

Assigned for all purposes to: Chatsworth Courthouse, Judicial Officer: Melvin Sandvig

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

ROBERT THOMPSON, on behalf of the
State of California, as a private attorney
general,

Plaintiff,

vs.

ISLANDS RESTAURANTS, L.P., a
Limited Partnership; and Does 1 through
50, Inclusive,

Defendants.

Case No. 21CHCV00451

REPRESENTATIVE ACTION
COMPLAINT FOR:

1. Civil Penalties Pursuant to Labor Code
§ 2699, *et seq.* for violations of Labor
Code §§ 201, 202, 203, 204 *et seq.*, 210, 221,
226(a), 226.7, 246, 351, 510, 512,
558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802,
California Code of Regulations, Title 8,
Section 11040, Subdivision 5(A)-(B).

1 Plaintiff Robert Thompson (“PLAINTIFF”), on behalf of the people of the State of
2 California and as an “aggrieved employee” acting as a private attorney general under the Labor
3 Code Private Attorney General Act of 2004, § 2699, *et seq.* (“PAGA”) only, alleges on
4 information and belief, except for his own acts and knowledge which are based on personal
5 knowledge, the following:

6 **INTRODUCTION**

7 1. PLAINTIFF brings this action against Defendant Islands Restaurants, L.P.
8 (referred to as “DEFENDANT”) seeking only to recover PAGA civil penalties for himself, and
9 on behalf of all current and former aggrieved employees that worked for DEFENDANT.
10 PLAINTIFF does **not seek to recover anything other than penalties as permitted by**
11 **California Labor Code § 2699**. To the extent that statutory violations are mentioned for wage
12 violations, PLAINTIFF does not seek underlying general and/or special damages for those
13 violations, but simply the civil penalties permitted by California Labor Code § 2699.

14 2. California has enacted the PAGA to permit an individual to bring an action on
15 behalf of himself and on behalf of others for PAGA penalties *only*, which is the precise and sole
16 nature of this action.

17 3. Accordingly, PLAINTIFF seeks to obtain all applicable relief for
18 DEFENDANT’s violations under PAGA and solely for the relief as permitted by PAGA – that
19 is, penalties and any other relief the Court deems proper pursuant to the PAGA. Nothing in this
20 complaint should be construed as attempting to obtain any relief that would not be available in
21 a PAGA-only action.

22 **THE PARTIES**

23 4. Defendant Islands Restaurants, L.P. (“DEFENDANT”) is a limited partnership
24 that at all relevant times mentioned herein conducted and continues to conduct substantial and
25 regular business throughout California.

26 5. DEFENDANT is a casual, dining restaurant chain that specializes in burgers,
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1 fresh cut fries, and specialty drinks.

2 6. PLAINTIFF was employed by DEFENDANT in California as a non-exempt
3 employee entitled to overtime pay and meal and rest periods from December of 2019 to October
4 23, 2020. PLAINTIFF was at all times relevant mentioned herein classified by DEFENDANT
5 as a non-exempt employee paid in whole or in part on an hourly basis and received additional
6 compensation from DEFENDANT in the form of non-discretionary incentive wages.

7 7. PLAINTIFF, and such persons that may be added from time to time who satisfy
8 the requirements and exhaust the administrative procedures under the Private Attorney General
9 Act, brings this Representative Action on behalf of the State of California with respect to
10 himself and all individuals who are or previously were employed by DEFENDANT in
11 California and who were classified as non exempt employees ("AGGRIEVED EMPLOYEES")
12 during the time period of February 11, 2020 until a date as determined by the Court (the "PAGA
13 PERIOD").

14 8. PLAINTIFF, on behalf of himself and all AGGRIEVED EMPLOYEES presently
15 or formerly employed by DEFENDANT during the PAGA PERIOD, brings this representative
16 action pursuant to Labor Code § 2699, *et seq.* seeking fixed civil penalties for DEFENDANT's
17 violation of California Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 221, 226(a), 226.7, 246,
18 351, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations,
19 Title 8, Section 11040, Subdivision 5(A)-(B), and the applicable Wage Order(s). Based upon
20 the foregoing, PLAINTIFF and all AGGRIEVED EMPLOYEES are aggrieved employees
21 within the meaning of Labor Code § 2699, *et seq.*

22 9. The true names and capacities, whether individual, corporate, subsidiary,
23 partnership, associate or otherwise of defendants DOES 1 through 50, inclusive, are presently
24 unknown to PLAINTIFF who therefore sues these Defendants by such fictitious names pursuant
25 to Cal. Civ. Proc. Code § 474. PLAINTIFF will seek leave to amend this Complaint to allege
26 the true names and capacities of Does 1 through 50, inclusive, when they are ascertained.
27 PLAINTIFF is informed and believes, and based upon that information and belief alleges, that
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1 the Defendants named in this Complaint, including DOES 1 through 50, inclusive, are
2 responsible in some manner for one or more of the events and happenings that proximately
3 caused the injuries and damages hereinafter alleged.

4 10. The agents, servants and/or employees of the Defendants and each of them acting
5 on behalf of the Defendants acted within the course and scope of his, her or its authority as the
6 agent, servant and/or employee of the Defendants, and personally participated in the conduct
7 alleged herein on behalf of the Defendants with respect to the conduct alleged herein.
8 Consequently, the acts of each Defendant are legally attributable to the other Defendants and
9 all Defendants are jointly and severally liable to PLAINTIFF and the AGGRIEVED
10 EMPLOYEES, for the loss sustained as a proximate result of the conduct of the Defendants'
11 agents, servants and/or employees.

12 13 **THE CONDUCT**

14 11. During the PAGA PERIOD, DEFENDANT failed and continues to fail to
15 accurately calculate and pay PLAINTIFF and the other AGGRIEVED EMPLOYEES for their
16 minimum and overtime wages. DEFENDANT unlawfully and unilaterally failed to accurately
17 calculate minimum and overtime wages for time worked by PLAINTIFF and other
18 AGGRIEVED EMPLOYEES in order to avoid paying these employees the correct
19 compensation. Specifically, these employees were required to clock of out DEFENDANT's
20 timekeeping system to perform additional work for DEFENDANT in their restaurants, including
21 but not limited to, cleaning the kitchen, mopping floors and disposing of grease. This additional
22 time worked was work performed subject to DEFENDANT's control and for DEFENDANT's
23 benefit. Consequently, all this time constitutes "hours worked" and is therefore compensable.
24 DEFENDANT's policy and practice to not pay employees for compensable work time is
25 evidenced by DEFENDANT's business records. As a result, PLAINTIFF and the other
26 AGGRIEVED EMPLOYEES forfeited wages due them for working without compensation at
27 the correct minimum wage and overtime rates. DEFENDANT's policy and practice to not pay
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1 the AGGRIEVED EMPLOYEES the correct compensation for all time worked in accordance
2 with applicable law is evidenced by DEFENDANT's business records. This policy and practice
3 of DEFENDANT was intended to purposefully avoid the payment of the correct compensation
4 as required by California law which allowed DEFENDANT to illegally profit and gain an unfair
5 advantage over competitors who complied with the law.

6 12. During the PAGA PERIOD, DEFENDANT failed to accurately record and pay
7 PLAINTIFF and other AGGRIEVED EMPLOYEES for the actual amount of time these
8 employees worked. Pursuant to the Industrial Welfare Commission Wage Orders,
9 DEFENDANT is required to pay PLAINTIFF and other AGGRIEVED EMPLOYEES for all
10 time worked, meaning the time during which an employee was subject to the control of an
11 employer, including all the time the employee was permitted or suffered to permit this work.
12 DEFENDANT required these employees to work off the clock without paying them for all the
13 time they were under DEFENDANT's control. DEFENDANT, as a matter of established
14 company policy and procedure, administered a uniform practice of rounding the actual time
15 worked and recorded by PLAINTIFF and AGGRIEVED EMPLOYEES, always to the benefit
16 of DEFENDANT, so that during the course of their employment, PLAINTIFF and the
17 AGGRIEVED EMPLOYEES were paid less than they would have been paid had they been paid
18 for actual recorded time rather than "rounded" time. DEFENDANT's policy and practice not
19 to pay PLAINTIFF and other AGGRIEVED EMPLOYEES for all time worked, is evidenced
20 by DEFENDANT's business records. Additionally, DEFENDANT required PLAINTIFF to
21 work while clocked out during what was supposed to be PLAINTIFF's off-duty meal break.
22 PLAINTIFF was from time to time interrupted by work assignments. As a result, PLAINTIFF
23 and other AGGRIEVED EMPLOYEES forfeited minimum wage and overtime compensation
24 by working without their time being accurately recorded and without compensation at the
25 applicable minimum wage and overtime rates. To the extent that the time worked off the clock
26 did not qualify for overtime premium payment, DEFENDANT failed to pay minimum wages
27 for the time worked off-the-clock in violation of Cal. Lab. Code §§ 1194, 1197, and 1197.1.

1 13. State and federal law provides that employees must be paid overtime at one-and-
2 one-half times their “regular rate of pay.” PLAINTIFF and other AGGRIEVED EMPLOYEES
3 were compensated at an hourly rate plus incentive pay that was tied to specific elements of an
4 employee’s performance.

5 14. The second component of PLAINTIFF’s and other AGGRIEVED EMPLOYEES’
6 compensation was DEFENDANT’s non-discretionary incentive program that paid PLAINTIFF
7 and other AGGRIEVED EMPLOYEES incentive wages based on their performance for
8 DEFENDANT. The non-discretionary incentive program provided all employees paid on an
9 hourly basis with incentive compensation when the employees met the various performance
10 goals set by DEFENDANT. However, when calculating the regular rate of pay in order to pay
11 overtime to PLAINTIFF and other AGGRIEVED EMPLOYEES, DEFENDANT failed to
12 include the incentive compensation as part of the employees’ “regular rate of pay” for purposes
13 of calculating overtime pay. Management and supervisors described the incentive program to
14 potential and new employees as part of the compensation package. As a matter of law, the
15 incentive compensation received by PLAINTIFF and other AGGRIEVED EMPLOYEES must
16 be included in the “regular rate of pay.” The failure to do so has resulted in a underpayment of
17 overtime compensation to PLAINTIFF and other AGGRIEVED EMPLOYEES by
18 DEFENDANT.

19 15. In violation of the applicable sections of the California Labor Code and the
20 requirements of the Industrial Welfare Commission ("IWC") Wage Order, DEFENDANT
21 intentionally and knowingly failed to compensate PLAINTIFF and the other AGGRIEVED
22 EMPLOYEES at the correct rate of pay for all overtime worked. This policy and practice of
23 DEFENDANT is intended to purposefully avoid the payment of the correct overtime
24 compensation as required by California law which allowed DEFENDANT to illegally profit and
25 gain an unfair advantage over competitors who complied with the law. To the extent equitable
26 tolling operates to toll claims by the AGGRIEVED EMPLOYEES against DEFENDANT, the
27 PAGA PERIOD should be adjusted accordingly.

1 16. As a result of their rigorous work schedules, PLAINTIFF and other
2 AGGRIEVED EMPLOYEES were from time to time unable to take off duty meal breaks and
3 were not fully relieved of duty for meal periods. PLAINTIFF and other AGGRIEVED
4 EMPLOYEES were from time to time required to perform work as ordered by DEFENDANT
5 for more than five (5) hours during a shift without receiving an off-duty meal break. Further,
6 DEFENDANT failed to provide PLAINTIFF and AGGRIEVED EMPLOYEES with a second
7 off-duty meal period from time to time in which these employees were required by
8 DEFENDANT to work ten (10) hours of work. PLAINTIFF and the other AGGRIEVED
9 EMPLOYEES therefore forfeited meal breaks without additional compensation and in
10 accordance with DEFENDANT's corporate policy and practice.

11 17. During the PAGA PERIOD, PLAINTIFF and other AGGRIEVED EMPLOYEES
12 were from time to time also required to work in excess of four (4) hours without being provided
13 ten (10) minute rest periods. Further, these employees were denied their first rest periods of at
14 least ten (10) minutes for some shifts worked of at least two (2) to four (4) hours, a first and
15 second rest period of at least ten (10) minutes for some shifts worked of between six (6) and
16 eight (8) hours, and a first, second and third rest period of at least ten (10) minutes for some
17 shifts worked of ten (10) hours or more from time to time. PLAINTIFF and other
18 AGGRIEVED EMPLOYEES were also not provided with one hour wages in lieu thereof. As
19 a result of their rigorous work schedules, PLAINTIFF and other AGGRIEVED EMPLOYEES
20 were periodically denied their proper rest periods by DEFENDANT and DEFENDANT's
21 managers. Additionally, the applicable California Wage Order requires employers to provide
22 employees with off-duty rest periods, which the California Supreme Court defined as time
23 during which an employee is relieved from all work related duties and free from employer
24 control. In so doing, the Court held that the requirement under California law that employers
25 authorize and permit all employees to take rest period means that employers must relieve
26 employees of all duties and relinquish control over how employees spend their time which
27 includes control over the locations where employees may take their rest period. Employers
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1 cannot impose controls that prohibit an employee from taking a brief walk - five minutes out,
2 five minutes back. Here, DEFENDANT's policy restricted PLAINTIFF and other
3 AGGRIEVED EMPLOYEES from unconstrained walks and was unlawful based on
4 Defendant's rule which stated PLAINTIFF and other AGGRIEVED EMPLOYEES could not
5 leave the work premises during their rest period.

6 18. DEFENDANT underpaid sick pay wages to PLAINTIFF and other AGGRIEVED
7 EMPLOYEES by failing to pay such wages at the regular rate of pay. Specifically, PLAINTIFF
8 and other non-exempt employees earned non-discretionary remuneration, including but not
9 limited to, incentives, shift differential pay, and bonuses. Rather than pay sick pay at the regular
10 rate of pay, DEFENDANT underpaid sick pay to PLAINTIFF and other AGGRIEVED
11 EMPLOYEES their base rates of pay.

12 19. Cal. Lab. Code § 204 provides that "[a]ll wages. . . earned by any person in any
13 employment are due and payable twice during each calendar month, on days designated in
14 advance by the employer as the regular paydays." Further, Cal. Lab. Code § 204(a) expressly
15 requires employers to pay employees all wages owed within eleven (11) days of the close of the
16 payroll period. DEFENDANT from time to time failed to pay PLAINTIFF and other
17 AGGRIEVED EMPLOYEES all wages owed to them within eleven (11) days of the close of
18 the payroll period.

19 20. Pursuant to Cal. Lab. Code Section 221, "It shall be unlawful for any employer
20 to collect or receive from an employee any part of wages theretofore paid by said employer to
21 said employee." DEFENDANT failed to pay all compensation due to PLAINTIFF and other
22 AGGRIEVED EMPLOYEES, made unlawful deductions from compensation payable to
23 PLAINTIFF and AGGRIEVED EMPLOYEES, failed to disclose all aspects of the deductions
24 from compensation payable to PLAINTIFF and AGGRIEVED EMPLOYEES, and thereby
25 failed to pay these employees all wages due at each applicable pay period and upon termination.

26 21. Cal. Lab. Code § 226 provides that every employer shall furnish each of his or her
27 employees with an accurate itemized wage statement in writing showing, among other things,
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1 gross wages earned and all applicable hourly rates in effect during the pay period and the
2 corresponding amount of time worked at each hourly rate. DEFENDANT from time to time
3 failed to provide to PLAINTIFF and the AGGRIEVED EMPLOYEES wage statements that
4 identify the correct gross and net wages earned, the applicable number of hours worked and
5 rates of pay. Specifically, DEFENDANT violated Section 226 by failing to identify the correct
6 rates of pay and number of hours worked, including for the "Special Pay," item of pay, which
7 is a wage payment. Aside, from the violations listed above in this paragraph, DEFENDANT
8 failed to issue to PLAINTIFF and other AGGRIEVED EMPLOYEES an itemized wage
9 statement that lists all the requirements under California Labor Code 226 *et seq.*

10 22. DEFENDANT intentionally and knowingly failed to reimburse and indemnify
11 PLAINTIFF and the other AGGRIEVED EMPLOYEES for required business expenses
12 incurred by the PLAINTIFF and other AGGRIEVED EMPLOYEES in direct consequence of
13 discharging their duties on behalf of DEFENDANT. Under California Labor Code Section
14 2802, employers are required to indemnify employees for all expenses incurred in the course
15 and scope of their employment. Cal. Lab. Code § 2802 expressly states that "an employer shall
16 indemnify his or her employee for all necessary expenditures or losses incurred by the employee
17 in direct consequence of the discharge of his or her duties, or of his or her obedience to the
18 directions of the employer, even though unlawful, unless the employee, at the time of obeying
19 the directions, believed them to be unlawful."

20 23. In the course of their employment PLAINTIFF and other AGGRIEVED
21 EMPLOYEES as a business expense, were required by DEFENDANT to use their own personal
22 cellular phones as a result of and in furtherance of their job duties as employees for
23 DEFENDANT but were not reimbursed or indemnified by DEFENDANT for the cost
24 associated with the use of their personal cellular phones and personal home offices for
25 DEFENDANT's benefit. As a result, in the course of their employment with DEFENDANT,
26 PLAINTIFF and other AGGRIEVED EMPLOYEES incurred unreimbursed business expenses
27 which included, but were not limited to, costs related to the use of their personal cellular phones
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1 and personal home offices all on behalf of and for the benefit of DEFENDANT.

2 24. By reason of this conduct applicable to PLAINTIFF and all AGGRIEVED
3 EMPLOYEES, DEFENDANT engaged in a company-wide policy and procedure which failed
4 to accurately calculate and record the correct overtime rate for the overtime worked by
5 PLAINTIFF and other AGGRIEVED EMPLOYEES. The proper calculation of these
6 employees' overtime hour rates is the DEFENDANT's burden. As a result of DEFENDANT's
7 intentional disregard of the obligation to meet this burden, DEFENDANT failed to properly
8 calculate and/or pay all required overtime compensation for work performed by the
9 AGGRIEVED EMPLOYEES and violated the California Labor Code and regulations
10 promulgated thereunder as herein alleged.

11 25. All of the conduct and violations alleged herein occurred during the PAGA
12 PERIOD. To the extent that any of the conduct and violations alleged herein did not affect
13 PLAINTIFF during the PAGA PERIOD, PLAINTIFF seeks penalties for those violations that
14 affected other AGGRIEVED EMPLOYEES pursuant to *Carrington v. Starbucks Corp.* 2018
15 AJDAR 12157 (Certified for Publication 12/19/18).

16
17 **JURISDICTION AND VENUE**

18 26. This Court has jurisdiction over this Action pursuant to California Code of Civil
19 Procedure, Section 410.10.

20 27. Venue is proper in this Court pursuant to California Code of Civil Procedure,
21 Sections 395 and 395.5, because DEFENDANT (i) currently maintains and at all relevant times
22 maintained offices and facilities in this County and/or conducts substantial business in this
23 County, and (ii) committed the wrongful conduct herein alleged in this County against
24 PLAINTIFF and the AGGRIEVED EMPLOYEES.

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1 **FIRST CAUSE OF ACTION**

2 **For Violation of the Private Attorneys General Act**

3 **[Cal. Lab. Code §§ 2698, *et seq.*]**

4 **(By PLAINTIFF and Against All Defendants)**

5 28. PLAINTIFF realleges and incorporates by this reference, as though fully set
6 forth herein, the prior paragraphs of this Complaint.

7 29. PAGA is a mechanism by which the State of California itself can enforce state
8 labor laws through the employee suing under the PAGA who do so as the proxy or agent of
9 the state's labor law enforcement agencies. An action to recover civil penalties under
10 PAGA is fundamentally a law enforcement action designed to protect the public and not to
11 benefit private parties. The purpose of the PAGA is not to recover damages or restitution,
12 but to create a means of "deputizing" citizens as private attorneys general to enforce the
13 Labor Code. In enacting PAGA, the California Legislature specified that "it was ... in the
14 public interest to allow aggrieved employees, acting as private attorneys general to recover
15 civil penalties for Labor Code violations ..." Stats. 2003, ch. 906, § 1. Accordingly, PAGA
16 claims cannot be subject to arbitration.

17 30. PLAINTIFF, and such persons that may be added from time to time who
18 satisfy the requirements and exhaust the administrative procedures under the Private
19 Attorney General Act, brings this Representative Action on behalf of the State of California
20 with respect to himself and all individuals who are or previously were employed by
21 DEFENDANT in California and who were classified as non exempt employees
22 ("AGGRIEVED EMPLOYEES") during the time period of February 11, 2020 until a date as
23 determined by the Court (the "PAGA PERIOD").

24 31. On February 11, 2021, PLAINTIFF gave written notice by electronic mail to
25 the Labor and Workforce Development Agency (the "Agency") and by certified mail to the
26 employer of the specific provisions of this code alleged to have been violated as required by
27 Labor Code § 2699.3. See **Exhibit #1**, attached hereto and incorporated by this reference
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1 herein. The statutory waiting period for PLAINTIFF to add these allegations to the
2 Complaint has expired. As a result, pursuant to Section 2699.3, PLAINTIFF may now
3 commence a representative civil action under PAGA pursuant to Section 2699 as the proxy
4 of the State of California with respect to all AGGRIEVED EMPLOYEES as herein defined.

5 32. The policies, acts and practices heretofore described were and are an unlawful
6 business act or practice because DEFENDANT (a) failed to provide PLAINTIFF and the
7 other AGGRIEVED EMPLOYEES accurate itemized wage statements, (b) failed to
8 properly record and provide legally required meal and rest periods, (c) failed to pay
9 minimum wages, (d) failed to pay overtime wages and sick pay wages, (e) failed to
10 reimburse employees for required expenses, and (f) failed to provide wages when due, all in
11 violation of the applicable Labor Code sections listed in Labor Code §§ 201, 202, 203, 204
12 *et seq.*, 210, 221, 226(a), 226.7, 246, 351, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198,
13 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), and the
14 applicable Wage Order(s), and thereby gives rise to civil penalties as a result of such
15 conduct.¹ PLAINTIFF hereby seeks recovery of only civil penalties as prescribed by the
16 Labor Code Private Attorney General Act of 2004 as the representative of the State of
17 California for the illegal conduct perpetrated on PLAINTIFF and the other AGGRIEVED
18 EMPLOYEES.

19
20 **PRAYER FOR RELIEF**

21 WHEREFORE, PLAINTIFF prays for judgment against each Defendant, jointly and
22 severally, as follows:

- 23 1. On behalf of the State of California and with respect to all AGGRIEVED
24 EMPLOYEES:
25 A) Recovery of civil penalties as prescribed by the Labor Code Private
26

27 ¹Plaintiff specifically excludes and/or does not allege any claims under California Labor
28 Code §558(a)(3).

1 Attorneys General Act of 2004; and,

2 B) An award of attorneys' fees and cost of suit, as allowable under the
3 law, including, but not limited to, pursuant to Labor Code §2699.

4 Dated: June 11, 2021

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW
LLP

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8 By: /s/ Norman Blumenthal
9 Norman B. Blumenthal
Attorneys for Plaintiff

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EXHIBIT 1

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

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WRITERS EXT:

1004

February 11, 2021

CA2290

VIA ONLINE FILING TO LWDA AND CERTIFIED MAIL TO DEFENDANTS

Labor and Workforce Development Agency
Online Filing

Islands Restaurants, L.P.
Certified Mail #70203160000068262919
Bruce D. May
620 Newport Center Dr., Suite 200
Newport Beach, CA 92660

Re: Notice Of Violations Of California Labor Code Sections §§ 201, 202, 203, 204 *et seq.*, 210, 221, 226(a), 226.7, 233, 246, 351, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), Violation of Applicable Industrial Welfare Commission Wage Order(s), and Pursuant To California Labor Code Section 2699.5.

Dear Sir/Madam:

“Aggrieved Employees” refers to all individuals who are or previously were employed by Defendant Islands Restaurants, L.P. in California and classified as non-exempt employees during the time period of February 11, 2020 until a date as determined by the Court. Our offices represent Plaintiff Robert Thompson (“Plaintiff”), and other Aggrieved Employees in a lawsuit against Defendant Islands Restaurants, L.P. (“Defendants”). Plaintiff was employed by Defendant in California as a Cook from December of 2019 until October 23, 2020 and classified as a non-exempt employee entitled to the legally required meal and rest breaks and payment for all time worked under Defendant’s control. Defendant, however, unlawfully failed to record and pay Plaintiff and other Aggrieved Employees for, including but not limited to, all of their time worked, including minimum and overtime wages, for all of their missed meal and rest breaks, and for all of their time spent working off the clock. Moreover, when Defendant required Plaintiff and Aggrieved Employees to report for work, but “furnished less than half said employee’s usual or scheduled day’s work,” Defendant violated Cal. Code Regs., tit. 8 § 11040, subd. 5(A) by failing to pay Plaintiff and Aggrieved Employees for at least two (2) hours’ worth of work at their regular rate of pay. In addition, when Defendant required Plaintiff and Aggrieved Employees to respond to and engage in additional work, this resulted in a second reporting for work in a single workday, and Defendants failed to pay these employees reporting time pay as required by Cal. Code Regs., tit. 8, § 11040, subd. 5(B). Further, Defendant failed to advise Plaintiff and the other Aggrieved Employees of their right to take separately and hourly paid duty-free ten (10)

minute rest periods. *See Vaquero v. Stoneledge Furniture, LLC*, 9 Cal. App. 5th 98, 110 (2017). Additionally, pursuant to Labor Code § 204 *et seq.*, Defendant failed to timely provide Plaintiff and other Aggrieved Employees with their wages. Plaintiff further contends that Defendant failed to provide accurate wage statements to him, and other Aggrieved Employees, in violation of California Labor Code section 226(a). Specifically, Defendant violated Section 226 by failing to identify the correct rates of pay and number of hours worked, including for the “Special Pay” item of pay, which was a wage payment. Additionally, Plaintiff contends that Defendant failed to comply with Industrial Wage Order 7(A)(3) in that Defendant failed to keep time records showing when Plaintiff began and ended each shift and meal period. Plaintiff and other Aggrieved Employees perform tasks that reasonably permit sitting, and a seat would not interfere with their performance of any of their tasks that may require them to stand. Defendants fail to provide Plaintiff and other Aggrieved Employees with suitable seats. Said conduct, in addition to the foregoing, as well as the conduct alleged in the incorporated Complaint, violates Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 226(a), 226.7, 351, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), Violation of the applicable Industrial Welfare Commission Wage Order(s), and is therefore actionable under California Labor Code section 2699.3.

A true and correct copy of the Complaint by Plaintiff against Defendant, which (i) identifies the alleged violations, (ii) details the facts and theories which support the alleged violations, (iii) details the specific work performed by Plaintiff, (iii) sets forth the people/entities, dates, classifications, violations, events, and actions which are at issue to the extent known to Plaintiff, and (iv) sets forth the illegal practices used by Defendant, is attached hereto. This information provides notice to the Labor and Workforce Development Agency of the facts and theories supporting the alleged violations for the agency’s reference. Plaintiff therefore incorporates the allegations of the attached Complaint into this letter as if fully set forth herein. If the agency needs any further information, please do not hesitate to ask.

This notice is provided to enable Plaintiff to proceed with the Complaint against Defendant as authorized by California Labor Code section 2699, *et seq.* The filing fee of \$75 was paid online to the LWDA. The lawsuit consists of other Aggrieved Employees. As counsel, our intention is to vigorously prosecute the claims as alleged in the Complaint, and to procure civil penalties as provided by the Private Attorney General Statute of 2004 on behalf of Plaintiff and all Aggrieved Employees.

Your earliest response to this notice is appreciated. If you have any questions of concerns, please do not hesitate to contact me at the above number and address.

Respectfully,

/s/ Nicholas J. De Blouw

Nicholas J. De Blouw, Esq.