

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: Michael Stern

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Attorneys for Plaintiff, MARIONNA NAOMI
LATRICE ACKLES, as an aggrieved employee,
and on behalf of all other aggrieved employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT

MARIONNA NAOMI LATRICE ACKLES,
as an aggrieved employee, and on behalf of all
other aggrieved employees under the Labor
Code Private Attorneys' General Act of 2004,

Plaintiff,

v.

BRINKER RESTAURANT CORPORATION,
a Virginia corporation; SHANE SOWERS, an
individual; and DOES 1 through 100,
inclusive,

Defendants.

CASE NO.: 22STCV19068

REPRESENTATIVE ACTION

**COMPLAINT UNDER THE LABOR
CODE PRIVATE ATTORNEYS'
GENERAL ACT OF 2004 FOR CIVIL
PENALTIES UNDER LABOR CODE
SECTION 2699**

DEMAND FOR JURY TRIAL

[Amount in Controversy Greater Than
\$25,000.00]

Plaintiff Marionna Naomi Latrice Ackles ("Ms. Ackles" or "Plaintiff"), as an aggrieved
employee, and on behalf of all other aggrieved employees under the Labor Code Private Attorneys'
General Act of 2004, alleges as follows.

1 **COMPLAINT FOR CIVIL PENALTIES**

2 1. This is a representative action by Ms. Ackles arising from Defendant Brinker
3 Restaurant Corporation's ("Brinker") exploitation of minors in the workplace. When Ms. Ackles
4 was 17 years old, as California restaurants struggled to find workers during the pandemic, she took
5 a job as a host at a Chili's Grill & Bar, where she worked six to seven hours a day on school days—
6 in blatant violation of California Labor Code protections for minors, and in blatant violations of the
7 conditions set upon Ms. Ackles' employment by her minor work permit permitting her to work no
8 more than four hours on any school day. This exploitative conduct occurred against the backdrop
9 of severe labor shortages at restaurants throughout California—including Brinker—which increased
10 pressure in the workplace on the employees who remained, including minors such as Ms. Ackles
11 and the other aggrieved employees on whose behalf she brings this action, duly deputized by the
12 State of California under the Labor Code Private Attorneys' General Act of 2004 ("PAGA").

13 2. This representative action is brought pursuant to PAGA, codified at Labor Code
14 section 2698, *et seq.*, against Brinker, a Virginia corporation, and any of its respective subsidiaries
15 or affiliated companies within the State of California (together with DOES 1 through 100, as further
16 defined below, "Defendants"), as a proxy of the Labor and Workforce Development Agency of the
17 State of California ("LWDA"), on behalf of herself and all other current and former non-exempt
18 employees of Defendants working within the Civil Penalty Period, as further defined herein, and, as
19 it pertains to the alleged claims for failure to comply with Labor Code section 1391, *et seq.*, on
20 behalf of all employees of Defendants working within the Civil Penalty Period (collectively,
21 "Aggrieved Employees").

22 **PARTIES**

23 **A. Plaintiff**

24 3. Plaintiff Marionna Naomi Latrice Ackles is a resident of the State of California. At
25 all relevant times herein, Plaintiff is informed and believes, and based thereon alleges that
26 Defendants employed Plaintiff as a non-exempt employee, with duties that included, but were not
27 limited to, being a restaurant host. Plaintiff is informed and believes that Plaintiff worked for
28 Defendants from approximately April of 2021 through approximately September of 2021.

8. All of the acts and conduct described herein of each and every corporate defendant was duly authorized, ordered, and directed by the respective and collective defendant corporate employers, and the officers and management-level employees of said corporate employers. In addition thereto, said corporate employers participated in the aforementioned acts and conduct of their said employees, agents, and representatives, and each of them; and upon completion of the aforesaid acts and conduct of said corporate employees, agents, and representatives, the defendant corporation respectively and collectively ratified, accepted the benefits of, condoned, lauded, acquiesced, authorized, and otherwise approved of each and all of the said acts and conduct of the aforementioned corporate employees, agents and representatives.

9. As a result of the aforementioned facts, Plaintiff is informed and believes, and based thereon alleges that Defendants, and each of them, are joint employers.

JURISDICTION AND VENUE

10. Jurisdiction exists in the Superior Court of the State of California pursuant to Code of Civil Procedure section 410.10. On information and belief, the defendants or some of them reside in Los Angeles County. Defendant Brinker is, and at all times mentioned in this complaint has been, a Virginia corporation doing business in California, with no designated principal place of business in California identified in its statement filed with the Secretary of State. Moreover, the unlawful acts alleged herein have a direct effect on Plaintiff and Aggrieved Employees in Los Angeles County, and because Defendants employ numerous Aggrieved Employees in Los Angeles County. As such, venue is proper in Los Angeles County pursuant to California Code of Civil Procedure section 395.

PAGA REPRESENTATIVE ALLEGATIONS

11. Plaintiff is an “aggrieved employee” under PAGA, as Plaintiff was employed by Defendants during the applicable statutory period and suffered the Labor Code violation set forth herein. Accordingly, Plaintiff seeks to recover civil penalties, as the term “civil penalty” is defined under *ZB N.A. v. Superior Court* (2019) 8 Cal.5th 175, under the Labor Code Private Attorneys General Act of 2004, codified at Labor Code section 2698, *et seq.* (“PAGA”) plus reasonable attorneys’ fees and costs, for Plaintiff and all other aggrieved current and former employees of

1 Defendants during the Civil Penalty Period.

2 12. Specifically, Plaintiff seeks to recover PAGA civil penalties through a representative
3 action permitted by PAGA and the California Supreme Court in, among other authorities, *Arias v.*
4 *Superior Court* (2009) 46 Cal.4th 969. According to the same authorities, class certification of the
5 PAGA allegations described herein is not required.

6 13. During the period beginning one (1) year preceding the provision of notice to the
7 LWDA regarding the herein-described Labor Code violations (the “Civil Penalty Period”),
8 Defendants violated, *inter alia*, Labor Code sections 432.5 and 1391, *et seq.*, as well as Educational
9 Code 49112 and Educational Code 49116, among others.

10 14. Labor Code section 2699, subdivisions (a) and (g), authorizes aggrieved employees
11 such as Plaintiff, on behalf of Plaintiff and all other aggrieved current and former employees within
12 the statutory period, to bring a civil action to recover civil penalties pursuant to the procedures
13 specified in Labor Code section 2699.3.

14 15. On or around March 31, 2022, Plaintiff provided written notice pursuant to Labor
15 Code section 2699.3 online and by certified mail, with return receipt requested, of Defendants’
16 violation of various, including the herein-described, provisions of the Labor Code, to the LWDA,
17 as well as by certified mail, with return receipt requested to Defendants, and each of them.

18 16. Pursuant to Labor Code section 2699.3, subdivision (a)(2)(A), the LWDA did not
19 provide notice of its intention to investigate Defendants’ alleged violations within sixty-five (65)
20 calendar days of the March 31, 2022 postmarked date of the herein-described notice sent by Plaintiff
21 to the LWDA and Defendants.

22 17. At all relevant times herein, Defendants had and have a policy or practice of requiring
23 Plaintiff and Aggrieved Employees, who are fifteen (15) years of age or younger to work for more
24 than eight (8) hours in one day of twenty-four (24) hours, and/or more than forty (40) hours in one
25 week, and/or before 7:00 a.m. or after 7:00 p.m.; required its employees, who are fourteen (14) or
26 (15) years of age to work, while school is in session, for more than three (3) hours in any school day
27 and/or more than eighteen (18) hours in any week; and required its employees, who are sixteen (16)
28 or seventeen (17) years of age, to work for more than eight (8) hours in one day, and/or more than

1 48 hours in one week, and/or before 5 a.m., or after 10 p.m. on any day preceding a school day in
2 violation of Labor Code section 1391, Educational Code 49112 and Educational Code 49116. The
3 allegations in this paragraph are likely to have evidentiary support after a reasonable opportunity
4 for further investigation or discovery.

5 18. At all relevant times mentioned herein, Defendants have had a policy or practice of
6 requiring Plaintiff and Aggrieved Employees to agree, in writing, to one or more terms or conditions
7 which were is known by Defendants to be prohibited by law, in violation of Labor Code section
8 432.5. The allegations in this paragraph are likely to have evidentiary support after a reasonable
9 opportunity for further investigation or discovery.

10 **FIRST CAUSE OF ACTION**

11 **(Civil Penalties Under the Private Attorneys' General Act (2004) – Against All Defendants)**

12 19. Plaintiff re-alleges and incorporates by reference all of the allegations set forth in the
13 preceding paragraphs as though fully set forth hereat.

14 20. Pursuant to Labor Code section 2699, subdivision (a), notwithstanding any other
15 provision of law, any provision of the Labor Code that provides for a civil penalty to be assessed
16 and collected by the LWDA or any of its departments, divisions, commissions, boards, agencies or
17 employees for a violation of the Labor Code may, as an alternative, be recovered through a civil
18 action brought by an aggrieved employee on behalf of himself or herself and other current or former
19 employees pursuant to the procedures specified in Labor Code section 2699.3.

20 21. Pursuant to Labor Code section 2699, subdivision (f), for all provisions of the Labor
21 Code except those for which a civil penalty is specifically provided, the established civil penalty for
22 a violation of those provisions is as follows: if, at the time of the alleged violation, the person
23 employs one or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved
24 employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved
25 employee per pay period for each subsequent violation.

26 22. Plaintiff is informed and believes and based thereon alleges that Defendants, and
27 each of them, violated the Labor Code sections described herein, including, without limitation, for
28 the failure to abide by the provisions of Labor Code section 1391 protecting minor employees, and

1 for failure to abide by the provisions of Labor Code section 423.5 requiring that no employer, or
2 agent, manager, superintendent, or officer thereof, shall require any employee or applicant for
3 employment to agree, in writing, to any term or condition which is known by such employer, or
4 agent, manager, superintendent, or officer thereof to be prohibited by law.

5 23. Moreover, Plaintiff and other Aggrieved Employees within the State of California
6 whom she seeks to represent are entitled to an award of reasonable attorneys' fees and costs in
7 connection with their herein-described claims for civil penalties.

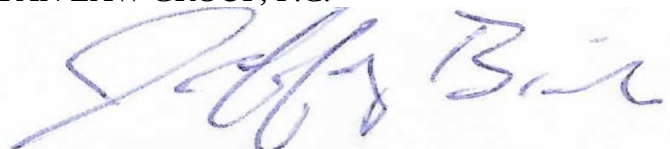
8 **PRAYER**

9 **WHEREFORE**, on behalf of Plaintiff and Aggrieved Employees, Plaintiff prays for
10 judgment against Defendants as follows:

- 11 A. An award of civil penalties pursuant to Labor Code section 2699;
12 B. An award of reasonable attorneys' fees and costs pursuant to Labor Code section
13 2699;
14 D. For costs of suit incurred herein; and
15 E. Such other and further relief as the Court deems just and proper.

16 Dated: June 10, 2022

BIBIYAN LAW GROUP, P.C.

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18
19 BY: 

JEFFREY C. BILS

DAVID D. BIBIYAN

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