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VIA ONLINE FILING
Labor and Workforce Development Agency
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https://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-Act.html

RE: Christopher Corners v. Hyatt Corporation dba Park Hyatt Aviara

Dear Representative:

This office represents Christopher Corners (**"Mr. Corners"**) with respect to his claims under the California Labor Code against Hyatt Corporation dba Park Hyatt Aviara ("**Employer**"). This letter is being sent simultaneously to Employer by certified mail.

Employer currently employs Mr. Corners since approximately July 2, 2012, as an hourly, non-exempt employee. During his employment with Employer, Mr. Corners has served as a Bartender at Employer's location at Ember & Rye, 7447 Batiquitos Dr., Carlsbad, CA 92011. Employer is a steakhouse restaurant within a golf course.

Mr. Corners intends to seek penalties for violations of the California Labor Code which are recoverable under California Labor Code section 2698, *et seq*., the Private Attorneys General Act of 2004 ("**PAGA**"). Mr. Corners is seeking penalties solely in a representative capacity on behalf of the State of California and all current and former non-exempt employees of Employer ("**Aggrieved Employees**"). This letter is being sent in compliance with California Labor Code section 2699.3.

As detailed below, Employer violated several of California's wage and hour laws during Mr. Corners employment, including but not limited to violations of California Labor Code sections 204, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 2800, and 2802, and the Industrial Welfare Commission Wage Orders ("IWC Wage Order") including *inter alia*, IWC Wage Order No. 5. These claims are based upon the following facts and theories:

1. FAILURE TO PAY FOR ALL TIME WORKED AT CORRECT RATES OF PAY, INCLUDING MINIMUM WAGES, STRAIGHT TIME WAGES, AND OVERTIME COMPENSATION

Employer has engaged in numerous unlawful practices which resulted in the failure to pay Mr. Corners and Aggrieved Employees for all time worked at the correct rates of pay, including minimum wages, straight time wages, and overtime compensation.

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First, Employer regularly required Mr. Corners and Aggrieved Employees to work more than eight (8) hours in a day or forty (40) hours in a workweek, but failed to pay them overtime compensation for such work. Employer also failed to provide Mr. Corners and Aggrieved Employees with adequate training as to the payment of overtime compensation, all in an effort to keep its workers uninformed as to their legal right to overtime compensation. In addition, Employer regularly required Mr. Corners and Aggrieved Employees to work off-the-clock in order to complete their duties and responsibilities. This off-the-clock work included, amongst other things, requiring Mr. Corners and Aggrieved Employees to: (1) respond to Employer and work-related requests and perform work while clocked out for purported meal breaks; (2) perform work before clocking in for the start of their shift; and (3) perform work after clocking out for the end of their shift. Mr. Corners and Aggrieved Employees were not compensated for this off-the-clock work, resulting in a failure to pay minimum wages and straight time wages. Moreover, this off-the-clock work typically caused Mr. Corners and Aggrieved Employees to work more than eight (8) hours in a day and forty (40) hours in week, resulting in a failure to pay overtime compensation. Mr. Corners was required to begin working before the start of his scheduled shift in order to complete work-related tasks on time. These tasks consisted of preparing for the day such as restocking silverware, moving kegs and removing cages around liquor. Mr. Corners specifically would come in approximately thirty (30) minutes before the start of his shift on a daily basis to perform off-the-clock work. Additionally, Mr. Corners and Aggrieved Employees were constantly interrupted during their purported meal breaks to respond to and tend to customers due to their inability to take their meal breaks in the appropriate break area as it was constantly full and unavailable. Moreover, Mr. Corners was often required to perform work-related tasks after clocking out of his scheduled shift. This included tasks that were unable to be completed during his scheduled shift but were required to be completed before leaving the job site. Altogether, this cause Mr. Corners to perform substantial off-the-clock work and, as a result, overtime work for which he was not compensated.

In addition to requiring Mr. Corners and Aggrieved Employees to perform work off-the-clock without compensation, Employer also failed to accurately record the actual time worked by Mr. Corners and Aggrieved Employees, which resulted in a failure to pay Mr. Corners and Aggrieved Employees for all hours actually worked, including minimum wages, straight time wages and overtime wages. Finally, and as a matter of policy and/or practice, Employer failed to pay overtime to Mr. Corners and Aggrieved Employees for all overtime hours worked based on regular rates of pay correctly calculated to include all applicable remuneration.

As a result of the foregoing practices, Employer has failed to pay Mr. Corners and Aggrieved Employees for all wages earned at the correct rates of pay, including minimum wages, straight time wages, and overtime compensation. Accordingly, Employer violated IWC Wage Order No. 5 and California Labor Code sections 204, 510, 1194, 1197, 1197.1 and 1198.

Mr. Corners and Aggrieved Employees will therefore seek unpaid wages; PAGA default penalties; penalties pursuant to paragraph (20)(A) of IWC Wage Order No. 5; penalties pursuant to California Labor Code sections 558, 1197.1, and 1199; compensation pursuant to Labor Code Section 1194; and attorneys' fees and costs.

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2. FAILURE TO PROVIDE MEAL PERIODS AND PAY MEAL PERIOD PREMIUMS

Employer failed to provide Mr. Corners and Aggrieved Employees with legally-compliant 30-minute meal periods. Mr. Corners and Aggrieved Employees were required by Employer to work more than five (5) hours per day, but were not provided with timely uninterrupted 30-minute meal periods. Further, Mr. Corners and Aggrieved Employees were not provided with a second uninterrupted 30-minute meal period when they worked over ten (10) hours per day. Employer regularly required Mr. Corners and Aggrieved Employees to work through their first and second meal periods, to take their first meal period after their fifth (5^{th}) hour of work, and/or to take their second meal periods after their tenth (10^{th}) hour of work. Mr. Corners and Aggrieved Employees were frequently taking their meal breaks after the fifth (5^{th}) hour of work due to work demands that did not allow for timely meal breaks. Additionally, Mr. Corners and Aggrieved Employees were instructed to clock out for their meal breaks before the fifth (5^{th}) hour even though they did not take them, to reflect timely meal breaks on their time records. Mr. Corners and Aggrieved Employees consistently missed their meal breaks entirely due to high customer volume and busy work hours. Moreover, Mr. Corners and Aggrieved Employees were not provided with a second (2^{nd}) meal break even when working over ten (10) hours per shift. On the occasions that Mr. Corners and Aggrieved Employees did take a meal period, their meal periods were frequently interrupted or cut short. Mr. Corners and Aggrieved Employees constantly experienced interrupted meal breaks due to the necessity to respond and tend to customers' requests. Additionally, Mr. Corners and Aggrieved Employees regularly experienced their meal breaks cut short due to high work demands.

Employer's policies, practices, and procedures were responsible for the violations alleged above and prevented Mr. Corners and other Aggrieved Employees from taking timely, complete and duty-free meal periods because, amongst other reasons: (1) Employer did not have legally-compliant policies regarding the provision and timing of meal periods or systematically disregarded its own purported meal period policies; (2) Employer's management at various levels, affecting all hourly-non-exempt employees, failed and refused to implement and enforce legally compliant meal period policies and practices; (3) Employer failed to adequately inform and train Mr. Corners and other Aggrieved Employees regarding their right to take timely, uninterrupted, and duty-free meal periods; (4) Employer failed to adequately inform and train Mr. Corners and other Aggrieved Employees about their right to premium wages for non-compliant meal periods; (5) Employer failed to ensure that there was adequate staffing to allow Mr. Corners and other Aggrieved Employees to take timely, uninterrupted, and duty-free meal periods; (6) Employer required Mr. Corners and other Aggrieved Employees to remain on-call and respond to work-related requests at all times, including during meal periods, which included responding to in-person verbal interruptions; and (7) Employer's policy and culture prevented Mr. Corners and other Aggrieved Employees from taking timely, uninterrupted, and duty-free meal periods because of the priority placed on completing job requirements over employees right to receive timely, uninterrupted, and duty-free meal periods.

Mr. Corners and Aggrieved Employees did not receive an extra hour of wages at their regular rate of pay for the meal periods which were not provided to them in compliance with California law.

Accordingly, Employer violated IWC Wage Order No. 5 and California Labor Code sections 226.7, 512(a) and 1198.

Mr. Corners and Aggrieved Employees will therefore seek PAGA default penalties pursuant to Labor Code section 2699; penalties pursuant to paragraph (20)(A) of IWC Wage Order No. 5; penalties pursuant to California Labor Code sections 558 and 1199; and attorneys' fees and costs.

3. FAILURE TO AUTHORIZE AND PERMIT REST PERIODS AND PAY REST PERIOD PREMIUMS

Employer failed to authorize and permit Mr. Corners and Aggrieved Employees take legally-compliant 10-minute rest periods. Employer required Mr. Corners and Aggrieved Employees to work through rest periods. Mr. Corners and Aggrieved Employees were not provided with uninterrupted, duty-free rest periods when they worked more than four (4) hours or a major fraction thereof. Further, Mr. Corners and Aggrieved Employees were not provided with a second uninterrupted, duty-free rest period when they worked more than six (6) hours in a day, or a third uninterrupted, duty-free rest period after working more than ten (10) hours in day. Throughout the entirety of Mr. Corners and Aggrieved Employees employment with the Employer, they were never provided with a single rest break due to high work demands that did not allocate enough time for them to take a rest break. Moreover, Mr. Corners and Aggrieved Employees were not completely relieved of duty as required by *Augustus v. ABM Security Services, Inc.,* 2 Cal.5th 257 (2016).

Employer's policies, practices, and procedures were responsible for the violations alleged above and prevented Mr. Corners and other Aggrieved Employees from taking timely and complete rest periods because, amongst other reasons: (1) Employer did not have legally-compliant policies regarding the provision and timing of rest periods or systematically disregarded its own purported rest period policies; (2) Employer's management at various levels, affecting all hourly-non-exempt employees, failed and refused to implement and enforce legally compliant rest period policies and practices; (3) Employer failed to adequately inform and train Mr. Corners and other Aggrieved Employees regarding their right to take timely, uninterrupted, and duty-free rest periods; (4) Employer failed to adequately inform and train Mr. Corners and other Aggrieved Employees about their right to premium wages for non-compliant rest periods; (5) Employer failed to ensure that there was adequate staffing to allow Mr. Corners and other Aggrieved Employees to take timely, uninterrupted, and duty-free rest periods; and (6) Employer's policy and culture prevented Mr. Corners and other Aggrieved Employees from taking timely, uninterrupted, and duty-free rest periods because of the priority placed on completing job requirements over employees right to receive rest periods.

Mr. Corners and Aggrieved Employees did not receive an extra hour of wages at their regular rate of pay for the rest periods which were not provided to them in compliance with California law.

Accordingly, Employer violated IWC Wage Order No. 5 and California Labor Code sections 226.7, and 1198.

Mr. Corners and Aggrieved Employees will therefore seek PAGA default penalties pursuant to Labor Code section 2699; penalties pursuant to paragraph (20)(A) of IWC Wage Order No. 5; California Labor Code sections 558 and 1199 penalties; and attorneys' fees and costs.

4. FAILURE TO TIMELY PAY WAGES DURING EMPLOYMENT

As to each pay period, Employer has failed to timely pay all wages earned because Mr. Corners and Aggrieved Employees were not paid all the wages they were owed including, *inter alia,* overtime compensation, straight time wages, minimum wages, and meal and rest period premiums. Accordingly, Employer violated California Labor Code section 204(a).

Mr. Corners and Aggrieved Employees will therefore seek PAGA default penalties pursuant to Labor Code section 2699; penalties pursuant to California Labor Code sections 210 and 1199; and attorneys' fees and costs.

5. FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS

As a result of the practices described above, the wage statements provided to Mr. Corners and Aggrieved Employees failed to include the actual hours worked, the actual gross wages earned, and the correct rates of pay. Accordingly, Employer violated California Labor Code section 226(a).

Mr. Corners and Aggrieved Employees will therefore seek PAGA default penalties; penalties pursuant to California Labor Code section 226.3; and attorneys' fees and costs.

6. FAILURE TO MAINTAIN ACCURATE RECORDS

Employer has failed to maintain accurate records relating to Mr. Corners and Aggrieved Employees' work periods, meal periods, total daily hours worked, and total hours worked per payroll period. Mr. Corners and Aggrieved Employees time records were regularly falsified to reflect timely meal breaks even though they would regularly take them after the 5th hour and were never provided with a second (2nd) meal break when working over ten (10) hours. Additionally, Mr. Corners and Aggrieved Employees' meal breaks were constantly interrupted and cut short, even though time records reflected compliant meal breaks. Accordingly, Employer violated IWC Wage Order No. 5 and California Labor Code sections 1198.5 and 1174(d).

Mr. Corners and Aggrieved Employees will therefore seek PAGA default penalties pursuant to Labor Code section 2699; penalties pursuant to paragraph (20)(A) of IWC Wage Order No. 5; California Labor Code section 1174.5 penalties; and attorneys' fees and costs.

7. FAILURE TO REIMBURSE NECESSARY EXPENDITURES

California Labor Code sections 2800 and 2802 require an employer to reimburse its employees for all

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necessary expenditures incurred by the employee in direct consequence of the discharge of his or her job duties or in direct consequence of his or her obedience to the directions of the employer. IWC Wage Order No. 5 requires employers to provide employees with the tools or equipment necessary for the performance of their job. During the relevant time period, Mr. Corners and Aggrieved Employees incurred necessary business-related expenses and costs that were not fully reimbursed by Employer. These costs include, but are not limited to, uniforms and shoes. Mr. Corners and Aggrieved Employees were required to purchase the required uniforms and shoes compliant with safety guidelines in order to perform their duties. These expenses were never reimbursed even when having to constantly replace their required attire.

Accordingly, Employer violated IWC Order No. 5 and California Labor Code sections 2800 and 2802.

Mr. Corners and Aggrieved Employees will therefore seek PAGA default penalties pursuant to Labor Code section 2699; penalties pursuant to paragraph (20)(A) of IWC Wage Order No. 5; and attorneys' fees and costs.

8. UNLAWFUL DEDUCTION, WITHHOLDING, OR COLLECTION OF WAGES PAID

California Labor Code section 221 provides that it is "unlawful for any employer to collect or receive from an employee any part of wages theretofore paid by said employer to said employee." Paragraph 20 of IWC Wage Order No. 5 further provides that "No employer shall collect or deduct from any employee any part of the wage that are paid unless such deductions are allowed by law." Despite this, Employer implemented a policy that allowed Employer to deduct wages for purported "service charges" that were deducted from his wages every pay period. Employer's policy allowing for deduction of wages does not comport with any exception enumerated in California Labor Code section 224, and is therefore unlawful under California law.

Mr. Corners and Aggrieved Employees will therefore seek PAGA default penalties pursuant to Labor Code section 2699; penalties pursuant to Labor Code section 225.5; penalties pursuant to paragraph 20 of IWC Wage Order No. 5; and attorneys' fees and costs.

Therefore, on behalf of the State of California and all Aggrieved Employees, Mr. Corners may seek all applicable penalties related to these violations of the California Labor Code pursuant to PAGA. If you have any questions or require additional information, please do not hesitate to contact us. Thank you for your attention to this matter.

Very Truly Yours,

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