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ORIGINAL FILED
Superior Court of California
County of Los Angeles

NOV 28 2018

5 Attorneys for Plaintiff STACEY TERTERIAN
6 on behalf of herself and all other aggrieved employees

Sherri R. Carter, Executive Officer/Clerk
By: Anabella Zoe Miro, Deputy

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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF LOS ANGELES**

18STCV06401

10
11 STACEY TERTERIAN, an individual, on behalf) Case No.
12 of herself and all other aggrieved employees)

13
14 Plaintiff,

15 vs.

16 INTERNATIONAL COFFEE & TEA, LLC, a
17 Delaware limited liability company and DOES
1 through 10, inclusive,

18 Defendants.
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**PRIVATE ATTORNEY GENERAL
ACTION COMPLAINT FOR
PENALTIES FOR VIOLATION OF
LABOR CODE § 2699, ET SEQ. FOR
THE FOLLOWING:**

1. **FAILURE TO PAY STRAIGHT AND OVERTIME COMPENSATION IN VIOLATION OF LABOR CODE §§ 223, 510, 558, 1194, 1194.2, 1199;**
2. **FAILURE TO PROVIDE MEAL PERIODS IN VIOLATION OF LABOR CODE §§ 226.7, 512;**
3. **FAILURE TO PROVIDE REST BREAKS IN VIOLATION OF LABOR CODE § 226.7;**
4. **FAILURE TO PROVIDE ITEMIZED WAGE STATEMENTS IN VIOLATION OF LABOR CODE § 226;**
5. **FAILURE TO PAY ALL WAGES OWED IN VIOLATION OF LABOR CODE §§ 204, 223, 558;**
6. **FAILURE TO KEEP ACCURATE PAYROLL RECORDS IN VIOLATION OF LABOR CODE §§ 226, 558, 1198 AND THE WAGE ORDERS; AND**
7. **FAILURE TO PAY WAITING TIME**

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} PENALTIES IN VIOLATION OF
LABOR CODE § 203.

} DEMAND FOR JURY TRIAL

Plaintiff Stacey Terterian ("Representative Plaintiff" or "Terterian") alleges as follows:

PARTIES

1. Representative Plaintiff is an individual who resides in California and was employed by defendant International Coffee & Tea, LLC, doing business in California as The Coffee Bean & Tea Leaf (hereinafter referred to as "Defendant," the "Company," or "Coffee Bean") from on or about September 2002 until on or about May 2018.

2. Representative Plaintiff is informed and believes, and based on such information and belief, alleges that at all times mentioned herein, Defendant International Coffee & Tea, LLC, is a Delaware limited liability company, licensed to do business and actually doing business in the State of California. Defendant operates and franchises numerous coffee shops that Defendant owns within the State of California under the name The Coffee Bean & Tea Leaf, including, but not limited to, the County of Los Angeles. Thus, Defendant is subject to the applicable California laws as alleged in this action.

3. Representative Plaintiff is unaware of the true names and capacities, whether corporate or individual, or otherwise, of defendants named as DOES 1 through 10, inclusive. Pursuant to California Code of Civil Procedure section 474, Representative Plaintiff will seek leave of court to amend this complaint to state said defendants' true names and capacities when the same have been ascertained. Representative Plaintiff is informed and believes and based on such information and belief alleges that said fictitiously-named defendants are responsible in some manner for the injuries and damages to Representative Plaintiff, and other aggrieved employees as further alleged herein.

4. This is only a Private Attorney General Action Complaint, pursuant to California Labor Code section 2699 et seq., on behalf of Stacey Terterian and all other persons similarly situated who worked for Coffee Bean in its southern California locations as non-exempt hourly employees as general managers (herein collectively identified as "other aggrieved employees") for:

1.

1 (i) failure to pay straight and overtime compensation in violation of Labor Code sections 223, 510,
2 558, 1194, 1194.2, 1199; (ii) failure to provide meal periods in violation of Labor Code sections
3 226.7, 512; (iii) failure to provide rest breaks in violation of Labor Code section 226.7; (iv) failure
4 to provide itemized wage statements in violation of Labor Code section 226; (v) failure to pay all
5 wages owed in violation of Labor Code sections 204, 223; (vi) failure to keep accurate payroll
6 records in violation of Labor Code sections 226, 1198 and the I.W.C. Wage Orders; and (vii)
7 failure to pay waiting time penalties in violation of Labor Code section 203.

8 5. Coffee Bean failed to pay its aggrieved employees overtime in accordance with state
9 law when they worked in excess of 8 hours in a day and/or 40 hours within a workweek. Coffee
10 Bean also failed to pay its aggrieved employees doubletime in accordance with California state
11 law. Terterian and other aggrieved employees were frequently required to work off-the-clock after
12 their shifts were completed and during their meal periods. During this off-the-clock time and these
13 so-called "working lunches" employees general managers had to finish administrative tasks that
14 they did not have time to finish during their regular shift because of understaffing, insufficient
15 scheduling, and/or in person inspections done by visitors from Coffee Bean corporate offices.
16 Additionally, Terterian and other aggrieved employees were not provided a premium wage
17 pursuant to Labor Code section 226.7 for their unprovided meal periods as they were not relieved
18 of all duties and responsibilities as required by the law. Coffee Bean's failure to properly pay
19 Terterian and other aggrieved employees for all hours worked in these instances violate Labor
20 Code sections 201, 202, 203, 204, 223, 510, 1194 and 1198.

21 6. Additionally, Coffee Bean required Terterian and other aggrieved employees to
22 work without appropriate compensation, including the payment of at least minimum wage for such
23 work time as described above in violation of Labor Code sections 201, 202, 203, 204, 223, 510,
24 1194, 1197, 1197.1 and 1198, and the Industrial Welfare Commission ("IWC") Wage Orders,
25 Section 3.

26 7. Coffee Bean also failed to provide Terterian and other aggrieved employees with
27 meal periods in accordance with Labor Code Sections 512 and 226.7 as aggrieved employees were
28 often not afforded an opportunity to take an off-duty meal period of at least 30 minutes within the

1 first five hours of their shift because of work demands, understaffing, audits/inspections and
2 meetings as can be evidenced by the employee records. Additionally, when aggrieved employees
3 worked in excess of 10 hours in a day they were not offered an opportunity to take a second meal
4 period in accordance with Labor Code section 512. Coffee Bean also failed to pay its aggrieved
5 employees a premium pursuant to Labor Code section 226.7 when it failed to provide its
6 employees with legally adequate meal periods as described above.

7 8. Coffee Bean also failed to provide Terterian and other aggrieved employees with a
8 10 minute rest break for every four hours of work, or every major fraction thereof as employees
9 were forced to work extended periods without rest breaks (and at times meal periods) due to
10 understaffing, audits, meetings and other work demands. Coffee Bean also failed to provide its
11 employees with a premium pursuant to Labor Code section 226.7 when it failed to provide its
12 employees with legally adequate rest breaks.

13 9. California Labor Code section 226(a) provides that every employer shall furnish to
14 each of its employees an accurate itemized wage statement in writing, showing, among other
15 things, all applicable hourly rates in effect during the pay period and the corresponding correct
16 number of hours worked at each hourly rate by the employee. Coffee Bean's wage statements fail
17 to comply with this section of the Labor Code as they list the incorrect rates of pay and the
18 incorrect number of hours worked at each rate of pay. The number of hours that the employees
19 actually spent working for the Company, which are listed on the pay stubs, is incorrect because of
20 the Company's failure to properly compensate its employees for all of the time that they spent
21 working under their employer's control due to its failure to pay for all work time and including
22 during "working lunches" as noted above.

23 10. Terterian and all aggrieved employees who were separated from their employment
24 with Coffee Bean, to whom Coffee Bean willfully failed to pay for all hours worked, as described
25 herein, are also entitled to up to thirty days of wages pursuant to California Labor Code sections
26 201, 202 and 203.

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1 Company, being aware of these occurrences, still deducted 30 minutes from their pay on these days
2 that they were required to continue working without a legal meal period.

3 15. Additionally, employees that worked over 10 hours were not provide an opportunity
4 to take a second meal period because of work demands, understaffing, audits, client visits,
5 inspections, meetings, and other work events.

6 16. Defendants have a consistent policy of failing to pay for straight and overtime hours
7 worked by the Defendants' non-exempt hourly general manager California employees in violation
8 of California law. Defendant failed to pay Representative Plaintiff and other similarly aggrieved
9 employees for all of the time in which they were under its control as stated above.

10 17. Representative Plaintiff and other aggrieved employees were at times not authorized
11 and permitted to take 10-minute rest breaks because of as employees were forced to work extended
12 periods without rest breaks (and at times meal periods) due to work demands, understaffing, audits,
13 client visits, inspections, meetings, and other work events. These individuals were not
14 compensated for not being provided their 10-minute rest breaks for each four hours of work or
15 major fraction thereof.

16 18. The Company did not pay Representative Plaintiff and other aggrieved employees
17 for all hours worked, including time that was deducted for legally inadequate meal periods, such as
18 "working lunches." Additionally, Company required Representative Plaintiff and other aggrieved
19 employees to work without appropriate compensation, including the payment of at least minimum
20 wage for such work time.

21 19. Coffee Bean's failure to properly pay Terterian and other aggrieved employees for
22 all hours worked in these instances violate Labor Code sections 201, 202, 203, 204, 223, 510, 558,
23 1194 and 1198 which requires that employees be timely paid all wages due to them. Coffee Bean
24 also knowingly underpaid Terterian in violation of Labor Code section 1194.2 as noted above and
25 caused Terterian to work for longer hours than those fixed by law in violation of Labor Code
26 section 1199.

27 20. Furthermore, the Company's wage statements listed the incorrect rates of pay and
28 earnings. Thus, the total earnings and the overtime hours listed on the employee's pay stubs are

1 incorrect. The number of hours that the employees actually spent working for the Company that is
2 listed on the wage statement is also incorrect because of the Company's failure to record and
3 compensate its employees for all of the time that they are under its control, including but not
4 limited to time that they spend complying with the Company's required "working lunches" and off-
5 the-clock work when they deducted 30 minutes for meal periods that were not legally adequate.

6 21. The Company also had a practice of not recording all of the hours that employees
7 spent working and under its control as explained above.

8 CAUSE OF ACTION

9 (VIOLATION OF LABOR CODE § 2699, *ET SEQ.* "PAGA")

10 (By Plaintiff Against Defendant Coffee Bean and Does 1 through 10, inclusive)

11 22. Plaintiff hereby re-alleges and incorporates all preceding paragraphs as though fully
12 set forth herein.

13 23. California Labor Code section 2699 *et. seq.* provides employees with a private right
14 of action to remedy an employer's failure to comply with Labor Code sections designated in Labor
15 Code section 2699.5. Labor Code sections 201, 202, 203, 204, 223, 510, 1194, and 1198, which
16 Coffee Bean has violated as alleged, are provided for under Labor Code section 2699.5. Penalties
17 for violations under Labor Code section 2699(f)(2) are one hundred dollars (\$100.00) for each
18 aggrieved employee per pay period for the initial violation, and two hundred dollars (\$200.00) per
19 subsequent violation for each aggrieved employee per pay period.

20 24. Plaintiff has exhausted the administrative prerequisites to file a claim under Labor
21 Code section 2699 by sending the required notice to the California Labor Workforce and
22 Development Agency ("LWDA") on August 23, 2018 along with a copy to Coffee Bean.
23 (Attached hereto as Exhibit "A" and incorporated by reference is Plaintiff's Notice to the LWDA.)
24 It has been over 65 days since the mailing and Plaintiff has not received confirmation from the
25 LWDA that it will not investigate the complaint within the time limits set forth in the recent
26 amendments to Labor Code section 2699 *et seq.* Additionally, pursuant to PAGA and the
27 supporting case law the statute of limitations has been tolled during the statute of limitations period
28 "to account for the period between when LWDA received a PAGA complaint letter and when it

1 provides notice to the aggrieved employee whether it grants permission for the aggrieved employee
2 to initiate a civil action."

3 25. Coffee Bean failed to pay Representative Plaintiff and other aggrieved employees
4 for all hours worked in violation of Labor Code sections 201, 202, 203, 204, 223, 510, 1194, 1197,
5 1197.1, 1198 and the IWC Wage Orders, Section 3. Additionally, Coffee Bean required
6 Representative Plaintiff and other aggrieved employees to work without appropriate compensation,
7 including the payment of at least minimum wage for such work time in violation of Labor Code
8 sections 201, 202, 203, 204, 223, 510, 1194, 1197 and 1198, and IWC Wage Orders, Section 3.
9 Furthermore, Coffee Bean has had a consistent policy of failing to keep accurate payroll records,
10 including, but not limited to, records accurately reflecting all hours worked daily, and the correct
11 applicable hourly rates of pay in effect during the pay period for all hours worked in violation of
12 IWC Wage Orders, Section 7 and California Labor Code sections 226(b), 1174(d) and 1198.

13 26. Throughout the course of her employment, Representative Plaintiff and other
14 aggrieved employees were required to work off-the-clock and in some instances overtime hours (in
15 excess of 8 hours in a day or 40 hours in a week) without receiving proper compensation for those
16 hours, let alone minimum wage, because of Coffee Bean's policy of not compensating employees
17 for all of the time under the Company's control. All of which violates Labor Code sections 204,
18 223, 510, 1194, and 1198.

19 27. Coffee Bean willfully failed to pay for all hours worked to employees who were
20 separated from their employment, including wages for off-the-clock work as described herein and
21 time deducted for working lunches, as detailed above, in violation of California Labor Code
22 sections 201, 202 and 203 and are entitled to up to 30 days of wages.

23 28. Coffee Bean failed to comply with California Labor Code sections 226, 1174(d),
24 1198 and IWC Wage Orders, Section 7, by failing to keep accurate time records. Coffee Bean
25 failed to comply with these sections of the Labor Code and Wage Order by consistently not
26 recording the hours that its employees spent working under its control.

27 29. As the administrative process has been exhausted under Labor Code section 2699.3,
28 Plaintiff seeks to recover, on behalf of herself and others similarly situated civil penalties to be

distributed according to statute.

30. As provided for in Labor Code section 2699.3(d), Plaintiff is entitled to recover civil penalties, on behalf of herself and others similarly situated, for the one-year period before the Section 2699 demand letter August 23, 2018, the necessary precursor to this claim.

31. Labor Code section 2699(g)(1) provides for attorneys' fees and costs to the prevailing employees for disputes under this section of the Labor Code. Plaintiff thus seeks to recover attorneys' fees and costs expended in recovering these penalties on behalf of herself, others similarly situated and the State of California.

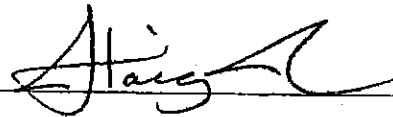
32. THEREFORE, Representative Plaintiff and the individuals she seeks to represent request relief as described below.

PRAYER

THEREFORE, Representative Plaintiff prays for judgment against defendant Coffee Bean, and Does 1 through 10, and each of them, as follows:

1. Statutory attorneys' fees and costs under PAGA and California Code of Civil Procedure Section 1021.5;
2. Statutory penalties under PAGA;
3. Costs of suit; and
4. Such further relief as the Court deems just and proper.

Dated: 11/26/2018

By: 

Haig B. Kazandjian, Esq.
Attorneys for Plaintiff Stacey Terterian
on behalf of herself and all others similarly
situated

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury.

Dated: 11/26/2018

By: _____

Haig B. Kazandjian, Esq.
Attorneys for Plaintiff Stacey Terterian
on behalf of herself and all others similarly
situated

EXHIBIT A

**HAIG B.
KAZANDJIAN**
LAWYERS | APC

August 23, 2018

BY U.S. CERTIFIED MAIL

California Labor & Workforce Development Agency
Attn. PAGA Administrator
800 Capitol Mall, MIC-55
Sacramento, California 95814

International Coffee and Tea LLC
Agent for Service of Process
John Fuller
5700 Wilshire Boulevard Suite 120
Los Angeles, California 90036

**Re: Notice of Labor Law Violations, California Labor Code Section 2698 Et. Seq.
to International Coffee and Tea LLC**

Dear Labor and Workforce Development Agency Representative,

We are writing on behalf of Stacey Terterian ("Ms. Terterian") against International Coffee and Tea LLC for violations of the California Labor Code and applicable wage law, including but not limited to: California Labor Code sections 201, 202, 203, 204, 206, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 2800, and 2802.

International Coffee and Tea LLC, employed Ms. Terterian as an hourly-paid, non-exempt employee, in the Los Angeles County, State of California. Ms. Terterian seeks penalties on behalf of the State of California and all current and former non-exempt or hourly-paid employees ("aggrieved employees") who worked for International Coffee and Tea LLC, during the relevant time period pursuant to California Labor Code section 2698, et. seq., the Labor Code Private Attorneys General Act of 2004 ("PAGA"). The purpose of this letter is to comply with the statutory requirements of California Labor Code section 2699.3 and shall constitute notice of the same.

The facts¹ of the aforementioned violations of the California wage-and-hour laws include, but are not limited to, the facts referenced herein.

Ms. Terterian and other non-exempt or hourly-paid employees were entitled to receive certain wages for overtime compensation, and did not receive compensation for work which International Coffee and Tea LLC required to be performed before and after their scheduled shifts,

¹ Ms. Terterian reserves the right to present and/or reference further evidence as it is discovered.

HAIG B. KAZANDJIAN

LAWYERS | APC

during their off the clock meal breaks, and/or during rest breaks. Such work included, but was not limited to customer service.

During the relevant time period, Ms. Terterian and other aggrieved employees worked in excess of eight (8) hours in a workday and/or forty (40) hours in a workweek. Pursuant to California Labor Code sections 510 and 1198, Ms. Terterian and other aggrieved employees were entitled to receive but were not paid for all overtime hours worked. Nor were Ms. Terterian and other aggrieved employees paid compensation for time worked off-the-clock before and after their scheduled shifts.

Moreover, during the relevant time period International Coffee and Tea LLC, required Ms. Terterian and other aggrieved employees to work during meal and rest periods and failed to compensate them properly for short, late, interrupted, and missed meal and rest periods. As a result, International Coffee and Tea LLC, was in violation of California Labor Code sections 226.7 and 512, which require employers to pay an employee one additional hour of pay at the employee's regular rate for each meal or rest period that is not provided.

Furthermore, during the relevant time period, International Coffee and Tea LLC, failed to pay aggrieved employees all wages due to them within the requisite time period set forth in California Labor Code sections 201 and 202. International Coffee and Tea LLC, failed to pay all of their wages within the time frame contemplated under the relevant labor code sections.

During the relevant time period, International Coffee and Tea LLC, failed to pay Ms. Terterian's and other aggrieved employees all wages due to them within any time period specified by California Labor Code section 204. International Coffee and Tea LLC, was also in violation of California Labor Code section 226(a), by failing to include the total hours worked in the wage statements received from Ms. Terterian and other aggrieved employees during the relevant time period. International Coffee and Tea LLC, did not provide Ms. Terterian and other aggrieved employees with complete, accurate itemized wage statements.

During the relevant time period, International Coffee and Tea LLC, failed to keep accurate and complete payroll records showing the actual hours worked per day and the wages paid to Ms. Terterian and other aggrieved employees pursuant to California Labor Code sections 1174(d). Further, International Coffee and Tea LLC, did not provide Ms. Terterian and other aggrieved employees with the minimum wages to which they were entitled for work performed off the clock, pursuant to California Labor Code sections 1194, 1197 and 1197.1.

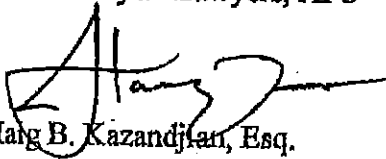
During the relevant time period, Ms. Terterian and other aggrieved employees incurred necessary, business-related expenses and costs that were not reimbursed by International Coffee and Tea LLC. Accordingly, International Coffee and Tea LLC, was in violation of California Labor Code sections 2800 and 2802.

**HAIG B.
KAZANDJIAN**
LAWYERS | APC

Based on the foregoing, Ms. Tertenian on behalf of all aggrieved employees, may seek all applicable penalties pursuant to PAGA. If you have any questions or require additional information, please do not hesitate to contact us. Thank you in advance for your attention to this matter.

Very truly yours,

Haig B. Kazandjian Lawyers, APC



Haig B. Kazandjian, Esq.