

Case Management Conference

06/05/2025 08:30 AM - Department 01

DIVERSITY LAW GROUP, P.C.
Larry W. Lee (State Bar No. 228175)
lwlee@diversitylaw.com
Simon L. Yang (State Bar No. 260286)
sly@diversitylaw.com
515 South Figueroa Street, Suite 1250
Los Angeles, California 90071
Telephone: (213) 488-6555
Facsimile: (213) 488-6554

POLARIS LAW GROUP
William L. Marder (State Bar No. 170131)
bill@polarislawgroup.com
501 San Benito Street, Suite 200
Hollister, California 95023
Telephone: (831) 531-4214
Facsimile: (831) 634-0333

Attorneys for Plaintiff

To obtain an ADR packet please visit the court's website.

<https://www.tulare.courts.ca.gov/divisions/civil>

ELECTRONICALLY FILED
Superior Court of California,
County of Tulare
01/28/2025
By: Charisma Hughes,
Deputy Clerk

Assigned to Judicial Officer
David C Mathias

For All Purposes

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF TULARE

LILLIAN BARRON, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

R L M K, INC., a California corporation; and
DOES 1 through 50, inclusive,

Defendants.

Case No. VCU317688

CLASS AND REPRESENTATIVE ACTION COMPLAINT

- (1) Failure to Provide Rest Periods
(Lab. Code § 226.7);
- (2) Inaccurate Itemized Wage Statements
(Lab. Code § 226(a));
- (3) Unfair or Unlawful Business Practices
(Bus. & Prof. Code §§ 17200 et seq.); and
- (4) Violations of the California Labor Code
(Lab. Code §§ 2698 et seq.)

DEMAND OVER \$25,000.00

1 On behalf of herself and other similarly situated current and former employees of Defendants,
2 Plaintiff, Lillian Barron, submits this Class and Representative Action Complaint against Defendant,
3 R L M K, Inc., and Does 1 through 50 (collectively, “Defendants”). Pursuant to Family Code section
4 6710, Plaintiff hereby disaffirms in its entirety any contract between Plaintiff and Defendants relating to
5 arbitration of any disputes alleged herein.

6 INTRODUCTION

7 1. This class and representative action challenges systemic employment practices resulting
8 in violations of the California Labor Code against individuals who worked for Defendants. Plaintiff is
9 informed and believes that Defendants have jointly and severally acted intentionally and with deliberate
10 indifference and conscious disregard to the rights of employees by failing to authorize and permit lawful
11 rest periods, failing to pay an additional hour of regular rate wages for missed, late, interrupted, or short
12 meal periods and rest periods, failing to timely pay all wages during employment or upon termination of
13 employment, and by failing to provide complete and accurate itemized wage statements. Defendants
14 have also jointly and severally acted intentionally and with deliberate indifference and conscious
15 disregard to the rights of employees under the age of 18 by requiring them to work more than four hours
16 on schooldays and to work after 10:00 p.m. on days preceding a schoolday, without any authorizing
17 work permits. The Complaint seeks damages, penalties, and other relief pursuant to, among other
18 provisions, Labor Code sections 201-204, 210, 218.5, 218.6, 226, 226.3, 226.7, 512, 558, 1391, and
19 2698 et seq. and the Unfair Competition Law, codified at Business and Professions Code sections 17200
20 et seq. (the “UCL”).¹

21 2. Defendants routinely fail to authorize and permit Plaintiff and other non-exempt
22 employees to take duty-free 10-minute rest periods for every four hours worked, or major fraction
23 thereof. Specifically, Defendants do not schedule any rest periods for Plaintiff and other non-exempt
24 employees. Defendants deny requested rest periods on the basis of there being insufficient staffing or
25 the restaurant being too busy. As a result, Plaintiff and other non-exempt employees routinely are not
26 authorized and permitted to take lawful rest periods. Defendants also routinely fail to pay Plaintiff and
27

28

¹ Except as otherwise noted, all “Section” references are to the Labor Code.

1 other non-exempt employees the requisite rest period premium pay of an additional hour of regular rate
2 wages.

3 3. Because Plaintiff and other non-exempt employees are not paid the required rest period
4 premium pay of an additional hour of regular rate wages, Defendants routinely fail to timely pay
5 Plaintiff and other non-exempt employees all wages during employment or upon separation of
6 employment. Moreover, Defendants also routinely fail to furnish wage statements that accurately show
7 and itemize all hours worked, applicable hourly rates in effect during the pay period, gross wages
8 earned, and net wages earned.

9 4. Defendants also routinely require Plaintiff and other employees under the age of 18 to
10 work hours not allowed under Labor Code section 1391. For example, Defendants require Plaintiff and
11 other employees under the age of 18 to work more than four hours on schooldays and to work after
12 10:00 p.m. on days preceding a schoolday. Plaintiff and other employees under the age of 18 were not
13 issued any work permits under Education Code section 49112(c) that would permit such work hours.

14 5. Plaintiff is informed and believes that Defendants have engaged in, among other things, a
15 system of willful violations of the Labor Code by creating and maintaining policies, practices, and
16 customs that knowingly deny its employees the above stated rights and benefits.

17 6. The policies, practices, and customs of Defendants result in unjust enrichment of
18 Defendants and an unfair business advantage over businesses that comply with the Labor Code.

19 JURISDICTION AND VENUE

20 1. The Complaint seeks relief exceeding \$25,000.00. The Court has jurisdiction of
21 Defendants' violations of Labor Code section 201-204, 226, 226.7, 512, and 1391 and the Unfair
22 Competition Law, codified at Business and Professions Code sections 17200 et seq. (the "UCL").

23 2. Venue is proper in the County of Tulare where Plaintiff performed work for Defendants.

24 PARTIES

25 3. In October of 2013, Plaintiff began working for Defendants as a crew member. Until her
26 employment ended in around January of 2025 when she was 17 years old, Plaintiff was paid on an
27 hourly basis as a non-exempt employee. When Plaintiff worked 3.5 hours in a workday, she regularly
28 was not authorized and permitted to take lawful rest periods. Defendants did not schedule rest periods

1 for Plaintiff, and when Plaintiff requested rest periods, Defendants denied them on the basis of there
2 being insufficient staffing or the restaurant being too busy. Plaintiff also was regularly not paid an
3 additional hour of regular rate wages for missed, late, interrupted, or short rest periods. As a result,
4 Plaintiff was not timely paid all due wages during employment or upon separation of employment and
5 also was not provided with accurate itemized wage statements. Moreover, Plaintiff was under the age of
6 18 and required to work more than four hours on schooldays and to work after 10:00 p.m. on days
7 preceding a schoolday. Plaintiff was not issued any work permits under Education Code section
8 49112(c) that would permit such work hours. Plaintiff thus is a victim of the policies, practices, and
9 customs of Defendants complained of in this action in ways that have deprived her of the rights
10 guaranteed by the Labor Code and the UCL.

11 4. Plaintiff is informed and believes that R L M K, Inc. was and is a California corporation.
12 Plaintiff is informed and believes that at all times herein mentioned named defendants and Does 1
13 through 50, were and are corporations, business entities, individuals, or partnerships that are and were
14 licensed to do business and actually doing business in the State of California. Based upon all the facts
15 and circumstances incident to Defendants' business, Defendants are subject to Sections 201-204, 226,
16 226.7, 512, and 1391, and the UCL.

17 5. Plaintiff does not know the true names or capacities of the defendants sued herein as
18 Does 1 through 50, whether individual, partner, or corporate, and for that reason, said defendants are
19 sued under such fictitious names. Plaintiff prays for leave to amend this Complaint when the true names
20 and capacities are known. Plaintiff is informed and believes that each of said fictitious defendants was
21 responsible in some way for the matters alleged herein and proximately caused the illegal employment
22 practices, wrongs, and injuries complained of herein.

23 6. At all times mentioned herein, each of said Defendants participated in the doing of the
24 acts alleged herein. Defendants, and each of them, were the agents, servants, or employees of each of
25 the other Defendants, as well as the agents of all Defendants, and were acting within the course and
26 scope of said agency and employment.

27 7. Plaintiff is informed and believes that at all times material hereto, each of said
28 Defendants was the agent, employee, alter ego, or joint venturer of, or was working in concert with,

each of the other Defendants and was acting within the course and scope of such agency, employment, joint venture, or concerted activity. To the extent said acts, conduct, or omissions were perpetrated by certain Defendants, each of the remaining Defendants confirmed and ratified said acts, conduct, or omissions of the acting Defendants.

8. Plaintiff is informed and believes that at all times material hereto each of the Defendants (i) aided and abetted the acts and omissions of each of the other Defendants in proximately causing the alleged harms, or (ii) were members of, engaged in, and acting within the course and scope of, and in pursuance of, a joint venture, partnership, or common enterprise.

CLASS ACTION ALLEGATIONS

9. **Definition:** Pursuant to Code of Civil Procedure section 382, Plaintiff seeks class certification of the following classes: (i) all current and former non-exempt employees of Defendants in the State of California who since January 28, 2021, have worked at least 3.5 hours in a day (the “Rest Class”); (ii) all current and former non-exempt employees of Defendants in the State of California who since January 28, 2024, have worked at least 3.5 hours in a day (the “Wage Statement Class”); and (iii) all current and former non-exempt employees of Defendants in the State of California who since January 28, 2021, were employed as a 16 or 17 year old either for more than four hours in a schoolday when school is in session or after 10:00 p.m. on any day preceding a schoolday, without a work permit authorizing such work hours (the “Minor Class”). The Rest Class, Wage Statement Class, and Minor Class are collectively referred to as the “Class.”

10. **Numerosity and Ascertainability:** The members of the Class are so numerous that joinder of all members would be impractical, if not impossible. The identities of the members of the Class are readily ascertainable by review of Defendants’ records, including personnel and payroll records. Plaintiff is informed and believes that Defendants violated Sections 201-204, 226, 226.7, 512, and 1391, and the UCL by failing to pay all regular, overtime, and reporting time pay wages, failing to timely pay all wages during employment or upon termination of employment, and by failing to provide complete and accurate itemized wage statements.

11. **Adequacy of Representation:** Plaintiff is fully prepared to take all necessary steps to represent fairly and adequately the interests of the Class defined above. Plaintiff’s attorneys are ready,

1 willing, and fully and adequately able to represent Plaintiff and the Class. Plaintiff's attorneys have
2 prosecuted and settled wage-and-hour class actions in the past and continue to litigate numerous wage-
3 and-hour class actions currently pending in California state and federal courts.

4 12. **Common Question of Law and Fact:** There are predominant common questions of law
5 and fact and a community of interest amongst the claims of Plaintiff and of the Class. Plaintiff is
6 informed and believes that Defendants uniformly administer a corporate policy and practice of routinely
7 failing to authorize and permit lawful rest periods, failing to pay an additional hour of regular rate
8 wages for missed, late, interrupted, or short meal periods and rest periods, failing to timely pay all
9 wages during employment or upon termination of employment, failing to provide complete and accurate
10 itemized wage statements, and failing to comply with Section 1391 work hour requirements for minors.

11 13. **Typicality:** The claims of Plaintiff are typical of the claims of all members of the Class
12 in that Plaintiff suffered the alleged harms in a similar and typical manner as other members of the Class
13 suffered. As with other members of the Class, Plaintiff was paid on an hourly basis as a non-exempt
14 employee. When Plaintiff worked 3.5 hours in a workday, she regularly was not authorized and
15 permitted to take lawful rest periods. Defendants did not schedule rest periods for Plaintiff, and when
16 Plaintiff requested rest periods, Defendants denied them on the basis of there being insufficient staffing
17 or the restaurant being too busy. Plaintiff also was regularly not paid an additional hour of regular rate
18 wages for missed, late, interrupted, or short rest periods. As a result, Plaintiff was not timely paid all
19 due wages during employment or upon separation of employment and also was not provided with
20 accurate itemized wage statements. Moreover, Plaintiff was under the age of 18 and required to work
21 more than four hours on schooldays and to work after 10:00 p.m. on days preceding a schoolday.
22 Plaintiff was not issued any work permits under Education Code section 49112(c) that would permit
23 such work hours. Plaintiff thus is a member of the Class and has suffered the alleged violations of the
24 Labor Code.

25 14. The Labor Code is broadly remedial in nature. Its laws serve an important public interest
26 in establishing minimum working conditions and requirements in California. These labor standards
27 protect employees from onerous terms and conditions of employment or exploitation by employers who
28 have superior economic and bargaining power.

1 15. The nature of this action and the format of laws available to Plaintiff and members of the
2 Class make the class action format a particularly efficient and appropriate procedure to redress the
3 wrongs alleged herein. If each employee were required to file an individual lawsuit, the corporate
4 Defendants would necessarily gain an unconscionable advantage since they would be able to exploit and
5 overwhelm the limited resources of each individual plaintiff with their vastly superior financial and
6 legal resources. Requiring each member of the Class to pursue an individual remedy would also
7 discourage the assertion of lawful claims by employees who would be disinclined to file an action
8 against their former or current employer for real and justifiable fear of retaliation and permanent
9 damage to their careers at their current or subsequent employment.

10 16. The prosecution of separate actions by individual members of the Class, even if possible,
11 would create a substantial risk of (a) inconsistent or varying adjudications with respect to individual
12 members of the Class that would establish potentially incompatible standards of conduct for
13 Defendants, or (b) adjudications with respect to individual members of the Class that would, as a
14 practical matter, be dispositive of, or substantially impair or impede the ability to protect, the interests
15 of other members of the Class not parties to the adjudications. Further, the claims of the individual
16 members of the Class are not sufficiently large to warrant vigorous individual prosecution considering
17 the concomitant costs and expenses.

18 17. Defendants' pattern, practice, and uniform administration of corporate policy in violation
19 of the Labor Code is unlawful. Proof of a common business practice or factual pattern will establish the
20 rights of Plaintiff and the Class under Sections 201-204, 210, 218.5, 218.6, 226, 226.3, 226.7, 512, 558,
21 1391, and 2698 et seq., applicable IWC Wage Orders, the UCL, and Code of Civil Procedure section
22 1021.5 to recover restitution, reasonable attorneys' fees, and costs of suit.

23 18. This action is brought for the benefit of the Class, which is commonly entitled to a
24 specific fund with respect to the compensation illegally and unfairly retained by Defendants. The Class
25 is commonly entitled to restitution of those funds being improperly withheld by Defendant.
26
27
28

1 **FIRST CAUSE OF ACTION**

2 **Failure to Provide Rest Periods (Lab. Code § 226.7)**

3 **(By Plaintiff and the Rest Class Against All Defendants)**

4 19. The preceding paragraphs are re-alleged and incorporated by this reference.

5 20. Because Plaintiff and the Rest Class were non-exempt employees, Defendants were
6 required to comply with Section 226.7 and the applicable IWC Wage Order. Section 1198 makes
7 unlawful conditions of labor that are prohibited by the applicable IWC Wage Order. The applicable
8 laws generally require an employer to provide a duty-free, 10-minute rest period for every four hours
9 worked, or major fraction thereof. Section 226.7(b) provides that an employer shall not require an
10 employee to work during a rest period. Section 226.7(c) states that “the employer shall pay the
11 employee one additional hour of pay at the employee’s regular rate of compensation for each workday
12 that the meal or rest or recovery period is not provided.”

13 21. As a matter of policy and practice, Defendants routinely fail to authorize and permit
14 Plaintiff and the Rest Class to take duty-free 10-minute rest periods for every four hours worked, or
15 major fraction thereof. Specifically, Defendants do not schedule any rest periods for Plaintiff and the
16 Rest Class. Defendants deny requested rest periods on the basis of there being insufficient staffing or
17 the restaurant being too busy. As a result, Plaintiff and the Rest Class routinely are not authorized and
18 permitted to take lawful rest periods. Defendants also routinely fail to pay Plaintiff and the Rest Class
19 the requisite rest period premium pay of an additional hour of regular rate wages. As such, Plaintiff and
20 the Rest Class are owed additional wages for missed, late, interrupted, or short rest periods.

21 22. Moreover, Section 204 provides that wages are generally due and payable no later than
22 seven days after the end of a pay period or at least twice during each calendar month, on days
23 designated in advance as the regular paydays. Section 201 provides that if an employer discharges an
24 employee, the wages earned and unpaid at the time of discharge are due and payable immediately.
25 Section 202 provides that an employee is entitled to receive all unpaid wages no later than 72 hours
26 after an employee quits his or her employment, unless the employee has given seventy-two (72) hours
27 previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages
28 at the time of quitting. Section 203 provides that if an employer willfully fails to pay wages owed in

1 accordance with Sections 201 and 202, then the wages of the employee shall continue as a penalty from
2 the due date, and at the same rate until paid, but the wages shall not continue for more than thirty (30)
3 days.

4 23. Based on Defendants' failure to pay an additional hour of wages to Plaintiff and the Rest
5 Class for missed, late, interrupted, or short rest periods, and as a matter of policy and practice,
6 Defendants also fail to timely pay Plaintiff and the Rest Class all due wages. On information and belief,
7 Defendants were advised by skilled lawyers and knew, or should have known, of the mandates of the
8 Labor Code as it relates to Plaintiff's allegations. Because Defendants willfully fail to timely pay
9 Plaintiff and the Rest Class all wages due, Defendants are subject to applicable penalties pursuant to
10 Sections 203 and 210, among other Labor Code provisions.

11 24. Such a pattern, practice, and uniform administration of corporate policy is unlawful and
12 entitles Plaintiff and the Rest Class to recover unpaid wages, including interest thereon, applicable
13 penalties, attorneys' fees, and costs of suit.

14 **SECOND CAUSE OF ACTION**

15 **Inaccurate Itemized Wage Statements (Lab. Code § 226(a))**

16 **(By Plaintiff and the Wage Statement Class Against All Defendants)**

17 25. The preceding paragraphs are re-alleged and incorporated by this reference.

18 26. Section 226(a) requires an employer to furnish to its employees itemized wage
19 statements that show accurate information, including without limitation, all hours worked, applicable
20 hourly rates in effect during the pay period, gross wages earned, and net wages earned.

21 27. Defendants fail to provide accurate itemized wage statements to Plaintiff and the Wage
22 Statement Class. Because of the above violations and as a matter of policy and practice, Defendants fail
23 to furnish Plaintiff and the Wage Statement Class with wage statements that accurately show the hours
24 worked, applicable hourly rates in effect during the pay period, gross wages earned, and net wages
25 earned.

26 28. Such a pattern, practice, and uniform administration of corporate policy is unlawful and
27 entitles Plaintiff and the Wage Statement Class to recover applicable penalties, attorneys' fees, and costs
28 of suit.

1 **THIRD CAUSE OF ACTION**

2 **Unfair or Unlawful Business Practices (Bus. & Prof. Code §§ 17200 et seq.)**

3 **(By Plaintiff and the Class Against All Defendants)**

4 29. The preceding paragraphs are re-alleged and incorporated by this reference.

5 30. Plaintiff is informed and believes that at Defendants have engaged and continue to
6 engage in unfair and unlawful business practices in California by utilizing the employment policies and
7 practices alleged herein, including (i) failing to pay an additional hour of regular rate wages for missed,
8 late, interrupted, or short meal periods and rest periods and (ii) requiring minors without authorizing
9 work permits to work more than four hours on schooldays and to work after 10:00 p.m. on days
10 preceding a schoolday.

11 31. Defendants' utilization of such unfair and unlawful business practices constitutes unfair
12 and unlawful competition and provides an unfair advantage over Defendants' competitors, as proscribed
13 by the UCL. Defendants have deprived Plaintiff and the Class of the minimum working protections due
14 to them under the Labor Code.

15 32. Such a pattern, practice, and uniform administration of corporate policy is unlawful and
16 entitles Plaintiff and the Class to full restitution of all monies withheld, acquired, or converted by means
17 of the unfair practices complained of herein, including interest thereon, attorneys' fees, and costs of suit.

18 **FOURTH CAUSE OF ACTION**

19 **Violation of California Labor Code (Lab. Code §§ 2698 Et Seq.)**

20 **(By Plaintiff as a Proxy for the State Against All Defendants)**

21 33. The preceding paragraphs are re-alleged and incorporated by this reference.

22 34. Pursuant to the Labor Code Private Attorneys General Act of 2004, Labor Code §§ 2698
23 et seq. ("PAGA"), Plaintiff brings this cause of action as a proxy for the State of California. In this
24 capacity, Plaintiff seeks penalties for Defendants' violations of Sections 201-204, 226, 226.7, 512, and
25 1391 committed since January 27, 2024, against all aggrieved employees. Under Section 2699(c),
26 Plaintiff is an "aggrieved employee," as one or more of the alleged violations was committed against
27 Plaintiff as an employee of Defendants.
28

35. As stated herein, Defendants fail to (i) authorize and permit lawful rest periods, (ii) pay an additional hour of regular rate wages for missed, late, interrupted, or short rest periods, (iii) timely pay all wages during employment or upon termination of employment, and (iv) provide complete and accurate itemized wage statements. Moreover, Defendants also uniformly administer a corporate policy and practice of routinely requiring Plaintiff and other employees under the age of 18 to work more than four hours on schooldays and to work after 10:00 p.m. on days preceding a schoolday, without any authorizing work permits.

36. Plaintiff has sent written notice to the Labor & Workforce Development Agency (“LWDA”) of Defendants’ above referenced violations, including facts and theories to support the violations. Plaintiff simultaneously sent written notice to Defendants via certified mail. As of the date of the filing of this Complaint, the LWDA has neither responded nor indicated that it intends to investigate the allegations in the written notice.

37. As such, pursuant to Section 2699(a), (f), and (g), Plaintiff seeks recovery of all applicable penalties for Defendants' violations against all aggrieved employees for the period described above.

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. Prejudgment interest at the prevailing legal rate;
2. For an order certifying the proposed Class;
3. For an order appointing Plaintiff as the representative of the Class;
4. For an order appointing Counsel for Plaintiff as Class Counsel;
5. Upon the First Cause of Action for damages, including unpaid wages and interest thereon, penalties, and attorneys' fees and costs;
6. Upon the Second Cause of Action for penalties, and attorneys' fees and costs;
7. Upon the Third Cause of Action for restitution of all funds unlawfully acquired by Defendants by any acts or practices declared to be in violation of the UCL, including interest thereon, and for attorneys' fees and costs;

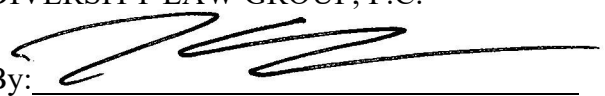
1 8. Upon the Fourth Cause of Action for penalties pursuant to Section 2699(a), (f), and (g),
2 and for attorneys' fees and costs;

3 9. Upon each cause of action for attorneys' fees and costs as provided by the Labor Code,
4 UCL, and Code of Civil Procedure section 1021.5; and

5 10. For such other and further relief that the Court may deem just and proper.

6 DATED: January 28, 2025

DIVERSITY LAW GROUP, P.C.

7
8 By: 
9

Larry W. Lee

Simon L. Yang

Attorneys for Plaintiff