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14 Attorneys for Plaintiff JOCELYNN CADENAS,
15 and other aggrieved employees

16 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**

17 **COUNTY OF SACRAMENTO**

18 JOCELYNN CADENAS, as an individual
19 and on behalf of other aggrieved employees,

20 Plaintiffs,

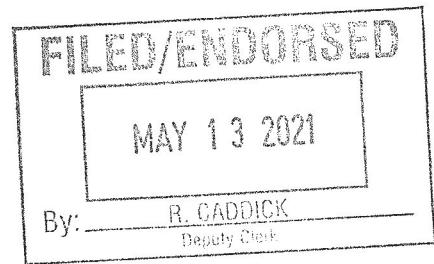
21 vs.

22 INSOMNIA COOKIES, LLC., a Delaware
23 Corporation; and DOES 1-10 inclusive,

24 Defendants.

25 CASE NO.

26 **COMPLAINT FOR CIVIL PENALTIES**
27 **UNDER THE PRIVATE ATTORNEY**
28 **GENERAL ACT OF 2004 (Labor Code §§2698,**
et. seq.)



34-2021-00300797

1 Plaintiff JOCELYNN CADENAS, on behalf of herself and all other aggrieved employees
2 (“Plaintiff”), hereby files this Complaint against Defendants INSOMNIA COOKIES, LLC
3 (hereinafter “Insomnia” or “Defendant”), and DOES 1 through 10, inclusive (collectively
4 “Defendants”). Plaintiff is informed and believes, and on the basis of that information and belief,
5 alleges as follows:

6 **INTRODUCTION**

7 1. This action is brought by Plaintiff on behalf of all non-exempt managers to challenge
8 Defendant’s employment practices including (a) failing to provide meal and rest breaks that comply
9 with California law; (b) failing to pay for off-the-clock work performed during meal and rest periods;
10 (c) failing to keep accurate time records; (d) failing to pay premium wages and/or restitution for
11 missed, short and/or late meal and rest periods; (e) failing to pay all wages upon termination of
12 employment.

13 2. In this case, Plaintiff, on behalf of herself and other aggrieved employees, seeks civil
14 penalties for Defendant’s violations of the California Labor Code, including failure to provide meal
15 breaks and rest breaks to Plaintiff and all other aggrieved employees, failure to pay for off-the clock
16 work performed during meal and rest periods, failure to keep accurate time records, failure to pay
17 premium wages and/or restitution for missed, short and/or late meal and rest periods, failure to pay all
18 wages upon termination of employment.

19 3. In this action Plaintiff, on behalf of herself and aggrieved employees, seeks penalties
20 established by Labor Code section 2699, the Private Attorney General’s Act (“PAGA”) and other
21 provisions in the Labor Code, against Defendants for their unlawful employment practices.

22 4. The acts complained of herein have occurred, are presently occurring, and are expected
23 to continue occurring, within the time period from one year prior to the filing of the LWDA letter on
24 March 3, 2021, up to and through the date of judgment for this matter (hereinafter, the “Relevant
25 Time Period”).

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PARTIES

Plaintiff JOCELYNN CADENAS

5. Plaintiff JOCELYNN CADENAS is an individual over the age of eighteen (18) and is now and/or at all relevant times mentioned in this Complaint was a resident and domiciliary of Sacramento County, State of California. Ms. Cadenas works for Defendants as an hourly Non-Exempt Manager at stores operated by Defendant located in Sacramento County, California and Yolo County, California.

Defendants

6. Plaintiff is informed and believes, and based thereon alleges, that Defendant Insomnia operates food bakeries and restaurants, in the Counties of Sacramento and Yolo as well as other locations in California, where Non-Exempt Managers are employed.

7. Defendant Insomnia is a Delaware corporation which, on information and belief, is conducting business in good standing in California. Defendant operates food bakeries and restaurants throughout the United States of America, and employs persons in Sacramento County, Yolo County, and throughout California.

8. Plaintiff is informed and believes that that Defendants are liable for all acts set forth in this complaint under general joint employer liability and Labor Code Section 2810.3.

9. DOES 1 through 10 inclusive are now and/or at all times mentioned in this Complaint were, licensed to do business and/or actually doing business in the State of California. Plaintiff does not know the true names or capacities, whether individual, partner, or corporate, of DOES 1 through 10, inclusive and for that reason, DOES 1 through 10 are sued under such fictitious names pursuant to California Code of Civil Procedure, section 474. Plaintiff will seek leave of court to amend this Complaint to allege such names and capacities as soon as they are ascertained. DOES 1 through 5 are believed to be business entities who were also co-employers of the Plaintiff and the aggrieved employees herein.

10. Plaintiff is informed and believes and based thereon alleges that at all times herein mentioned, Defendants are responsible in whole for the matters referred to herein.

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11. Plaintiff is informed and believes and based thereon alleges that at all times herein mentioned, Defendants caused Plaintiff, all others similarly situated and the general public to be subjected to the unlawful practices, wrongs, complaints, injuries and/or damages alleged in this Complaint.

12. Plaintiff is informed and believes and based thereon alleges that Defendants caused the injuries and/or damages alleged in this Complaint.

JURISDICTION AND VENUE

13. The California Superior Court has jurisdiction in the matter because the claims exceed the jurisdictional minimum of this court and Plaintiff is a resident of the state of California and Defendants perform substantial business in the State of California. Further, the issues herein are based on California statutes, specifically the Private Attorney General Act of 2004.

14. Venue is proper in the County of Sacramento because Defendants transact substantial business in this County and Plaintiff's claims arose in this County.

FACTUAL ALLEGATIONS

Background

15. Defendant employs Non-Exempt Managers who are the Aggrieved Employees in this lawsuit.

16. Plaintiff CADENAS worked in the position of hourly non-exempt Manager at Defendant's stores in Sacramento, California and Davis, California.

17. Defendant Insomnia operates food bakeries and restaurants across California preparing, assembling, selling and delivering food products.

18. Plaintiff and other Aggrieved Employees' job tasks could include performing duties as bakers, front counter services, delivery drivers and general laborers.

19. Plaintiff and other Aggrieved Employees were required by Defendant to comply with all of Defendant's standardized operational policies, procedures and practices including, but not limited to, customer service, schedules assigned to them, timekeeping, attendance, and punctuality.

20. Throughout their employment, Plaintiff and others were denied meal and rest breaks, and required to work during rest and meal breaks.

1 21. There were occurrences where Plaintiff and other Aggrieved Employees were
2 interrupted during their meal breaks and required to return to work while clocked out, and Defendant
3 knew of said time worked but did not compensate them.

4 22. There were occurrences where Plaintiff and other Aggrieved Employees input and/or
5 reported missed, short, or late meal breaks into the timekeeping system and/or Defendant knew that
6 Plaintiff and other Aggrieved Employees incurred missed, short, and/or late rest breaks and Defendant
7 did not pay premium wages as a result.

8 23. There were occurrences where Plaintiff and other Aggrieved Employees reported
9 missed, short, or late rest breaks and/or Defendant knew that Plaintiff and other Aggrieved Employees
10 incurred missed, short, or late rest breaks and Defendant did not pay premium wages as a result.

11 24. There were occurrences where Plaintiff and other Aggrieved Employees were required
12 to staff the store alone and were unable to leave the store to take a break.

13 25. Defendant additionally knowingly required Plaintiff and other Aggrieved Employees
14 to work overtime and during meal or rest periods, and/or failed to pay premium wages for missed,
15 short, late, or on-duty meal or rest periods.

16 ***Defendant's Failure to Pay Minimum Wages and Designated Rates***

17 26. IWC Wage Order, No. 5 defines "hours worked" to mean "the time during which an
18 employee is subject to the control of an employer, and includes all the time the employee is suffered
19 or permitted to work, whether or not required to do so."

20 27. Labor Code § 1182.12 and IWC Wage Order, No. 5-2001, § 4 provide that on and after
21 January 1, 2020, the minimum wage for all industries shall be not less than thirteen dollars (\$13.00)
22 per hour, and on and after January 1, 2021, the minimum wage for all industries shall be not less
23 than fourteen dollars (\$14) per hour.

24 28. Labor Code § 1194(a) provides in relevant part: "Notwithstanding any agreement to
25 work for a lesser wage, any employee receiving less than the legal minimum wage [] is entitled to
26 recover in a civil action the unpaid balance of the full amount of this minimum wage [], including
27 interest thereon, reasonable attorney's fees, and costs of suit."

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1 29. Labor Code § 1194.2(a) provides in relevant part: “In any action under Section 1193.6
2 or Section 1194 to recover wages because of the payment of a wage less than the minimum wage fixed
3 by an order of the commission, an employee shall be entitled to recover liquidated damages in an
4 amount equal to the wages unlawfully unpaid and interest thereon.”

5 30. Labor Code § 1197 provides: “The minimum wage for employees fixed by the
6 commission is the minimum wage to be paid to employees, and the payment of a less wage than the
7 minimum so fixed is unlawful.”

8 31. Labor Code § 223 provides: “Where any statute or contract requires an employer to
9 maintain the designated wage scale, it shall be unlawful to secretly pay a lower wage while purporting
10 to pay the wage designated by statute or contract.”

11 32. Labor Code § 204 provides: “All wages, other than those mentioned in Section 201,
12 201.3, 202, 204.1, or 204.2, earned by any person in any employment are due and payable twice during
13 each calendar month, on days designated in advance by the employer as the regular paydays.”

14 33. Defendant classified Plaintiff and other Aggrieved Employees as non-exempt and paid
15 them on an hourly basis. Hours worked include, but are not limited to, all hours that an employee is
16 permitted or suffered to work including, but not limited to, off-the-clock work that an employer either
17 knew or should have known that an employee was performing.

18 34. As a matter of policy and/or practice, Defendant routinely suffered or permitted its
19 employees to work portions of the day during meal breaks which they were subject to Defendant’s
20 control, including during meal breaks when Plaintiff and other Aggrieved Employees were clocked
21 out, but Defendant failed to compensate them.

22 35. Throughout the Relevant Time Period, Plaintiff, and other Aggrieved Employees, were
23 subject to Defendant’s uniform policy and/or practice of failing to pay at least minimum wages and/or
24 designated rates for hours worked off-the-clock during meal breaks. As a result, Plaintiff and other
25 Aggrieved Employees were routinely denied compensation for all hours worked.

26 36. Additionally, Defendants did not maintain adequate records of all wages earned, hours
27 worked, and meal and rest breaks taken.

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1 ***Defendants' Failure to Pay Overtime Compensation***

2 37. Labor Code § 1194 provides that an employee receiving less than the legal overtime
3 compensation is entitled to recover in a civil action the unpaid balance of the full amount of this
4 minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees, and
5 costs of suit.

6 38. Labor Code § 510(a) states: "Any work in excess of eight hours in one workday and
7 any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh
8 day of work in any one workweek shall be compensated at the rate of no less than one and one-half
9 times the regular rate of pay for an employee." Labor Code § 510(a) further states: "Any work in
10 excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of
11 pay for an employee." Labor Code § 510(a) further states: "[A]ny work in excess of eight hours on
12 any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate
13 of pay of an employee."

14 39. Throughout the Relevant Time Period, Wage Order No. 5-2001 provided for payment
15 of overtime wages equal to one and one-half (1 1/2) times an employee's regular rate of pay for all
16 hours worked over eight (8) hours per day and/or forty (40) hours in a workweek, and/or for payment
17 of overtime wages equal to double the employee's regular rate of pay for all hours worked in excess
18 of twelve (12) hours in any workday and/or for all hours worked in excess of eight (8) hours on the
19 seventh (7th) day of work in any one workweek.

20 40. Defendant classified Plaintiff and other Aggrieved Employees as non-exempt,
21 therefore they were entitled to overtime compensation for all hours worked in excess of the hours and
22 time specified in the Wage Order, statutes and regulations identified herein.

23 41. As a matter of policy and/or practice, Defendant routinely suffered or permitted its
24 employees to work portions of the day during which they were subject to Defendant's control,
25 including during meal breaks when Plaintiff and other Aggrieved Employees were clocked out, and
26 failed to compensate them. Accordingly, Defendant failed to properly record the actual hours worked
27 by Plaintiff and other Aggrieved Employees, and thus failed to pay overtime wages for the actual
28 amount of overtime hours worked.

1 ***Defendant's Failure to Provide Meal Breaks and Pay Premium Pay***

2 42. Labor Code Section 512 provides that "An employer may not employ an employee for
3 a work period of more than five hours per day without providing the employee with a meal period of
4 not less than 30 minutes, except that if the total work period per day of the employee is no more than
5 six hours, the meal period may be waived by mutual consent of both the employer and employee."

6 43. Labor Code Section 512 further provides that "An employer may not employ an
7 employee for a work period of more than 10 hours per day without providing the employee with a
8 second meal period of not less than 30 minutes, except that if the total hours worked is no more than
9 12 hours, the second meal period may be waived by mutual consent of the employer and the employee
10 only if the first meal period was not waived."

11 44. Plaintiff and other Aggrieved Employees did not waive their meal periods, by mutual
12 consent with Defendant or otherwise. Plaintiff and other Aggrieved Employees did not enter into any
13 written agreement with Defendant agreeing to an on-the-job paid meal period. Nevertheless,
14 Defendant implemented a uniform policy and procedure in which Plaintiff and other Aggrieved
15 Employees were not provided required duty-free compliant meal periods.

16 45. Plaintiff is informed and believes and based thereon alleges that Defendant failed to
17 effectively communicate California meal period requirements to its employees including Plaintiff and
18 other Aggrieved Employees.

19 46. Plaintiff is further informed and believes and based thereon alleges that as a matter of
20 policy and/or practice, Defendant routinely failed to provide its employees, including Plaintiff and
21 other Aggrieved Employees, with meal periods during which they were relieved of all duties by
22 requiring them to remain on duty.

23 47. Specifically, throughout the Relevant Time Period, Defendant regularly:

- 24 a. Failed to provide Plaintiff and other Aggrieved Employees with a first meal
25 period of not less than thirty (30) minutes during which they are relieved of all
26 duty before working more than five (5) hours;

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- b. Failed to provide Plaintiff and other Aggrieved Employees with a second meal period of not less than thirty (30) minutes during which they are relieved of all duty before working more than ten (10) hours per day; and
- c. Failed to pay Plaintiff and other Aggrieved Employees one hour of pay at their regular rate of compensation for each workday that a meal period was not provided;
- d. Failed to accurately record all meal periods and
- e. Failed to pay premium pay for missed, short, late, or on-duty breaks.

Defendant's Failure to Provide Rest Breaks

48. At all times relevant hereto, Labor Code section 226.7 and IWC Wage Order, number 5, section 12, required employers to authorize, permit, and provide a ten (10) minute paid rest for each four (4) hours of work, during which employees are relieved of all duty.

49. At all times relevant hereto, Labor Code Section 226.7(b) and IWC Wage Order, number 5, section 12 required employers to pay one hour of additional pay at the regular rate of compensation for each employee and each workday that a proper rest period is not provided.

50. Plaintiff is informed and believes and based thereon alleges that Defendant failed to effectively communicate California rest period requirements to its employees including Plaintiff and other Aggrieved Employees. Plaintiff is further informed and believes and based thereon alleges that throughout the Relevant Time Period Defendant failed to provide rest periods.

51. Throughout the Relevant Time Period, Plaintiff and other Aggrieved Employees were routinely denied the rest breaks they were entitled to under California law.

52. Specifically, throughout the Relevant Time Period, Defendant regularly:

- a. Failed to provide paid rest periods of ten (10) minutes during which Plaintiff and other Aggrieved Employees were relieved of all duty for each four (4) hours of work and able to take rest periods within the middle of the shift;
- b. Failed to pay Plaintiff and other Aggrieved Employees one (1) hour of pay at their regular rate of compensation for each workday that a rest period was not permitted.
- c. Failed to pay premium pay for missed, short, late, or on-duty breaks.

1 ***Defendant's Failure to Provide Accurate, Itemized Wage Statements***

2 53. At all times relevant hereto, Labor Code section 226 and IWC Wage Order, number 5,
3 section 7 required employers to maintain adequate employment records and provide employees with
4 accurate itemized wage statements showing gross wages, total hours worked, all applicable hourly
5 rates worked during each pay period, the corresponding number of hours worked at each hourly rate,
6 and meal breaks taken.

7 54. Wage statements provided to Plaintiff and other Aggrieved Employees by Defendant
8 do not show all wages earned, all hours worked, or all applicable rates, in violation of the Labor Code
9 section 226, IWC Wage Order number 5, section 7.

10 55. Moreover, Defendant did not maintain adequate records of all wages earned, hours
11 worked, and breaks taken in violation of Labor Code section 1174.

12 ***Defendant's Failure to Pay All Wages Due at Termination of Employment***

13 56. At all times relevant hereto, Labor Code § 201 required an employer that discharges an
14 employee to pay compensation due and owing to said employee immediately upon discharge. Labor
15 Code Sections 202 requires an employer to pay an employee who quits any compensation due and
16 owing to said employee within seventy-two (72) hours of an employee's resignation. Labor Code
17 Section 203 provides that if an employer willfully fails to pay compensation promptly upon discharge
18 or resignation, as required under Sections 201 and 202, then the employer is liable for waiting time
19 penalties in the form of continued compensation for up to thirty (30) work days.

20 57. Defendant willfully and knowingly failed to pay Plaintiff and other Aggrieved
21 Employees, upon termination of employment, all accrued compensation including payment of
22 minimum wage compensation, agreed wages, overtime, and/or premium wages.

23 **FIRST CAUSE OF ACTION**

24 **CIVIL PENALTIES UNDER THE PRIVATE ATTORNEYS GENERAL ACT**

25 **(Lab. Code §§ 2698 *et seq.*)**

26 58. Plaintiff incorporates by reference the allegations set forth above.

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1 59. Pursuant to California Labor Code § 2698 *et seq.*, Plaintiff is entitled to act as a private
2 attorney general to assess and recover civil penalties against Defendant on behalf of Plaintiff and any
3 other current or former employees of Defendants for violations of the California Labor Code.

4 60. In this case, Plaintiff, on behalf of herself and all other Aggrieved Employees, seeks
5 relief for Defendant's unlawful employment policies, practices and procedures, which have resulted
6 in the failure of Defendant to pay Plaintiff and other Aggrieved Employees all wages due to them
7 including, minimum wages and overtime for all hours worked (Labor Code §§ 201.3, 204, 216, 221-
8 223, 225.5, 510, 511, 558, 1174, 1182.12 1193.5, 1194-1197, 1197.1, 1198, and Wage Order 5);
9 premium wages (Labor Code §§ 201.3, 226.7, 512, 1194.5 and Wage Order 5); penalties for failing to
10 maintain accurate employment records (Labor Code §§ 226, 1174, 1174.5, 1194.5); penalties for
11 failure to timely furnish accurate, itemized wage statements (Labor Code §§ 226, 1174, 1174.5,
12 1194.5, and and IWC Wage Order, No. 5-2001 § 7); penalties for wages due weekly and/or on
13 termination (Labor Code §§ 201, 202, 203, 204, 201.3); penalties for failure to provide meal breaks
14 and rest breaks (Labor Code §§ 226.7, 512(a), 516, 551, 552, 553 IWC Wage Order, No. 5-2001, §§
15 10-12, and IWC Wage Order, No. 5-2001 § 12).

16 61. Plaintiff asserts claims on behalf of the following "Aggrieved Employees":

17 a. Aggrieved Employee Group: All persons employed as Non-Exempt Managers,
18 Associates and Drivers (or similar job titles and/or duties as described in this complaint)
19 by Defendants who, at any time from one year prior to the filing of the LWDA letter
20 on March 3, 2021, to and through the date of judgment, worked one or more shifts in
21 Defendant Insomnia's stores in California.

22 b. Former Aggrieved Employee Group: All persons formerly employed as Non-Exempt
23 Managers, Associates and Drivers (or similar job titles and/or duties) by Defendants
24 who, at any time from one year prior to the filing of the LWDA letter March 3, 2021
25 to and through the date of judgment.

26 62. Pursuant to *Labor Code* § 2699.3, an aggrieved employee, may commence a civil
27 action arising under *Labor Code* § 2699 after the following requirements have been met:

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1 a. The aggrieved employee shall give written notice (hereinafter “Notice”) by
2 certified mail to the Labor and Workforce Development Agency (hereinafter
3 “Agency”) and the employer of the specific provisions of the Labor Code alleges
4 to have been violated, including the facts and theories to support the alleges
5 violation.

6 b. The agency shall notify the employer and the aggrieved employee or representative
7 by certified mail that it does not intend to investigate the alleged violation within
8 sixty (60) calendar days of the postmark date of the notice received. Upon receipt
9 of that notice or if no notice is provided within sixty-five (65) calendar days of the
10 postmark date of the notice, the aggrieved employee may commence a civil action
11 pursuant to Section 2699.

12 63. Plaintiffs has complied with the procedures for bringing suit specified in California
13 Labor Code Section 2699.3. Within the statutory time frame, Plaintiff, on behalf of herself and the
14 other Aggrieved Employees, gave the required notice to the Labor and Workforce Development
15 Agency (“LWDA”) and Defendant of the specific provisions of the California Labor Code alleged to
16 have been violated, including the facts and theories to support the alleged violations. See Exhibit “A”
17 attached hereto. Plaintiff also paid the \$75.00 fee to the LWDA pursuant to SB 836. More than sixty-
18 five (65) days have passed and the LWDA has not responded to Plaintiff’s letter. Furthermore, a copy
19 of this complaint is being provided to the LWDA the same day this document is filed with the Superior
20 Court.

21 **Penalties Authorized by PAGA**

22 64. Defendants violated California Labor Code §§ 201, 202, 203, 204, 216, 221-223, 225.5,
23 226, 226.7, 510-512, 516, 551, 552, 553, 558, 1174, 1182.12, 1194, 1197.1, 1198, and 2698 et seq.,
24 2699, 2699.3, 3287(b); as well as IWC Wage Orders 5-2001, by violating the law as described in
25 this complaint. Plaintiff is entitled to all penalties provided by violation of said provisions
26 alleged in this complaint.

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65. Plaintiff is entitled to recover 25% of any civil penalties assessed against Defendants for such violations, with the remaining 75% of the recover being paid to the Labor and Workforce Development Agency.

66. Labor Code section 2699(g) also provides for the payment of reasonable attorneys' fees and costs to a prevailing party seeking recovery under the Private Attorney General Act. Accordingly, Plaintiff seeks to recover civil penalties, attorneys' fees, and costs in an amount to be proven at trial pursuant to any applicable provisions of the law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

- a. Civil penalties;
- b. Other penalties and fines permitted by law;
- c. Costs of suit;
- d. Injunctive Relief;
- e. Reasonable attorneys' fees;
- f. Such other relief as the Court deems just and proper.

DATED: May 12, 2021

CHRISTINA HUMPHREY LAW, P.C.
TOWER LEGAL GROUP

By:

Christina A. Humphrey

CHRISTINA A. HUMPHREY
JAMES A. CLARK
Attorneys for Plaintiff

EXHIBIT A



March 3, 2021

SUBMITTED TO THE LABOR AND WORKFORCE DEVELOPMENT AGENCY

VIA ONLINE CLAIM NOTICE

Labor and Workforce Development Agency

Attn: PAGA Administrator

455 Golden Gate Avenue, 9th Floor

San Francisco, CA 94102

Filed online at dir.ca.gov

VIA CERTIFIED MAIL RETURN SIGNATURE RECEIPT REQUESTED TO:

INSOMNIA COOKIES, LLC.

10 CAMPUS BLVD

NEWTOWN SQUARE, PA 19073

RE: Jocelynn Cadenas, et al. v. Insomnia Cookies, LLC, et. al.

PAGA Administrator and To Whom It May Concern,

This office, along with Christina Humphrey Law, P.C., has been retained by Jocelynn Cadenas, Employee ID 26485, and others similarly situated, in connection with claims arising out of her employment with Insomnia Cookies, LLC.

Pursuant to *Labor Code* 2699.3, please accept this as notice that Jocelynn Cadenas (hereinafter “Plaintiff”) and other employees similarly situated, allege that Insomnia Cookies, LLC, (hereinafter “Defendants”) violated, and continues to violate, provisions of the California Labor Code including, but not limited to, Labor Code §§ 201, 202, 203, 204, 216, 221-223, 225.5, 226, 226.7, 510-512, 516, 551, 552, 553, 558, 1174,, 1182.12, 1194, - 1197.1, 1198, and 2698 et seq., 2699, 2699.3, 3287(b), as well as IWC Wage Orders, and regulations, Business and Professions Code section 17200 et seq.

Facts of the Case

Plaintiff Cadenas most recently worked for Insomnia Cookies, LLC at their stores in Sacramento, California and Davis, California as an hourly non-exempt Manager, from September of 2019 through January 1, 2021.

Defendant Insomnia Cookies operates food bakeries and restaurants throughout

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California which prepare, assemble, sell and deliver food products. Plaintiff and others worked as Non-Exempt Managers, Associates and Drivers, performing duties as bakers, front counter services, delivery drivers and general laborers. Throughout their employment, Plaintiff and others were denied meal and rest breaks, and required to work during rest and meal breaks. In doing so, Defendants have violated numerous California labor code sections as described herein.

Plaintiff and others similarly situated challenge Defendant Insomnia Cookies, LLC employment practices with respect to its non-exempt employees employed in the State of California, based on Defendant's policy and practice of failing to provide meal and rest breaks that comply with California law, failing to pay for off-the-clock work performed during meal and rest periods, failing to keep accurate time record, failing to pay premium wages and/or restitution for missed, short and/or late meal and rest periods, and failing to pay all wages upon termination of employment.

Plaintiff is an "aggrieved employee" as defined in Labor Code section 2699, subdivision (a) and brings this Private Attorney General's Act action on behalf of herself and all other aggrieved employees. Plaintiff, on behalf of herself and other aggrieved employees, seeks penalties under the Private Attorney General's Act (Labor Code § 2698, *et seq.*). The specific provisions of the Labor Code allegedly violated, and the facts and theories which support said alleged violations, are as follows:

Failure to Provide and/or Authorize Meal or Rest Periods

Labor Code sections 226.7 and 512(a) provide that no employer shall require an employee to work during any lawfully mandated meal periods, and, provides an employer may not require, cause, or permit an employee to work for a period of more than five hours per day without providing the employee with an uninterrupted meal period of not less than thirty minutes. In addition, an employer may not employ an employee for a work period of more than ten hours per day without providing the employee with a second meal period of not less than thirty minutes.

Labor Code 226.7 and the applicable IWC Wage Order required and requires every employer subject to the Wage Orders to authorize and permit rest periods at the rate of ten minutes net rest time per four hours or major fraction thereof.

Defendants failed to provide Plaintiff and other similarly situated with lawful meal and rest periods, failed to pay Plaintiff and others similarly situated for rest periods, and failed to pay premiums for missed meal and rest periods to Plaintiff and others while employed with Defendants. In addition, Defendants failed to properly record meal periods.

Failure to Provide Accurate Itemized Wage Statements

Labor Code § 226(a) requires every employer to provide employees with itemized wage statements that accurately reflect, among other things, earning rate per hour worked, overtime hours, overtime earnings or total overtime hours worked, and premium wages for missed rest and meal periods. The Defendant consistently violated this Labor Code provision and labor Code § 1174 through Defendant's failure to accurately keep track of all hours worked by Plaintiff and aggrieved employees, and premiums owed for missed meal and rest periods. Hours worked included time worked without being paid by the Defendant as well as missed meal and rest breaks.

Failure to Pay Compensation Timely and Timely at Time of Termination

As a result of the failures of the Defendant to keep adequate employment records including records of hours worked and overtime Plaintiff and aggrieved employees were not paid all compensation owed during regular pay periods and at the time of termination. The Defendant's failure to pay all outstanding compensation owed at the time of termination violates Labor Code § 201-204.

Off the Clock Work and Resultant unpaid Wages

Defendant Insomnia Cookies, LLC required Plaintiff Cadenas and others similarly situated to comply with all of Defendant's standardized operational policies, procedures and practices including, but not limited to, customer service, schedules assigned to them, timekeeping, attendance and punctuality.

There were occurrences where Plaintiff and others similarly situated were required to continue working uncompensated or reported time that was subsequently changed by Defendant's management, which resulted in non-payment for time worked, including minimum wages, designated wages and overtime wages.

Alleged Violations

Plaintiff Cadenas and others similarly situated allege that Defendant Insomnia Cookies, LLC violated and continues to violate, numerous provisions of California law, including, but not limited to, California Labor Code §§ 201, 202, 203, 204, 216, 221-223, 225.5, 226, 226.7, 510-512, 516, 551, 552, 553, 558, 1174,, 1182.12, 1194, - 1197.1, 1198, and 2698 et seq., 2699, 2699.3, 3287(b), as well as IWC Wage Orders, and regulations, Business and Professions Code section 17200 et seq. Plaintiff and other Aggrieved Employees are entitled to all damages, restitution and statutory and civil penalties, including liquidated damages, allowed by law.

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LWDA

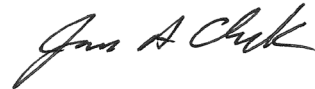
Re: Jocelynn Cadenas, et al. v. Insomnia Cookies, LLC, et. al.

March 3, 2021

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Plaintiff Cadenas respectfully requests that the LWDA notify this office within sixty (60) days if it wishes to investigate this matter further. A copy is being sent via certified mail, return receipt, to Defendant Insomnia Cookies, LLC and their agent for Service of Process in California.

Should you have any questions or concerns or require additional information, please do not hesitate to contact the undersigned.



James A. Clark
Attorney for Plaintiff Jocelynn Cadenas
and others similarly situated

Cc: INSOMNIA COOKIES, LLC.
10 CAMPUS BLVD
NEWTOWN SQUARE, PA 19073

Registered Agent for Service of Process
INCP SERVICES, INC. (C2294569)
5716 Corsa Ave, Suite 110
Westlake Village, CA 91362-7354

Cc: Christina A. Humphrey, Esq
8330 Allison Avenue, Ste. C
La Mesa, CA 91942
(co-counsel for Plaintiff and others similarly situated)

From: LWDA DO NOT REPLY <lwdadonotreply@dir.ca.gov>
Date: March 3, 2021 at 12:12:45 PM PST
To: James Clark <james.clark@towerlegalgroup.com>
Subject: Thank you for submission of your PAGA Case.

3/3/2021

LWDA Case No. LWDA-CM-823399-21
Law Firm : Tower Legal Group, PC
Plaintiff Name : Jocelynn Cadenas
Employer: Insomnia Cookies, LLC
Filing Fee : \$75.00
IFP Claimed : No

Item submitted: Initial PAGA Notice

Thank you for your submission to the Labor and Workforce Development Agency. Please make a note of the LWDA Case No. above as you may need this number for future reference when filing any subsequent documents for this Case.

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: https://urldefense.proofpoint.com/v2/url?u=http-3A__labor.ca.gov_Private-5FAttorneys-5FGeneral-5FAct.htm&d=DwlCaQ&c=euGZstcaTDllvimEN8b7jXrwqOf-v5A_CdpnVfiiMM&r=mWJDDDB3I8Y8c5tLst4fYezDSlvUpRvdwE3hXJZ30WsA&m=TSBlbpKG3sGVU_yK81pgsDS0xeWw8-kzwAa2vrZIFLQ&s=9fY9Rk4IULeJi0lT2Zz-maFPeV0tTKeW4_pxDROnQJM&e=

From: LWDA DO NOT REPLY <lwdadonotreply@dir.ca.gov>
Date: March 3, 2021 at 12:13:16 PM PST
To: James Clark <james.clark@towerlegalgroup.com>
Subject: State of California - Department of Industrial Relations Customer Receipt / Purchase Confirmation

Thank you for your payment.

Order Information

Merchant: State of California - Department of Industrial Relations

Case Number: LWDA-CM-823399-21

Order Number: ORD-000098217

Total:\$75.00

Card Type: Visa

Date: 3/3/2021

Billing Information

Name: James Clark

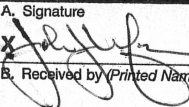
Email: james.clark@towerlegalgroup.com

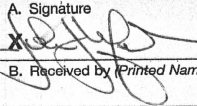
Billing Address:

11335 Gold Express Drive, Suite 105

Gold River, California

95670

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits.		A. Signature  ☐ Agent ☐ Addressee B. Received by (Printed Name) C. Date of Delivery D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☐ No	
1. Article Addressed to: Insomnia Cookies LLC 10 Campus Blvd Newtown Square, PA 19073			
 9590 9403 0131 5077 7238 58		3. Service Type ☒ Adult Signature ☐ Priority Mail Express® ☐ Adult Signature Restricted Delivery ☐ Registered Mail™ ☒ Certified Mail® ☐ Registered Mail Restricted Delivery ☐ Certified Mail Restricted Delivery ☐ Return Receipt for Merchandise ☐ Collect on Delivery ☐ Signature Confirmation™ ☐ Collect on Delivery Restricted Delivery ☐ Signature Confirmation Restricted Delivery ☐ Insured Mail ☐ Signature Confirmation Restricted Delivery	
2. Article Number (Transfer from service label) 7015 0640 0000 1168 6487		All Restricted Delivery	
PS Form 3811, April 2015 PSN 7530-02-000-9053		Domestic Return Receipt	

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits.		A. Signature  ☐ Agent ☐ Addressee B. Received by (Printed Name) C. Date of Delivery D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☐ No	
1. Article Addressed to: Insomnia Cookies, LLC File Reg 10 Campus Blvd Newtown Square, PA 19073			
 9590 9403 0131 5077 7238 54		3. Service Type ☒ Adult Signature ☐ Priority Mail Express® ☐ Adult Signature Restricted Delivery ☐ Registered Mail™ ☒ Certified Mail® ☐ Registered Mail Restricted Delivery ☐ Certified Mail Restricted Delivery ☐ Return Receipt for Merchandise ☐ Collect on Delivery ☐ Signature Confirmation™ ☐ Collect on Delivery Restricted Delivery ☐ Signature Confirmation Restricted Delivery	
2. Article Number 7015		ation™ ation y	
PS Form 3811, April 2015 PSN 7530-02-000-9053		Domestic Return Receipt	

UNITED STATES POSTAL SERVICE



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4® in this box •

Tower Legal Group PC
11335 Gold Express Dr. #105
Gold River, CA 95670

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9590 9403 0131 5077 7238 58

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