

**ELECTRONICALLY
FILED**
*Superior Court of California,
County of San Francisco*
08/18/2025
Clerk of the Court
BY: MARIVIC VIRAY
Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO

Case No:

COMPLAINT FOR:

1. RETALIATION PURSUANT TO LABOR CODE § 1102.5 (Individual Only);
2. MEAL AND REST PERIOD VIOLATIONS PURSUANT TO LABOR CODE § 2698 *et seq.* (Individual and Representative);
3. FAILURE TO PAY WAGES UPON SEPARATION PURSUANT TO LABOR CODE § 2698 *et seq.* (Individual and Representative);
4. FAILURE TO TIMELY PAY WAGES PURSUANT TO LABOR CODE § 2698 *et seq.* (Representative Only).

Defendants.

[JURY TRIAL DEMANDED]

COMES NOW Plaintiff JACK OSKANIAN (“Plaintiff”), in an Individual and Representative capacity on behalf of all aggrieved employees alleges for his complaint as follows:

PARTIES, JURISDICTION, AND VENUE

1. This Court has jurisdiction over this matter in that all parties are residents of, or do business within, the State of California and the amount in controversy exceeds the statutory minimum limit of this Court. The monetary damages and restitution sought by Plaintiff exceed the minimal jurisdiction limits of the Superior Court and will be established according to proof at trial. Furthermore, there is no federal question at issue as Wage and Hour protections and remedies related thereto are based solely on California Law and Statutes, including the Labor Code, Civil Code, and IWC Wage Order(s). Also, the Ninth Circuit has recently held that, for purposes of establishing federal diversity jurisdiction, penalties pursuant to the Private Attorneys General Act of 2004 (“PAGA”) may not be aggregated. *Urbino v. Orkin Servs. of California, Inc.*, 726 F.3d 1118, 1122 (9th Cir. 2013).
2. Venue before this Court is proper in that certain wrongful acts which gave rise to Plaintiff injuries occurred in the County of San Francisco, State of California.
3. Plaintiff is informed and believes and thereon alleges that at all relevant times mentioned herein, Defendant CASA ELENA, LP (“Casa Elena” or “Defendant”) was and is a California Limited Partnership doing business in the County of San Francisco, State of California.
4. Plaintiff is informed and believes and thereon alleges that at all relevant times mentioned herein, Defendant ORIGINAL JOES RESTAURANT, LLC (“Original Joe’s” or “Defendant”) was and is a California Limited Liability Company doing business in the County of San Francisco, State of California.
5. Plaintiff is presently unaware of the true names, capacities and liability of Defendants named herein as DOES 1 through 10, inclusive. Accordingly, Plaintiff will seek leave of

1 court to amend this complaint to allege their true names and capacities after the same have
2 been ascertained.

3 6. Plaintiff is informed and believes and thereon alleges that each of the fictitiously named
4 Defendant is responsible in some manner for the wrongs and damages as herein alleged,
5 and in so acting was functioning as the agent, servant, partner, and employee of the co-
6 Defendant, and in doing the actions mentioned below, was acting within the course and
7 scope of his or her authority as such agent, servant, partner, and employee with the
8 permission and consent of the co-Defendant. Plaintiff injuries as herein alleged were
9 proximately caused by said Defendant. Wherever it is alleged herein that any act or
10 omission was done or committed by any specially named Defendant or Defendants,
11 Plaintiff intends thereby to allege and does allege that the same act or omission was also
12 done and committed by each and every defendant named as a DOE, both separately and in
13 concert with the named Defendant or Defendants.

14 7. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them,
15 including DOES 1 through 10, are and at all times herein mentioned were either
16 individuals, sole proprietorships, partnerships, registered professionals, corporations, alter
17 egos or other legal entities which were licensed to do and/or were doing business in the
18 County of San Diego, State of California at all times relevant to the subject matter of this
19 action.

20 **FACTUAL BACKGROUND**

21 8. On or around July 2024, Plaintiff JACK OSKANIAN commenced working for
22 Defendants. Plaintiff's employment with Defendants lasted until April 6, 2025.

23 9. Throughout the term of his employment, Plaintiff and all other aggrieved employees were,
24 and currently are, denied the benefits and protections of the Labor Code due to
25 Defendants' institutionalized pay practices, standard as to all of Defendants' California-
26 based employees.

27 10. Defendant Casa Elena is a restaurant owned and operated by their parent company
28 Defendant Original Joe's Restaurant. Defendant Original Joe's has at least three restaurant

1 locations along with Defendant Casa Elena. Throughout Plaintiff's employment,
2 Defendant Original Joe's controlled the employment policies and procedures of Defendant
3 Casa Elena's employment practices.

4 **Plaintiff Was Hired by Defendant**

- 5 11. Plaintiff was hired in July 2024 to work for Defendants as a host and busser. Plaintiff had
6 approximately five years of experience in the service industry. Plaintiff's job duties
7 included showing customers to their table, organizing seating arrangements, providing
8 food and drinks to customers, bussing tables, ensuring that customers had adequate
9 silverware and plates, and providing customer service.
- 10 12. Throughout his employment with Defendants, Plaintiff performed his job in a capable and
11 competent manner and was commended for doing so. Plaintiff would be told by his
12 supervisors that he is an excellent host and friendly to customers.
- 13 13. During his employment, Plaintiff, and other employees, consistently worked in excess of
14 six hours per day without a Meal or Rest Period.
- 15 a. Oftentimes, Plaintiff and other employees were not permitted to take a Meal
16 Period at all. On the occasions when a Meal Period was allowed, supervisors
17 instructed Plaintiff and other employees to take their 30-minute Meal Period
18 immediately at the start of their shift.
- 19 b. Additionally, Plaintiff and other employees were denied Rest Periods. Plaintiff
20 and other employees often requested to take a Rest Period, but were not permitted
21 to, as explained below. This unlawful practice continued throughout Plaintiff's
22 time working for Defendants.

23 **Plaintiff Complained About Rest Periods**

- 24 14. In August 2024, Plaintiff asked his supervisor Guillermo (Last Name Unknown) when he
25 could take his 10-minute Rest Period and Guillermo responded by stating "Not right
26 now," or words to that effect. When Plaintiff asked again, Guillermo told him "No, this is
27 how we do business here, you cannot take these breaks in the middle of your shift," or
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word to that effect. Defendants’ failure to provide required Rest Periods negatively impacted Plaintiff’s working conditions, causing fatigue and exhaustion during his shifts.

15. Soon after Plaintiff complained about the denial of Rest Periods, Plaintiff received less shifts. Initially, Plaintiff was scheduled to work four days a week from the time he first started working, up until he complained to Guillermo. After he complained to Guillermo, Plaintiff was scheduled only one to two days a week between September and November of 2024. During that period, there were weeks when Plaintiff was not scheduled to work at all.

16. From November 2024 until his termination in April 2025, Plaintiff was scheduled to work only one to two days per week, despite repeatedly requesting additional shifts, and continuing to raise concerns regarding the lack of Rest Periods.

17. On April 6, 2025, after Plaintiff clocked in and took his involuntary Meal Period at the start of his shift, Guillermo instructed Plaintiff to meet him in his office. Guillermo informed Plaintiff that he was being terminated and needed to sign a “last shift” document. When Plaintiff asked why he was being terminated, Guillermo responded, “It’s best for you and the company,” or words to that effect. Plaintiff was completely shocked and distressed, as he believed his termination was a result of his complaints regarding Rest Periods. Plaintiff had never received any discipline and does not believe there was a lawful reason to terminate his employment.

18. Plaintiff’s termination was the culmination of a pattern of retaliatory conduct following his complaints about Defendants’ unlawful denial of Meal and Rest Periods.

REPRESENTATIVE ALLEGATIONS

19. As more specifically set forth below, Plaintiff brings this action in a representative capacity on behalf of all current and former nonexempt employees of Defendants. Code Civ. Proc. § 2699; *Arias v. Superior Court* (2009) 46 Cal. 4th 969, 980-981. Throughout the operative limitations period, Plaintiff and all other aggrieved employees were denied the protections and benefits of the Labor Code and Industrial Welfare Commission (“IWC”) Wage Order(s) due to Defendants’ standard practices. Throughout their

1 employment, Plaintiff and the other aggrieved employees were and are denied meal and
2 rest periods and meal and rest period payments, in violation of, *inter alia*, IWC Wage
3 Order 5 (or any other applicable Wage Order) and Labor Code §§ 226.7 and 512.
4 Defendants failed to provide all compensation due at termination of employment in
5 violation of, *inter alia*, Labor Code §§ 201 through 203.

6 20. Plaintiff brings this action on the grounds that he and other similarly situated current and
7 former employees of Defendants were and are improperly denied the mandated wages and
8 reimbursements resulting from the above-referenced violations. Code Civ. Proc. § 2699;
9 *Arias*, 46 Cal. 4th at 980-981. The number of current and former aggrieved employees is
10 believed to exceed one hundred (100) aggrieved employees.

11 21. The approximately one hundred (100) aggrieved employees are comprised of all of
12 Defendants' current and former California-based employees, designated as "nonexempt"
13 by Defendants. Defendants' standard policies and practices which lead to Labor Code
14 violations, as alleged herein, applied to all California nonexempt employees.

15 22. There are questions of fact and law common to all aggrieved employees arising from
16 Defendants' actions include, among others, the following:

- 17 a. Whether Defendants failed to provide its employees with statutorily-compliant
18 Meal and/or Rest Periods, in violation of, *inter alia*, California Labor Code §§ 512
19 and 226.7, in that Defendants' written policies and practices are not compliant
20 with California law, Defendants does not allow its employees duty-free Meal
21 and/or Rest Periods, and Defendants improperly "rounds" employees' recorded
22 Meal Periods;
- 23 b. Whether Defendants failed to properly provide Meal and Rest Period premiums in
24 accordance with law;
- 25 c. Whether Defendants failed to properly calculate and pay its employees Overtime
26 compensation or Meal and Rest Period premiums in accordance with law by
27 failing to properly calculate, into the Regular Rate of Pay, the value of employee
28 benefits;

- 1 d. Whether Defendants failed to provide all compensation upon termination of
2 employment in violation of Labor Code §§ 201-203, due, in part, to the fact that
3 Defendants failed to provide proper compensation for all hours worked, as
4 discussed above; and
- 5 23. At all times mentioned herein, Defendants were subject to the Labor Code and Industrial
6 Welfare Commission Wage Orders of the State of California, including, but not limited to,
7 California Labor Code § 2698 *et seq.*
- 8 24. At all times mentioned herein, Defendants are and were “employers” as that term is used
9 within the relevant sections of the California Labor Code and the applicable wage order.
10 An employer-employee relationship existed between Plaintiff and Defendants.
- 11 25. Plaintiff has exhausted his administrative remedies and pre-filing requirements California
12 Labor Code § 2699.3, and has also fulfilled all notice requirements under the statute. On
13 June 10, 2025 counsel for Plaintiff prepared and electronically submitted a letter to the
14 LWDA via the California Department of Industrial Relations’ “PAGA Filing” website.
15 This letter concerned Casa Elena and Original Joes, and its Labor Code violations. A copy
16 of this letter was also mailed to Defendants, via USPS Certified Mail. The letter contained
17 the specific provisions of the California Labor Code violated by Defendants, as well as the
18 facts and theories in support of Plaintiff’s claims. (Please see **Exhibit 1**, a true and correct
19 copy of this letter.)
- 20 26. The statutory time period for the LWDA to investigate and/or respond, and for the
21 employers to respond, has concluded.
- 22 27. Throughout the operative limitations period, Plaintiff and all other aggrieved employees
23 were denied the protections and benefits of the Labor Code and IWC Wage Order(s) due
24 to Defendants’ standard practices. Said violations are set forth below.

25 **FIRST CAUSE OF ACTION**

26 **Retaliation**

27 **[Cal. Lab. Code § 1102.5]**

28 **Individual Action**

- 1 28. Plaintiff re-alleges and incorporates by reference each and every allegation contained in
2 the preceding and subsequent paragraphs as though fully set forth herein.
- 3 29. California Labor Code § 1102.5(b) provides:
4 An employer, or any person acting on behalf of the employer, shall not retaliate
5 against an employee for disclosing information, or because the employer believes
6 that the employee disclosed or may disclose information, to a government or law
7 enforcement agency, to a person with authority over the employee or another
8 employee who has the authority to investigate, discover, or correct the violation or
9 noncompliance . . . if the employee has reasonable cause to believe that the
10 information discloses a violation of state or federal statute, or a violation of or
11 noncompliance with a local, state, or federal rule or regulation, regardless of
12 whether disclosing the information is part of the employee's job duties.
- 13 30. At all times relevant herein, Plaintiff was an employee of Defendants
- 14 31. Plaintiff disclosed information to Defendants that he reasonably believed constituted
15 violations of the California Labor code, as stated herein, including but not limited to,
16 Defendants' unlawful denial of Meal and Rest Periods and the practice of requiring
17 employees to take involuntary Meal Periods at the start of their shifts before performing
18 any work.
- 19 32. Plaintiff's disclosure of such information was a substantial motivating factor in
20 Defendants' decision to retaliate against him in the terms and conditions of his
21 employment, including but not limited to, reduction of scheduled hours and Plaintiff's
22 termination.
- 23 33. As a direct, foreseeable, and proximate result of Defendants' conduct, Plaintiff has
24 sustained and continues to sustain substantial losses in earnings, employment benefits, and
25 employment opportunities, and has incurred economic losses in an amount to be
26 determined at the time of trial. Plaintiff has taken reasonable steps to mitigate these
27 damages.
- 28 34. In addition to such other damages as may properly be recovered herein, Plaintiff is entitled
to a \$10,000 penalty for each violation of Cal. Labor Code § 1102.5, pursuant to Cal.
Labor Code § 1102.5(f), and attorney's fees and costs pursuant to Cal. Code Civ. Proc. §
1021.5.

SECOND CAUSE OF ACTION

Meal and Rest Period Violations

[Cal. Lab. Code §§ 226.7, 512, and 2698 *et seq.*]

Representative Action and Individual Action

35. Plaintiff hereby incorporates by reference each and every allegation contained in the preceding paragraphs as though fully set forth herein.

36. Labor Code § 1198 states:

The maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.

Defendants violated this section by establishing working conditions below the standard of the applicable Wage Order.

37. Under applicable California law, “An employer may not employ 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 [...] An employer may not employ an employee 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” Lab. Code § 512(a); see also 8 Cal. Code Regs. § 11050 (11)(A)(B).

38. Unless the employee is relieved of all duty during a thirty (30) minute Meal Period, the Meal Period shall be considered an “on duty” Meal Period and counted as time worked. 8 Cal. Code Regs. § 11050 (11).

39. California law requires employers to provide nonexempt employees with a 10-minute Rest Period for every four hours worked, or “major fraction thereof.” 8 Cal. Code Regs. § 11050 (12).

40. An employer who fails to provide Meal or Rest Periods as required by an applicable Wage Order must pay the employee one additional hour of pay at the employee’s regular rate of pay for each workday that the Meal or Rest Period was not provided. Lab. Code § 226.7(b); 8 Cal. Code Regs. § 11050 (11), (12).

- 1 41. Within the operative time period, Defendants failed to possess compliant Meal and Rest
2 Period policies or practices.
- 3 42. For example, Defendants denied Plaintiff and all other employees Rest Periods during
4 their shifts. Defendants' Rest Period practice does not provide the right for employees to
5 "leave the premises," by requiring employees to remain on the job site during Rest
6 Periods.
- 7 43. These violations are due, in part, to the fact that Defendants did not possess a legal Rest
8 Period policy or practice, as its Rest Period policy lacks required language, resulting in
9 employees failing to receive all Rest Periods legally due. Defendants did not provide Rest
10 Periods, as defined by California law. Further, Defendants rarely, if ever provided Rest
11 Period penalty payments to employees when earned.
- 12 44. Defendants also did not possess a legal Meal Period policy, and made no attempt to ensure
13 that its employees are either timely or wholly provided Meal Periods. The employees
14 would often either miss a Meal Period entirely or be provided the Meal Period at the start
15 of their shift, which defeats the purpose of the break.
- 16 45. Defendants' practices included requiring Plaintiff and other employees to take their 30-
17 minute Meal Period at the start of their shift while being required to stay on the premises.
18 Defendants would not allow Plaintiff or other employees to have the option of taking their
19 Meal Period during their shift.
- 20 46. Moreover, Defendants' policies and practices preclude "duty-free" Meal and Rest Periods,
21 in that the employees are required to remain "On Call" at all times, including during the
22 Meal and Rest Periods, in order to (among other reasons) respond to supervisors and
23 vendors. These institutional and established practices of Defendants are illegal, in that
24 Plaintiff and all other aggrieved employees were denied proper and/or timely Meal and
25 Rest Periods.
- 26 47. Defendants willfully failed and refused to pay Plaintiff and all other aggrieved employees
27 one additional hour of pay at their regular rate of pay for all workdays that a Meal or Rest
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1 Period was not provided, as required by Labor Code § 226.7 and IWC Wage Order 5 (11),
2 (12).

3 48. As a direct result of Defendants' failure to comply with the foregoing provisions of the
4 Labor Code, Plaintiff and all other aggrieved employees have been damaged in an amount
5 to be proven at trial.

6 49. As California Labor Code § 2699 provides for civil penalties recoverable by Plaintiff on
7 behalf of himself and all other aggrieved employees by and through Labor Code § 2699.3,
8 and as Plaintiff has complied with all pre-filing requirements, Plaintiff may recover these
9 penalties pursuant to Labor Code § 2699, as more specifically set forth in the below
10 Prayer For Relief.

11 50. Plaintiff seeks an award of statutory civil penalties for each underpaid employee of
12 Defendants pursuant to Labor Code § 2699(a) for each of these employees.

13 51. Plaintiff also seek an award of reasonable attorney's fees and costs pursuant to Labor
14 Code § 2699(g)(1), and interest, pursuant to Labor Code § 218.6.

15 **THIRD CAUSE OF ACTION**

16 **Failure to Pay Wages Upon Separation**

17 **[Cal. Lab. Code §§ 201-203, 2698 *et seq.*]**

18 **Representative and Individual Action**

19 52. Plaintiff hereby incorporates by reference each and every allegation contained in the
20 preceding paragraphs as though fully set forth herein.

21 53. Defendants willfully failed to provide Plaintiff and other aggrieved employees with all
22 wages earned and unpaid at termination in violation of, among other statutes, Labor Code
23 §§ 201 through 203. These violations resulted from, among other unlawful actions,
24 Defendants' willful failure to provide accurate and complete compensation to aggrieved
25 employees under Labor Code §§ 226.7, 510, 512, and 1197.

26 54. Defendants failed to provide all compensation upon termination of employment in
27 violation of Labor Code §§ 201-203 due, in part, to the fact that Defendants failed to pay
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1 Meal and/or Rest Period penalties. Plaintiff ceased employment with Defendants in or
2 around April 2025 and did not receive all wages due and owed to him.

3 55. As a direct result of Defendants' failure to comply with the foregoing provisions of the
4 Labor Code, Plaintiff and all other aggrieved employees have been damaged in an amount
5 to be proven at trial.

6 56. As a result of Defendants' willful failure to pay wages, in addition to such other damages
7 and penalties as may properly be recovered herein, Plaintiff is entitled to back pay,
8 waiting time penalties, interest, costs, and attorneys' fees pursuant to Labor Code §§ 203,
9 206, 218.5, 218.6, 558, 1194.2, and 1197.1.

10 57. As California Labor Code § 2699 provides for civil penalties recoverable by Plaintiff on
11 behalf of himself and all other aggrieved employees by and through Labor Code § 2699.3,
12 and as Plaintiff has complied with all pre-filing requirements, Plaintiff may recover these
13 penalties pursuant to Labor Code § 2699, as more specifically set forth in the below
14 Prayer For Relief.

15 58. Plaintiff seeks an award of statutory civil penalties for each underpaid employee of
16 Defendants pursuant to Labor Code § 2699(a) for each of these employees.

17 59. Plaintiff also seek an award of reasonable attorney's fees and costs pursuant to Labor
18 Code § 2699(g)(1), and interest, pursuant to Labor Code § 218.6.

19 **FOURTH CAUSE OF ACTION**

20 **Failure to Timely Pay Wages**

21 **[Cal. Lab. Code §§ 204, 2698 *et seq.*]**

22 **Representative Action**

23 60. Plaintiff hereby incorporates by reference each and every allegation contained in the
24 preceding paragraphs as though fully set forth herein.

25 61. Plaintiff and all other aggrieved employees performed work for Defendants, as employees
26 of Defendants, as stated herein. Throughout Plaintiff's and all other aggrieved employees'
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1 employment, they earned wages that were not paid to them, as stated herein, in an amount
2 according to proof at trial.

3 62. California Labor Code § 204, applicable at all times relevant herein to Plaintiff's and all
4 other aggrieved employees' employment by Defendants, provides that all wages earned by
5 any person in any employment are due and payable twice during each calendar month.
6 Defendants failed to pay Plaintiff and all other aggrieved employees the wages they were
7 entitled to under the Code.

8 63. As a direct result of Defendants' failure to comply with the foregoing provisions of the
9 Labor Code, Plaintiff and all other aggrieved employees have been damaged in an amount
10 to be proven at trial.

11 64. During their employment, Plaintiff and all other aggrieved employees were and are denied
12 proper wages due, in part, to Defendants' willful failure to provide and compensate for
13 required Meal and Rest Periods.

14 65. As California Labor Code § 2699 provides for civil penalties recoverable by Plaintiff on
15 behalf of himself and all other aggrieved employees by and through Labor Code § 2699.3,
16 and as Plaintiff has complied with all pre-filing requirements, Plaintiff may recover these
17 penalties pursuant to Labor Code § 2699, as more specifically set forth in the below
18 Prayer For Relief.

19 66. Plaintiff seeks an award of statutory civil penalties for each underpaid employee of
20 Defendants pursuant to Labor Code § 2699(a) for each of these employees.

21 67. Plaintiff also seek an award of reasonable attorney's fees and costs pursuant to Labor
22 Code § 2699(g)(1), and interest, pursuant to Labor Code § 218.6.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiff on his own behalf and on behalf of all other aggrieved employees, prays for judgment as follows:

1. For compensatory damages according to proof, as set forth under, *inter alia*, Labor Code §§ 512, 1102.5, 1194, among other statutes;
2. For penalties and restitution of wages according to proof, as set forth under, *inter alia*, Labor Code §§ 221, 226, 226.7, 450 and 1197.1, among other statutes;
3. For special damages in an amount according to proof;
4. For mental and emotional distress damages;
5. For penalties pursuant to Title 8, California Code of Regulations, Wage Order 5 (or any applicable Wage Order);
6. For lost back pay in an amount to be proven;
7. Where available, for liquidated damages pursuant to, *inter alia*, Labor Code § 1194.2;
8. Where available, for an award of interest, including prejudgment interest, pursuant to, *inter alia*, Labor Code § 218.6;
9. For an award of attorneys' fees and costs of suit herein pursuant to, *inter alia*, Labor Code §§ 218.5, 1102.5, 1194, 2699, and Code of Civil Procedure § 1021.5; and
10. For such other relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby requests that this matter be heard and decided by trial by jury.

DATED: August 18, 2025

GRUENBERG LAW



JOSHUA D. GRUENBERG, ESQ.

KATHERINE D. KREBS, ESQ.

Attorneys for Plaintiff

**JACK OSKANIAN in an individual and
representative capacity, and on behalf of other
members of the general public similarly situated**

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EXHIBIT 1

(1) PLAINTIFF’S LETTER FILED WITH THE LABOR AND WORKFORCE
DEVELOPMENT AGENCY

June 10, 2025

Labor and Workforce Development Agency
Attn. PAGA Administrator

Re: Jack Oskanian v. Casa Elena, LP, Original Joes Restaurants, LLC

Dear Administrator:

Please allow this correspondence to serve as “written notice,” as required by California Labor Code section 2699.3(a)(1), of the specific provisions of the California Labor Code believed to have been violated by Casa Elena, LP and Original Joes Restaurants, LLC (collectively “Casa Elena”) in the above-referenced matter. This “written notice” is filed on behalf of Jack Oskanian, and all current and former non-exempt employees employed by Casa Elena. Thank you for your assistance and instruction on this issue.

The specific provisions alleged to have been violated by Casa Elena are as follows:

CALIFORNIA LABOR CODE SECTIONS 201-203, 226.7, 512 as well as IWC Wage Order 5, and any other applicable wage orders, codified as Title 8, California Code of Regulations, section 11050 et seq.

Facts and theories supporting the allegations: Our client, Jack Oskanian, worked as a non-exempt employee employed by Casa Elena from approximately July 1, 2024, until approximately April 6, 2025.

Throughout the term of Mr. Oskanian’s employment, Casa Elena required Mr. Oskanian and all other non-exempt employees to experience actions illegal under the California Labor Code, including the following:

Failure to Provide Compliant Meal Periods

Casa Elena failed to provide compliant meal period in violation of, inter alia, Labor Code 226.7, 512, as well as IWC Wage Order 5, or any other applicable wage orders. For example, despite Casa Elena having a valid and compliant meal period policy, the supervisors or managers fail to uphold their policy and make no attempt to ensure that its employees are either timely or wholly provided meal periods. On the rare occasions employees were permitted to take meal periods, employees would be made to take their meal periods immediately at the beginning of their shifts. These “meal periods” would occur before having to do any sort of minimal work like setting up their workstation or shift prep, and frequently before the employee even clocked in.

Casa Elena would pressure its employees to either skip, or cut short, a meal period as employees were expected to respond to supervisors at all times. Finally, on the rare occasions when employees *were* paid meal period penalties (i.e. California Meal Period Premiums), such payments do not “cure” the stated Labor Code violation under section 226.7. The California Supreme Court held that “An employer’s failure to provide an additional hour of pay does not form part of a section 226.7 violation, and an employer’s provision of an additional hour of pay does not excuse a section 226.7 violation. The failure to provide required meal and rest breaks is what triggers a violation of 226.7.” (*Kirby v. Immoos Fire Protection, Inc.* (2012) 53 Cal.4th 1244, 1256.) Even more recently, a 2020 California Supreme Court ruling stated that, “The remedy for a Labor Code violation, through settlement or other means, is distinct from the fact of the violation itself. For example, employers can pay an additional hour of wages as a remedy for failing to provide meal and rest breaks (§ 226.7, subd. (c).) But we have held that payment of this statutory remedy ‘does not excuse a 226.7 violation.’” *Kim v. Reins International California, Inc.* (2020) 9 Cal.5th 73. To be clear, payment of a meal period penalty to employees does not rectify the violation, it is in fact an admission of a Labor Code violation. Finally, Casa Elena failed to pay Meal Period Premiums at the proper rate, as The School fails to either **(1)** pay a full hours worth of pay, or **(2)** properly calculate the regular rate of pay for purposes of determining the premium rate owed. *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal. 5th 858, 864.

Failure to Provide Compliant Rest Periods

Casa Elena failed to provide compliant rest periods or requisite rest period penalty payments, in violation of, inter alia, Labor Code sections 226.7, 512, and IWC Wage Order 5, and any other applicable wage orders. For example, despite Casa Elena having a valid and compliant rest period policy, the supervisors or managers fail to uphold their policy and make no attempt to ensure that its employees are either timely or wholly provided rest periods. The employees would often either miss a rest period entirely, be provided a short or untimely rest period, even when they were working in excess of 6.5 hours a day. Casa Elena would pressure its employees to either skip, or cut short, a rest period as employees were expected to respond to supervisors at all times. For example, when Mr. Oskanian would ask whether he could take his rest period, his supervisors would say that he could not take it because they were busy and needed him to work. On one occasion, after Mr. Oskanian asked if he could take his rest period, his supervisor Guillermo told him “No, this is how we do business here, you cannot take these breaks in the middle of your shift”. Out of fear of losing his job, Mr. Oskanian complied and worked through his 6-hour shift without a break. Casa Elena has never provided a compliant rest period penalty payment to any employee as to the above-referenced issues. Finally, on the rare occasions in which Casa Elena would provide a rest period penalty, it would pay said penalty at an improper (and *lesser*) rate, due to the failure to properly calculate the regular rate of pay.

Willful Failure to Provide All Compensation to Ex-Employees

Casa Elena failed to provide all compensation upon termination of employment in violation of Labor Code sections 201-203, due in part, to the fact that Casa Elena failed to provide proper compensation for all hours worked, and failed to pay full meal and rest period penalties, as discussed above.

To confirm, Casa Elena, LP is a “person” as defined within California Labor Code section 18.

To confirm, Original Joes Restaurants, LLC is a “person” as defined within California Labor Code section 18.

Again, thank you for your assistance and instruction with this matter. Should you have any questions or comments, please do not hesitate to contact the undersigned.

Very Truly Yours,



Katherine D. Krebs, Esq.

cc: Via Certified U.S. Mail

John A. Duggan
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