

1 Andrea W. S. Paris, Bar No. 252621
ap@andreaparislaw.com

2 ANDREA PARIS LAW, PC
23 Corporate Plaza, Suite 150
3 Newport Beach, CA 92660
Telephone: (949) 529-0007
4 Facsimile: (888) 751-7660

5 Attorneys for Plaintiff
HANNAH WILLIAMS,
6 and on behalf of all others similarly aggrieved.

7
8
9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **COUNTY OF ORANGE, CENTRAL JUSTICE CENTER**

11 HANNAH WILLIAMS, individually and on
12 behalf of all others similarly aggrieved.

13 Plaintiff,

14 vs.

15 CEDAR CREEK INN SJC, INC., a California
16 Corporation; and DOES 1-50, Inclusive,

17 Defendant.

Case No. 30-2020-01174105-CU-OE-CXC

Assigned for all purposes to:
Assigned to Hon. Judge Randall J. Sherman
Department CX105

COMPLAINT FOR DAMAGES FOR:

- 1) **FAILURE TO PAY FOR MISSED MEAL PERIODS (LAB. CODE §§512, 226.7);**
2) **FAILURE TO PROVIDE PAID REST PERIODS (LAB. CODE § 226.7);**
3) **FAILURE TO PAY ACCRUED SICK TIME (Cal. Labor Code §246)**
4) **FAILURE TO MAINTAIN RECORDS AND PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS (LAB. CODE §§226, 1174, 1175, 1198)**
5) **FAILURE TO PAY ALL WAGES**
6) **FAILURE TO TIMELY PAY ALL WAGES UPON SEPARATION (LAB. CODE §§201-203); AND**
7) **PRIVATE ATTORNEY GENERAL ACT (LAB. CODE §2699, ET SEQ.).**

[DEMAND FOR JURY TRIAL]

1 COMES NOW PLAINTIFF, HANNAH WILLIAMS, and for causes of action against
2 the Defendants and each of them, alleges as follows:

3 **JURISDICTION**

4 1. This Court is the proper court, and this action is properly filed in Orange County,
5 because Defendants' obligations and liability arise therein, because Defendant maintains its offices
6 and transact business within Orange County, and because the work that is the subject of this action
7 was performed by Plaintiff in Orange County.

8 **THE PARTIES**

9 2. Plaintiff, HANNAH WILLIAMS ("Plaintiff"), is and at all times relevant hereto
10 was a resident of the County of Orange, State of California.

11 3. Plaintiff is informed and believes, and based thereupon alleges, that at all times
12 relevant hereto, Defendant CEDAR CREEK INN SJC, INC. (hereinafter referred to as "CEDAR
13 CREEK" "Defendant" or "Employer") was and is a California corporation doing business in the
14 City of San Juan Capistrano, in the County of Orange, State of California.

15 4. Plaintiff is informed and believes, and based thereon alleges, that at all times
16 relevant hereto, Defendant owned and operated a restaurant known as the Cedar Creek Inn.

17 5. At all times relevant herein, Defendant and DOES 1-50 were Plaintiff's employers,
18 joint employers, and/or special employers within the meaning of the Labor Code and Industrial
19 Welfare Commission Order No. 5-2001 and are each an "employer or other person acting on
20 behalf of an employer" as such term is used in Labor Code Sections 558 and/or 558.1, and liable
21 to Plaintiff and other aggrieved employees on that basis.

22 6. The true names and capacities, whether individual, corporate, associate, or
23 otherwise, of the Defendants named herein as DOES 1-50, inclusive, are unknown to Plaintiff at
24 this time and therefore said Defendants are sued by such fictitious names. Plaintiff will seek leave
25 to amend this complaint to insert the true names and capacities of said Defendants when the same
26 become known to Plaintiff. Plaintiff is informed and believes, and based thereupon alleges, that
27 each of the fictitiously named Defendants is responsible for the wrongful acts alleged herein, and
28 is therefore liable to Plaintiff as alleged hereinafter.

7. Plaintiff is informed and believes, and based thereon alleges, that at all times relevant hereto, Defendants, and each of them, were the agents, employees, managing agents, supervisors, co-conspirators, parent corporation, joint employers, alter egos, successors, and/or joint ventures of the other Defendants, and each of them, and in doing the things alleged herein, were acting at least in part within the course and scope of said agency, employment, conspiracy, joint employer, alter ego status, successor status and/or joint venture and with the permission and consent of each of the other Defendants.

8. Plaintiff is informed and believes, and based thereon alleges, that Defendants, and each of them, including those defendants named as DOES 1-50, acted in concert with one another to commit the wrongful acts alleged herein, and aided, abetted, incited, compelled and/or coerced one another in the wrongful acts alleged herein, and/or attempted to do so. Plaintiff is further informed and believes, and based thereupon alleges, that Defendants, and each of them, including those defendants named as DOES 1-50, and each of them, formed and executed a conspiracy or common plan pursuant to which they would commit the unlawful acts alleged herein, with all such acts alleged herein done as part of and pursuant to said conspiracy, intended to cause and actually causing Plaintiff harm.

9. Whenever and wherever reference is made in this complaint to any act or failure to act by a Defendant or co-Defendant, such allegations and references shall also be deemed to mean the acts and/or failures to act by each Defendant acting individually, jointly, and severally.

10. Plaintiff was employed by Defendant as a non-exempt employee with the job title of “server.” Plaintiff brings her complaint pursuant to the Private Attorney General Act of 2004, Labor Code Sections 2698, *et seq.*, (“PAGA”), as a representative action on behalf of the State of California, regarding violations of the Labor Code as to all similarly aggrieved individuals employed by Defendant as a non-exempt employee, however titled, in the State of California.

FACTUAL ALLEGATIONS

11. In or around November, 2018, Employer hired Plaintiff to work as a server and/or waiter at Defendant's restaurant, Cedar Creek Inn. Plaintiff generally worked approximately 10-15

1 hours per week as a non-exempt employee. Her job duties included taking food and drink orders
2 from customers, communicating customer orders to kitchen or bar staff, and serving food and
3 drinks to customers.

4 12. Plaintiff's hourly rate of pay was \$11.00 per hour in 2018 and \$12.00 per hour in
5 2019, plus tips.

6 13. Defendant terminated Plaintiff on December 15, 2019.

7 14. Based on information and belief, Defendant has employed and continues to employ
8 servers as well as other hourly, non-exempt employees such as bussers, cooks, and dishwashers,
9 and during such employment, Defendant engaged and continues to engage in the following
10 employment practices in violation of California labor laws:

11 **FIRST CAUSE OF ACTION**

12 **Failure to Pay for Missed Meal Periods, Lab. Code §§512, 226.7**

13 **(Against all Defendants)**

14 15. Plaintiff repeats and realleges paragraphs 1 through 14, inclusive, as though fully
15 set forth herein.

16 16. At all relevant times, Plaintiff and other aggrieved employees were employees
17 covered by Labor Code Sections 226.7 and 512, as well as the applicable Wage Order.

18 17. Labor Code Sections 226.7 and 512 as well as the applicable Wage Order provide
19 that no employer shall employ any person for a work period of more than five hours without a
20 meal period of not less than 30 minutes.

21 18. Labor Code Sections 226.7 and 512 as well as the applicable Wage Order provide
22 that if an employer fails to provide an employee a meal period in accordance with this section, the
23 employer shall pay the employee one hour of pay at the employee's regular rate of compensation
24 for each five hours of work that the meal period is not provided.

25 19. At all relevant times, Plaintiff and other aggrieved employees were routinely
26 required to work through their meal periods as a result of Defendant's implemented work
27 schedules and policies and/or failure to provide adequate meal and rest break coverage, which
28 prevented or prohibited employees from taking compliant meal breaks.

1 20. Defendants knew that Plaintiff and other aggrieved employees worked through
2 their meal periods, and suffered and permitted them to do so.

3 21. Pursuant to Labor Code Section 266.7, Defendant's conduct entitles Plaintiff and
4 other aggrieved employees to payment of one (1) additional hour of wages for each day a meal
5 period was not provided to each of them.

6 22. Defendant knowingly and intentionally refused, and continues to refuse, to account
7 for and pay Plaintiff and other aggrieved employees for one (1) additional hour of wages for each
8 day a meal period was not provided.

9 23. Neither Plaintiff or any aggrieved employee is exempt from the meal period
10 requirements of the Labor Code, or the applicable Wage Order.

11 24. As a result of Defendant's unlawful conduct, Plaintiff and other aggrieved
12 employees suffered damages in an amount, according to proof, to the extent that they were not
13 paid additional pay for meal period violations.

14 **SECOND CAUSE OF ACTION**

15 **Failure to Provide Paid Rest Periods, Lab. Code § 226.7**

16 **(Against All Defendants)**

17 25. Plaintiff repeats and realleges paragraphs 1 through 24, inclusive, as though fully
18 set forth herein.

19 26. At all relevant times, Plaintiff and other aggrieved employees were employees
20 covered by Labor Code Sections 226.7 and 512, and the applicable Wage Order.

21 27. Labor Code sections 226.7 and 512, as well as the applicable Wage Order provide
22 that employers shall authorize and permit employees to take rest and recovery periods at the rate
23 of ten minutes per four hours of work, or major fraction thereof. Labor Code Section 226.7 as well
24 as the applicable Wage Order further provide that if an employer fails to provide an employee rest
25 periods in accordance with this law, the employer shall pay the employee one hour of pay at the
26 employee's regular rate of compensation for each workday that the rest period is not authorized
27 and permitted.

28 ///

28. At all times relevant, Plaintiff and other aggrieved employees were routinely required to work through their rest and recovery periods as a result of Defendant's implemented work schedules and policies and/or failure to provide adequate meal and rest break coverage, which prevented or prohibited employees from taking compliant meal breaks.

29. Defendant knew that Plaintiff and other aggrieved employees worked through their rest and recovery periods, and suffered and permitted them to do so.

30. Defendant failed to compensate aggrieved employees, including Plaintiff, for those rest and recovery periods, as required by Labor Code section 226. 7 and other applicable sections of the Labor Code as well as the applicable Wage Order.

31. Neither Plaintiff nor any aggrieved employee is exempt from the rest and recovery period requirements of the California Labor Code or the applicable Wage Order.

32. As a result of Defendant's unlawful conduct, Plaintiff and other aggrieved employees suffered damages in an amount, according to proof, to the extent that they were not paid additional pay for rest period violations.

THIRD CAUSE OF ACTION

Failure to Pay Accrued Sick Time, Cal. Labor Code §246

(Against all Defendants)

33. Plaintiff repeats and realleges paragraphs 1 through 32, inclusive as though set forth in full herein.

34. Pursuant to Section 246 of the Labor Code, an employee accrues paid sick days at the rate of not less than one hour per every 30 hours worked or by some other accrual method provided an employee receives no less than 24 hours of accrued sick leave or paid time off by the 120th calendar day of employment or each calendar year. Employees are entitled to use accrued paid sick days beginning on the 90th day of employment, after which day the employee may use paid sick days as they are accrued. Additionally, an employer must provide an employee with written notice that sets forth the amount of paid sick leave available on either the employee's itemized wage statement or in a separate writing provided on the designated pay date with the employee's payment of wages.

35. Plaintiff and other aggrieved employees have been employed with Defendant for at least 90 days, are entitled to accrue paid sick leave at a rate of at least 1 hour for every 30 hours worked, and are entitled to payment for at least 3 days of paid sick leave at their regular rates of pay.

36. Defendant failed to provide Plaintiff and other aggrieved employees with the opportunity to accrue paid sick leave, did not pay Plaintiff and other aggrieved employees for qualified leave pursuant to Section 246 of the Labor Code, and did not provide Plaintiff and other aggrieved employees with written notice of available paid sick leave.

37. As a result of Defendant's unlawful conduct, Plaintiff and other aggrieved employees suffered damages in an amount, according to proof, to the extent that they were not paid for qualified sick leave.

FOURTH CAUSE OF ACTION

**Failure to Maintain Records and Provide Accurate Itemized Wage Statements, Lab. Code
§§226, 1174, 1175, 1198
(Against all Defendants)**

38. Plaintiff repeats and realleges paragraphs 1 through 37, inclusive, as though set forth in full herein.

39. Defendant violated Labor Code Sections 226(a), 1174(d), 1198, and the applicable Wage Order by failing to make, keep, and provide Plaintiff and other aggrieved employees with true, accurate, and complete employment records, including wage statements, as mandated by law.

40. During the relevant time period, Defendant willfully failed to maintain employment and payroll records related to Plaintiff and other aggrieved employees for at least three (3) years.

41. Additionally, Defendant had no policy regarding time-keeping, and failed to keep time records showing when Plaintiff and aggrieved employees begin and end each work period, meal periods, split shift intervals, and total daily hours worked.

42. Defendant knowingly and intentionally failed to provide Plaintiff and other aggrieved employees with accurate itemized wage statements. The wage statement deficiencies include, among other things, failing to list total hours worked by employees because Defendant

1 did not keep accurate time records of hours worked by aggrieved employees; failing to list all
2 applicable hourly rates in effect during the pay period, including overtime rate of pay, and the
3 corresponding number of hours worked at each hourly rate; and/or failing to state all hours worked
4 as a result of not recording or stating the hours they worked off-the-clock.

5 43. In addition, Defendants failed to provide other aggrieved employees the options to
6 elect to receive hard copies of their wage statements at any time and/or failed to provide them with
7 the ability to easily access the information and convert the electronic wage statements into hard
8 copies at no expense to them.

9 44. Because Defendant failed to provide the accurate number of total hours worked and
10 wages earned and paid to employees on wage statements, Plaintiff and other aggrieved employees
11 were prevented from verifying, solely from information on the wage statement themselves that
12 they were paid correctly and in full. Instead, Plaintiff and other aggrieved employees have had to
13 look to sources outside of the wage statement themselves and reconstruct time records to
14 determine whether they were in fact paid correctly and the extent of underpayment, thereby
15 causing them injury.

16 45. For the above-mentioned violations, Plaintiff seeks penalties, attorney's fees and
17 costs pursuant to California Labor Code Section 266(e).

18 **FIFTH CAUSE OF ACTION**

19 **Failure to Pay All Wages**

20 **(Against all Defendants)**

21 46. Plaintiff repeats and realleges paragraphs 1 through 45, inclusive, as though set
22 forth in full herein.

23 47. At all relevant times, Plaintiff and other aggrieved employees were employees
24 covered by Labor Code section 1194, as well as the applicable Wage Order.

25 48. Pursuant to Labor Code section 1194, as well as the applicable Wage Order,
26 Plaintiff and other aggrieved employees are entitled to minimum wage at the lawful rate for all
27 hours worked.

28 ///

49. At all relevant times, Defendant failed to pay Plaintiff and other aggrieved employees their earned wages for all hours worked in accordance with Labor Code Section 1194 and the applicable Wage Order. This unlawful conduct includes, without limitation, Defendant's uniform compensation structure which failed to compensate Plaintiff and other aggrieved employees for time worked off the clock.

50. Accordingly, Plaintiffs and other aggrieved employees were not compensated for all hours worked including, including without limitation, all hours they were subject to the control of Defendants and/or suffered or permitted to work under the California Labor Code and applicable Wage Order.

51. Defendant's policy and practice of not paying all wages violates Labor Code Sections 204, 210, 216, 558, 1182.12, 1194, 1194.2, 1197, and 1197.1 as well as the applicable Wage Order. Such practice and uniform administration of corporate policy regarding illegal employee compensation is unlawful and creates an entitlement to recovery by Plaintiff and Class Members in a civil action for the unpaid amount of minimum wages, liquidated damages, including interest thereon, statutory penalties, civil penalties, attorney's fees, and costs of suit pursuant to Labor Code sections 204, 210, 216, 558, 1194 et seq., 1194.2, 1198, as well as Code of Civil Procedure Section 1021.5.

52. As a result of Defendants' unlawful conduct, Plaintiff and Class Members suffered damages in an amount, according to proof, to the extent that they were not paid for all hours worked.

SIXTH CAUSE OF ACTION

Failure to Timely Pay All Wages Upon Separation, Lab. Code §§201-203

(Against all Defendants)

53. Plaintiff repeats and realleges paragraphs 1 through 52, inclusive, as though fully set forth herein.

54. Plaintiff and other aggrieved employees who separated their employment from Defendant (whether voluntarily or involuntarily) are covered by Labor Code Sections 201 or 202, respectively.

1 55. Pursuant to Labor Code sections 201 and 202, Plaintiff and other aggrieved
2 employees are entitled to receive, upon separation, all wages earned and unpaid at the time of
3 separation. If an employee is discharged, all wages earned and unpaid are due and payable
4 immediately upon discharge. If an employee quits his or her employment, his or her wages shall
5 become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours
6 previous notice of his or her intention to quit, in which case the employee is entitled to his or her
7 wages at the time of quitting.

8 56. Defendants failed to timely pay Plaintiff and other aggrieved employees all wages
9 earned and unpaid at the time of separation in accordance with Labor Code sections 201 or 202.
10 Their earned and unpaid wages at the time of separation include, but are not limited to, unpaid
11 wages for paid rest breaks that were not compensated, unpaid wages for hours worked while off
12 the clock, unpaid overtime wages, premium pay for missed/non-compliant meal and rest and
13 recovery periods, and impermissible wage deductions.

14 57. Defendant's failure to pay Plaintiff and separated other aggrieved employees all
15 wages earned prior to separation in accordance with Labor Code Sections 201 or 202 was willful.
16 Defendant had the ability to pay all wages earned by employees prior to separation in accordance
17 with Labor Code Sections 201 or 202, but willfully followed a practice or adopted a policy that
18 violated Labor Code Sections 201 or 202.

19 58. Pursuant to Labor Code sections 201 or 202, Plaintiff and other aggrieved
20 employees are entitled to all wages earned prior to separation that Defendant failed to pay them.

21 59. Labor Code section 203 provides that when an employer willfully fails to pay, with
22 or without abatement or reduction, in accordance with Labor Code Sections 201 and 202, any
23 wages of the employee shall continue as a penalty from the due date thereof at the same rate until
24 paid or until an action therefore is commenced; but the penalties shall not continue for more than
25 30 days.

26 60. Therefore, Plaintiff and separated other aggrieved employees are entitled to recover
27 from Defendant the statutory penalty for each day they were not paid at their regular rate of pay-
28 not to exceed 30 days pursuant to Labor Code section 203.

61. Pursuant to Labor Code Sections 218 and 218.5, Plaintiff and separated other aggrieved employees are entitled to recover their unpaid wages, waiting time penalties pursuant to Labor Code Section 203, as well as reasonable attorney's fees and costs of suit. Pursuant to Labor Code Section 218.6 or Civil Code Section 3287(a), Plaintiff and separated other aggrieved employees are entitled to recover prejudgment interest.

SEVENTH CAUSE OF ACTION

Private Attorney General Act, Lab. Code §2699

(Against All Defendants)

62. Plaintiff repeats and realleges paragraphs 1 through 61, inclusive, as though set forth in full herein.

63. Pursuant to Labor Code Section 2699, Plaintiff, as an aggrieved employee, may bring an action against Defendant, on behalf of herself and other current or former employees, seeking statutory civil penalties for Defendant's violations of the California Labor Code.

64. Plaintiff was an aggrieved employee within the meaning of Labor Code Sections 2699(c) and 2699.3(a), as Defendant committed multiple California Labor Code violations against Plaintiff, as previously pleaded in this Complaint.

65. On April 28, 2020, Plaintiff gave written notice by online filing with the Labor and Workforce Development Agency and by certified mail to Defendant of the specific provisions of Labor Code alleged to have been violated, including the facts and theories to support the alleged violations (“Notice Letter”), and paid the filing fee to the Labor and Workforce Development Agency pursuant to Cal. Labor Code §2699.3.

66. More than 65 days has passed since Plaintiff submitted the written notice and Plaintiff has not received any notice from the Labor and Workforce Development Agency that it intends to investigate the alleged violations.

67. As a direct and proximate result of Defendant's California Labor Code violations as set forth in this Complaint, Plaintiff is entitled to civil penalties of \$100 for each aggrieved employee per pay period for the initial violation, and \$200 for each aggrieved employee per pay period for each subsequent violation, pursuant to Labor Code Section 2699(f), for those Labor

Code sections not expressly providing for a penalty, and civil penalties provided by the specific Labor Code sections that do expressly provide for a penalty, Sections 226.3, 226.7, 510, 512, and 558.

68. Plaintiff seeks these penalties on behalf of herself and on behalf of all other aggrieved employees.

69. Plaintiff is also entitled to reasonable attorney's fees and costs, and 25% of the recovered civil penalties, pursuant to Labor Code Section 2699(g)(1)-(i).

PRAYER

WHEREFORE, Plaintiff Hannah Williams, on behalf of herself and all other aggrieved employees, seeks judgment against each Defendant, jointly and severally, as follows:

ON THE FIRST CAUSE OF ACTION

1. For payment of unpaid additional pay owed for missed meal periods in an amount according to proof.

ON THE SECOND CAUSE OF ACTION

1. For payment of unpaid additional pay owed for missed rest periods in an amount according to proof.

ON THE THIRD CAUSE OF ACTION

1. For payment of unpaid sick leave according to proof; and

2. Reasonable attorney's fees.

ON THE FOURTH CAUSE OF ACTION

1. For payment of damages or penalties for not providing accurate wage statements and maintaining records in an amount according to proof;

2. An order requiring Defendants to comply with Labor Code sections 226, 1174, and 1175; and

3. Reasonable attorney's fees.

ON THE FIFTH CAUSE OF ACTION

1. For payment of unpaid wages earned; and

2. For reasonable attorney's fees.

1 **ON THE SIXTH CAUSE OF ACTION**

2 1. For payment of unpaid wages earned prior to separation of employment in an
3 amount according to proof;

4 2. For waiting time penalties for failure to pay all earned wages timely upon
5 termination of employment in an amount according to proof; and

6 3. For reasonable attorney's fees.

7 **ON THE SEVENTH CAUSE OF ACTION**

8 1. For statutory penalties on Plaintiff's own behalf, and on behalf of all of
9 Defendant's aggrieved employees; and

10 2. For reasonable attorney's fees.

11 **ON ALL CAUSES OF ACTION**

12 1. For pre-judgment and post-judgment interest on all amounts awarded, from the
13 earliest legal date according to proof, at the legal rate;

14 2. For costs of the suit incurred herein; and

15 3. For statutory penalties or damages pursuant to Labor Code §557;

16 4. For such other and further relief as the Court may deem just and proper.

17
18 DATED: December 10, 2020

ANDREA PARIS LAW, PC

19
20 By:



21 Andrea W. S. Paris
22 Attorneys for Plaintiff, HANNAH WILLIAMS
23
24
25
26
27
28