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ERIBERTO AQUINO

Additional Counsel on Next Page

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

GUILLERMO NUNEZ and ERIBERTO
AQUINO, on behalf of the State of California, as
private attorneys general, and as individuals on
behalf of themselves and on behalf of others
similarly situated,

Plaintiffs,

vs.

INTERSTATE MANAGEMENT COMPANY,
L.L.C., a Limited Liability Company;
INTERSTATE HOTELS AND RESORTS,
INC.; and DOES 1 through 50, inclusive

Defendants.

Case No. 37-2021-00023535-CU-OE-CTL

**DECLARATION OF ARMOND M.
JACKSON IN SUPPORT OF MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

**DECLARATION OF ARMOND M. JACKSON IN SUPPORT OF MOTION FOR
PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**

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1 1. I am an attorney licensed to practice law before all courts of the State of California. I am
2 an attorney for Jackson Law, A Professional Law Corporation, attorney of record for Plaintiff
3 Eriberto Aquino. (referred to herein as “Plaintiff”). I have personal knowledge of everything
4 stated below and could and would competently testify thereto if sworn.

5 2. I submit this Declaration in support of Plaintiff’s motion for preliminary approval of class
6 action settlement.

7 3. During the litigation, I interviewed Mr. Aquino and determined he was a suitable plaintiff
8 based upon his experience of being subjected to Defendant’s purported Labor Code violations
9 and his concern to hold the Defendants accountable for any alleged liability for such violations.
10 By initiating this lawsuit against a former employer, Mr. Aquino subjected himself to
11 reputational risk. Throughout the course of this litigation, Mr. Aquino assisted this office in
12 preparing the complaint. Mr. Aquino also made himself available on an “on call” basis to answer
13 any questions regarding the case and approve any settlement. Mr. Aquino also continuously
14 provided my office with updated information concerning the Defendants’ business operations.

15 4. On October 13, 2020, Mr. Aquino filed claims alleging Labor Code violations, including
16 claims seeking wages for minimum wages, overtime wages, meal break wages, rest break wages,
17 claim for failure to provide and maintain accurate itemized wage statements pursuant to section
18 226(a), claim for failure to pay for timely wages, claim for failure to pay for necessary business
19 expenses; claim for failure to pay wages upon termination; claim for failure to maintain records;
20 unlawful business practices; and California Private Attorney General Act claims.

21 5. Throughout the course of this active litigation, Counsel for both Plaintiff and Defendant
22 (collectively referred to herein as the “Parties”) engaged in discovery.
23

24 6. Over the course of this litigation, my office participated in two separate mediations on
25 this matter to ultimately achieve the settlement pending approval before this Court now. Once
26 the settlement was achieved, my office further participated in the drafting and execution of the
27 settlement agreement.
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1 7. Given the pending claims between both cases, Plaintiff Mr. Aquino along with Plaintiff
2 Guillermo Nunez filed a consolidated amended complaint which now seeks preliminary approval
3 on.

4 8. I have been a California licensed attorney since November 2011. I began my career in
5 law while still in law school when in I served as a law clerk for the Pedersen Law & Dispute and
6 Resolution Corporation (“PLDRC”) handling employment related litigation matters. While
7 clerking for PLDRC I analyzed and organized discovery documents and researched employment
8 litigation issues such as Sexual Harassment, Race Discrimination and Wrongful Termination. I
9 worked as an associate attorney at Pedersen McQueen between March 2013 through January
10 2017 almost exclusively engaging in employment matters representing employees. I have
11 litigated several wage and hour case to trial and currently litigating or have litigated cases valued
12 in the six and seven figure dollar range, including representative actions. I had primary
13 responsibility for approximately 20 litigation matters on average throughout my employment at
14 PLDRC and Pedersen McQueen and Pedersen Law. I regularly practice in state court and
15 sometimes federal court. As an associate, my responsibilities included carrying primary case
16 responsibility which includes tasks like taking depositions, conducting damages analysis,
17 analyzing discovery documents, conducting client intake, developing discovery and litigation
18 strategies, participating in mediations and arbitrations, engaging in settlement negotiations, trial
19 preparation and trial work, as well as other responsibilities that commonly coincide with
20 managing cases from start to finish. I have been a member of local bar associations, including
21 the Orange County Bar Association, as well as the State Bar of California and American Bar
22 Association and served in a number of leadership roles at all levels. Most notably, I served as a
23 Committee Member of the Orange County Bar Association Young Lawyers’ Education
24 Committee and Social Committee.
25

26 9. In January 2017, I officially started my own practice Jackson Law, APC. Throughout my
27 career, I have litigated above 100 employment cases, including wage and hour representative
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1 actions to resolution byway of settlement, default or trial. Throughout my legal career, I have
2 been appointed class counsel on several class actions in Los Angeles Superior Court, Orange
3 County Superior Court and San Diego Superior Court, and other courts throughout California.
4 Based upon my experience, I believe the benefit conferred by the proposed Settlement is
5 eminently fair and reasonable, and is in the best interests of the Class Members because (1) of
6 the monetary benefits to the Class Members and (2) avoiding the risk, delay, and uncertainty of
7 continued litigation.

8
9 10. Below is a non-exhaustive list of prior wage and hour representative actions on which I
10 have served as lead or co-counsel.

- 11 1. *Kim v. FNS, Inc.*, Los Angeles Superior Court, Case No. BC 578015
- 12 2. *Demery v. Pacific Rim Capital Alliance Corporation et al.*, San Diego Superior Court,
13 Case No. 37-2017-00003415-CU-OE-CTL
- 14 3. *Goldbaum v. Dollarsmart et al.*, San Diego Superior Court, 30-2015-000077437-CU-
15 WT-CLT
- 16 4. *Hernandez v. Personnel Staffing Group, LLC et al.*, Orange County Superior Court,
17 Case No. 30-2017-00899277-CU-OE-CXC
- 18 5. *Sanchez, et al v. Pueblo Restaurant, Inc. dba Casa Torres*, Los Angeles Superior
19 Court, Case No. BC697241
- 20 6. *Augusto v. HIOG Management Services, LLC, et al.*, San Bernardino Superior Court,
21 Case No. CIVDS1610431
- 22 7. *Mendoza v. McNeal, Duckworth and McNeal, Inc.*, Orange County Superior Court,
23 Case No. 30-2017-00899290-CU-OE-CXC
- 24 8. *Ortiz v. Bayside Insurance Associates, Inc. et al*, Orange County Superior Court, Case
25 No. 30-2016-00895669-CU-OE-CXC
- 26 9. *Paramo v. Quest Nutrition LLC et al.*, Los Angeles County Superior Court, Case No.
27 BC609306
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- 1 10. *Luis v. Second Street Corporation dba Huntley House Hotel*, Los Angeles County
2 Superior Court, Case No. BC691018
- 3 11. *Venegas, at al. v. Bergen Shippers Corp, et al*, Los Angeles County Superior Court,
4 Case No. BC715217
- 5 12. *Bernal v. Bristol Equity Partners LP et al*, Orange County Superior Court, Case No.
6 30-2016-00854699-CU-OE-CXC
- 7 13. *Rowe v. Rasier-CA, LLC*, Orange County Superior Court,
8 Case No. 30-2018-00989673-CU-OE-CXC
- 9 14. *Abarca v. Habit Restaurants, LLC, The et al*, Orange County Superior Court, Case
10 No. 30-2016-00840385-CU-OE-CJC
- 11 15. *Radilla v. States Logistics Services, Inc.*, Orange County Superior Court,
12 Case No. 30-2018-00978231-CU-WT-CJC
- 13 16. *Rodriguez v. Lampson Sewing Incorporated et al*, Orange County Superior Court,
14 Case No. 30-2017-00900653-CU-OE-CJC
- 15 17. *January v. Discovery Management Inc. et al*, Los Angeles Superior Court,
16 Case No. BC635918
- 17 18. *Angel Hernandez v. Merchants Landscape Services, Inc. et al.*, Los Angeles Superior
18 Court, Case No. BC674131
- 19 19. *Quezada v. Garden Fresh Restaurant Corp. et al*, Orange County Superior Court,
20 Case No. 30-2016-00840321-CU-OE-CJC
- 21 20. *Munoz v. Batten Down, Inc. et al*, Los Angeles County Superior Court, Case No.
22 BC617880
- 23 21. *Salgado v. Resort at Pelican Hill, LLC et al*, Orange County Superior Court, Case
24 No. 30-2016-00840386-CU-OE-CJC
- 25 22. *Darmawati v. Westview Services Inc.*, Orange County Superior Court, Case No. 30-
26 2015-00795449-CU-OE-CJC
- 27 28

- 1 23. *Escobar v. Westcoast Textiles, Inc. et al*, Orange County Superior Court,
2 Case No. 30-2018-00979111-CU-OE-CXC
- 3 24. *Aquino v. Express Fashion Operations, LLC*, Orange County Superior Court, Case
4 No. 30-2017-00900648-CU-OE-CXC
- 5 25. *Aquino v. Express Fashion Operations, LLC*, Orange County Superior Court, Case
6 No. 8:19-cv-00564
- 7 26. *Plascencia v. RM HQ, LLC, dba Real Mex Restaurants*, Orange County Superior
8 Court, Case No. 30-2017-00926015-CU-OE-CXC
- 9 27. *Casas v. PC Hospitality et al.*, Orange County Superior Court,
10 Case No. 30-2016-00877489-CU-OE-CXC
- 11 28. *Leon v. SWH Mimi's Café, LLC*, Orange County Superior Court,
12 Case No. 30-2018-00978815-CU-OE-CXC
- 13 29. *Quintanilla v. Southwest Wine & Spirits, LLC*, Los Angeles Superior Court, Case No.
14 BC653817
- 15 30. *Fabiola Rodriguez v. Second Floor Food, Drinks and Art, LLC*, Orange County
16 Superior Court, Case No. 30-2018-00981362-CU-WT-CXC
- 17 31. *Santisteban v. Rod Fraser Enterprises, Inc. et al*, Orange County Superior Court,
18 Case No. 30-2017-00904202-CU-OE-CXC
- 19 32. *Milano v. Lev Tambor dba Distractions Lounge*, Orange County Superior Court,
20 Case No. 30-2018-00966582-CU-WT-CXC
- 21 33. *Ajin v. Lymi, Inc*, Los Angeles County Superior Court, Case No. BC696168
- 22 34. *Recinos v. Pacific American Fish Co., et al*, Los Angeles Superior Court,
23 Case No. BC710735
- 24 35. *Valle-Valdez v. St. Jude Hospital Yorba Linda, et al*, Orange County Superior Court,
25 Case No. 30-2015-00795457-CU-OE-CJC
- 26 36. *Juarez v. Arakelian Enterprises, Inc., et al*, Los Angeles Superior Court,
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Case No. BC710736

37. *Solarzano v. T&J Fresh Co. dba Chomp Sushi*, Orange County Superior Court,
Case No. 30-2018-00981299-CU-OE-CXC

38. *Taylor v. G.I. Trucking Company dba Estes West et al*, Los Angeles Superior Court,
Case No. BC722778

39. *Rendon v. L & L Foods Holdings, LLC, et al*, Orange County Superior Court, Case
No. 30-2018-00982745-CU-OE-CXC

40. *Magana v. Zara USA, Inc., et al*, Orange County Superior Court,
Case No. 8:18-cv-02249-AG (ADSx)

41. *Flores v. ABM Industry Groups, LLC et al*, Orange County Superior Court,
Case No. 30-2018-00971152-CU-WT-CJC

42. *Diaz v. Macy's West Stores, Inc. dba Macy's*, Central District of California,
Case No. SACV19-00303 ODW (MAAx)

43. *Aguirre v. Shelfmaster el al*, Orange County Superior Court, 30-2015-00787557-CU-
OE-CJC

44. *Goldman v. Encore Energy, Inc.*, Los Angeles County Superior Court, BC606773

45. *Munoz v. 8947 Sunset Pizza, LLC et al.*, Los Angeles Superior Court,
Case No. BC646999.

46. *Ramos v. Tagtime, Inc.*, Los Angeles Superior Court, Case No. 21STCP00903

11. On August 7, 2020, Plaintiff served Defendants via certified mail and to the California Labor and Workforce Development Agency ("LWDA") a notice of the alleged Labor Code violations. Plaintiff timely submitted the required documents to the LWDA. Attached hereto as **Exhibit A** is a true and correct copy of this notice.

12. My office has no relationship or connection to the settlement claims administrator ILYM Group, Inc.

1 13. I am not aware of any other pending matter or action asserting claims that will be
2 extinguished or adversely affected by the Settlement.

3 14. By engaging in a thorough investigation and evaluation of Plaintiff's claims, I can opine
4 that the Settlement, for the consideration and on the terms set forth in the Stipulation, is fair,
5 reasonable, and adequate, and is in the best interests of the Class Members in light of all known
6 facts and circumstances, including the risk of significant delay and uncertainty associated with
7 litigation, various defenses asserted by Defendant.
8

9 I declare under the penalty of perjury under the laws of the State of California that the
10 foregoing is true and correct. Executed on this 14th day of June 2023 in Irvine, California.
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12
13 /s/ Armond M. Jackson
14 Armond M. Jackson, Declarant
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EXHIBIT A

JACKSON LAW, P.C.

Armond M. Jackson
ajackson@jlaw-pc.com

August 7, 2020

Sent By Certified Mail to Interstate Hotels and Resorts, Inc.

Submitted Via Online to Labor and Workforce Development Agency

Interstate Hotels and Resorts, Inc.
2011 Crystal Drive, Suite 1100
Arlington, Virginia, 22202

**Corporation Service Company Which
Will Do Business in California as CSC-
Lawyers Incorporating Service Agent for
Service of Process for Interstate Hotels
and Resorts, Inc.**
2710 Gateway Oaks Drive, Suite 150N
Sacramento, California 95833

Interstate Management Company, L.L.C.
2011 Crystal Drive, Suite 1100
Arlington, Virginia, 22202

**Corporation Service Company Which
Will Do Business in California as CSC-
Lawyers Incorporating Service Agent for**

**Service of Process for Interstate
Management Company, L.L.C.**
2710 Gateway Oaks Drive, Suite 150N
Sacramento, California 95833

**Labor and Workforce Development
Agency**
Attn. PAGA Administrator
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102
(415) 703-4810

**PRIVATE ATTORNEY GENERAL ACT (PAGA) NOTICE
PURSUANT TO LABOR CODE § 2699**

Re: Notice Pursuant to California Labor Code Section 2699
Violations of California Labor Code Sections 201, 202, 203, 210, 221, 226 (a) 1-2, 4-5, 8-9, 226.3, 226.7, 510, 512, 558, 1194, 2802
Violations of California Labor Code Section 1198 (Industrial Welfare Commission Order No. 5-2001 (“Wage Order 5”), Sections 3, 7, 11 and 12 Violations of California Labor Labor and Workforce Development Agency Right to Investigate and Issue a Citation (Lab. Code § 2699.3)
Eriberto Aquino et al. v. Interstate Hotels and Resorts, Inc. et al.

Dear Interstate Hotels and Resorts, Inc., Interstate Management Company, L.L.C., and PAGA Administrator:

This letter is issued pursuant to Labor Code § 2698, et seq. (Specifically Labor Code § 2699(f)), which provides notice to the PAGA Administrator, Interstate Hotels and Resorts, Inc., Interstate Management Company, L.L.C., by Eriberto Aquino (“Mr. Aquino” or “Plaintiff”) on behalf of all California aggrieved current and aggrieved former similarly situated employees of Interstate Hotels and Resorts, Inc. (“IHR”) and Interstate Management Company, L.L.C. (“IMC”), (collectively referred to throughout herein as “Defendants”), a private right of action under the Private Attorney General Act (PAGA) of 2004.

As a prerequisite to prosecuting this private action in superior court, Mr. Aquino is required to provide notice by certified mail to the Labor and Workforce Development Agency and the employers regarding each violation, along with facts and theories supporting each violation as mentioned below. (Labor Code § 2699.3) If you have any questions regarding this letter, please contact Armond M. Jackson, Esq. at Jackson Law, APC at 949-281-6857 or via email at ajackson@jlaw-pc.com.

Facts and Theories

Defendants are a hospitality company.

This letter encompasses violations for all of Defendants nonexempt California employees.

Plaintiff was deployed to work for Defendants as a nonexempt employee. Plaintiff was responsible for servicing guests.

Throughout Plaintiff’s shifts, they were not provided with all 10 minute duty-free uninterrupted rest breaks during its working shifts that were at or above 7.5 hours as a result of encouragement and requirement to take short rest breaks because he was interrupted during rest

breaks, had to start rest breaks late and report back from rest breaks early or required to miss entitled rest breaks. Moreover, at times when Plaintiff and similarly situated employees were required to report back to work for interrupted rest breaks were not paid premium wages for this interrupted meal break. Finally, Defendants required Plaintiff and similarly situated employees each shift every day to work on-call or on-premises as they had to be available via radio, cell phone or by other means to perform job tasks and to return to work during rest breaks.

Furthermore, Plaintiff was not provided with proper 30 minute duty-free uninterrupted meal periods each five hours of its working shifts that he was entitled to when he worked over five and ten hour shifts and meal breaks were short, late, interrupted or not taken at all as a result of being encouraged and required to take short meal breaks because he was interrupted during meal breaks, had to start meal breaks late and report back from meal breaks early or completely miss meal breaks due to workload. Moreover, each shift every day Defendants required Plaintiff and similarly situated employees to work on-call or on-premises as they had to be available via radio, cell phone or by other means to perform job tasks and to return to work during meal breaks. Finally at times when Plaintiff and similarly situated employees were required to report back to work for interrupted meal breaks were not paid premium wages for this interrupted meal break.

Moreover, Defendants would withhold payment to Plaintiff and similarity situated employees and wait until later to pay as “Retro Correct” or retroactive payment without paying any interest of penalties to rightfully owed wages to Plaintiff and similarly situated employees.

Defendants have violated California Labor Code sections 201, 202, 203, 210, 221, 226.7, 510, 512, 1194, and Wage Order 5, Sections 7, 11 and 12 and any other applicable wage orders. Other similarly situated employees at Defendants were under the same conditions as Plaintiff.

Moreover, Defendants failed to incorporate Plaintiff’s premium wages and hours worth of work, actual name of the legal entity of the employer and applicable rates for all hours worked on their wage statements as required by California Labor Code section 226(a) 1-2, 4-5, 8 and 9. All other similarly situated employees were subjected to the same working conditions as Plaintiff, such as not being provided with their entitled meal breaks and rest breaks and recording their applicable hourly rates for all hours worked and actual hours worked or premium wages earned on their wage statements.

Moreover, Defendants failed to pay for all hours worked due to requiring employees to remain on-premises during meal breaks to be available via required radio device or via cell phone for calls such as fixing appliances and maintenance of property and requiring employees to perform work during meal breaks off-the-clock in violation of 510, 1194 and Wage Order 5, Sections 3 and any other applicable wage and hour laws. Moreover, based upon information and belief, Defendants failed to pay for all hours worked due to requiring employees to undergo medical inspections and testing before clocking-in. These medical inspections and medical testing and questions required employees to work off-the-clock for up to 30 minutes before clocking-in in violation of 510, 1194 and Wage Order 5, Sections 3 and any other applicable wage and hour laws.

Furthermore, based upon information and belief, Defendants required employees to purchase masks to protect from COVID-19 transmissions requiring them to wear these masks at work but failed to reimburse in violation of California Labor Code section 2802 and the applicable California Industrial Welfare Commission wage order(s)

By virtue of not authorizing or permitting Plaintiff and all other similarly situated employees to take their entitled meal breaks and rest breaks, off-the-clock work, failure to reimburse, failure to timely pay wages, failing to incorporate hours worked and wages earned on the itemized wage statements disclosing total hours worked, total gross wages earned, net wages earned, name and address of the legal entity employer, hours worked at the applicable hourly rate and deductions that should have been taken out, and rights to accurate wages statements and retention of those rights. Consequently, Defendants are violating California Labor Code Sections, 210, 226(a) 1-2, 4-5, 8, 9, 226(a), 226.3, and 226.7, 510, 512, and Wage Order 5, Sections 3, 7, 11 and 12, 2802.

Violation of California Labor Code Sections, 201, 202, 203, 204

An employer may not willfully fail to pay any wages owed to an employee who is either discharged, resigns or quits. If the employer does fail to pay its employees upon separation of employment, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefore is commenced; but the wages shall not continue for more than 30 days. (See Lab. Code §203) Here, Defendants did not compensate Plaintiff and do not compensate other similarly situated employees at the time of discharge or timely at the time of separation due to failing to compensate employees for owed premium wages, off-the-clock work, timely payments at the time of end of employment for COVID-19 lay offs, and on-call meal breaks.

Violation of California Labor Code Section 210

In addition to, and entirely independent and apart from, any other penalty provided in this article, every person who fails to pay the wages of each employee as provided in Section 201.3, 204, 204b, 204.2, 204.11, 205, 205.5, and 1197.5, shall be subject to penalties including one hundred dollars for each failure to pay each employee, \$200 for subsequent violation, plus 25 percent of the amount unlawfully withheld or PAGA penalties set forth in Labor Code section 2699. Here, Defendant failed to timely pay wages to employees for either overtime wages or minimum wages that required them to have to issue "Retro Correct" or retroactive pay to correct prior untimely wages weeks and/or months later after the wages were due. However, Defendants did not pay interest on this withheld amount nor did it pay any penalties associated with this failure to timely and pay full wages for these employees.

Violation of California Labor Code § 221

It shall be unlawful for any employer to collect or receive from an employee any part of wages theretofore paid by said employer. Here, Defendants withheld payment to Plaintiff and similarly situated employees and later paid out after multiple weeks and months the wages were earned and characterized the payment as “Retro Correct” or retroactive payment without paying any interest of penalties to rightfully owed wages to Plaintiff and similarly situated employees.

Violation of California Labor Code § 226(a)

Labor Code § 226 (a) requires employers to provide “accurate itemized statement in writing” each pay period that includes nine categories of information. These categories include (1) gross wages earned, (2) total hours worked, (4) deductions taken, (5) net wages earned, (8) name and address of the legal entity employer and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. (See Labor Code §226, subsection (a)) Any employer who has violated California Labor Code Section 226(a) will also be subject to penalties under California Labor Code Section 226.3. These records must be maintained for a period of at least three years. It is Plaintiffs’ contention that Defendant are in violation of the following California Labor Codes:

Violation of 226 (a)(1)

Section a (1) requires gross wages to be inserted on an employee’s paystubs. Plaintiffs and other similarly situated employees’ paystubs did not accurately reflect their gross wages earned by virtue of excluding hours worked and wages earned because Plaintiff and other similarly situated employees did not receive all entitled meal periods and rest periods but Defendants did not compensate them for that extra hour worth of work nor disclosed or recorded the extra hour worth of gross wages earned on their paystubs for failing to pay for all hours worked and provide the entitled meal breaks and rest breaks. Moreover, Defendants failed to insert all hours worked and wages earned due to the off-the-clock work.

Violation of 226 (a)(2)

Section a (2) requires the total hours worked by the employee to be inserted on an employee’s paystubs. Plaintiffs and other similarly situated employees’ paystubs did not accurately reflect their total hours worked by virtue of excluding hours worked because Plaintiff and other similarly situated employees did not receive all entitled meal periods and rest periods but Defendants did not compensate them for that extra hour worth of work nor disclosed or recorded the extra hour worth of gross wages earned on their paystubs for failing to pay for all

hours worked and provide the entitled meal breaks and rest breaks. Moreover, Defendants failed to insert all hours worked and wages earned due to the off-the-clock work.

Violation of 226 (a)(4)

Section a (4) requires all deductions out of the employees' wages to be inserted on an employee's paystubs. Plaintiffs and other similarly situated employees' paystubs did not accurately reflect all deductions taken out of their paychecks by virtue of excluding hours worked and wages earned because Plaintiff and other similarly situated employees did not receive all entitled meal periods and rest periods but Defendants did not compensate them for that extra hour worth of work nor disclosed or recorded the extra hour worth of gross wages earned on their paystubs for failing to pay for all hours worked and provide the entitled meal breaks and rest breaks. Moreover, Defendants failed to insert all hours worked and wages earned due to the off-the-clock work.

Violation of 226 (a)(5)

Section a (5) requires net wages to be inserted on an employee's paystubs. Plaintiffs' and other similarly situated employees' paystubs did not accurately reflect their net wages earned by virtue of excluding hours worked and wages earned because Plaintiff and other similarly situated employees did not receive all entitled meal periods and rest periods but Defendants did not compensate them for that extra hour worth of work nor disclosed or recorded the extra hour worth of gross wages earned on their paystubs for failing to pay for all hours worked and provide the entitled meal breaks and rest breaks. Moreover, Defendants failed to insert all hours worked and wages earned due to the off-the-clock work.

Violation of 226 a (8)

Section a (8) requires the name and address of the legal entity that is the employer on an employee's paystub. Plaintiff and other similarly situated employees' paystubs did not reflect the name and address of the legal entity was included on the actual paystubs and only included the name and address of a different employer.

Violation of 226 (a)(9)

Section a (9) requires all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. Plaintiffs and other similarly situated employees' paystubs did not reflect their applicable hourly rate because BSC and FSS excluded hours worked and wages earned because Plaintiff and other similarly situated employees did not receive all entitled meal periods and rest periods but Defendants did not compensate them for that extra hour worth of work nor disclosed or recorded the extra hour worth of gross wages earned on their paystubs for failing to pay for all hours worked and provide the

entitled meal breaks and rest breaks. Moreover, Defendants failed to insert all hours worked and wages earned due to the off-the-clock work.

Violation of California Labor Code Sections 226.7, 512, 1198 and Wage Order 5, Sections 3, 7, 11 and 12

An employer must provide rest period pursuant to an applicable order of the Industrial Welfare Commission. (See Lab. Code §226.7)

Under Labor Code § 1198 an employer is required to comply with the standard conditions of labor required in the orders set by the Industrial Welfare Commission. Industrial Welfare Commission Order No. 5-2001 (hereinafter “Wage Order 5”).

Under these circumstances, Plaintiffs’ position at Defendants falls within Wage Order 5 employed Plaintiff’s as a non-exempt employees.

California Labor Code sections 226.7, 512 and Wage Order 5, Section 11, requires employers to provide employees with uninterrupted meal breaks for 30 minutes every 5 hours unless waived by mutual consent and the work shift is not above 6 hours. California Labor Code sections 226.7, 512 and Wage Order 5, Section 11 requires every employer to provide its employees with uninterrupted meal breaks for 30 minutes every 5 hours if the employee works more than a 6 hour shift. Plaintiff and other similarly situated employees regularly worked above five, six and ten hour shifts and were not provided meal breaks every five hours nor were they compensated premium wages for working through their meal breaks as mentioned above.

California Labor Code sections 226.7 and Wage Order 5, Section 12 states every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof. However, a rest period need not be authorized for employees whose total daily work time is less than three and one-half (3 1/2) hours. Authorized rest period time shall be counted as hours worked for which there shall be no deduction from wages. (B) If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee’s regular rate of compensation for each workday that the rest period is not provided.

As described above, Plaintiff and other similarly situated employees did not receive their entitled uninterrupted rest periods and meal breaks during their employment at Defendants while regularly working above 4, 6 and 7.5 hour shifts.

Wage Order 5, Section -7- Records

Section 7 sets out the requirements for the maintenance of employee records by an employer. Subsection (A) requires employers to “keep accurate information with respect to each employee” regarding identification information, including their “[f]ull name, home address, occupation and social security number,” “[time records showing when the employee begins and ends each work period,” “[m]eal periods,” and [t]otal hours worked in the payroll period and applicable rates of pay.”

Subsection (B) requires an employer to provide accurate, itemized statements showing deductions and the dates of the pay period. Subsection (C) requires such records to be kept for three (3) years and made available on request.

As discussed above, Defendants failed to record “meal periods” as Plaintiff and other similarly situated employees were not provided with proper meal periods. Furthermore, Defendants failed to incorporate the extra hour’s worth of work when Plaintiff and other similarly situated employees worked through their entitled meal breaks and rest breaks without being paid premium wages. The extra hours worth of work at the applicable rate of pay was not disclosed on the itemized wage statements in violation of Wage Order 5, Section -7- Records.

California Labor Code Section 510, and 1194, Wage Order 5, Section 3

Section 3 lays out the requirements for overtime pay applicable to employees working in restaurants and all similar establishments such as the Commerce Club. If an employee works in excess of eight (8) hours in any one day, or over forty (40) hours in one week, those hours must be paid at the rate of one and one-half (1.5) times the employee’s regular rate of pay for all hours worked in excess of eight (8) hours and up until twelve (12) hours in any day. Any hour worked in excess of 12 hours in any workday is to be paid at the rate of double the employee’s regular rate of pay.

Moreover, if any employee works (7) consecutive days, the employee shall be paid one and one-half (1.5) times his or her regular pay for the first eight (8) hours. Any hours worked in excess of eight (8) hours on the seventh consecutive day must be paid at twice the employee’s regular rate of pay.

Violation of California Labor Code Section 510

Work in excess of eight hours in one workday and/or 40 hours in one workweek, and the first eight hours on the seventh day of work in any workweek must be compensated at no less than one and one-half times the employee’s regular rate of compensation. (See Lab. Code §510) “Double time” required after twelve hours in any workday, after eight hours on the seventh day of work. Plaintiff and other similarly situated employees were not paid any overtime for hours worked

in excess of 8 hours per day or forty hours per week because they worked through shifts above 8 hours per day and 40 hours per week and worked off-the-clock during on-premises meal breaks. Moreover, Plaintiff and similarly situated employees were entitled to performance based bonuses that were not incorporated as required in all overtime payments issued. Furthermore, similarly situated employees were being required to report to work early for medical testing and questioning that took up to 30 minutes to complete and not paid the wages for being required to undergo these medical inspections and medical checks. The employees were never provided with overtime compensation for this time.

Violation of California Labor Code Section 558

Any employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty in addition to recover unpaid wages. (See Lab. Code §558)

Violation of California Labor Code Section 1194

Any employee receiving less than the legal minimum wage or overtime compensation applicable to the employee is entitled to recover, in a civil action, the unpaid balance of the full amount of the minimum wage or overtime compensation including interest, reasonable attorney's fees, and costs of suit. (See Lab. Code §1194) When the employees were required to work above 8 hours in a day and 40 hours in a week they were not paid overtime for this work for his off-the-clock work time for on-premises and on-call meal breaks or required to work during meal breaks, and other similarly situated employees being required to report to work early for medical testing and questioning that took up to 30 minutes to complete and not paid the wages for being required to undergo these medical inspections and medical checks, the work shifts would amount to above 8 hours of work per day or above 40 hours per week. The employees were never provided with minimum wages or overtime compensation for this time.

Violation of California Labor Code 2802

Under California Labor Code § 2802, an employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer. In violation of Lab. Code § 2802 Defendants required Plaintiff and other similarly situated employees to purchase items for work at Defendants including, but not limited to, using their personal cell phone devices to communicate with Defendants staff without any reimbursement in violation of California Labor Code section 2802.

Conclusion

Pursuant to the above stated facts, it is Plaintiffs' theory that Defendants are in violation of Labor Code Labor Code §§ 201, 202, 203, 210, 226(a) 1-2, 4-5, 8-9, 226.3, 226.7, 510, 512, 558, 1194 and Violations of California Labor Code Section 1198, Wage Order 5, Sections 7, 11 and 12, 2802. It is Plaintiff's contention that all similarly situated employees at Defendants are subjected to all of the above mentioned violations as Defendants employees.

Sincerely,

Jackson Law, APC

/s/ Armond M. Jackson

Armond M. Jackson