

Nazo Koulloukian, SBN 263809
nazo@koullaw.com
KOUL LAW FIRM
3435 Wilshire Blvd., Suite 1710
Los Angeles, CA 90010
Telephone: (213) 761-5484
Facsimile: (818) 561-3938

Sahag Majarian, Esq. SBN 146621
sahagii@aol.com
Garen Majarian, Esq. SBN 334104
garen@majarianlawgroup.com
MAJARIAN LAW GROUP, APC
18250 Ventura Blvd.
Tarzana, CA 91356
Telephone: (818) 609-0807
Facsimile: (818) 609-0892

Attorneys for Plaintiff,
CLAUDIA ROJAS on behalf of
herself, all aggrieved employees, and the State
of California as a Private Attorneys General

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

CLAUDIA ROJAS, an individual, on behalf of
herself, all aggrieved employees, and the State
of California as a Private Attorneys General,

Plaintiff,

vs.

WESTERN BAGEL BAKING
CORPORATION, a California corporation and
DOES 1-50, inclusive,

Defendant.

Case No.: **23STCV13376**

REPRESENTATIVE ACTION

**Violation of the Private Attorneys General
Act of 2004, Cal. Labor Code §2698 et seq.**

1 Plaintiff CLAUDIA ROJAS brings this PAGA representative action complaint on behalf
2 of herself, all aggrieved employees, and the State of California as a Private Attorneys General, and
3 alleges as follows:

4 NATURE OF THE ACTION

5 1. Plaintiff CLAUDIA ROJAS works as an employee for Defendant WESTERN BAGEL
6 BAKING CORPORATION and Does 1-50 (collectively “Defendant”). Defendant is company
7 engaged in the baking and sale of bagel and related items. Plaintiff CLAUDIA ROJAS worked for
8 Defendant for approximately three years until she was injured in January 2023. Plaintiff brings
9 this action pursuant to the Private Attorneys General Act of 2004 (“PAGA”), Cal. Labor Code
10 §2698 *et seq.*, on a representative basis. All current and former hourly, non-exempt employees of
11 Defendant in California within one year of serving notice on the LWDA to the present are
12 aggrieved employees.

13 2. Defendant failed to comply with California Labor Code requirements due to erroneous,
14 willful and intentional employment practices and policies. Plaintiff brings this representative
15 action on behalf of herself, all other similarly situated aggrieved employees, and the State of
16 California, based upon the claims articulated below. Plaintiff provided notice of her claims
17 pursuant to §2698 *et. seq.*, to the Labor and Workforce and Development Agency (“LWDA”) as
18 illustrated by the attached Exhibit, the content of which is expressly incorporated herein. The
19 LWDA has not provided any notice to Plaintiff following the exhaustion of the 65-day notice
20 period required by 2699.3(a)(2)(B). Accordingly, Plaintiff now brings this Complaint for civil
21 penalties under the Private Attorneys General Act (“PAGA”), Labor Code §2698 *et seq.*

22 3. Defendant has had a consistent policy and/or practice of: (1) failing to comply with
23 California law concerning payment of lawful wage for all hours worked including overtime hours
24 worked; (2) failing to pay minimum wage; (3) failing to provide timely meal breaks; (4) failing to
25 provide rest breaks; (5) failing to provide proper cool-down rest periods; (6) failing to provide safe
26 working conditions; (7) failing to provide suitable seating; (8) failing to reimburse for required
27 business expenses; (9) failing to provide accurate itemized wage statements. Defendant is therefore
28

1 liable for civil penalties under the Cal. Labor Code, including the Private Attorney General Act
2 (“PAGA”), Labor Code §2698 *et seq.*, as described more fully herein.

3 **THE PARTIES**

4 4. Plaintiff CLAUDIA ROJAS is a resident of the State of California and worked for
5 Defendant until January 2023.

6 5. Defendant WESTERN BAGEL BAKING CORPORATION is a California corporation
7 authorized to do business and doing business in California with the capacity to sue and to be sued,
8 and doing business, in the county of Los Angeles, State of California.

9 6. Plaintiff is unaware of the true names, capacities, relationships, and extent of
10 participation in the conduct alleged herein, of the Defendant sued as DOES 1 through 50, but is
11 informed and believes and thereon alleges that said Defendant is legally responsible for the
12 wrongful conduct alleged herein and therefore sues Defendant by such fictitious names, Plaintiff
13 will amend this complaint when their true names and capabilities are ascertained.

14 7. Plaintiff is informed and believes and thereon alleges that each Defendant, directly or
15 indirectly, or through agents or other persons, employed Plaintiff and other aggrieved employees
16 of the representative class, and exercised control over their wages, hours, and working conditions.
17 Plaintiff is informed and believes and thereon allege that each Defendant acted in all respects
18 pertinent to this action as the agent of the other Defendants, carried out a joint scheme, business
19 plan or policy in all respects pertinent hereto, and the acts of each Defendant is legally attributable
20 to the other Defendants.

21 **JURISDICTION AND VENUE**

22 8. Venue is proper in this judicial district because Defendant conducts business in this
23 county and each Defendant has legal obligations to Plaintiff and many of the aggrieved employees
24 in this case that arose in this county.

25 9. The statutory penalties sought by Plaintiff exceeds the minimal jurisdictional limits of
26 the Superior Court and will be established according to proof at trial. Based on information,
27 investigation and analysis, Plaintiff alleges that the amount in controversy, including claims for
28

monetary damages, penalties and attorney's fees is more than twenty-five thousand dollars (\$25,000).

10. The California Superior Court has jurisdiction in this matter because Plaintiff is a resident of California and Defendant is qualified to do business in California and regularly conduct business in California. Further, there is no federal question at issue as the claims herein are based solely on California law.

PAGA REPRESENTATIVE ACTION ALLEGATIONS

11. During the relevant time-period, Defendant committed various violations of the California Labor Code as alleged below in more detail. Defendant enforces multiple policies that violate state law, which are intended to increase profits to the detriment of aggrieved employees.

12. This representative action represents over one hundred current and former aggrieved employees.

13. For at least one (1) year prior to the date of service notice on the LWDA, and continuing to the present, Defendant engaged in unlawful employment practices that resulted in violations of numerous Labor Code sections, as set forth more fully below.

14. Plaintiff and all current and former employees within one year of filing this action to the present are aggrieved employees within the meaning of Labor Code 2699, *et seq.* (See Labor code §2699(c).)

15. Defendant, and each of them, has committed the following violations of the California Labor Code:

Failure to Comply with California Law Concerning Payment of Lawful Wage For All

Hours Worked, Including Overtime Hours Worked

(Cal. Labor Code §§218, 510, 558, 1194, 1197, 1198, 1199, 2698 *et seq.*)

16. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and incorporates said paragraphs herein by reference.

17. Section 2(G) of Wage Order 1 defines "hours worked" as "the time during which an employee is subject to the control of an employer, and including all the time the employee is suffered or permitted to work, whether or not required to do so." When employees like Plaintiff

1 and her coworkers earning at or near minimum wage do not receive payment for all hours worked
2 as a result of unlawful employment practices, the result is that they are earning less than the
3 statutory minimum wages for all hours worked. Defendant has been engaged in many unlawful
4 employment practices which resulted in underpayment for hours worked each pay period,
5 including overtime hours worked, as more fully set forth below. Defendant has also failed to pay
6 the required minimum wage for all hours worked, and has failed to pay all wages owed twice per
7 month.

8 18. Off-the-Clock Hours Worked- Waiting in Required Lines. Plaintiff and aggrieved
9 employees frequently worked off the clock and were routinely subjected to periods wherein they
10 were under the Defendant's control but not compensated for their time. Numerous employees came
11 on shift at the same time which resulted in many employees waiting in required lines to clock in
12 for work to use the biometric timeclock. This time spent waiting in these required lines was
13 required by Defendant prior to each shift and when clocking back in for lunch, and was essential
14 and required before employees could begin and/or resume working on the clock.

15 19. Off-the-Clock Hours Worked. Plaintiff and aggrieved employees frequently worked
16 off the clock and were routinely subjected to periods wherein they were under the Defendant's
17 control but not compensated for their time. Plaintiff and aggrieved employees were required to
18 perform several required duties off the clock, including donning and doffing safety apparel,
19 washing hands, and walking to and from the break area. Defendant has violated Labor Code §§510
20 1194, 1198, 1199 and Wage Order 1. Defendant is liable for civil penalties pursuant to Labor Code
21 §§558 and 2698 *et seq.*

22 20. Work Performed During Unpaid Meal Periods. As more fully set forth below,
23 Defendant failed to permit Plaintiff and others to take timely, off-duty, meal breaks of "not less
24 than 30 minutes" for each five consecutive hours of work in violation of Labor Code §§226.7 and
25 512 due to being required to wait in long lines to clock back in at the end of each meal period.
26 Plaintiff and aggrieved employees have been employed under conditions prohibited by the wage
27 order, and thus Defendant has also violated §§1198 and 1199. Defendant is liable for civil penalties
28 pursuant to Labor Code §§558 and 2699 *et seq.*

1 21. Failure to Pay All Wages Owed Twice Per Month. Defendant was required to pay
2 Plaintiff and employee all wages earned twice during each calendar month pursuant to Labor Code
3 §204(a). Defendant failed to pay all wages earned to employees as a result of the unlawful
4 employment policies and practices discussed herein. As a result of these practices, Plaintiff and
5 aggrieved employees were underpaid for hours worked, including penalty wages, and this
6 underpayment resulted in a failure to pay all wages owed twice per month.

7 **Failure to Pay Minimum Wage**

8 (Cal. Lab. Code §§200, 218.5, 226, 558, 1194, 1194.2, 1197, 1197.2, 1198, 1199, 2698 *et seq*)

9 22. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and
10 incorporate said paragraphs herein by reference.

11 23. Pursuant to Labor Code sections 1194, 1194.2 and 1197, it is unlawful for an employer
12 to suffer or permit a California employee to work without paying wages at the proper minimum
13 wage for all time worked as required by the applicable IWC Wage Order.

14 24. Defendant failed to pay Plaintiff and aggrieved employees for all hours worked as a
15 result of Defendant's practices described above, in addition to failure to pay meal and rest period
16 penalty wages. Based on Defendant's unlawful conduct described above, and because Plaintiff and
17 the aggrieved employees were paid at or near minimum wage, employer's failure to pay for all
18 hours worked, including overtime, resulted in a payment of less than the minimum wage for all
19 hours worked, in violation of Labor Code §1197, 1197.1, 1199 and Wage Order 1-2001 4(B).
20 Defendant is liable for civil penalties pursuant to Labor Code §§558 and 2699 *et seq*.

21 **Failure to Provide Timely Meal Breaks**

22 (Cal. Labor Code §§226 (a), 226.7, 512, 558, 1198, 2698 *et seq.*, Wage Order 1)

23 25. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and
24 incorporate said paragraphs herein by reference.

25 26. Labor Code §512 provides, "[a]n employer may not employ an employee for a work
26 period of more than five hours per day without providing the employee with a meal period of not
27 less than 30 minutes..." Labor Code §226.7(a) provides, "[n]o employer shall require an employee
28 to work during any meal... period mandated by an applicable order of the Industrial Welfare

Commission.” Paragraph 11 of Wage Order 1 provides, in pertinent part, “[u]nless an 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.”

27. In this case, Plaintiff claims that she and her coworkers were forced to take noncompliant meal periods that were less than 30 minutes in length because employees were required to walk excessive distances from the timeclock to the breakroom and back off the clock. Plaintiff and aggrieved employees were also required to wash hands and don and doff PPE including net, gloves, apron, and specialized sleeves prior to clocking in, and then wait in long lines off-the-clock to use the biometric timeclock prior to resuming work.

28. Section 11 of Wage Order 1 requires employers to authorize and permit employees to take an uninterrupted 30-minute meal period after no more than 5 hours of work. Pursuant to Labor Code §1198, “the employment of any employee... under conditions of labor prohibited by the order is unlawful.” Defendant failed to permit Plaintiff and others to take timely, off-duty, meal breaks of “not less than 30 minutes” for each five consecutive hours of work in violation of Labor Code §§226.7 and 512. Defendant never paid penalty pay to Plaintiff or aggrieved employees for noncompliant meal periods. As a derivative claim, Plaintiff alleges that her pay statements were inaccurate, failing to include required meal period penalties, thus failing the requirements of Labor Code §226(a). As a result of these violations, Defendant is liable for civil penalties pursuant to Cal. Labor Code §558 and §2698 *et. seq.*

Failure to Provide Rest Breaks

(Cal. Labor Code §§226, 226.7, 512, 558, 1198, 2698 *et seq.*)

29. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and incorporate said paragraphs herein by reference.

30. Defendant has failed to maintain a policy and practice that provides or permits its employees to take off-duty rest periods as required by California law. Plaintiff and aggrieved employees are entitled to at least a ten minute rest period in which they are relieved of all duties, as required by Cal. Lab. Code §226.7, §512 and Wage Order 1.

1 31. Rest breaks were noncompliant and under 10 minutes in length because employees
2 were required to walk excessive distances from their workstations to the breakroom. Plaintiff and
3 aggrieved employees were also required to wash hands and don and doff PPE including net, gloves,
4 apron, and specialized sleeves while on “break.”

5 32. Defendant failed to pay Plaintiff and similarly situated employees all premium
6 compensation (one hour of pay at the employee’s regular rate of pay for missed or untimely rest
7 periods) mandated by Labor Code §226.7 (b) for these missed rest periods. As a derivative claim,
8 Plaintiff alleges that pay statements were inaccurate, failing to include required rest period
9 penalties, thus failing the requirements of Labor Code §226(a) and §1198. As a result of these
10 violations, Defendant is liable for civil penalties pursuant to Cal. Labor Code §558 and §2698 *et*
11 *seq.*

12 **Failure to Provide Proper Cool-Down Rest Periods**

13 (Cal. Labor Code §§ 226.7, 1198, 2698 *et seq*

14 33. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and
15 incorporate said paragraphs herein by reference.

16 34. Labor Code section 226.7, subdivision (c) provides that:

17 A. If an employer fails to provide an employee a... recovery period in accordance
18 with a state ., law, including, but not limited to an applicable statute or
19 applicable regulation, standard, or order of the Occupational Safety and Health
20 Standards Board, or the Division of Occupational Safety and Health, the
21 employer shall pay the employee one additional hour of pay at the employee’s
22 regular rate of compensation for each workday that the meal or rest or recovery
23 period is not provided.

24 35. Defendant required Plaintiff and aggrieved employees to consistently work in
25 temperatures far exceeding eighty (80) degrees Fahrenheit and did not provide adequate cool-down
26 opportunities. Areas in the facility involved in baking bagels would get unsafely hot and
27 employees were required to wait until their scheduled break or meal period in order to get relief
28 from the heat. Aggrieved employees working in the baking facility were exposed to a high risk of

1 suffering heat illness so that their life, safety, and health were jeopardized by Defendant's conduct,
2 violating California Code of Regulation, Title, section 3395 and Labor Code sections 226.7 and
3 1198.

4 **Failure to Provide Safe Working Conditions**

5 (Cal. Labor Code §1198, Wage Order 1)

6 36. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and
7 incorporate said paragraphs herein by reference.

8 37. Defendant's workplaces would get unsafely hot. Plaintiff and aggrieved employees
9 were forced to work in incredibly hot and under ventilated rooms reaching temperatures of over
10 80 degrees.

11 38. Wage Order 1 ¶15 requires:

12 A. The temperature maintained in each work area shall provide reasonable comfort
13 consistent with industry-wide standards for the nature of the process and the
14 work performed.

15 B. If excessive heat or humidity is created by the work process, the employer shall
16 take all feasible means to reduce such excessive heat or humidity to a degree
17 providing reasonable comfort.

18 39. Labor Code 1198 makes it unlawful to employ employee in conditions prohibited by
19 the wage order. By violating the wage order, Defendant is liable for civil penalties pursuant to
20 §2698 *et. seq.*

21 **Failure To Provide Suitable Seating**

22 (Lab. Code section 1198 and Wage Order 1-2001, Section 14)

23 40. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and
24 incorporate said paragraphs herein by reference.

25 41. Labor Code section 1198 states, in pertinent part, "The employment of any employee...
26 under conditions of labor prohibited by the [Wage Order] is unlawful."

27 42. Section 14 of Wage Order 1 provides that:
28

1 A. All working employees shall be provided with suitable seats when the nature of
2 the work reasonably permits the use of seats.

3 B. When employees are not engaged in the active duties of their employment and
4 the nature of the work requires standing, an adequate number of suitable seats
5 shall be placed in reasonable proximity to the work area and employees shall
6 be permitted to use such seats when it does not interfere with the performance
7 of their duties.

8 43. At all relevant times, Defendant failed to provide Plaintiff and aggrieved employees
9 with suitable seating during their employment as required by section 12 of the applicable Wage
10 Order. Plaintiff and other aggrieved employees were not provided with seating during shifts in
11 which they worked at positions which would reasonably permit the use of seating, nor was seating
12 provided within a 3-4 minute walk from work areas or in reasonable proximity to use when it does
13 not interfere with the performance of duties. Accordingly, Plaintiff, on behalf of herself and
14 aggrieved employees, will pursue civil penalties under Labor Code §2698 *et seq.*, and all available
15 remedies to the extent allowed by law for the alleged violations.

16 **Failure to Reimburse for Required Business Expenses**

17 (Cal. Labor Code §§1198, 2802, 2699 *et seq.*)

18 44. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and
19 incorporate said paragraphs herein by reference.

20 45. Labor Code §2802 requires employers to indemnify employees for necessary
21 expenditures or losses incurred by employees in direct consequence of the discharge of duties.
22 Plaintiff and aggrieved employees are required to use their personal cell phones for work related
23 communications, and were further required to download and use the ADP app. Defendant did not
24 reimburse them for this required use of their personal phones. Accordingly, Defendant is liable
25 for civil penalties under PAGA §2699 *et seq.*

26 **Paystub and Record Keeping Violation**

27 (Cal. Lab. Code §§226, 1174, 2698 *et seq.*)
28

1 46. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and
2 incorporate said paragraphs herein by reference.

3 47. Defendant knowingly and intentionally failed to provide timely, accurate, itemized
4 wage statements to Plaintiff and the aggrieved employees, and maintain accurate records, in
5 accordance with Labor Code §§ 226 and 1174.

6 48. Based on and as a result of the above-mentioned Labor Code violations, Defendant
7 maintained and issued inaccurate wage statements, failing to include required hours and overtime
8 hours worked and misrepresenting actual regular hours worked on the final wage statement.
9 Defendant further failed to include meal and rest period penalties, thus failing the requirements of
10 Labor Code §226(a). Such failures caused injury to Plaintiff and others, by, among other things,
11 impeding them from knowing the total hours worked and the amount of wages to which they are
12 and were entitled.

13 49. Plaintiff will seek penalties as permitted under Labor Code §226 for herself and other
14 aggrieved employees for each violation. Further, claimant will seek recovery of civil penalties
15 under Labor Code §226.3, and PAGA, Labor Code §2698, *et seq.*, on behalf of the LWDA against
16 the Defendant if authorized to file a representative action on behalf of the State of California for
17 Defendant's paystub violations

18 **FIRST CAUSE OF ACTION**

19 **Against Defendant for Violation of the Private Attorneys General Act ("PAGA")**

20 **(California Labor Code §2698 *et seq.*)**

21 50. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and
22 incorporate said paragraphs herein by reference.

23 51. Plaintiff is an "aggrieved employee" under PAGA, as she was employed by Defendant
24 during the applicable statutory period and suffered one or more of the Labor Code violations set
25 forth herein. Accordingly, Plaintiff seeks to recover on behalf of herself and all other current and
26 former aggrieved employees of Defendant, the civil penalties provided by PAGA, plus reasonable
27 attorneys' fees and costs.
28

1 52. Plaintiff seeks to recover the PAGA civil penalties through a representative action
2 permitted by PAGA and the California Supreme Court in *Arias v. Superior Court* (2009) 46 Cal.
3 4th 969. Therefore, class certification of the PAGA claims brought herein is not required.

4 53. Plaintiff seeks civil penalties pursuant to PAGA for violations of the following Labor
5 Code provisions:

- 6 a. Failure to Comply with California Law Concerning Payment of Lawful Wage For
7 All Hours Worked, Including Overtime Hours Worked (Cal. Labor Code §§218,
8 510, 558, 1194, 1197, 1198, 1199, 2698 *et seq.*);
- 9 b. Failure to Pay Minimum Wage (Cal. Lab. Code §§ 200, 218.5, 226, 558, 1194,
10 1194.2, 1197, 1197.2, 1198, 1199, 2698 *et seq.*);
- 11 c. Failure to Provide Timely Meal Breaks (Cal. Labor Code §§226 (a), 226.7, 512,
12 558, 1198, 2698 *et seq.*, Wage Order 1);
- 13 d. Failure to Provide Rest Breaks (Cal. Labor Code §§226, 226.7, 512, 558, 1198,
14 2698 *et seq.*);
- 15 e. Failure to Provide Proper Cool-Down Rest Periods (Cal. Labor Code §§ 226.7,
16 1198, 2698 *et seq.*);
- 17 f. Failure to Provide Safe Working Conditions (Cal. Labor Code §1198, Wage Order
18 1);
- 19 g. Failure to Provide Suitable Seating (Lab. Code section 1198 and Wage Order 1-
20 2001, Section 14);
- 21 h. Failure to Reimburse for Required Business Expenses (Cal. Lab. Code §§1198,
22 2802, 2699 *et seq.*);
- 23 i. Failure to Provide Accurate Itemized Wage Statements (Cal. Labor Code §§ 226,
24 1174, 2699 *et seq.*).

25 54. With respect to violations of Labor Code §226(a), Labor Code §226.3 imposes a civil
26 penalty in addition to any other penalty provided by law of two hundred fifty dollars (\$250) per
27 aggrieved employee for the first violation, and one thousand dollars (\$1,000) per aggrieved
28 employee for each subsequent violation of Labor Code §226(a).

55. With respect to violations of Labor Code §512, Labor Code §558 imposes a civil penalty in addition to any other penalty provided by law of fifty dollars (\$50) for initial violations for each underpaid employee for each pay period for which the employee was underpaid, and one hundred dollars (\$100) for subsequent violations for each underpaid employee for each pay period for which the employee was underpaid.

56. Labor Code §2698 *et seq.* imposes a civil penalty of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided.

57. Plaintiff and the other current and former employees of Defendant are aggrieved employees. They were or are employed by Defendant, and each of them, and the violations alleged herein were committed against them. Plaintiff brings this action on behalf of herself and all other current and former aggrieved employees.

58. At the time of each violation, Defendant employed one or more employees.

59. As a result of the aforesaid wrongful and illegal conduct of Defendant, and each of them, Plaintiff and aggrieved employees are entitled to civil penalties in an amount to be determined at trial, pre-judgment interest, costs and attorneys' fees.

60. Plaintiff has complied with all procedural requirements of Labor Code §2699.3 prior to filing this Complaint. By the Notice attached as Exhibit 1, submitted online to the Labor and Workforce Development Agency (“LWDA”) and served by certified mail upon Defendant, Plaintiff through counsel notified the LWDA and Defendant of the specific Labor Code provisions that Defendant has violated. The LWDA did not respond to Plaintiff’s Notice within the statutory timeframe, and Plaintiff has therefore exhausted administrative remedies. Pursuant to Labor Code §2699.3, Plaintiff may now pursue her PAGA claims in this action on behalf of aggrieved employees and the State of California.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually and on behalf of the aggrieved employees, prays for judgement against Defendant as follows:

1. An award of civil penalties pursuant to PAGA and the Cal. Labor Code in an amount to be determined at trial, but at least the jurisdictional amount of this Court;
2. An award of reasonable attorneys' fees and costs pursuant to California Labor Code §2699(g) and/or other applicable law;
3. For civil penalties as provided under Labor Code §§226.3 and 558, and/or other applicable law;
4. Pre-judgement and post-judgement interest as provided by law; and
5. Such other and further relief that the Court may deem just and proper.

DATED: June 9, 2023

KOUL LAW FIRM



BY: Nazo Koulloukian, Esq.
Attorneys for Plaintiff CLAUDIA ROJAS, and all
aggrieved employees

EXHIBIT 1
PAGA LETTER



Nazo@Koullaw.com

P (213) 761 – 5484

F (818) 561 – 3938

3435 WILSHIRE BLVD

SUITE 1710

LOS ANGELES, CA 90010

www.koullaw.com

March 23, 2023

Via E-filing:

California Labor & Workforce
Development Agency
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102

Via Certified U.S. Mail:

Western Bagel Baking Corporation
7814 Sepulveda Blvd.
Van Nuys, CA 91405

Re: PAGA Notice Pursuant to California Labor Code §2699
Claimant: Claudia Rojas
Employer: Western Bagel Baking Corporation

Dear Sir or Madam:

Claimant Claudia Rojas has retained Nazo Koulloukian, Esq. and the KOUL LAW FIRM and Sahag Majarian, II, and Garen Majarian of Majarian Law Group, APC, for wage and hour claims against her former employer Western Bagel Baking Corporation (hereafter “Employer”). Ms. Rojas worked for Employer for approximately three years until she was injured in January 2023.

Employers have violated, and/or has caused to be violated, several Labor Code provisions, and it is therefore liable for civil penalties under Cal. Labor Code §2698 *et seq.* We request that your agency investigate the claims alleged below, or permit claimant to seek civil penalties under the Private Attorney General Act (“PAGA”), Labor Code §2698 *et seq.*, on behalf of the Labor and Workforce and development Agency (“LWDA”) and the State of California in a representative action. This letter will serve as notice of these allegations pursuant to Cal. Lab. Code §2699.3.

**Failure to Comply with California Law Concerning Payment of Lawful Wage For
All Hours Worked, Including Overtime Hours Worked**

(Cal. Labor Code §§218, 510, 558, 1194, 1197, 1198, 1199, 2698 *et seq.*)

Section 2(G) of Wage Order 1 defines “hours worked” as “the time during which an employee is subject to the control of an employer, and including all the time the employee is suffered or permitted to work, whether or not required to do so.” When employees like Claimant and her coworkers earning at or near minimum wage do not receive payment for all hours worked as a result of unlawful employment practices, the result is that they are earning less than the statutory minimum wages for all hours worked. Employer has been engaged in many unlawful employment practices which resulted in underpayment for hours worked each pay period, including overtime hours worked, as more fully set forth below. Employer has also failed to pay the required minimum wage for all hours worked, and has failed to pay all wages owed twice per month.

Off-the-Clock Hours Worked- Waiting in Required Lines

Claimant and aggrieved employees frequently worked off the clock and were routinely subjected to periods wherein they were under the Employer’s control but not compensated for their time. Numerous employees came on shift at the same time which resulted in many employees waiting in required lines to clock in for work to use the biometric timeclock. This time spent waiting in these required lines was required by Employer prior to each shift and when clocking back in for lunch, and was essential and required before employees could begin and/or resume working on the clock.

Off-the-Clock Hours Worked

Claimant and aggrieved employees frequently worked off the clock and were routinely subjected to periods wherein they were under the Employer’s control but not compensated for their time. Claimant and aggrieved employees were required to perform several required duties off the clock, including donning and doffing safety apparel, washing hands, and walking to and from the break area. Employer has violated Labor Code §§510 1194, 1198, 1199 and Wage Order 1. Employer is liable for civil penalties pursuant to Labor Code §§558 and 2698 *et seq.*

Work Performed During Unpaid Meal Periods

As more fully set forth below, Employer failed to permit Claimant and others to take timely, off-duty, meal breaks of “not less than 30 minutes” for each five consecutive hours of work in violation of Labor Code §§226.7 and 512 due to being required to wait

in long lines to clock back in at the end of each meal period. Claimant and aggrieved employees have been employed under conditions prohibited by the wage order, and thus Employer has also violated §§1198 and 1199. Employer is liable for civil penalties pursuant to Labor Code §§558 and 2699 *et seq.*

Failure to Pay All Wages Owed Twice Per Month

Employer was required to pay Claimants and employee all wages earned twice during each calendar month pursuant to Labor Code §204(a). Employer failed to pay all wages earned to employees as a result of the unlawful employment policies and practices discussed herein. As a result of these practices, Employees were underpaid for hours worked, including penalty wages, and this underpayment resulted in a failure to pay all wages owed twice per month.

Failure to Pay Minimum Wage

(Cal. Labor Code §§ 200, 218.5, 226, 558, 1194, 1194.2, 1197, 1197.2, 1198, 1199, 2698 *et seq.*)

Pursuant to Labor Code sections 1194, 1194.2 and 1197, it is unlawful for an employer to suffer or permit a California employee to work without paying wages at the proper minimum wage for all time worked as required by the applicable IWC Wage Order.

Employer failed to pay Claimant and aggrieved employees for all hours worked as a result of Employer's practices described above, in addition to failure to pay meal and rest period penalty wages. Based on Employer's unlawful conduct described above, and because Claimant and the aggrieved employees were paid at or near minimum wage, employer's failure to pay for all hours worked, including overtime, resulted in a payment of less than the minimum wage for all hours worked, in violation of Labor Code §1197, 1197.1, 1199 and Wage Order 1-2001 4(B). Employer is liable for civil penalties pursuant to Labor Code §§558 and 2699 *et seq.*

Failure to Provide Timely Meal Breaks

(Cal. Labor Code §§226 (a), 226.7, 512, 558, 1198, 2698 *et seq.*, Wage Order 1)

Labor Code §512 provides, "[a]n 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..." Labor Code §226.7(a) provides, "[n]o employer shall require an employee to work during any meal... period mandated by an applicable order of the Industrial Welfare Commission." Paragraph 11 of Wage Order 1 provides, in pertinent part, "[u]nless an 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."

In this case, Claimant claims that she and her coworkers were forced to take noncompliant meal periods that were less than 30 minutes in length because employees were required to walk excessive distances from the timeclock to the breakroom and back off the clock. Employees were also required to wash hands and don and doff PPE including net, gloves, apron, and specialized sleeves prior to clocking in, and then wait in long lines off-the-clock to use the biometric timeclock prior to resuming work.

Section 11 of Wage Order 1 requires employers to authorize and permit employees to take an uninterrupted 30-minute meal period after no more than 5 hours of work. Pursuant to Labor Code §1198, “the employment of any employee... under conditions of labor prohibited by the order is unlawful.” Employer failed to permit Claimant and others to take timely, off-duty, meal breaks of “not less than 30 minutes” for each five consecutive hours of work in violation of Labor Code §§226.7 and 512. Employer never paid penalty pay to Claimant or aggrieved employees for noncompliant meal periods. As a derivative claim, Claimant alleges that her pay statements were inaccurate, failing to include required meal period penalties, thus failing the requirements of Labor Code §226(a). As a result of these violations, Employers are liable for civil penalties pursuant to Cal. Labor Code §558 and §2698 *et. seq.*

Failure to Provide Rest Breaks

(Cal. Labor Code §§226, 226.7, 512, 558, 1198, 2698 et seq.)

Employer has failed to maintain a policy and practice that provides or permits its employees to take off-duty rest periods as required by California law. Employees are entitled to at least a ten minute rest period in which they are relieved of all duties, as required by Cal. Lab. Code §226.7, §512 and Wage Order 1.

Rest breaks were noncompliant and under 10 minutes in length because employees were required to walk excessive distances from their workstations to the breakroom. Employees were also required to wash hands and don and doff PPE including net, gloves, apron, and specialized sleeves while on “break.”

Employer failed to pay Claimant and similarly situated employees all premium compensation (one hour of pay at the employee’s regular rate of pay for missed or untimely rest periods) mandated by Labor Code §226.7 (b) for these missed rest periods. As a derivative claim, Claimant alleges that pay statements were inaccurate, failing to include required rest period penalties, thus failing the requirements of Labor Code §226(a) and §1198. As a result of these violations, Employer is liable for civil penalties pursuant to Cal. Labor Code §558 and §2698 *et. seq.*

Failure to Provide Proper Cool-Down Rest Periods
(Cal. Labor Code §§ 226.7, 1198, 2698 *et seq*)

Labor Code section 226.7, subdivision (c) provides that:

If an employer fails to provide an employee a... recovery period in accordance with a state law, including, but not limited to an applicable statute or applicable regulation, standard, or order of the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided.

Employers required Claimant and aggrieved employees to consistently work in temperatures far exceeding eighty (80) degrees Fahrenheit and did not provide adequate cool-down opportunities. Areas in the facility involved in baking bagels would get unsafely hot and employees were required to wait until their scheduled break or meal period in order to get relief from the heat. Aggrieved employees working in the baking facility were exposed to a high risk of suffering heat illness so that their life, safety, and health were jeopardized by Employer's conduct, violating California Code of Regulation, Title, section 3395 and Labor Code sections 226.7 and 1198.

Failure to Provide Safe Working Conditions
(Cal. Labor Code §1198, Wage Order 1)

Employer's workplaces would get unsafely hot. Claimant and aggrieved employees were forced to work in incredibly hot and underventilated rooms reaching temperatures of over 80 degrees.

Wage Order 1 ¶15 requires:

(A) The temperature maintained in each work area shall provide reasonable comfort consistent with industry-wide standards for the nature of the process and the work performed.

(B) If excessive heat or humidity is created by the work process, the employer shall take all feasible means to reduce such excessive heat or humidity to a degree providing reasonable comfort.

Labor Code 1198 makes it unlawful to employ employee in conditions prohibited by the wage order. By violating the wage order, Employer is liable for civil penalties pursuant to §2698 *et seq.*

Failure To Provide Suitable Seating
(Lab. Code section 1198 and Wage Order 1-2001, Section 14)

Labor Code section 1198 states, in pertinent part, “The employment of any employee... under conditions of labor prohibited by the [Wage Order] is unlawful.”

Section 14 of Wage Order 1 provides that:

- (A) All working employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats.
- (B) When employees are not engaged in the active duties of their employment and the nature of the work requires standing, an adequate number of suitable seats shall be placed in reasonable proximity to the work area and employees shall be permitted to use such seats when it does not interfere with the performance of their duties.

At all relevant times, Employer failed to provide Claimant and aggrieved employees with suitable seating during their employment as required by section 12 of the applicable Wage Order. Claimant and other aggrieved employees were not provided with seating during shifts in which they worked at positions which would reasonably permit the use of seating, nor was seating provided within a 3-4 minute walk from work areas or in reasonable proximity to use when it does not interfere with the performance of duties. Accordingly, Claimant, on behalf of herself and aggrieved employees, will pursue civil penalties under Labor Code §2698 *et seq.*, and all available remedies to the extent allowed by law for the alleged violations.

Failure to Reimburse for Required Business Expenses
(Cal. Labor Code §§1198, 2802, 2699 *et seq.*)

Labor Code §2802 requires employers to indemnify employees for necessary expenditures or losses incurred by employees in direct consequence of the discharge of duties. Claimant and aggrieved employees are required to use their personal cell phones for work related communications, and were further required to download and use the ADP app. Employer did not reimburse them for this required use of their personal phones. Accordingly, Employers are liable for civil penalties under PAGA §2699 *et seq.*

Failure to Provide Accurate Itemized Wage Statements
(Cal. Labor Code §§ 226, 1174, 2699 *et seq*)

Employer knowingly and intentionally failed to provide timely, accurate, itemized wage statements to Claimants and the aggrieved employees, and maintain accurate records, in accordance with Labor Code §§ 226 and 1174.

Based on and as a result of the above-mentioned Labor Code violations, Employers maintained and issued inaccurate wage statements, failing to include required hours and overtime hours worked and misrepresenting actual regular hours worked on the final wage statement. Employer further failed to include meal and rest period penalties, thus failing the requirements of Labor Code §226(a). Such failures caused injury to Claimant and others, by, among other things, impeding them from knowing the total hours worked and the amount of wages to which they are and were entitled.

Claimant will seek penalties as permitted under Labor Code §226 for herself and other aggrieved employees for each violation. Further, claimant will seek recovery of civil penalties under Labor Code §226.3, and PAGA, Labor Code §2698, *et seq.*, on behalf of the LWDA against the Employers if authorized to file a representative action on behalf of the State of California for Employers' paystub violations.

Conclusion

Employers have violated a number of California wage and hour laws. Claimant respectfully requests that the agency investigate the above allegations and hereby provides notice of the allegations pursuant to PAGA's provisions. Alternatively, Claimant requests that the agency inform her if it does not intend to investigate these violations so that she may pursue these claims as a representative action in civil court.

Sincerely,



Nazo Koulloukian, Esq.
Attorney for Claimant

Cc: Sahag Majarian II
Garen Majarian
Majarian Law Group, APC