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Attorney for Plaintiff  
Wendy Navarro Garcia

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF ORANGE

WENDY NAVARRO GARCIA, on behalf of  
herself and all similarly situated individuals and  
aggrieved employees,

Plaintiff,

v.

WIDDICOMBE ENTERPRISES, INC., and  
DOES 1 to 100,

Defendants.

) NO. 30-2021-01235358-CU-OE-CXC  
)  
) FIRST AMENDED CLASS ACTION  
) COMPLAINT  
)  
) 1. Wage and Hour Violations  
) 2. Meal Period Violations  
) 3. Rest Period Violations  
) 4. Wage Statement Penalty  
) 5. Waiting Time Penalties  
) 6. Unfair Competition  
) 7. PAGA Penalties

PRELIMINARY ALLEGATIONS

1. Plaintiff Wendy Navarro Garcia is a resident of Orange County.
2. Defendant Widdicombe Enterprises, Inc. is a corporation based in Orange County.
3. Widdicombe Enterprises, Inc. operates McDonald's franchises in Orange County.
4. Plaintiff does not know the names and capacities of Does 1 to 100 and therefore use fictitious names. Plaintiff will amend pursuant to Code of Civil Procedure section 474 when the names and capacities are known.
5. Plaintiff and the class members worked at Defendants' restaurants as servers and food staff during the class period, which is from four years prior to the present.
6. Therefore, Wage Order 5 applies.

7. Plaintiffs and the class members worked shifts up to twelve hours which included off the clock work but were not paid for all hours worked.

8. Further, Plaintiff and the class members were not able to take meal and rest breaks.

9. Plaintiff sent a PAGA letter to Widdicombe Enterprises, Inc., on November 19, 2021 and uploaded the letter to the PAGA website. Plaintiff will amend the complaint to include PAGA allegations after 65 days.

#### CLASS ACTION ALLEGATIONS

10. The class is defined as the following: “All non-exempt employees who worked for Defendants from four years prior to the filing of the complaint to certification.”

11. The “Waiting Time Subclass” consists of all non-exempt employees within the past three years from the date of filing who no longer work for Defendants.

12. There is a well-defined community of interest in the litigation and the proposed class is ascertainable from Defendants’ employment records.

a. Numerosity: The members of the class as defined are so numerous that joinder of all class members is impracticable.

b. Commonality: This action involves common questions of law and fact to the class because the action focuses on Defendants’ course of conduct with respect to violating the Labor Code and IWC Wage Order.

c. Typicality: Plaintiff’s claims are typical of the claims of the class. Plaintiffs were subjected to the same violations and seeks the same types of damages, restitution, and other relief on the same as those of the members of the class.

d. Adequacy of Representation: Plaintiffs will fairly and adequately represent and protect the interests of the class. Plaintiffs understands the obligations as a class representative and is willing and able to fulfill them. Plaintiff’s counsel is competent and experienced in litigating large employment class actions and complex litigation matters, including wage and hour cases like this.

e. Superiority of Class Action: A class action is superior to other available means for the

efficient adjudication of this controversy. Class action treatment will allow similarly situated persons to pursue the claims in a manner that is most efficient and economical.

f. Public Policy Considerations: Employees are often afraid to assert their rights out of fear of retaliation; thus, class actions provide the class members with anonymity that allows for vindication of rights while protecting privacy.

13. There are common questions of law and fact including but not limited to:

- a. Whether Defendants did not pay overtime and off the clock time in violation of Labor code sections 510 and 1194;
- b. Whether Defendant violated Labor Code section 512 and Wage Order 5 by not providing meal and rest breaks;
- c. Whether Defendants violated Labor Code section 226 by providing inaccurate wage statements;
- d. Whether Defendant violated Labor Code section 226.7 by not paying premium pay for missed meal and rest breaks;
- e. Whether Defendants violated Labor Code section 203 for waiting time penalties;
- f. Whether Defendants engaged in unfair competition; and
- g. The amount of damages, wages, and penalties owed to Plaintiffs and the class.

#### FIRST CAUSE OF ACTION

#### WAGE AND HOUR VIOLATIONS

#### Against All Defendants

14. Plaintiff incorporates by reference paragraphs 1 to 13 of the complaint.

15. Plaintiff and the class members worked off the clock at the end of shifts but were not paid for that time.

16. Pursuant to Labor Code section 1194, Plaintiffs and the class members are entitled to all unpaid overtime plus interest, costs, and attorney fees.

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1 SECOND CAUSE OF ACTION

2 MEAL PERIOD VIOLATIONS

3 Against All Defendants

4 17. Plaintiff incorporates by reference paragraphs 1 to 13 of the complaint.

5 18. Pursuant to Labor Code section 512 and Wage Order 5, Plaintiff and the class members  
6 should have received thirty-minute meal periods for every five hours of work.

7 19. Plaintiff did not receive these meal periods, thus pursuant to Labor Code section 226.7,  
8 Plaintiff is entitled to an additional hour of compensation for each missed meal period.

9  
10 THIRD CAUSE OF ACTION

11 REST PERIOD VIOLATIONS

12 Against All Defendants

13 20. Plaintiff incorporates by reference paragraphs 1 to 13 of the complaint.

14 21. Pursuant to Wage Order 5, Plaintiff and the class members should have received ten-minute  
15 meal periods for every four hours of work.

16 22. Plaintiff and the class members did not receive these rest periods, thus pursuant to Labor  
17 Code section 226.7, they are entitled to additional hours of compensation for each time they missed  
18 a rest period.

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20 FOURTH CAUSE OF ACTION

21 WAGE STATEMENT PENALTIES

22 Against All Defendants

23 23. Plaintiff incorporates by reference paragraphs 1 to 13 of the complaint.

24 24. Plaintiff's wage statements did not comply with Labor Code section 226 since they did not  
25 list all hours worked

26 25. As a result, Plaintiff and the class members are entitled to the wage statement penalties,  
27 injunctive relief, and attorney fees.

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1 FIFTH CAUSE OF ACTION

2 WAITING TIME PENALTIES

3 Against All Defendants

4 26. Plaintiff incorporates by reference paragraphs 1 to 13 of the complaint.

5 27. Plaintiffs and members of the waiting time penalty subclass are still owed wages for work  
6 performed off the clock.

7 28. Thus, waiting time penalties under Labor Code section 203 apply.

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9 SIXTH CAUSE OF ACTION

10 UNFAIR COMPETITION

11 Against All Defendants

12 29. Plaintiff incorporates by reference paragraphs 1 to 13 of the complaint.

13 30. Defendants engaged in the unlawful prong of the Unfair Competition Law, which included  
14 taking Plaintiffs and the class members tips, and not paying wages for all hours worked.

15 31. Pursuant to Business and Professions Code section 17203, restitution applies.

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17 SEVENTH CAUSE OF ACTION

18 PAGA PENALTIES

19 Against All Defendants

20 32. Plaintiff incorporates by reference paragraphs 1 to 13 of the complaint.

21 33. The PAGA penalties for the wage and hour violations are in Labor Code sections 1197.1  
22 and 1194.2.

23 34. The PAGA penalties for the waiting time penalties are in Labor Code section 2699.

24 35. The PAGA penalties for the wage statement penalties are in Labor Code section 2699.

25 36. The PAGA penalties for the missed meal and rest breaks are in Labor Code sections 558  
26 and 2699.

27 37. PAGA also authorizes a plaintiff to recover attorney fees and costs.

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1 PRAYER

2 Class Action

3 1. Certification

4 2. Plaintiffs are appointed as the class representative

5 3. Plaintiffs' attorneys are appointed as class counsel

6

7 First Cause of Action

8 1. Payment of all unpaid wages plus interest

9 2. Attorney fees and costs

10 3. Other relief the court deems proper

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12 Second Cause of Action

13 1. Premium pay for each missed break

14 2. Other relief the court deems proper

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16 Third Cause of Action

17 1. Premium pay for each missed break

18 2. Other relief the court deems proper

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20 Fourth Cause of Action

21 1. Wage statement penalties

22 2. Injunctive relief

23 3. Attorney fees and costs

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25 Fifth Cause of Action

26 1. Waiting time penalties

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1 Sixth Cause of Action

2 1. Restitution

3 2. Attorney fees under CCP 1021.5

4 3. Other relief the court deems proper

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6 Seventh Cause of Action

7 1. All applicable PAGA penalties

8 2. Attorney fees and costs

9 3. Other relief the court deems proper

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11 Date: February 23, 2022

FRONTIER LAW CENTER

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/s/ Adam Rose

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Attorney for Plaintiff

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Wendy Navarro Garcia

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