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Stefany Simpson

ELECTRONICALLY FILED
Superior Court of California
County of Sacramento
09/09/2025
By: E. Leon Barrientos Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SACRAMENTO

STEFANY SIMPSON, an individual,

Plaintiff,

v.

VALLEY DINER MANAGEMENT INC., a California corporation; and DOES 1 through 10, inclusive,

Defendants.

Case No. 25CV013009

PLAINTIFF STEFANY SIMPSON'S FIRST AMENDED COMPLAINT FOR:

(1) Failure to Pay Overtime Wages (Lab. Code §§ 510, 1194, and IWC Wage Orders)

(2) Failure to Provide Meal and Rest Periods (Lab. Code §§ 226.7, 512, and IWC Wage Orders)

(3) Failure to Provide Accurate Wage Statements (Lab. Code § 226)

(4) Failure to Reimburse Expenses (Lab. Code § 2802)

(5) Violation of Unfair Competition Law (Bus. & Prof. Code § 17200, *et seq.*)

(6) Private Attorneys General Act (Lab. Code § 2698, *et seq.*)

(7) Violation of California Family Rights Act ("CFRA") (Gov. Code § 12945.2)

(8) Retaliation in Violation of CFRA (Gov. Code § 12945.2, subd. (k))

(9) Retaliation (Lab. Code § 1102.5)

(10) Retaliation (Lab. Code § 6310)

<u>JURY TRIAL DEMANDED</u>

Plaintiff Stefany Simpson brings this First Amended Complaint against Defendant Valley Diner Management Inc. and Does 1 through 10, inclusive (collectively, "Defendants"), and alleges as follows:

INTRODUCTION

1. Plaintiff Stefany Simpson ("Plaintiff" or "Ms. Simpson") brings this action against Defendant Valley Diner Management, Inc. ("Defendant" or "Valley Diner") for its blatant violations of California labor laws, intentional misclassification of her employment status, and persistent abusive and retaliatory workplace practices. Despite her diligent performance over a period of many years, Defendant unlawfully classified Ms. Simpson as an exempt employee while regularly requiring her to perform primarily non-exempt tasks, such as serving, cooking, and dishwashing, which consumed more than 50 percent of her working hours.

2. To make matters worse, Valley Diner consistently required Ms. Simpson to work approximately 65 hours per week without appropriate overtime compensation and expected her to remain constantly available and responsive—even on scheduled days off—without any reimbursement for the use of her personal phone. Moreover, when California increased the minimum salary threshold for exempt employees in 2023, Valley Diner knowingly failed to adjust Ms. Simpson's salary to meet these legal requirements, perpetuating her illegal exempt classification.

3. After Ms. Simpson became severely ill with COVID-19 and missed work, Defendant's retaliation escalated. Ms. Simpson was subjected to harsh treatment, threats of pay deductions, and abrupt schedule changes intentionally designed to disrupt her family life, knowing that she is a single mother with teenage children. These practices not only violated Ms. Simpson's legal rights but also created an oppressive and intolerable work environment, compelling Ms. Simpson to seek judicial intervention to rectify these injustices, recover her unpaid wages, penalties, and obtain relief for the wrongful conduct she has endured.

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THE PARTIES

4. Plaintiff is an individual residing in Carmichael, California.

5. Defendant Valley Diner is a California corporation with its principal place of business in Fremont, California.

6. Plaintiff is unaware of the true names and capacities of the defendants sued as Does 1 through 10, inclusive, and therefore sues these defendants by fictitious names. Plaintiff will amend this complaint to allege their true names and capacities when the same have been ascertained. Plaintiff is informed and believes that each of the fictitiously named defendants is responsible in some manner for the occurrences herein alleged and that Plaintiff's damages were proximately caused by said defendants' conduct.

7. All the acts and conduct alleged herein were duly authorized, ordered by management-level employees of Defendants. In addition, Defendants participated in the aforementioned conduct of their said employees, agents and representatives, and, upon completion of the aforesaid conduct, officers, directors, and/or managing agents of the Defendants ratified, accepted the benefits of, condoned, lauded, acquiesced, authorized and otherwise approved of the conduct alleged herein.

VENUE AND JURISDICTION

8. The wrongful conduct alleged against the Defendants occurred in the County of Sacramento, California. At all times relevant hereto, the conduct at issue was part of a continuous and ongoing pattern of behavior.

9. This Court is the proper forum to adjudicate this action because the wrongful acts that are the subject of this action occurred here and because Defendants now reside in its jurisdictional area.

10. Plaintiff has complied with and/or exhausted any applicable claims statutes and/or administrative and/or internal remedies and/or grievance procedures, and/or is excused from complying therewith. Plaintiff was issued a right-to-sue notice on or about April 17, 2025. A true and correct copy of Plaintiff's "Right to Sue" letter is attached as **Exhibit A**.

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GENERAL ALLEGATIONS

11. Ms. Simpson began working for Valley Diner as a server on or about June 1, 2015.

12. In or around 2018, Ms. Simpson was promoted to shift lead. In 2021, because of her excellent performance, Ms. Simpson was promoted to assistant manager, although in reality her job duties were that of a general manager, as she was the highest-ranking employee at her restaurant location. Ms. Simpson's direct supervisor was District Manager Kristen Johnson ("Ms. Johnson")

13. Valley Diner classified Ms. Simpson as exempt and paid her $60,000 per year.

14. Ms. Simpson's day-to-day job duties included management duties as well as filling in for hourly employees when needed.

15. However, Ms. Johnson instructed Ms. Simpson to keep labor costs as low as possible and required her work in serving, cooking, and dishwashing role rather than pay hourly workers overtime or hire more hourly workers.

16. As a result, serving, cooking, washing dishes, and other non-exempt tasks took up more than 50 percent of Ms. Simpson's working hours.

17. Ms. Simpson worked, on average, 65 hours per week, and was expected to be on call at all times, even her days off, in the event an issue arose at her restaurant location. Ms. Simpson went to the restaurant on most of her scheduled days off to cover for employees who called out sick or to take care of other issues.

18. Even when Ms. Simpson did not have to come to the restaurant on her days off, she regularly received calls during her time off and was required to respond to them immediately.

19. Ms. Simpson used her personal phone for these calls and was not reimbursed by Valley Diner for any of her cellular phone bill.

20. Knowing that there was very high turnover in managers at Valley Diner, Ms. Simpson did not complain about being misclassified as exempt for fear of retaliation.

21. Ms. Simpson did, however, repeatedly complain about safety issues at her worksite. At the time that Ms. Simpson was promoted to Assistant Manager, the roof of the restaurant she

oversaw was badly damaged and had no fewer than five separate leaks in both the back and front of house areas. To her knowledge, this issue had been going on for several years. These leaks created hazards for both employees and restaurant customers, as well as risk of damage to restaurant property.

22. Over the course of Ms. Simpson's tenure at this restaurant location, at least five additional leaks opened, and Ms. Simpson submitted no fewer than five facilities repair requests to Ms. Johnson. No repairs were made between 2021 and early 2025.

23. In 2023, California raised the minimum salary for exempt employees to $64,480. However, Valley Diner did not raise Ms. Simpson's pay but continued to classify her has an exempt employee.

24. In or about July 2024, Ms. Simpson observed that Ms. Johnson was treating her more harshly than other employees and frequently chastised her for "not working hard enough" even though Ms. Simpson worked 10 to 12 hours per day.

25. In or around early February 2025, Ms. Simpson contracted COVID-19 and missed five days of work due to being severely ill.

26. In response, Ms. Johnson threatened to dock Ms. Simpson's pay because she did not have enough sick leave.

27. When Ms. Simpson returned to work, Ms. Johnson changed Ms. Simpson's schedule from day shift to night shift with only six hours' notice that her schedule was changing.

28. Ms. Johnson is aware that Ms. Simpson is a single mother and that a night shift schedule would be particularly challenging for her with two teenage children in her home.

29. Further, Ms. Simpson was still scheduled to work the day shift on the weekends. So, her Friday shift ended at 12:00 a.m. Saturday morning and she was expected to report to work at 6am on Saturday morning for the day shift.

30. Following Ms. Simpson's illness, Ms. Johnson began moving her to different locations. Soon a pattern emerged, a few days after Ms. Johnson was transferred to a new location, the restaurant would be inspected either by Valley Diner or a local authority like the health

department. If the restaurant failed the inspection, Ms. Johnson held Ms. Simpson responsible, even if she had only been working at the store for a few days.

31. It became clear that Ms. Johnson was building a file to terminate Ms. Simpson.

32. In late February or early March, after being assigned a new location, Ms. Simpson discovered an employee who was not on the schedule was being paid for 20 hours of work per week.

33. Ms. Johnson asked General Manager Danielle Harrington ("Ms. Harrington") about the employee. Ms. Harrington stated the employee was Ms. Simpson's son and that she had instructed Ms. Harrington to input his hours manually each pay period.

34. Although Ms. Simpson's son did not work for Valley Diner in any capacity, his pay came out of the locations labor budget, making it impossible for Ms. Johnson to keep the restaurant properly staffed, increasing her load of non-exempt tasks.

35. On or about March 17, 2025, Ms. Johnson instructed Ms. Simpson to not report to work that day, because the location she was currently working at had failed an inspection.

36. The following day, Ms. Johnson instructed Ms. Simpson to report to work and demanded that she step down from being assistant manager to be a cook. Ms. Simpson refused and to date continues to be assigned assistant manager and GM duties.

37. On or about March 20, 2025, Ms. Johnson transferred Ms. Simpson to yet another location.

FIRST CAUSE OF ACTION

Failure to Pay Overtime Wages (Lab. Code §§ 510, 1194, and IWC Wage Orders)

(Against All Defendants)

38. Plaintiff incorporates all preceding paragraphs of this Complaint as though set forth fully herein.

39. At all times relevant to this complaint, Plaintiff was employed by Valley Diner.

40. By the course of conduct set forth above, Defendants violated Labor Code sections 510, 1194, and relevant IWC Wage Orders.

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41. The Labor Code requires employers, such as Defendants, to pay overtime compensation to all non-exempt employees.

42. At all relevant times, Plaintiff was a non-exempt employee entitled to be paid proper overtime compensation for all overtime hours worked.

43. Labor Code section 510 and the applicable Wage Orders require that an employer compensate all work performed by an employee in excess of eight hours in one workday or in excess of forty hours in any one workweek, and all work performed by an employee during the first eight hours worked on the seventh day of work in any one workweek, at one and one-half times the employee's regular rate of pay.

44. Labor Code section 510 and the applicable Wage Orders further require that an employer compensate all work performed by an employee in excess of 12 hours in one workday, and all work in excess of eight hours on any seventh day of a workweek, at twice the employee's regular rate of pay.

45. During the relevant time period, Plaintiff worked in excess of eight hours in a work day and/or 40 hours in a work week, and on occasion over twelve hours in a day for Defendants.

46. Defendants knowingly and willfully failed to pay proper overtime wages earned and due to for overtime hours worked.

47. As a result of Defendants' failure to pay wages earned and due, Defendants violated the Labor Code.

48. As a direct and proximate result of Defendants' unlawful conduct, as set forth herein, Plaintiff has sustained damages, including loss of earnings for hours of overtime worked on behalf of Defendant, prejudgment interest, and attorneys' fees and costs.

SECOND CAUSE OF ACTION

Failure to Provide Meal and Rest Periods (Lab. Code §§ 226.7, 512, and IWC Wage Orders)

(Against All Defendants)

49. Plaintiff incorporates all preceding paragraphs of this Complaint as though set forth fully herein.

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50. At all relevant times, Defendants were aware of and were under a duty to comply with Labor Code sections 226.7 and 512 and applicable sections of IWC Wage Orders.

51. Labor Code section 512 prohibits an employer from employing an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes, or for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes.

52. Section 11 of Wage Order No. 4 provides, and at all times relevant hereto provided, in relevant part that:

> No employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, except that when a work period of not more than six (6) hours will complete the day's work the meal period may be waived by mutual consent of the employer and employee. Unless the employee is relieved of all duty during a 30 minute meal period, the meal period shall be considered an "on duty" meal period and counted as time worked. An "on duty" meal period shall be permitted only when the nature of the work prevents an employee from being relieved of all duty and when by written agreement between the parties an on-the-job paid meal period is agreed to. The written agreement shall state that the employee may, in writing, revoke the agreement at any time. If an employer fails to provide an employee a meal period in accordance with the applicable provisions of this Order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each work day that the meal period is not provided.

53. Section 12 of Wage Order No. 4 provides, and at all times relevant hereto provided, in relevant part that:

> Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10)

> minutes net rest time per four (4) hours or major fraction thereof. However, a rest period need not be authorized for employees whose total daily work time is less than three and one-half (3 ½) hours. Authorized rest period time shall be counted, as hours worked, for which there shall be no deduction from wages. If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this Order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each work day that the rest period is not provided.

54. Labor Code section 226.7 prohibits any employer from requiring any employee to work during any meal or rest period mandated by an applicable IWC wage order, and provides that an employer that fails to provide an employee with a required rest break or meal period shall pay that employee one additional hour of pay at the employee's regular rate of compensation for each work day that the employer does not provide a compliant meal or rest period.

55. Defendants knowingly failed to provide Plaintiff with meal periods as required by law, and knowingly failed to authorize and permit Plaintiff to take rest periods as required by law. Defendants also failed to provide Plaintiff with any payment of meal and rest premiums.

56. Plaintiff has therefore been damaged and is entitled to payment of the meal and rest period premiums as provided by law.

<u>THIRD CAUSE OF ACTION</u>

Failure to Provide Accurate Wage Statements (Lab. Code § 226)

(Against All Defendants)

57. Plaintiff incorporates all preceding paragraphs of this Complaint as though set forth fully herein.

58. Labor Code section 226, subdivision (a) requires employers to provide employees, semi-monthly or at the time of each payment of wages, with a statement that accurately reflects certain itemized information including total number of hours worked.

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59. Defendants knowingly and intentionally failed to furnish Plaintiff with timely and accurate wage statements that accurately reflected the total number of hours worked and wages earned, as required by Labor Code section 226.

60. As a result of Defendants' failure to provide accurate itemized wage statements, Plaintiff suffered actual damages and harm by being unable to determine the amount of overtime worked each pay period in a timely manner, which prevented him from asserting his rights under California law.

61. As a result, Defendants are liable to Plaintiff for the amounts provided by Labor Code section 226, subdivision (e): the greater of actual damages or fifty dollars ($50) for the initial violation and one hundred dollars ($100) for each subsequent violation, up to four thousand dollars ($4,000).

FOURTH CAUSE OF ACTION

Failure to Reimburse Expenses (Lab. Code § 2802)

(Against All Defendants)

62. Plaintiff incorporates all preceding paragraphs of this Complaint as though set forth fully herein.

63. At all relevant times, Plaintiff was an employee covered by Labor Code section 2802. Plaintiff incurred expenses as a direct consequence of discharging her job duties and in obedience to the directions of Valley Diner.

64. The expenses Plaintiff incurred were necessary and reasonable.

65. Valley Diner failed to reimburse Plaintiff for the full amount of the expenses incurred and Plaintiff has consequently suffered damages in an amount to be proven at trial.

FIFTH CAUSE OF ACTION

Violation of Unfair Competition Law (Bus. & Prof. Code § 17200, *et seq.*)

(Against All Defendants)

66. Plaintiff incorporates all preceding paragraphs of this Complaint as though set forth fully herein.

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67. Business and Professions Code section 17200, *et seq.* ("UCL") prohibits any "unlawful, unfair, or fraudulent business act or practice." Defendants have engaged in unlawful activity as follows:

a. Violations of Labor Code sections 226.7 and 512 for failure to provide meal periods and rest breaks;

b. Violations of Labor Code sections 510 and 1194 for failure to pay overtime wages;

c. Violations of Labor Code section 226 for failure to provide accurate wage statements;

d. Violations of Labor Code sections 201-203 for failure to pay accrued wages upon separation of employment;

e. Violations of Labor Code section 1102.5 for terminating Plaintiff in retaliation for his good faith complaints about Defendant's wage and hour violations;

f. Violations of IWC Wage Orders for the same conduct set forth herein; and

68. Plaintiff lost money as a result of Defendants' violations of the unlawful prong of the UCL in the form of lost wages, lost paid time off, and ultimately, the loss of her job and future wages.

69. As a result of its unlawful business practices, Defendants have damaged Plaintiff by wrongfully denying her earned overtime wages, meal periods, rest breaks, and premium compensation.

70. Plaintiff seeks restitution and disgorgement and other appropriate relief available under Business and Professions Code section 17200, *et seq*.

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SIXTH CAUSE OF ACTION

Private Attorneys General Act (Lab. Code § 2698, *et seq.*)

(Against All Defendants)

71. Plaintiff incorporates all preceding paragraphs of this Complaint as though set forth fully herein.

72. Plaintiff is an aggrieved employee under PAGA because she was employed by Defendants during the applicable statutory period and suffered one or more of the Labor Code violations set forth in this Complaint. Plaintiff seeks to recover on her behalf, on behalf of the State, and on behalf of all current and former aggrieved employees of Defendants, the civil penalties provided by PAGA, plus reasonable attorney's fees and costs in this representative action.

73. Plaintiff seeks penalties pursuant to PAGA for violation of the following Labor Code sections:

a. Failure to provide prompt payment of wages to employees upon termination and resignation in violation of Labor Code sections 201-203;

b. Failure to provide accurate itemized wage statements to employees in violation of Labor Code section 226;

c. Failure to maintain accurate payroll records in violation of Labor Code sections 1174 and 1174.5;

d. Failure to reimburse necessary business expenses in violation of Labor Code section 2802;

e. Failure to pay overtime wages in violation of applicable wage orders and Labor Code sections 510, 558, and 1194; and

f. Failure to provide premium pay for missed meal and rest breaks in violation of 226.7.

74. On April 17, 2025, Plaintiff provided the requisite written notice by certified mail to the California Labor and Workforce Development Agency ("LWDA") and to Defendants,

informing them of the provisions of the Labor Code alleged to have been violated, including the facts and theories to support the alleged violations. (Attached as **Exhibit B**). Plaintiff's PAGA case number is No. LWDA-CM-1092965-25.

75. At the time of this filing, the Labor and Workforce Development Agency has not indicated that it intends to investigate Defendants' Labor Code violations discussed in the notice. If it does so, Plaintiff will amend his complaint. Otherwise, Plaintiff may commence a civil action to recover penalties under Labor Code section 2699 pursuant to section 2699.3 for the violations of the Labor Code described in this Complaint. These penalties include, but are not limited to, penalties under Labor Code sections 210, 226.3, 558, 1197.1, and 2699, subdivision (f)(2).

SEVENTH CAUSE OF ACTION

Violation of California Family Rights Act ("CFRA") (Gov. Code § 12945.2)

(Against All Defendants)

76. Plaintiff incorporates all preceding paragraphs of this complaint as though set forth fully herein.

77. Ms. Simpson was eligible for medical leave.

78. Ms. Simpson took leave for her own serious health condition which made her temporarily unable to perform the functions of her job with Valley Diner.

79. Ms. Simpson provided reasonable notice to Valley Diner of her need for medical leave, including the length and expected duration required.

80. Valley Diner refused to return Ms. Simpson to the same or comparable job when her leave ended.

81. Ms. Simpson was harmed as a result and Valley Diner's conduct was a substantial factor in causing her harm.

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EIGHTH CAUSE OF ACTION

Retaliation in Violation of CFRA (Gov. Code § 12945.2, subd. (k))

(Against All Defendants)

82. Plaintiff incorporates all preceding paragraphs of this complaint as though set forth fully herein.

83. Ms. Simpson was eligible for medical leave.

84. Ms. Simpson took medical leave.

85. Valley Diner changed Ms. Simpsons shift after she returned from medical leave.

86. Ms. Simpson's taking of medical leave was a substantial motivating reason for changing her shift.

87. Ms. Simpson was harmed as a result and Valley Diner's retaliatory conduct was a substantial factor in causing her harm.

NINTH CAUSE OF ACTION

Retaliation (Lab. Code § 1102.5)

(Against All Defendants)

88. Plaintiff incorporates all preceding paragraphs of this Complaint as though set forth fully herein.

89. At all times mentioned herein, Defendants employed five or more persons, and Labor Code section 1102.5 was binding on Defendants. This section requires Defendants to refrain from retaliating against any employee as a result of the employee's opposition to practices forbidden by state or federal statute, or practices that violate or do not comply with a local, state, or federal rule or regulation pursuant to Labor Code section 1102.5, subdivision (c).

90. At all relevant times, Plaintiff was an employee of Defendant.

91. As set forth above, Plaintiff complained to Defendants and/or its agents that she was unable to take her meal and rest breaks as required under California law and complained about workplace safety issues.

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92. Plaintiff had reasonable cause to believe that Defendants' failure to provide meal and rest breaks and failure to repair the roof was a violation of law.

93. Plaintiff's complaints were a substantial factor in Defendants' decision to terminate Plaintiff's employment.

94. As a direct and proximate result of Defendants' unlawful conduct, as set forth herein, Plaintiff has sustained, and continues to sustain, damages in the form of lost wages and other employment benefits in an amount in excess of the minimum jurisdictional requirements of this court, the exact amount of which will be proven at trial.

95. As a further legal result of the above-described conduct of Defendants, and each of them, Plaintiff has and will continue to incur attorneys' fees and costs in an amount according to proof.

<u>TENTH CAUSE OF ACTION</u>

Retaliation (Lab. Code § 6310)

(Against All Defendants)

96. Plaintiff incorporates all preceding paragraphs of this Complaint as though set forth fully herein.

97. Plaintiff was an employee of Valley Diner.

98. Plaintiff on her own behalf or on behalf of others, complained to Valley Diner regarding unsafe or unhealthy working conditions.

99. Valley Diner changed Plaintiff's schedule.

100. Plaintiff's complaint was a substantial motivating reason for Valley Diner's decision to terminate her.

101. Plaintiff was harmed and Defendant's conduct was a substantial factor in causing Plaintiff's harm.

102. As a result of Valley Diner's conduct, Ms. Simpson has sustained, and continues to sustain, damages, in the form of lost wages and other employment benefits, and emotional and

physical distress in an amount in excess of the minimum jurisdictional requirements of this court, in an amount to be proven at trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

A. For a total monetary award of $482,428.60 in favor of Plaintiff, comprising;

1. Lost wages in the amount of $108,014.40;
2. Non-economic damages in the amount of $324,313.20;
3. Premium pay in the amount of $45,006.00;
4. Statutory damages in the amount of $4,000.00 pursuant to Labor Code section 226, subdivision (e); and
5. For reimbursement of necessary business expenses in the amount of $1,095.00 pursuant to Labor Code section 2802.

B. For civil penalties under PAGA in the amount of $2,569,600.00, less reasonable attorneys' fees and costs, with 65 percent of the remainder paid to LWDA and 35 percent paid to aggrieved employees;

C. For costs of suit, including attorneys' fees; and

D. For such other relief as the Court deems just and proper.

Dated: September 9, 2025

MILLS SADAT DOWLAT LLP

By: ______________________________
Arash Sadat

Attorneys for Plaintiff
Stefany Simpson

EXHIBIT A

STATE OF CALIFORNIA | Business, Consumer Services and Housing Agency
GAVIN NEWSOM, GOVERNOR
KEVIN KISH, DIRECTOR

Civil Rights Department
651 Bannon Street, Suite 200 | Sacramento | CA | 95811
1-800-884-1684 (voice) | 1-800-700-2320 (TTY) | California's Relay Service at 711
calcivilrights.ca.gov | contact.center@calcivilrights.ca.gov

April 17, 2025

Stefany Simpson
,

RE: **Notice of Case Closure and Right to Sue**
CRD Matter Number: 202504-29019317
Right to Sue: Simpson / Valley Diner Management Inc.

Dear Stefany Simpson:

This letter informs you that the above-referenced complaint filed with the Civil Rights Department (CRD) has been closed effective April 17, 2025 because an immediate Right to Sue notice was requested.

This letter is also your Right to Sue notice. According to Government Code section 12965, subdivision (b), a civil action may be brought under the provisions of the Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint. The civil action must be filed within one year from the date of this letter.

After receiving a Right-to-Sue notice from CRD, you may have the right to file your complaint with a local government agency that enforces employment anti-discrimination laws if one exists in your area that is authorized to accept your complaint. If you decide to file with a local agency, you must file before the deadline for filing a lawsuit that is on your Right-to-Sue notice. Filing your complaint with a local agency does not prevent you from also filing a lawsuit in court.

To obtain a federal Right to Sue notice, you must contact the U.S. Equal Employment Opportunity Commission (EEOC) to file a complaint within 30 days of receipt of this CRD Notice of Case Closure or within 300 days of the alleged discriminatory act, whichever is earlier.

Sincerely,

Civil Rights Department

EXHIBIT B

MSD MILLS SADAT DOWLAT LLP

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O: (213) 628-3856
D: (213) 279-2827
E: arash@msdlawyers.com

April 17, 2025

VIA ELECTRONIC SUBMISSION TO LWDA;
VIA CERTIFIED MAIL TO EMPLOYER

California Labor and Workforce Development Agency
Attn: PAGA Administrator
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102

Valley Diner Management Inc.
3550 Mowry Ave Suite 301
Fremont, CA 94538

Re: Notice of Claim Under Private Attorneys General Act ("PAGA")

Dear LWDA:

My office has been retained by Stefany Simpson ("Plaintiff'') to pursue a PAGA representative action (Lab. Code § 2699, *et seq.*) against Valley Diner Management Inc. ("Defendant"). This letter shall serve as notice, and a request pursuant to Labor Code section 2699.3, that the Labor and Workforce Development Agency ("LWDA") investigate the violations by Defendant described herein against Plaintiff and against other current and/or former employees ("Aggrieved Employees"). If LWDA does not intend to investigate the violations described herein, we respectfully request that the agency specifically notify our office of the same at your earliest possible opportunity

<u>Plaintiff's Employment with Defendant</u>

Defendant owns/owned and operates/operated an industry, business, and establishment within the State of California. Defendant is therefore subject to the California Labor Code, Wage Orders issued by the Industrial Welfare Commission ("IWC"), and the California Business and Professions Code.

Plaintiff is a resident of Sacramento, California, who Defendant misclassified as an exempt employee since 2021. Plaintiff regularly worked more than eight hours in a workday and/or more than 40 hours in a workweek.

Throughout Plaintiff's employment, Defendant failed to pay for all hours worked (including minimum, straight time, and overtime wages), failed to provide Plaintiff with legally compliant meal periods, failed to authorize and permit Plaintiff to take rest periods, failed to furnish accurate wage statements to Plaintiff, and failed to indemnify Plaintiff for expenditures. As discussed below, Plaintiff's experience working for Defendant was typical and illustrative.

<u>Defendant Failed to Pay for All Hours Worked, Including Minimum, Straight Time, and Overtime Wages</u>

Under California law, an employer must pay for all hours worked by an employee. "Hours worked" is the time during which an employee is subject to the control of an employer and includes all the time the employee is suffered or permitted to work, whether or not required to do so.

In addition, Labor Code section 510 provides that employees in California shall not be employed more than eight hours in any workday or 40 hours in a workweek unless they receive additional compensation beyond their regular wages in amounts specified by law. Labor Code sections 1194 and 1198 also provide that employees in California shall not be employed more than eight hours in any workday unless they receive additional compensation beyond their regular wages in amounts specified by law. Additionally, Labor Code section 1198 states that the employment of an employee for longer hours than those fixed by the IWC is unlawful.

Throughout the statutory period, Defendant maintained a policy and practice of not paying Plaintiff and the Aggrieved Employees for all hours worked, including minimum, straight time, and overtime wages. Defendant required Plaintiff and the Aggrieved Employees to work "off-the clock," uncompensated, by, for example, requiring Plaintiff and the Aggrieved Employees to perform work during unpaid meal periods and after clocking out for the workday. Some of this unpaid work should have been paid at the overtime rate. In failing to pay for all hours worked, Defendant also failed to maintain accurate records of the hours Plaintiff and the Aggrieved Employees worked.

Throughout the statutory period, Defendant used a system of time rounding and/or synthetic timekeeping that resulted, over a period of time, in failing to compensate Plaintiff and the Aggrieved Employees properly for all the time they have actually worked, even though the realities of Defendant operations are such that it is possible, practical, and feasible to count and pay for work time to the minute. Accordingly, Defendant frequently paid Plaintiff and the Aggrieved Employees less than all their work time. Some of this unpaid work also should have been paid at the overtime rate. In failing to pay for all hours worked, also failed to maintain accurate records of the hours Plaintiff and the Aggrieved Employees worked.

As a result, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code sections 210, 1197.1, and 2699, subdivision (t)(2) for failing to pay for all hours worked, including minimum, straight time, and overtime wages.

<u>Failure to Authorize and Permit Rest Periods</u>

Employers are required by California law to authorize and permit breaks of 10 uninterrupted minutes for each four hours of work or major fraction of four hours (*i.e.*, more than two hours). Thus, for example, if an employee's work time is six hours and ten minutes, the employee is entitled to two rest breaks. Each failure to authorize rest breaks as required is itself a violation of California's rest break laws.

Throughout the statutory period, Defendant has wrongfully failed to authorize and permit Plaintiff and the Aggrieved Employees to take legally compliant rest periods. Defendant regularly required Plaintiff and the Aggrieved Employees to work in excess of four consecutive hours a day without Defendant authorizing and permitting them to take a 10-minute, uninterrupted, duty-free rest period for every four hours of work (or major fraction of four hours), or without compensating Plaintiff and the Aggrieved Employees for rest periods that were not authorized or permitted.

Instead, Defendant continued to assert control over Plaintiff and the Aggrieved Employees by requiring, pressuring, or encouraging them to perform work tasks which could not be completed without working in lieu of taking mandatory rest periods, or by denying Plaintiff and the Aggrieved Employees permission to take a rest period. Accordingly, Defendant's policy and practice was to not authorize and permit Plaintiff and the Aggrieved Employees to take rest periods in compliance with California law.

Plaintiff and the Aggrieved Employees are thus entitled to be paid one hour of additional wages for each workday he or she was not authorized and permitted to take all required rest period(s). Defendant, however, regularly failed to pay Plaintiff and the Aggrieved Employees the additional wages to which they were entitled for rest periods and that they were not authorized and permitted to take.

As a result, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code sections 210 and 2699, subdivision (f)(2) for failing to authorize and permit rest periods and pay rest period premium wages.

Failure to Pay All Earned Wages Twice Per Month

Based on its failure to pay Plaintiff and the Aggrieved Employees for all wages as discussed above, Defendant also violated Labor Code section 204.

Labor Code section 204 requires employers to pay employees all earned wages two times per month. Throughout the statute of limitations period applicable to this cause of action, employees were entitled to be paid twice a month at their regular rates, including all meal period premium wages owed, rest period premium wages owed, and wages owed for overtime hours worked. However, during all such times, Defendant systematically failed and refused to pay the employees all wages due, and failed to pay those wages twice a month, in that employees were not paid all wages for all meal periods not provided by Defendant, all wages for all rest periods not authorized and permitted by Defendant, and all wage for all hours worked. As a result, Defendant owes employees the legally required wages for unpaid wages, and Plaintiff and the Aggrieved Employees suffered damages in those amounts.

Moreover, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code section 210 for failing to pay all earned wages twice per month.

Failure to Maintain Accurate Records of Hours Worked and Meal Periods

Plaintiff seeks penalties under Labor Code section 1174, subdivision (d). Under Labor Code section 1174.5, any person, including any entity, employing labor who willfully fails to maintain accurate and complete records required by Labor Code section 1174 is subject to a penalty under section 1174.5. Pursuant to IWC Wage Order § 7(A)(3), every employer shall keep time records showing when the employee begins and ends each work period. Meal periods and total hours worked daily shall also be recorded.

Defendant, however, failed to maintain accurate records of hours worked and all meal periods taken or missed by Plaintiff and the Aggrieved Employees.

Defendant's failure to provide and maintain records required by the Labor Code and the applicable IWC Wage Order deprived Plaintiff and the Aggrieved Employees the ability to know, understand and question the accuracy and frequency of meal periods, and the accuracy of their hours worked stated in Defendant's records. Therefore, Plaintiff and the Aggrieved Employees had no way to dispute the resulting failure to pay wages, all of which resulted in an unjustified economic enrichment to Defendant. As a direct result, Plaintiff and the Aggrieved Employees have suffered and continue to suffer, substantial losses related to the use and enjoyment of such wages, lost interest on such wages and expenses and attorney's fees in seeking to compel Defendant to fully perform its obligation under state law, all to their respective damage in amounts according to proof at trial. As a result of Defendant's knowing failure to comply with the Labor Code and applicable IWC Wage Order, Plaintiff and the Aggrieved Employees have also suffered an injury in that they were prevented from knowing, understanding, and disputing the wage payments paid to them.

Failure to Provide Accurate Itemized Wage Statements

Labor Code section 226, subdivision (a) provides that every employer shall furnish each of his or her employees an accurate itemized wage statement in writing showing nine pieces of information, including: (1) gross wages earned; (2) total hours worked by the employee; (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item; (5) net wages earned; (6) the inclusive dates of the period for which the employee is paid; (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number; (8) the name and address of the legal entity that is the employer; and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. An employee is presumed to suffer an injury if this information is missing. (Lab. Code § 226, subd. (e)(2)(B)(iii).)

The statute further provides that "[a]n employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars ($50) for the initial pay period in which a violation occurs and one hundred dollars ($100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars ($4,000), and is entitled to an award of costs and reasonable attorney's fees." (Lab. Code § 226, subd. (e)(1).)

Throughout the statutory period, Defendant or failed to furnish Plaintiff and the Aggrieved Employees with accurate, itemized wage statements showing all applicable hourly rates, and all gross and net wages earned (including correct hours worked, correct wages for meal periods that were not provided in accordance with California law, and correct wages for rest periods that were not authorized and permitted to take in accordance with California law).

Because Defendant violated Labor Code § 226, Plaintiff and similarly Aggrieved Employees suffered injury and damage to their statutorily protected rights. Accordingly, Plaintiff and similarly Aggrieved Employees are entitled to recover from Defendant the greater of their actual damages caused by Defendant's failure to comply with Labor Code § 226(a), or an aggregate penalty not exceeding four thousand dollars ($4,000) per employee.

Moreover, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 226.3 for failing to furnish accurate itemized wage statements.

<u>Failure to Reimburse Necessary Expenditures</u>

Labor Code section 2802, subdivision (a) provides that employers shall indemnify employees for all necessary business expenditures or losses that have been incurred by the employees in direct discharge of their duties. Throughout the statutory period applicable to this cause of action, Defendant wrongfully required Plaintiff and the Aggrieved Employees to pay expenses that they incurred in direct discharge of their duties for Defendant. Plaintiff and the Aggrieved Employees regularly paid out-of-pocket for necessary employment-related expenses, including, without limitation, work-related equipment, work attire, and use of personal cellular phones. Plaintiff and the Aggrieved Employees incurred substantial expenses as a direct result of performing their job duties for Defendant, but Defendant or failed to indemnify Plaintiff and the Aggrieved Employees for these employment-related expenses.

As a result, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code sections 2802 and 2699, subdivision (f)(2) for failing to indemnify Plaintiff and the Aggrieved Employees for necessary business expenditures.

<u>Statement of Specific Provisions of the Labor Code Violated</u>

Plaintiff alleges that Defendant violated the following provisions of the Labor Code with respect to the Aggrieved Employees:

(1) Labor Code sections 204, 510, 1194, 1197, and 1198 by failing to pay for all hours worked, including minimum wages, straight time wages, and overtime wages;

(2) Labor Code section 226.7 and applicable IWC Wage Orders by failing to provide meal periods;

(3) Labor Code section 226.7 and applicable IWC Wage Orders by failing to authorize and permit rest periods;

(4) Labor Code section 204 by failing to pay all earned wages twice per month;

(5) Labor Code section 1174.5 and applicable IWC Wage Orders by failing to maintain accurate records of hours worked and meal periods taken or missed;

(6) Labor Code section 226 by failing to provide accurate itemized wage statements; and

(7) Labor Code section 2802 by failing to indemnify for necessary expenditures.

Pursuant to PAGA, Plaintiff seeks civil penalties arising from these violations. These include, but are not limited to, penalties under Labor Code sections 210, 226.3, l 174.5, 1197.l, and 2699, subdivision (f)(2).

This letter shall serve as Plaintiff's notice pursuant to Labor Code section 2699.3 and we ask that LWDA conduct an investigation concerning the violations described herein. Alternatively, if LWDA does not intend to investigate these violations, we ask that it issue a notification letter to our office confirming the same so that we may proceed with our civil action asserting the PAGA claims described herein.

Please feel free to contact me if you have any questions or if you would like to discuss this matter further. Nothing in this letter is intended to be, or should be construed as, an admission against the interests of Plaintiff or other current or former employees of Defendant and shall not be construed as a waiver of their rights, remedies, claims, or defenses, all of which are expressly reserved.

Sincerely,

Arash Sadat