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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF PLACER**

STEPHANIE KARABINUS, as an
individual and on behalf of all others
similarly situated,

Plaintiff,

vs.

CIRCLE PIZZA, LLC, a Delaware
Limited Liability Company; and DOES 1
through 50, inclusive,

Defendants.

Case No.: S-CV-0048669

**FIRST AMENDED REPRESENTATIVE
ACTION COMPLAINT UNDER THE
PRIVATE ATTORNEYS GENERAL ACT OF
2004**

DEMAND OVER \$25,000.00

1 Plaintiff Stephanie Karabinus (“Plaintiff”) hereby submits this First Amended
2 Representative Action Complaint (“Complaint”) against Defendant Circle Pizza, LLC
3 (“Defendant”) and Does 1 through 50 (hereinafter collectively referred to as “Defendants”), on
4 behalf of herself and all aggrieved employees of Defendant, for penalties for violations of the
5 California Labor Code as follows:

6 **INTRODUCTION**

7 1. This representative action is within the Court’s jurisdiction under California
8 Labor Code sections 201, 202, 203, 204, 226, 226.7, 246, 510, 512, 558, 1194, 1197, 1197.1, and
9 2698, *et seq.*, and the applicable Wage Orders of the California Industrial Welfare Commission
10 (“IWC”).

11 2. This complaint challenges systemic illegal employment practices resulting in
12 violations of the California Labor Code against individuals who worked for Defendant.

13 **JURISDICTION AND VENUE**

14 3. The Court has jurisdiction over the violations of the California Labor Code
15 sections 201, 202, 203, 204, 226, 226.7, 246, 510, 512, 558, 1194, 1197, 1197.1, and 2698, *et*
16 *seq.*, the applicable Wage Orders of the IWC.

17 4. Venue is proper because Defendant does business in Placer County and maintains
18 a business location in Placer County.

19 **PARTIES**

20 5. Plaintiff was employed by Defendant as a non-exempt employee from in or
21 around August 2019, to on or about May 31, 2022.

22 6. Plaintiff was and is the victim of the policies, practices, and customs of Defendant
23 complained of in this action in ways that have deprived her of the rights guaranteed by California
24 Labor Code sections 201, 202, 203, 204, 226, 226.7, 246, 510, 512, 558, 1194, 1197, 1197.1, and
25 2698, *et seq.*, the applicable Wage Orders of the IWC.

26 7. Plaintiff is informed and believes, and based thereon alleges, that Defendant
27 Circle Pizza, LLC is a Delaware Limited Liability Company, which maintains operations in the
28 State of California, including the County of Placer.

1 11. Plaintiff is informed and believes, and based thereon alleges, that at all times
2 herein mentioned Defendant and Does 1 through 50, are and were corporations, business entities,
3 individuals, and partnerships, licensed to do business and actually doing business in the State of
4 California. As such, and based upon all the facts and circumstances incident to Defendants'
5 business, Defendants are subject to California Labor Code sections 201, 202, 203, 204, 226,
6 226.7, 246, 510, 512, 558, 1194, 1197, 1197.1, and 2698, *et seq.*, the applicable Wage Orders of
7 the IWC.

8 12. Plaintiff does not know the true names or capacities, whether individual, partner
9 or corporate, of the defendants sued herein as Does 1 through 50, inclusive, and for that reason,
10 said defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this
11 complaint when the true names and capacities are known. Plaintiff is informed and believes and
12 based thereon alleges that each of said fictitious defendants was responsible in some way for the
13 matters alleged herein and proximately caused Plaintiff, the aggrieved employees, and members
14 of the general public to be subject to the illegal employment practices, wrongs and injuries
15 complained of herein.

16 13. At all times herein mentioned, each of said Defendants participated in the doing
17 of the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the
18 Defendants, and each of them, were the agents, servants and employees of each of the other
19 Defendants, as well as the agents of all Defendants, and at all times herein mentioned, were
20 acting within the course and scope of said agency and employment.

21 14. Plaintiff is informed and believes, and based thereon alleges, that at all times
22 material hereto, each of the Defendants named herein was the agent, employee, alter ego and/or
23 joint venturer of, or working in concert with each of the other co-Defendants and was acting
24 within the course and scope of such agency, employment, joint venture, or concerted activity.
25 To the extent said acts, conduct, and omissions were perpetrated by certain Defendants, each of
26 the remaining Defendants confirmed and ratified said acts, conduct, and omissions of the acting
27 Defendants.

28 15. At all times herein mentioned, Defendants, and each of them, were members of,

1 and engaged in, a joint venture, partnership and common enterprise, and acting within the course
2 and scope of, and in pursuance of, said joint venture, partnership and common enterprise.

3 16. At all times herein mentioned, the acts and omissions of various Defendants, and
4 each of them, concurred and contributed to the various acts and omissions of each and all of the
5 other Defendants in proximately causing the injuries and violations as herein alleged. At all
6 times herein mentioned, Defendants, and each of them, ratified each and every act or omission
7 complained of herein. At all times herein mentioned, Defendants, and each of them, aided and
8 abetted the acts and omissions of each and all of the other Defendants in proximately causing the
9 violations as herein alleged.

10 **FIRST CAUSE OF ACTION**

11 **VIOLATION OF LABOR CODE § 2698, *ET SEQ.***

12 **(BY PLAINTIFF AND AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS)**

13 17. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as
14 though fully set forth herein.

15 18. Plaintiff brings this cause of action, on behalf of and as a proxy for the State of
16 California and in this capacity, seeks penalties on behalf of all Aggrieved Employees from June
17 13, 2021, through the present, for Defendant's violation of Labor Code sections 201, 202, 203,
18 204, 226, 226.7, 246, 510, 512, 558, 1194, 1197, 1197.1, and 2698, *et seq.*, the applicable Wage
19 Orders of the IWC.

20 19. Plaintiff and Aggrieved Employees were required open and close stores,
21 including, but not limited to disarming/arming the store alarm and unlocking/locking the doors
22 without the payment of any wages for such time. Although Defendant required employees to
23 complete said opening and closing procedures, employees were not paid any applicable
24 minimum wages and/or overtime for the time.

25 20. Further, Defendant failed to pay overtime wages based on the correct regular rate
26 of pay. During workweeks when Aggrieved Employees worked in excess of eight hours in a
27 workday and/or forty hours in a workweek and earned non-discretionary incentive pay during the
28 same workweek, Defendant failed to incorporate the incentive wages in the calculation of the

1 regular rate. Rather, Defendant calculated and paid overtime at 1.5x an employee's base hourly
2 rate of pay. Thus, Aggrieved Employees are owed additional overtime pay based on the correct,
3 higher regular rate of pay.

4 21. Similarly, Defendant failed to pay sick pay wages at the regular rate of pay. As a
5 matter of policy and practice, Defendant failed to incorporate non-discretionary incentive wages
6 into the regular rate of pay for the purpose of paying sick pay. Rather, sick pay wages were paid
7 at an employee's base rate of pay. To date, Aggrieved Employees have yet to receive the
8 underpaid sick pay owed to her. Thus, Aggrieved Employees are owed additional sick pay based
9 on the correct, higher regular rate of pay.

10 22. Additionally, Defendant failed to provide proper duty-free meal and rest periods.
11 Specifically, Defendant routinely required Plaintiff and Aggrieved Employees to work through
12 their meal and rest periods. By way of example, as a matter of policy and practice, Defendant
13 scheduled employees to work solo shifts without any relief for breaks. Consequently, Aggrieved
14 Employees' meal and rest periods were frequently interrupted and shortened.

15 23. Defendant failed to pay premium compensation at the regular rate of pay in lieu of
16 these missed and/or shortened breaks. As a matter of policy and practice, Defendant did not
17 incorporate non-discretionary incentive wages into the regular rate of pay for the purpose of
18 paying break premiums. Rather, break premiums were paid at an employee's base rate of pay. To
19 date, Aggrieved Employees have yet to receive the underpaid break premiums owed to them.
20 Thus, Aggrieved Employees are owed additional break premium pay based on the correct, higher
21 regular rate of pay.

22 24. As a result of the underpayment and/or non-payment of wages, sick pay and break
23 premiums, the wage statements provided to Aggrieved Employees displayed inaccurate net and
24 gross wages earned and total hours worked, in violation of Labor Code section 226(a).

25 25. On or about June 13, 2022, Plaintiff sent written notice to the California Labor &
26 Workforce Development Agency ("LWDA") of Defendant's violations of Labor Code sections
27 201, 202, 203, 204, 226, 226.7, 246, 510, 512, 558, 1194, 1197, 1197.1, pursuant to Labor Code
28

§ 2698, *et seq.*, the Private Attorneys General Act (“PAGA”). To date, the LWDA has not responded to Plaintiff’s written notice.

26. As such, pursuant to Labor Code section 2699(a), Plaintiff seeks recovery of any and all applicable civil penalties for Defendant’s violation of Labor Code section 226 for the time period described above, on behalf of herself and other Aggrieved Employees.

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. Upon the First Cause of Action, for civil penalties pursuant to statute as set forth in California Labor Code sections 226.3 and 2699, and for costs and attorney’s fees;

2. On all causes of action for attorneys’ fees and costs as provided by California Code of Civil Procedure section 1021.5; and

3. For such other and further relief the Court may deem just and proper.

DATED: August 8, 2022

DIVERSITY LAW GROUP, P.C.

By: _____



Larry W. Lee

Kristen M. Agnew

Nicholas Rosenthal

Attorneys for Plaintiff and the Aggrieved
Employees

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PROOF OF SERVICE

(Code of Civil Procedure Sections 1013a, 2015.5)

STATE OF CALIFORNIA]
]ss.
COUNTY OF LOS ANGELES]

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 515 S. Figueroa Street, Suite 1250, Los Angeles, California 90071.

On August 8, 2022, I served the following document(s) described as: **FIRST AMENDED REPRESENTATIVE ACTION COMPLAINT UNDER THE PRIVATE ATTORNEYS GENERAL ACT OF 2004** on the interested parties in this action as follows:

Ellen Arabian-Lee Arabian-Lee Law 2999 Douglas Boulevard, Suite 180 Roseville, California 95661	<i>Attorneys for Defendant Circle Pizza, LLC</i> ellen@arabian-leelaw.com
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 X BY ELECTRONIC SERVICE: Based on a court order I caused the above-entitled document(s) to be served through the ACE Attorney Service E-Filing System at the website www.efile.acelegal.com, addressed to all parties appearing on this proof of service for the above-entitled case. The service transmission was reported as complete and a copy of the filing receipt/confirmation will be filed, deposited, or maintained with the original document(s) in this office.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on August 8, 2022, at Los Angeles, California.



Erika Mejia