

1 Larry W. Lee (State Bar No. 228175)
2 Mai Tulyathan (State Bar No. 316704)
3 **DIVERSITY LAW GROUP, P.C.**
4 515 S. Figueroa St., Suite 1250
5 Los Angeles, California 90071
(213) 488-6555
(213) 488-6554 facsimile

6 Attorneys for Plaintiff and the Aggrieved Employees

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9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **FOR THE COUNTY OF SACRAMENTO**

11 TASHA COLE, as an individual and on behalf
12 of all others similarly situated,

13 Plaintiff,

14 vs.

15 NORTHCENTRAL PIZZA, LLC, a California
16 corporation; and DOES 1 through 50, inclusive,

17 Defendants.
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FILED/ENDORSED

APR 21 2021

By: L. Stewart
Deputy Clerk

Case No. 34 2021 00299158

**PAGA REPRESENTATIVE ACTION
COMPLAINT FOR:**

(1) VIOLATION OF LABOR CODE §
2698, *ET SEQ.*

DEMAND OVER \$25,000

BY FAX

1 Plaintiff Tasha Cole (“Plaintiff”), hereby submits this PAGA Representative Action
2 Complaint (“Complaint”) against Defendant Northcentral Pizza, LLC (“Defendant”), and Does
3 1-50 (collectively, “Defendants”), on behalf of herself and all other similarly situated current and
4 former employees of Defendants for penalties for failure to provide accurate itemized wage
5 statements, and failure to provide off-duty meal and rest periods, in violation of the California
6 Labor Code, as follows:

7 **INTRODUCTION**

8 1. This representative PAGA action is within the Court’s jurisdiction under
9 California Labor Code §§ 201-203, 226, 226.7, 512, and 2698, *et seq.*, and the applicable Wage
10 Orders of the California Industrial Welfare Commission (“IWC”).

11 2. This Complaint challenges systemic illegal employment practices resulting in
12 violations of the California Labor Code against individuals who worked for Defendants.

13 3. Plaintiff is informed and believes, and based thereon alleges, that Defendants,
14 jointly and severally, have acted intentionally and with deliberate indifference and conscious
15 disregard to the rights of all employees by failing to provide accurate itemized wage statements
16 and failing to provide off-duty meal and rest periods to Plaintiff and other employees in
17 compliance with the California Labor Code.

18 4. Plaintiff is informed and believes, and based thereon alleges, that Defendants
19 have engaged in, among other things a system of willful violations of the California Labor Code
20 by creating and maintaining policies, practices and customs that knowingly deny employees the
21 above stated rights and benefits.

22 **JURISDICTION AND VENUE**

23 5. The Court has jurisdiction over the violations of the California Labor Code §§
24 201-203, 226, 226.7, 512, and 2698, *et seq.*

25 6. Venue is proper in Sacramento County because Defendants do business in
26 Sacramento County, and Plaintiff worked for Defendants in Sacramento County.

27 **PARTIES**

28 7. Plaintiff was employed by Defendants as an hourly, non-exempt employee from

on or about January 3, 2020, until on or about August 18, 2020. Throughout her employment with Defendants, Plaintiff worked as an Assistant Manager.

8. Throughout her employment with Defendants, Plaintiff routinely worked overtime and/or double time.

9. Plaintiff was and is the victim of the policies, practices, and customs of Defendants complained of in this action in ways that have deprived her of the rights guaranteed by California Labor Code §§ 201-203, 226, 226.7, 512, and 2698, *et seq.*

10. Plaintiff is informed and believes, and based thereon alleges, that Defendant was and is a California corporation doing business in the State of California, and in the County of Sacramento. Plaintiff is informed and believes, and based thereon alleges, that Defendant operates franchised pizza restaurants in the State of California.

11. Plaintiff is informed and believes, and based thereon alleges, that at all times herein mentioned Defendant and Does 1 through 50, are and were corporations, business entities, individuals, and partnerships, licensed to do business and actually doing business in the State of California. As such, and based upon all the facts and circumstances incident to Defendants' business, Defendants are subject to California Labor Code §§ 201-203, 226, 226.7, 512, and 2698, *et seq.*

12. Plaintiff does not know the true names or capacities, whether individual, partner or corporate, of the defendants sued herein as Does 1 through 50, inclusive, and for that reason, said defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this Complaint when the true names and capacities are known. Plaintiff is informed and believes and based thereon alleges that each of said fictitious defendants were responsible in some way for the matters alleged herein and proximately caused Plaintiff and members of the general public to be subject to the illegal employment practices, wrongs and injuries complained of herein.

13. At all times herein mentioned, each of said Defendants participated in the doing of the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the Defendants, and each of them, were the agents, servants and employees of each of the other Defendants, as well as the agents of all Defendants, and at all times herein mentioned, were

1 acting within the course and scope of said agency and employment.

2 14. Plaintiff is informed and believes, and based thereon alleges, that at all times
3 material hereto, each of the Defendants named herein was the agent, employee, alter ego and/or
4 joint venturer of, or working in concert with each of the other co-Defendants and was acting
5 within the course and scope of such agency, employment, joint venture, or concerted activity.
6 To the extent said acts, conduct, and omissions were perpetrated by certain Defendants, each of
7 the remaining Defendants confirmed and ratified said acts, conduct, and omissions of the acting
8 Defendants.

9 15. At all times herein mentioned, Defendants, and each of them, were members of,
10 and engaged in, a joint venture, partnership and common enterprise, and acting within the course
11 and scope of, and in pursuance of, said joint venture, partnership and common enterprise.

12 16. At all times herein mentioned, the acts and omissions of various Defendants, and
13 each of them, concurred and contributed to the various acts and omissions of each and all of the
14 other Defendants in proximately causing the injuries and damages as herein alleged. At all times
15 herein mentioned, Defendants, and each of them, ratified each and every act or omission
16 complained of herein. At all times herein mentioned, Defendants, and each of them, aided and
17 abetted the acts and omissions of each and all of the other Defendants in proximately causing the
18 damages as herein alleged.

19 **FIRST CAUSE OF ACTION**

20 **VIOLATION OF LABOR CODE § 2698, *ET SEQ.***

21 **(BY PLAINTIFF AND AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS)**

22 17. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 15 as
23 though fully set for herein.

24 18. Plaintiff brings this cause of action as a proxy for the State of California and in
25 this capacity, seeks penalties on behalf of all Aggrieved Employees from March 1, 2020, through
26 the present, excluding any time periods subject to the Gonzalez v. Northcentral Pizza, LLC
27 PAGA Settlement, for Defendants' violations of Labor Code §§ 201-203, 226(a), 226.7, and 512,
28 arising from Defendants' following misconduct: (a) failure to provide accurate itemized wage

1 statements in violation of Labor Code § 226(a); (b) failure to provide off-duty rest periods in
2 violation of Labor Code § 226.7; (c) failure to provide duty-free meal periods in violation of
3 Labor Code §§ 226.7 and 512; and (d) failure to pay all wages owed upon separation of
4 employment in violation of Labor Code §§ 201-203.

5 19. Labor Code § 226.7 requires an employer to provide a duty-free, 10-minute rest
6 period for every 4 hours worked, or major fraction thereof. Plaintiff and other Aggrieved
7 Employees regularly worked shifts of three and one-half (3.5) hours or more per day, and
8 accordingly had a right to take a 10-minute rest period each day. In addition, Plaintiff and other
9 Aggrieved Employees who worked shifts of seven and one-half (7.5) hours or more per day had
10 a right to take a second 10-minute rest period.

11 20. Furthermore, pursuant to Labor Code §§ 226.7 and 512, an employer is also
12 required to provide a duty-free, 30-minute meal period within the first five (5) hours for shifts in
13 excess of five (5) hours per day. An employer has the obligation to provide a second duty-free,
14 30-minute meal period for shifts in excess of ten (10) hours per day. Plaintiff and Aggrieved
15 Employees regularly worked in excess of five (5) hours per day and accordingly had a right to
16 take a 30-minute meal period each day worked in excess of five (5) hours. Furthermore, Plaintiff
17 and Aggrieved Employees who worked in excess of ten (10) hours per day had a right to take a
18 second 30-minute meal period each day worked in excess of ten (10) hours.

19 21. Specifically, Defendants violated Labor Code § 226.7 by failing to provide off-
20 duty rest breaks to Plaintiff and Aggrieved Employees. As a pattern and practice, Defendants
21 suffered and permitted Plaintiff and Aggrieved Employees to work through legally required rest
22 breaks and denied Plaintiff and Aggrieved Employees the opportunity to take off-duty rest
23 breaks. In particular, during their employment with Defendants, Plaintiff and Aggrieved
24 Employees were not allowed to take their rest breaks due to staffing issues. As a result, Plaintiff
25 and Aggrieved Employees worked through their rest breaks, but were not paid the premium
26 compensation for missed rest breaks pursuant to California law.

27 22. As another violation, Defendants also violated Labor Code §§ 226.7 and 512 by
28 failing to provide off-duty meal breaks to Plaintiff and Aggrieved Employees. At all relevant

1 times, Defendants suffered and permitted Plaintiff and Aggrieved Employees to work through
2 legally required meal breaks and denied Plaintiff and Aggrieved Employees the opportunity to
3 take their off-duty meal breaks. As with Defendants' rest period violations, due to staffing
4 issues, Plaintiff and Aggrieved Employees were routinely not allowed to take their meal periods
5 and instead worked through their meal periods. As such, Plaintiff and Aggrieved Employees
6 were denied legally compliant off-duty meal periods, but were not paid the premium
7 compensation for missed meal breaks pursuant to California law.

8 23. Given that Defendants owe unpaid premium compensation for missed rest breaks
9 and missed meal breaks to Plaintiff and Aggrieved Employees, Plaintiff and Aggrieved
10 Employees did not receive all of their earned wages upon termination of employment. Thus, this
11 violates Labor Code §§ 201-203 as Defendants have failed to pay all wages owed upon
12 separation of employment.

13 24. Lastly, Defendants failed in their affirmative obligation to provide accurate
14 itemized wage statements in violation of Labor Code § 226(a). Labor Code § 226(a) requires
15 employers to provide itemized wage statements to its employees that identify accurate
16 information, including without limitation, all applicable hourly rates of pay and hours worked.

17 25. Here, Plaintiff and Aggrieved Employees were not provided accurate itemized
18 wage statements that listed the requirements under Labor Code § 226(a). In particular, whenever
19 overtime and/or double time wages were paid to Plaintiff and Aggrieved Employees, the
20 corresponding wage statements displayed the wrong hourly rate of pay. In this regard, the
21 overtime and/or double time hourly pay rates show on the wage statements identified the pay
22 rates as the regular or base hourly rates of pay, rather than the correct overtime rate of pay of 1.5
23 times the regular rate of pay, or the correct double time rate of pay of 2 times the regular rate of
24 pay. This is a direct violation of Labor Code § 226(a)(9).

25 26. Furthermore, as a result of the meal and rest period violations alleged above, the
26 wage statements issued to Plaintiff and Aggrieved Employees failed to identify the correct gross
27 wages earned, net wages earned, total hours worked, as well as wages for premium pay for
28 missed and/or improper meal and rest periods.

27. On or about March 1, 2021, Plaintiff sent written notice to the California Labor & Workforce Development Agency (“LWDA”) of Defendants’ violations of Labor Code §§ 201-203, 226(a), 226.7, and 512, pursuant to Labor Code § 2698, *et seq.*, the Private Attorneys General Act (“PAGA”). To date, the LWDA has not responded to Plaintiff’s written notice. In addition to the LWDA, Plaintiff also sent her PAGA notice to Defendant via certified mail according to Labor Code § 2699.3.

28. As such, pursuant to Labor Code § 2699(a), Plaintiff seeks recovery of any and all applicable civil penalties for Defendants' violations of Labor Code §§ 201-203, 226(a), 226.7, and 512, for the time period described above, on behalf of herself and other Aggrieved Employees.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment for herself and all others on whose behalf this suit is brought against Defendants, jointly and severally, as follows:

1. Upon the First Cause of Action, for the full amount of civil penalties pursuant to California Labor Code §§ 226.3 and 2698, *et seq.*, and for costs and attorneys' fees; and

2. For such other and further relief the Court may deem just and proper.

DATED: April 21, 2021

DIVERSITY LAW GROUP, P.C.

By:

Larry W. Lee

Mai Tulyathan

Attorneys for Plaintiff and the Aggrieved Employees