

June 6, 2020

For Online Filing:

Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

Sent via U.S. Postal Service Certified Mail

Apple Cal, LLC
C/O Corporate Creations Network, Inc.
4640 Admiralty Way, 5th Floor
Marina del Rey, CA 90292

Sent via Electronic Mail

Timothy Morris, Area Director
TMorris@sscpmanagement.com

RE: *Matthew Reeves, et al, v. Apple Cal, LLC, et al.*

To Whom It May Concern,

This letter is being provided pursuant to the California Private Attorneys General Act (“PAGA”) as outlined in Labor Code §2699. Matthew Reeves (hereafter referred to as “Reeves” or “Plaintiff”) represents himself and similarly situated, current and former non-exempt employees of Apple Cal, LLC (hereafter referred to as “Defendant”), in California, for numerous violations under the California Labor Code.

Defendant, at all relevant times operated its retail food establishment in the State of California, in multiple counties, to include Stanislaus. Plaintiff, at all relevant times worked for or on behalf of Defendant at one or more of Defendant’s retail food establishments. Specifically, Plaintiff was acquired by Defendant on or about December 11, 2018 and has continuously been employed at the restaurant located at 2449 Claribel Road in Riverbank, California 95367.

Defendant has and continues to violate, and/or caused to be violated multiple California statutory and common laws, specifically certain provisions of the Labor Code that warrant and allow for civil penalties under PAGA. Plaintiff requests that the Labor Workforce Development Agency (“LWDA”) investigate the below-listed claims and/or allow for a representative action to commence through civil litigation. It is intended for this letter to satisfy all requirements under PAGA and to serve as notice of below-listed allegations to the LWDA and Defendant.

The below-listed violations of the Labor Code and other laws are claims that are made known to Plaintiff as of the date of this letter. The Plaintiff, through his attorney, reserves the right to supplement and/or add additional claims if or as they become known. The below listed claims are alleged by Plaintiff on behalf of himself and all similarly situated individuals, which are considered “aggrieved employees” as defined by Labor Code section 2699, *et seq.*

I. FAILURE TO PROVIDE MANDATORY, OFF-DUTY REST PERIODS

Cal. Labor Code 226.7 requires that no employee be made to work during a rest or recovery period mandated by I.W.C. Wage Order 5. The California Labor Code and I.W.C Wage Order 5 in relevant part indicate that an employer must authorize and permit rest periods for all non-exempt employees whose

total daily work time is at least 3.5 hours. Thus, offering a “rest period at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof.” Defendants regularly failed to provide for an uninterrupted 10-minute rest period to Plaintiff and similarly situated former and current non-exempt employees and required active work during rest periods. Defendants regularly interrupted or failed to permit and/ or authorize Plaintiff and other aggrieved employees a mandated rest period, during usual and customary minimum of six (6) to (8) hour shifts, four (4) to five (5) days per week. Defendant failed to provide premium compensation for the missed rest periods. For these violations, Defendant is liable for civil penalties pursuant to Cal. Labor Code §§558 and 2698 *et seq.*

II. FAILURE TO PROVIDE TIMELY AND ACCURATE WAGE STATEMENTS

As described above, Defendant failed to pay premium compensation for the missed rest period[s] at the requisite regular hourly rate of pay, thus causing Plaintiff’s and aggrieved employees’ paystub[s] for each occurrence of non-payment to be inaccurate. For these violations, Defendant is liable for civil penalties pursuant to Cal. Labor Code §§226.3 and 2698 *et seq.*

III. FAILURE TO PAY COMPENSATION DUE AND PAYABLE UPON CONCLUSION OF EMPLOYMENT

Cal. Labor Code §§201 and 202 require that all employees receive all earned and unpaid wages at the time of termination of employment, either immediately upon discharge or within the required time frame upon resignation. Labor Code §201 and §202 requires that all employees receive all earned and unpaid wages at the time of termination of employment, either immediately upon discharge or within the required time frame upon resignation. Plaintiff and aggrieved employees have been denied lawfully due rest periods; thus they are lawfully due premium compensation. Defendant owed Plaintiff and aggrieved employees one additional hour of pay at their regular rate to be paid no later than the next paycheck.

Defendant’s willful failure to provide the requisite additional hour of pay [for missed rest periods] caused aggrieved employees to not receive all earned and unpaid wages at the time of termination of employment, either immediately upon discharge or within the required time frame upon resignation. As a result of violations of Labor Code §§201, 202 and 203, Defendant is liable for civil penalties pursuant to Cal. Labor Code §2698 *et seq.*

IV. VIOLATION OF LABOR CODE SECTIONS 558 AND 558.1

Cal. Labor Code section 558 states that it is unlawful for any employer, or other person acting on behalf of an employer, to violate or cause to be violated any of sections 500 to 558.1 of the Labor Code or any order of the Industrial Welfare Commission. Similarly, Labor Code section 558.1 states that it is unlawful for any employer or other person acting on behalf on an employer to violate, or cause to be violated, any provision regulating wages or hours and days of work in any order of the Industrial Welfare Commission, as well as Sections 203, 226, 226.7, or 2802 of the Labor Code. As described above, Defendant, by and through its agents, violated Plaintiff’s and similarly situated employees’ rights provided for under Labor Code sections 558 and 558.1 as well as the incorporated Wage Orders and incorporated statutes therein. This was in violation of the law.

V. UNLAWFUL RETALIATION

Cal. Labor Code section 1102.5(b) states that an employer may "not retaliate against an employee for disclosing information, or because the employer believes that the employee disclosed or may disclose

information, to a government or law enforcement agency, to a person with authority over the employee or another employee who has the authority to investigate, discover, or correct the violation or noncompliance, or for providing information to, or testifying before, any public body conducting an investigation, hearing, or inquiry, if the employee has reasonable cause to believe that the information discloses a violation of state or federal statute, or a violation of or noncompliance with a local, state, or federal rule or regulation, regardless of whether disclosing the information is part of the employee's job duties." Cal. Labor Code section 1102.5(c) states that an employer may "not retaliate against an employee for refusing to participate in an activity that would result in a violation of state or federal statute, or a violation or noncompliance with a state or federal rule or regulation."

Defendant is aware of Plaintiff's anticipated engagement with a state and federal agency regarding his claims of discrimination, harassment and/or retaliation by way of multiple communications with Defendant's management representatives Kim Katz, Anthony Perriera, and others. At all times after Plaintiff made multiple complaints regarding discrimination and sexual harassment and/or made known his intention to pursue formal grievance with the assistance of a state or federal agency, he has been subjected to additional hostile treatment, including physical assault, adverse action in the form of unpaid disciplinary suspension and threatened with termination from employment. Collectively, these adverse action[s] and/or altered terms and conditions of employment are in violation of the law. As a result, Defendant violated Labor Code sections 1102.5(b)-(d) and Defendant is liable for the civil penalty pursuant to Labor Code § 1102.5.

Plaintiff on behalf of himself and all other similarly situated individuals (i.e., "aggrieved employees") request for the LWDA to investigate these claims. If the Agency opts to forego investigation, Plaintiff respectfully requests timely notification of the Agency's decision. Please mail notification related to this matter to Shawnté Priest, Attorney at Law, 1275 W. Main Street, No. 1042 in Ripon, California 95366 or by email to spriest@priestlawfirm.net.

Regards,

A handwritten signature in dark ink, appearing to read "Spriest", written in a cursive, flowing style.

Shawnte Priest, Esq.

cc: Client