil penalties under Labor Code § 2699(f) for DEFENDANTS' violations of Labor Code provisions for which a civil penalty is not specifically provided, including but not limited to Labor Code §§ 201, 202, 204, 226.7, 1194, 1197, 1198, and 2802.

35. PLAINTIFF also seeks reasonable attorney's fees and costs pursuant to Labor Code § 2699(g)(1).

PRAYER FOR RELIEF

WHEREFORE, PLAINTIFF, individually and on behalf of all other aggrieved employees, respectfully prays for relief against DEFENDANTS, and each of them, as follows:

1. For civil penalties according to proof, and all penalties authorized by the Labor Code §§ 210, 226.3, 558, 1174.5, 1197.1, and 2699(a) and (f);

1 2. For interest at the legal rate pursuant to California Civil Code §§ 3287 and 3288
2 and/or any other applicable provision providing for pre-judgment interest;

3 3. For reasonable attorney's fees and costs pursuant to Labor Code § 2699(g) and/or
4 any other applicable provisions providing for attorney's fees and costs; and

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

6
7 DATED: May 12, 2020

Respectfully submitted,

8 **MATERN LAW GROUP, PC**

9
10 By:


11 MATTHEW J. MATERN
12 LAUNA ADOLPH
13 ELLIE D. GORALNICK
14 Attorneys for Plaintiff DANIEL CATALAN,
15 individually and on behalf of all other aggrieved
16 employees
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1 **DEMAND FOR JURY TRIAL**

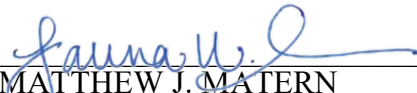
2 PLAINTIFF, individually and on behalf of all other aggrieved employees, hereby
3 demands a trial by jury on all issues so triable.

4
5 DATED: May 12, 2020

Respectfully submitted,

6 **MATERN LAW GROUP, PC**

7
8 By:


9 MATTHEW J. MATERN
LAUNA ADOLPH
10 ELLIE D. GORALNICK
Attorneys for Plaintiff DANIEL CATALAN,
11 individually and on behalf of all other aggrieved
employees
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