

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: Mel Red Recana

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DAJA KING,

Plaintiff,

vs.

BWW RESOURCES, LLC and DOES 1 to
25, inclusive,

Defendants.

) CASE NO.: 22STCV02144

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) **COMPLAINT FOR DAMAGES FOR:**

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) **1) PRIVATE ATTORNEYS GENERAL**
) **ACT ("PAGA");**

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COMES NOW Plaintiff, DAJA KING (hereinafter "Plaintiff"), and alleges as follows:

PARTIES, JURISDICTION, and VENUE

1. Jurisdiction and Venue are proper in this Court and this action is properly filed in the County of Los Angeles in this judicial district because Defendants BWW RESOURCES, LLC and DOES 1 to 25, inclusive, do business in the County of Los Angeles, and because Defendants' obligations and liabilities arise therein, and because the work that was performed by Plaintiff in the County of Los Angeles is the subject of this action. Moreover,

1 Plaintiff's damages sought herein exceed \$25,000.

2 2. Plaintiff is a female resident of the County of Los Angeles, State of California.

3 3. Plaintiff is informed and believes that at all times herein mentioned, Defendant
4 BWW RESOURCES, LLC ("BWW" or "Defendant(s)") is a Delaware corporation, doing
5 business in the County of Los Angeles, State of California and which employed Plaintiff.
6

7 4. Plaintiff is ignorant of the true names and capacities, whether individual, corporate, or
8 associate of those defendants fictitiously sued as DOES 1 to 25, inclusive, and so Plaintiff sues
9 them by these fictitious names. Plaintiff is informed and believes that each of the DOE
10 defendants, numbers 1 to 25, reside in the State of California and are in some manner
11 responsible for the conduct alleged herein. Upon discovering the true names and capacities of
12 these fictitiously named defendants, Plaintiff will amend this complaint to show the true names
13 and capacities of these fictitiously named defendants.
14

15 5. Unless otherwise alleged in this complaint, Plaintiff is informed, and on the basis of
16 that information and belief, alleges that at all times herein mentioned, each of the remaining
17 codefendants, in doing the things hereinafter alleged, were acting within the course, scope, and
18 under the authority of their agency, employment, or representative capacity, with the consent
19 of his/her codefendants.
20

21 GENERAL ALLEGATIONS

22 6. Plaintiff started working for BWW approximately 2 years ago as a bartender. Plaintiff
23 was classified as an hourly, non-exempt employee. Plaintiff was terminated from her
24 employment in May 2021.

25 7. It is Plaintiff's position that BWW has committed numerous labor code violations
26 against Plaintiff and other hourly, non-exempt employees at all of their California locations.

27 8. BWW did not provide Plaintiff and other similarly situated aggrieved employees with
28 the minimum wages to which they were entitled for all work performed and did not

1 compensate her and others for all hours worked pursuant to California Labor Code sections
2 1194, 1197 and 1197.1. Plaintiff and others were not paid for all hours worked and consistently
3 worked "off the clock". This is so because Plaintiff and others would consistently be
4 interrupted during their meal periods and would at times have to work during their meal
5 periods. Moreover, BWW had a policy of rounding down hours worked by employees, which
6 led to time shaving and resulted in Plaintiff and others not receiving wages for all hours
7 worked. Moreover, to the extent employees such as Plaintiff and others worked through their
8 meal periods, they were not compensated for that time, which would be akin to a minimum
9 wage violation.

10 9. Additionally, BWW violated Labor Code Section 351 by taking some of the tips meant
11 for employees and also deducting the tips from Plaintiff's and others' earned wages. BWW
12 also deducted the credit card fee from Plaintiff's and others' tips and did not timely provide the
13 credit card and even cash tips to Plaintiff and other similarly situated aggrieved employees.

14 10. Due to the above "off the clock" violations and as a matter of company policy, BWW
15 violated Labor Code §510 because it failed to pay Plaintiff and other similarly situated aggrieved
16 employees overtime, even though they worked more than 8 hours per day, 12 hours per day,
17 and/or 40 hours per week throughout their employment. Plaintiff's and others' actual work hours,
18 which included the "off the clock" work as described above, entitled them to overtime, however,
19 it was not company policy to keep accurate track of all hours worked and to pay employees
20 overtime.

21 11. BWW violated Labor Code § 226.7 along with Industrial Welfare Commission Wage
22 Order no. 5 because it failed to provide Plaintiff and other similarly situated aggrieved employees
23 10-minute rest periods for every four hours of work, or majority portion thereof, throughout their
24 employment. BWW did not completely relieve Plaintiff of all duty during said rest periods.
25 BWW did not pay to Plaintiff one additional hour of pay at Plaintiff's regular rate of
26 compensation for each workday that one or more statutory rest periods was not provided. Rest
27 breaks were not authorized or enforced at the restaurant. In fact, it was not part of BWW's culture
28

1 for employees such as Plaintiff and others to take at least one 10-minute rest break every day
2 wherein they are relieved of all work duties. The latter was due to understaffing of bartenders
3 and bartenders such as Plaintiff being alone and too busy to be able to take rest breaks. Taking
4 rest breaks meant not attending to customers and that could not happen. Additionally, Plaintiff
5 did not have anyone to cover her for any rest break as other servers/bartenders would be too
6 inundated with their own tables and work to be able to cover.

7 12. BWW also violated Labor Code §§ 512 and 226.7 along with Industrial Welfare
8 Commission Wage Order No. 5 because it failed to provide Plaintiff and other similarly situated
9 aggrieved employees the requisite 30-minute, uninterrupted meal periods for every five (5) hours
10 of work throughout their employment, and Plaintiff did not validly waive said meal periods.
11 BWW did not completely relieve Plaintiff of all duties during said meal periods. BWW did not
12 pay to Plaintiff one additional hour of pay at Plaintiff's regular rate of compensation for each
13 workday that one or more statutory meal periods was not provided. If BWW had Plaintiff sign a
14 meal period waiver, it would not be valid and enforceable since Plaintiff and others generally
15 worked more than a 6-hour shift. If BWW had Plaintiff sign an on-duty meal period agreement
16 wherein Plaintiff agreed to work through her meal period, it would also be invalid and
17 unenforceable because the nature of Plaintiff's job as a bartender does not prevent her from
18 taking a meal period. As such, Plaintiff and others did not receive statutory, timely meal periods
19 during their employment. In other words, there was seldom an uninterrupted 30-minute meal
20 period for any employees, including Plaintiff. As was the case with rest periods, meal breaks
21 were definitively not part of the BWW's culture. The meal periods were not authorized and were
22 not enforced.

23 13. Furthermore, during the relevant time period, BWW failed to pay Plaintiff and other
24 similarly situated aggrieved employees all wages due to them within any time period specified
25 by California Labor Code section 204, including the minimum wages and overtime as described
26 above as well as meal/rest break premiums. BWW was also in violation of California Labor
27 Code section 226(a) by failing to include pertinent information on the wage statements, including
28

1 but not limited to, all hours worked, tips earned, gross wages earned, net wages earned, all
2 deductions, premium payments for meal and rest breaks, the correct legal name and address of
3 the employer, the beginning and end of the pay period, all applicable hourly rates, and all
4 identifying employee information, among other items. As such, BWB did not provide Plaintiff
5 and other similarly situated aggrieved employees with complete, accurate itemized wage
6 statements.

7 14. BWB violated Labor Code § 203 because it willfully failed to pay Plaintiff and other
8 similarly situated aggrieved employees earned and due wages upon separation of employment,
9 either immediately upon involuntary termination, or within 72 hours of resignation. After
10 Plaintiff stopped working at BWB and after Plaintiff's employment with BWB ended, BWB
11 failed and refused to pay all wages earned and due immediately upon separation. These earned
12 but unpaid wages include compensation for all hours worked including minimum wages and
13 overtime compensation, tips, and premiums for the missed meal and rest breaks.

14 15. During the relevant time period, BWB also failed to keep accurate and complete payroll
15 records showing the actual hours worked per day (including the time for meal periods) and the
16 wages paid to Plaintiff and other aggrieved employees pursuant to California Labor Code
17 sections 1174(d).

18 16. Moreover, Plaintiff and other aggrieved employees incurred necessary, business-related
19 expenses and costs that were not reimbursed by BWB. These costs include, but are not limited
20 to, use of personal cell phones for work purposes, including texts from management. In addition,
21 the scheduling app was downloaded on employees' cell phones. Accordingly, BWB was in
22 violation of California Labor Code sections 2800 and 2802.

23 **FIRST CAUSE OF ACTION**

24 **PRIVATE ATTORNEYS GENERAL ACT**

25 **Individual and Representative Claim for PAGA penalties under California Labor Code**
26 **sections 201, 202, 203, 204 and/or 204b, 210, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5,**
27 **1194, 1197, 1198, 2802, and the applicable Industrial Welfare Commission Wage Order**
28 **No. 5-2001**

(Plaintiff Against All Named Defendants and all DOE Defendants)

1 17. Plaintiff re-alleges and incorporates by reference each and every allegation in
2 paragraphs 1 through 16, inclusive, of this Complaint as though fully set forth herein.

3 18. Pursuant to law, Plaintiff provided the required written notice to the LWDA and
4 Defendants of the specific violations of the California Labor Code that Defendants
5 and DOE defendants have violated and continue to violate.

6 19. Pursuant to California Labor code section 2699.3, no response was received from the
7 LWDA within 65 days of the postmark date of the above-alleged letter.

8 20. Plaintiff therefore has exhausted all administrative remedies required of her under
9 California Labor Code sections 2698, 2699, and 2699.3, and, as a result, may prosecute this
10 cause of action and pursue penalties in a representative action for Defendants' violations of the
11 Labor Code.

12 21. Pursuant to California Labor Code section 2699, any provisions of the Labor Code
13 that provides for a civil penalty to be assessed and collected by the LWDA or any of its
14 departments, divisions, commissions, boards, agencies, or employees for violation of the code
15 may, as an alternative, be recovered through a civil action brought by an aggrieved employee
16 on behalf of himself or herself and other current or former employees pursuant to the
17 procedures specified in California Labor Code section 2699.3.

18 22. Plaintiff is an "aggrieved employee" because Plaintiff was employed by the alleged
19 violator and had one or more of the alleged violations committed against her, and therefore is
20 properly suited to represent the interests of other current and former hourly, non-exempt
21 employees who worked for BWW in the State of California at any and all locations during the
22 PAGA period.

23 23. Based on the acts alleged above, Plaintiff, on behalf of herself and others, seeks
24 penalties under California Labor Code sections 2698 and 2699 because of Defendants'
25 violations of numerous provisions of the California Labor Code as alleged in this Complaint.

26 24. Plaintiff therefore has exhausted all administrative remedies required of her under
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1 California Labor Code sections 2698, 2699, and 2699.3, and, as a result, may prosecute this
2 cause of action and pursue penalties in a representative action for Defendants' violations of the
3 Labor Code.

4 25. California Labor Code section 2699 et seq. imposes penalties upon culpable
5 Defendants for violating the Labor Code.

6 26. California Labor Code section 558 establishes a civil penalty as follows: Any
7 employer or other person action on behalf of an employer who violates, or causes to be
8 violated, a section of this chapter or any provision regulating hours and days of work in any
9 order of the Industrial Welfare Commission (including the "Hours and Days of Work" section
10 of the Wage Order) shall be subject to a civil penalty of (1) for any initial violation, fifty
11 dollars (\$50) for each underpaid employee for each pay period for which the employee was
12 underpaid ...; (2) for each subsequent violation, one hundred dollars (\$100) for each underpaid
13 employee for each pay period for which the employee was underpaid ...;

14 27. Plaintiff seeks penalties for Defendants' misconduct as alleged herein as permitted by
15 law, but only those penalties that are required to be shared with the LWDA as Plaintiff is not
16 seeking individual/victim specific relief or underpaid wages under this particular cause of
17 action.

18 28. Specifically, Plaintiff seeks penalties under California Labor Code section 2699, for
19 the following:

20 Violations of California Labor Code sections 201, 202, 203, 204 and/or 204b, 210,
21 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1198, and 2802
22 via 2698 and 2699 any other Labor Codes and Wage Orders (including no. 5)
23 violated on the facts alleged in this Complaint.

24 29. Pursuant to Labor Code section 2698 et seq., Plaintiff seeks to recover attorney's fees,
25 costs, and civil penalties on behalf of Plaintiff and other current and former aggrieved
26 employees as alleged herein in an amount to be shown according to proof at trial and within the
27 jurisdictional limits of this Court.

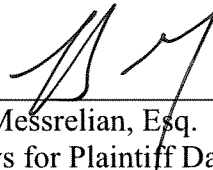
28 WHEREFORE, Plaintiff prays for Judgment against Defendants and each of them, as

1 follows:

- 2 1. For the imposition of civil penalties;
- 3 2. For maximum civil penalties available under Labor Code Section 2699
- 4 against Defendants in a manner and amount authorized by that statute, as described
- 5 more particularly in the Complaint and representative PAGA claims;
- 6 3. For all costs and disbursements incurred in this suit;
- 7 4. Reasonable attorney's fees where available by law, including but not limited to,
- 8 pursuant to the California Labor Code, including section 2698 et seq., and/or other
- 9 applicable laws; and
- 10 5. For such other and further relief as this Court may deem proper.
- 11
- 12

13 DATED: December 14, 2021

MESSRELIAN LAW INC.

14 By 

15 Harout Messrelian, Esq.

16 Attorneys for Plaintiff Daja King

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