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14 **SUPERIOR COURT OF CALIFORNIA**
15 **IN AND FOR ORANGE COUNTY**

16 CAMILLE CUEVAS MARTINEZ, on behalf
17 of all others similarly aggrieved,

18 Plaintiff,
19 vs.

20 C&R RESTAURANT GROUP, LLC. DBA
21 TACO BELL, a California corporation; and
22 DOES 1-00, Inclusive,

23 Defendants.

CASE NO. 30-2020-01156478-CU-OE-CXC

COMPLAINT FOR VIOLATION OF
PRIVATE ATTORNEYS GENERAL ACT,
CAL. LABOR CODE SECTIONS 2698, *et*
seq.

JURY TRIAL DEMANDED

Assigned for all purposes to:

Judge Randall J. Sherman

Dept: CX105

1 Plaintiff CAMILLE CUEVAS MARTINEZ, an individual on behalf of herself and all
2 other employees similarly situated, hereby files this Complaint against Defendant C&R
3 RESTAURANT GROUP, LLC. DBA TACO BELL. Plaintiff is informed and believes, and on
4 the basis of that information and belief, allege as follows:

5 THE PARTIES

6 1. Plaintiff CAMILLE CUEVAS MARTINEZ is and at relevant times was, an
7 individual domiciled in the State of California and a citizen of the State of California who worked
8 as a non-exempt line cook and thereafter, a non-exempt managerial position for Defendant C&R
9 RESTAURANT GROUP, LLC. DBA TACO BELL (“Defendant”) in the State of California.

10 2. Defendant is a California Corporation that, at all relevant times, was authorized to
11 do business within the State of California and is doing business in the State of California.
12 Defendant owns and operates approximately forty Taco Bell restaurants throughout California.
13 Defendant prides itself on bringing a family culture into each and every one of their Taco Bell
14 locations.

15 3. The true names and capacities of the DOE Defendants sued herein as DOES 1
16 through 100, inclusive, are currently unknown to Plaintiff, who therefore sues each such
17 Defendant by said fictitious names. Each of the Defendants designated herein as a DOE is legally
18 responsible for the unlawful acts alleged herein. Plaintiff will seek leave of Court to amend this
19 Complaint to reflect the true names and capacities of the Doe Defendants when such identities
20 become known.

21 4. Plaintiff is informed and believes, and thereupon alleges that at all times herein,
22 Defendants, and each of them, were agents, servants, joint employers, employees, employers,
23 partners, and/or joint ventures of each other Defendant, and were, as such, acting within the
24 scope, course, and authority of said relationship. Each of the acts and/or omissions complained of
25 herein were alleged and made known to, and ratified by, each of the other Defendants. All named
26 Defendants and Doe Defendants are hereinafter collectively referred to as “Defendant” or
27 “Defendants.”

28 5. At all relevant times, Defendants were and are legally responsible for all of the

1 unlawful conduct, policies, practices, acts and omissions complained of herein. Further,
2 Defendants are responsible for each of the unlawful acts or omissions complained of herein under
3 the doctrine of respondent superior. The conduct of Defendants' managers and supervisors was at
4 all relevant times undertaken as employees of Defendants, acting within the scope of their
5 employment or authority in all of the unlawful activities described herein.

6 JURISDICTION AND VENUE

7 6. This court possesses original subject matter jurisdiction over this matter. Venue is
8 proper in Orange County, California, because Defendants do business in Orange County,
9 California, and some of the complained of conduct occurred in this judicial district.

10 FACTUAL ALLEGATIONS

11 7. During the four-year period preceding filing of this complaint, Plaintiff and each
12 of the class members worked for Defendant in the State of California as non-exempt employees.
13 Defendant at all times exercised control over Plaintiff and each of the class members, and
14 suffered and/or permitted them to work.

15 8. On approximately July 10, 2018, Plaintiff began working for Defendant as a Line
16 Cook. She was subsequently promoted to Shift Manager in December 2019 and continued
17 working in that capacity until June 28, 2019, when her employment ended. During her
18 employment, Plaintiff was classified as a non-exempt employee at all times.

19 9. Plaintiff typically worked 9 hours per shift, 5-6 days a week, although there were
20 occasions in which she worked 10-13 hour shifts. Plaintiff was required to work through her rest
21 periods due to the nature of the business. She similarly did not receive her first meal period after
22 the end of her fifth hour of work due to the nature of the job. Plaintiff was occasionally
23 interrupted during her meal periods and rest breaks and did not receive premium pay on these
24 occasions.

25 10. Plaintiff was required to perform some of her work "off-the-clock." For example,
26 she was required to perform a final walkthrough of the restaurant at the end of each shifts after
27 she had clocked out.

28 11. Plaintiff was required to be on her feet all day and was not provided any seating,

1 even though her position would have permitted it.

2 12. During her employment, Plaintiff failed to receive accurate wage statements in
3 compliance with Labor Code section 226. Among other things, Plaintiff's paystubs did not
4 include: (1) the correct total hours that Plaintiff worked during each pay period; (2) the correct
5 overtime rate; (3) the correct total net wages; and, (4) Defendant's address on the detachable
6 portion of her paystub until April 2019.

7 13. Defendant failed to pay Plaintiff for all hours worked during her employment and
8 upon the separation of employment, including failing to pay Plaintiff for the "off-the-clock" work
9 she performed.

10 14. Plaintiff is informed and believes that Defendant engaged in these same unlawful
11 practices with regard to all of the class members.

12 15. In sum, Plaintiff and the class members did not receive all wages for all hours
13 worked because of Defendant's uniform policies and practices concerning the recording,
14 calculation and payment of minimum and overtime wages. Plaintiff and class members were not
15 paid for all hours worked and/or at the correct rates of pay. Defendant also required Plaintiff and
16 class member to perform work off-the-clock. Defendants also did not provide Plaintiff and the
17 class members with timely, duty-free and uninterrupted meal and rest periods, or with
18 compensation in lieu thereof, as required by California law. Additionally, Defendants failed to
19 provide accurate, itemized wage statements to Plaintiff and the class members, and failed to pay
20 Plaintiff and the class members all wages due in a timely fashion during in employment and upon
21 separation of employment.

22 16. Plaintiff brings his complaint under the Private Attorneys General Act of 2004,
23 Labor Code sections 2698, *et seq.*, ("PAGA"), as a representative action on behalf of the State of
24 California, regarding violations of the Labor Code as to all similarly aggrieved individuals
25 employed by Defendant in the State of California as a non-exempt employee. This action is
26 brought solely pursuant to PAGA and seeks no relief beyond that available under PAGA.

27 17. During the period beginning one-year period preceding the filing of the required
28 PAGA notice with the Labor Workforce and Development Agency, and continuing through the

1 present, as alleged herein, Defendant violated Labor Code sections 201-203, 204, 216, 221-223,
2 226, 226.7, 245-248.5, 510, 512, 1174, 1194, 1197, 1198, 1199, and all applicable Wage Orders
3 as to Plaintiff and all other similarly aggrieved employees employed by Defendant in any non-
4 exempt position, however titled. These violations subject Defendant to civil penalties as set
5 forth in the foregoing statutes as well as other provisions of the Labor Code, including
6 without limitation Labor Code sections 203, 210, 1174.5, 1197.1 and 2699.

7 **FIRST CAUSE OF ACTION**

8 **VIOLATION OF PRIVATE ATTORNEYS GENERAL ACT,**
9 **LABOR CODE SECTIONS 2698, ET SEQ.**

10 18. Plaintiff incorporates all preceding paragraphs as if fully alleged herein.

11 19. Under the Labor Code and IWC Wage Orders, Defendant was required to provide
12 Plaintiff and similarly aggrieved employees with one 30-minute meal break free from all duties
13 for all shifts longer than 5 hours, and a second 30-minute meal break free from all duties for all
14 shifts longer than 10 hours. Meal periods can be waived, but only under the following
15 circumstances: (1) if an employee's total work period in a day is over five (5) hours but no more
16 than six (6) hours, the required meal period may be waived by mutual consent of the employer
17 and employee, and (2) if an employee's total work period in a day is over ten (10) hours but no
18 more than twelve (12) hours, the required second meal period may be waived by mutual consent
19 of the employer and employee, but only if the first meal period was not waived. Employers
20 covered by the Wage Orders have an obligation to both (1) relieve their employees for at least one
21 meal period for shifts over five hours (see above), and (2) to record having done so. If the
22 employer fails to properly record a valid meal period, it is presumed no meal period was
23 provided.

24 20. Plaintiff and class members regularly worked periods of more than five and ten
25 hours in a workday without being provided proper mandatory thirty-minute, duty-free meal
26 periods. Upon information and belief, Defendant failed to maintain a company meal period
27 policy compliant with California law. Plaintiff and class members were occasionally unable to
28 take timely, thirty-minute uninterrupted meal periods, particularly second meal periods. They

1 were unable to avail themselves of such breaks for various reasons, including, the pressures from
2 their workloads and the lack of relief workers available, commentary from superiors or no breaks
3 at all. Defendants regularly and routinely failed to provide Plaintiff and other class members with
4 a second meal period regardless of the number of hours they worked. Per Defendant's illegal
5 meal period policy/practice, Plaintiff and class members were not always relieved of their duties
6 for purposes of taking meal periods. Plaintiff was also verbally instructed that she needed to
7 remain on premises during meal periods; and, is informed and believes that Defendant provided
8 the same instructions to the class members. Defendant also failed to pay Plaintiff and class
9 members an additional hour of wages at their regular rates of pay for each workday a meal period
10 was not provided.

11 21. Defendant failed to provide Plaintiff and similarly aggrieved employees all
12 required and/or fully compliant rest periods, or compensation in lieu thereof. Defendant
13 employed policies and procedures that ensured Plaintiff and similarly aggrieved employees would
14 not receive all legally required rest periods, as Defendant did not authorize and permit all required
15 rest periods in strict accordance to, and in compliance with, the timing requirements of all
16 applicable Wage Orders. Defendant similarly employed policies and procedures that rendered
17 rest breaks non-compliant with the requirements of California law by, inter alia, failing to relieve
18 Plaintiff and similarly aggrieved employees of all duties and all employer control. Given Plaintiff
19 and similarly aggrieved employees' work schedules, they were typically entitled to at least two
20 rest periods per workday, which they were routinely denied. Defendant required Plaintiff and
21 similarly aggrieved employees to remain tethered to their work locations and work
22 communication devices during their shifts, including during any purported rest periods.
23 Defendant further employed policies and procedures ensuring Plaintiff and similarly aggrieved
24 employees did not receive premium wages to compensate them for workdays they did not receive
25 all legally required and fully compliant rest periods.

26 22. California law provides employees in California must be paid for all hours worked,
27 up to 40 per week or 8 per day, at a regular time rate no less than the mandated minimum wage.
28 California law also provides employees in California must be paid overtime, equal to 1.5 times

1 the employee's regular rate of pay, for all hours worked in excess of 40 per week or 8 per day.
2 Plaintiff and similarly aggrieved employees regularly worked hours, including overtime hours, for
3 which they were not compensated by Defendant as required by California law. Plaintiff and the
4 class members did not receive all wages for all hours worked because of Defendant's uniform
5 policies and practices concerning the recording, calculation and payment of minimum and
6 overtime wages. Plaintiff and class members were not paid for all hours worked and/or at the
7 correct rates of pay. Defendant also required Plaintiff and class member to perform work off-the-
8 clock. Defendants also did not provide Plaintiff and the class members with timely, duty-free and
9 uninterrupted meal and rest periods, or with compensation in lieu thereof, as required by
10 California law. Additionally, Defendants failed to provide accurate, itemized wage statements to
11 Plaintiff and the class members, and failed to pay Plaintiff and the class members all wages due in
12 a timely fashion during in employment and upon separation of employment. As a result,
13 Defendant failed to pay Plaintiff and similarly aggrieved employees for all hours worked at a rate
14 no less than the prevailing minimum wage, thereby violating California minimum wage laws,
15 including but not limited to, Labor Code sections 1194-1199, and Wage Order 5-2001, section 7.
16 These violations subject Defendant to civil penalties under the foregoing Labor Code sections and
17 other applicable Labor Code sections, including without limitation Labor Code sections 1197.1
18 and 2699. Each violation of each Labor Code section and Wage Order provision, for each
19 aggrieved employee, results in a separate civil penalty.

20 23. California law provides that, at the time of each payment of wages, the employer
21 must provide each employee with an itemized statement showing, inter alia, gross wages earned,
22 total hours worked, all deductions taken, net wages earned, the inclusive dates for which the
23 employee is being paid, the employee's name and last four digits of their social security number,
24 the name and address of the legal entity that it is the employer, and all applicable hourly rates in
25 effect during the pay period and all hours worked at each rate. Defendant knowingly and
26 intentionally failed to provide Plaintiff and other aggrieved employees with proper, itemized
27 wage statements as the wage statements provided by Defendant do not accurately reflect, inter
28 alia, gross wages earned, total hours worked, net wages earned, and all applicable hourly rates in

1 effect during each pay period and all hours worked at each applicable hourly rate. Accordingly,
2 Defendant has violated Labor Code section 226 as to Plaintiff and all similarly aggrieved
3 employees. These violations subject Defendant to civil penalties under the Labor Code, including
4 without limitation Labor Code sections 226 and 2699. Each violation of each Labor Code section
5 and Wage Order provision, for each aggrieved employee, results in a separate civil penalty.

6 24. California law requires employers to keep “accurate and complete” payroll records
7 showing, among other things, the hours worked daily by all non-exempt employees. IWC Wage
8 Order 5-2001, section 7, similarly requires employers to keep time records showing, inter alia,
9 when the employees begin and end each work period and reflecting the times during which all
10 owed meal periods are provided each day. At all relevant times, Defendant has failed, and
11 continues to fail, to keep the required time records, as Defendant did not keep records of the true
12 hours worked by Plaintiff and similarly aggrieved employees by virtue of Defendant’s
13 rounding/time-shaving system; also, Defendant failed to provide and/or record employee meal
14 periods. Defendant’s failure to keep “accurate and complete” payroll records for Plaintiff and
15 other similarly aggrieved employees violates Labor Code sections 1174, 1198-99, and Wage
16 Order 5-2001, section 7. These violations subject Defendant to civil penalties under the Labor
17 Code, including without limitation sections 1174.5 and 2699. Each violation of each Labor Code
18 section and Wage Order provision, for each aggrieved employee, results in a separate civil
19 penalty.

20 25. Together, Labor Code sections 1198 and 1199 make unlawful employment of any
21 individual under conditions of labor prohibited by the Wage Orders, and any violation, refusal, or
22 neglect to comply with any provision within Part 4, Chapter 1 of the Labor Code, including
23 sections 1174, 1197, and 1198, or other order or ruling of the IWC. Defendant’s violations with
24 respect to minimum wages and/or overtime wages, as alleged herein, result in separate violations
25 of Labor Code sections 1198 and 1199, and subject Defendant to civil penalties under the Labor
26 Code, including without limitation Labor Code sections 1197.1 and 2699. Each violation of each
27 Labor Code section and Wage Order provision, for each aggrieved employee, results in a separate
28 civil penalty.

1 26. California Labor Code section 204 requires an employer to pay employees all
2 wages due and payable at least twice each calendar month. Defendant failed to comply with
3 Labor Code section 204 by failing to timely pay twice during each calendar month all wages due
4 and payable to Plaintiff and other similarly aggrieved employees. Defendant's violations of Labor
5 Code section 204 subject Defendant to civil penalties, including but not limited to the penalties
6 set forth in California Labor Code sections 210 and 2699. Each violation results in a separate civil
7 penalty, for each aggrieved employee for each pay period during which the statutory provisions
8 were violated.

9 27. The California Labor Code Section 1198 provides that employees shall be
10 provided with suitable seats when the nature of the work reasonably permits the use of seats and
11 when they are not engaged in the active work duties that would not permit them to be seated.
12 Defendants' failure, inter alia, to provide any seating for Plaintiff and similarly aggrieved
13 employees constitutes violations of set the Labor Code and Wage Orders. Under Labor Code
14 Section 1198, Plaintiff and the class members who no longer are employed with Defendants are
15 entitled to recover the civil penalty is \$100 for each aggrieved employee per pay period for the
16 initial violation, and \$200 for each aggrieved employee per pay period for each subsequent
17 violation for the 12 months prior to filing a lawsuit, plus attorney's fees and cost.

18 28. Labor Code section 201 requires employers to pay all wages earned and unpaid at
19 the time of discharge, immediately upon discharge. Labor Code section 202 states similar
20 provisions with respect to employees who resign. For all aggrieved employees no longer
21 employed by Defendant, Defendant still has not paid such aggrieved employees all wages earned
22 and unpaid at the time of discharge, in that Defendant has not paid for, inter alia, time spent
23 performing work during uncompensated meal periods. These violations subject Defendant to
24 civil penalties under the Labor Code, including without limitation Labor Code sections 203, 256
25 and 2699. Each violation results in a separate civil penalty, for each aggrieved employee for each
26 pay period during which the statutory provisions were violated.

27 29. Plaintiff complied with the procedures for bringing suit specified in Labor Code
28 sections 2699.3 and 2699.5. Plaintiff gave written notice to the California Labor and

1 Workforce Development Agency ("LWDA") via electronic mail at PAGAfilings@dir.ca.gov
2 on June 10, 2020, and via certified mail to Defendant on June 10, 2020, of the specific
3 provisions of the Labor Code and Wage Orders allegedly violated, including the facts and
4 theories to support the alleged violations.

5 30. Under Labor Code section 2699.3, the LWDA must give written notice by
6 certified mail to the parties it intends to investigate the alleged violations within 65 days of the
7 date of the complainant's written notice. As of the date of this Complaint, the LWDA has not
8 provided the parties any notice of its intention to investigate Plaintiff's claims on behalf of
9 himself and other similarly aggrieved employees. As of the date of this Complaint, Defendant
10 has not responded to Plaintiff's PAGA notices in an attempt to cure. Accordingly, Plaintiff
11 has exhausted all administrative remedies required by law.

12 PRAYER

13 WHEREFORE, Plaintiff prays for judgment against each Defendant, jointly and severally,
14 as follows:

- 15 1. For civil penalties according to proof;
- 16 2. For reasonable attorney's fees and costs of suit; and
- 17 3. For such other and further relief as the Court deems just and proper.

18
19
20 Dated: August 21, 2020

CROSNER LEGAL, P.C.

21 

22 _____
23 Zachary Crosner
24 Michael Crosner
25 Attorneys for Plaintiff CAMILLE CUEVAS
26 MARTINEZ
27
28

DEMAND FOR JURY TRIAL

Plaintiff CAMILLE CUEVAS MARTINEZ demands a trial by jury on all claims so triable.

Dated: August 21, 2020

CROSNER LEGAL, P.C.



Zachary Crosner

Michael Crosner

Attorneys for Plaintiff CAMILLE CUEVAS MARTINEZ