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10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF SAN DIEGO**

12 PATRICE FLORA SHELL, individually, and on
13 behalf of the State of California and other
aggrieved persons,

14 *Plaintiff,*

15 v.

16 HIGH PERFORMANCE HOSPITALITY LLC, a
17 California limited liability company; BURTON
18 FOODS LLC, a California limited liability
company; and DOES 1 through 50, inclusive,

19 *Defendants.*

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego

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Clerk of the Superior Court
By A. Villasenor ,Deputy Clerk

Case No.: 26CU047945C

**PAGA REPRESENTATIVE ACTION
COMPLAINT:**

1. Civil Penalties Under PAGA [Cal. Lab.
Code § 2699, et seq.]

Plaintiff Patrice Flora Shell (“Plaintiff”), on information and belief, alleges as follows:

INTRODUCTION & PRELIMINARY STATEMENT

1. Plaintiff brings this action individually, and on behalf of the State of California and other aggrieved persons, against Defendants High Performance Hospitality LLC, Burton Foods LLC, and DOES 1 through 50 (collectively referred to as “Defendants”) for civil penalties under the Private Attorneys General Act of 2004, California Labor Code §§ 2698 *et seq.* (“PAGA”) stemming from Defendants’ failure to pay for all hours worked (minimum, straight time, and overtime wages), failure to provide meal periods, failure to authorize and permit rest periods, failure to timely pay final wages, failure to furnish accurate wage statements, and failure to indemnify employees for expenditures.

2. For over 50 years, California’s courts and Legislature have recognized that this State’s wage-and-hour laws serve a compelling public interest of fostering a stable job market. Wages are not ordinary debts. Because of the economic position of the average worker and his or her family, it is essential to the public welfare that employers obey the wage-and-hour laws so that employees are promptly paid the minimum/overtime wages that the Legislature has required for employees. So fundamental are California’s wage-and-hour laws that the Legislature has criminalized certain types of violations. In extending extra protection to deter violations of these underlying statutes—since Plaintiff is not seeking general and/or special damages, restitution, or other damages other than civil penalties—California has enacted PAGA to permit an individual to bring an action for PAGA penalties only, which is the precise and sole nature of this action.

3. All California employees during the relevant period who are or were harmed by Defendants’ illegal practices are “Aggrieved Employees.” The Aggrieved Employees worked for Defendants as hourly-paid or non-exempt employees within the applicable period.

4. Plaintiff brings this action against Defendants seeking only to recover penalties on behalf of Plaintiff individually, on behalf of certain Aggrieved Employees that worked for Defendants, and on behalf of the State of California. Plaintiff does not seek to recover anything other than penalties as permitted by California Labor Code Section 2699 at this time. To the extent that statutory violations are mentioned for wage violations, Plaintiff does not seek underlying

1 general and/or special damages for those violations, but simply penalties as permitted by California
2 Labor Code Section 2699, declaratory relief, and injunctive relief for Plaintiff individually, and
3 certain Aggrieved Employees as permitted by the PAGA.

4 5. Defendants own/owned and operate/operated an industry, business, and
5 establishment within the State of California, including San Diego County. As such and based upon
6 all the facts and circumstances incident to Defendants' businesses in California, Defendants are
7 subject to the California Labor Code, Wage Orders issued by the Industrial Welfare Commission
8 ("IWC"), and the California Business & Professions Code.

9 6. On information and belief, Defendants were on actual and constructive notice of the
10 improprieties alleged herein and intentionally refused to rectify their unlawful conduct.
11 Defendants' violations, as alleged above, during all relevant times herein were willful and
12 deliberate.

13 7. At all relevant times, Defendants were and are legally responsible for all of the
14 unlawful conduct, policies, acts and omissions as described in each and all of the foregoing
15 paragraphs as the employer of Plaintiff and Aggrieved Employees. Further, Defendants are
16 responsible for each of the unlawful acts or omissions complained of herein under the doctrine of
17 "respondeat superior."

18 THE PARTIES

19 **A. Plaintiff**

20 8. Plaintiff Patrice Flora Shell is a resident of San Diego, California who worked for
21 Defendants in San Diego County, California as an hourly-paid, non-exempt employee from
22 approximately June 2025 to approximately September 2025.

23 **B. Defendants**

24 9. Plaintiff is informed and believes, and based upon that information and belief
25 alleges, that Defendants High Performance Hospitality LLC and Burton Foods LLC are, and at all
26 times herein mentioned, were:

- 27 (a) Business entities conducting business in numerous counties throughout the
28 State of California, including San Diego County; and,

(b) The former employer of Plaintiff, and the current and/or former employer of Aggrieved Employees, because Defendants High Performance Hospitality LLC and Burton Foods LLC suffered and permitted Plaintiff and Aggrieved Employees to work; and/or controlled their wages, hours, or working conditions; and or engaged Plaintiff and Aggrieved Employees, thereby creating a common law employment relationship.

10. Plaintiff does not know the true names or capacities of the persons or entities sued herein as Does 1-50, inclusive, and therefore sues said Defendants by such fictitious names. Each of the Doe Defendants were in some manner legally responsible for the damages suffered by Plaintiff and certain Aggrieved Employees as alleged herein. Plaintiff will amend this complaint to set forth the true names and capacities of these Defendants when they have been ascertained, together with appropriate charging allegations, as may be necessary.

11. At all times mentioned herein, the Defendants named as Does 1-50, inclusive, and each of them, were residents of, doing business in, availed themselves of the jurisdiction of, and/or injured a significant number of the Plaintiff and Aggrieved Employees in the State of California.

12. Plaintiff is informed and believes and thereon alleges that at all relevant times each Defendant, directly or indirectly, or through agents or other persons, employed Plaintiff and the other employees and exercised control over their wages, hours, and working conditions. Plaintiff is informed and believes and thereon alleges that, at all relevant times, each Defendant was the principal, agent, partner, joint venturer, joint employer, officer, director, controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest and/or predecessor in interest of some or all of the other Defendants, and was engaged with some or all of the other Defendants in a joint enterprise for profit, and bore such other relationships to some or all of the other Defendants so as to be liable for their conduct with respect to the matters alleged below. Plaintiff is informed and believes and thereon alleges that each Defendant acted pursuant to and within the scope of the relationships alleged above, that each Defendant knew or should have known about, and authorized, ratified, adopted, approved, controlled, aided and abetted the conduct of all other Defendants.

ALLEGATIONS COMMON TO ALL CAUSES OF ACTION

13. Plaintiff worked for Defendants in San Diego County, California as an hourly-paid, non-exempt employee from approximately June 2025 to approximately September 2025. At all times, Defendants paid Plaintiff an hourly wage and classified Plaintiff as non-exempt from overtime.

14. Throughout Plaintiff's employment, Defendants committed numerous labor code violations under state law. As discussed below, Plaintiff's experience working for Defendants was typical and illustrative.

A. Failure to Pay for All Hours Worked, Including Minimum, Straight Time, and Overtime Wages

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

16. Labor Code § 510 provides that employees in California shall not be employed more than eight hours in any workday or forty (40) hours in a workweek unless they receive additional compensation beyond their regular wages in amounts specified by law.

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

18. Throughout the statutory period, Defendants, at times, failed to pay Plaintiff and certain Aggrieved Employees for all hours worked, including minimum wages, straight time, and overtime wages. Defendants, at times, required Plaintiff and certain Aggrieved Employees to work "off-the-clock," uncompensated, by, for example, requiring Plaintiff and certain Aggrieved Employees to perform work during uncompensated meal periods and/or requiring Plaintiff and certain Aggrieved Employees to perform work after clocking out for the workday. Some of this unpaid work should have been paid at the overtime rate. In failing to pay for all hours worked,

Defendants also failed, at times, to maintain accurate records of the hours Plaintiff and certain Aggrieved Employees worked.

B. Failure to Provide Meal Periods

19. Under California law, employers have an affirmative obligation to relieve employees of all duty in order to take their first 30-minute, duty-free meal periods no later than the end of the fifth hour of work in a workday, and to allow employees to take their second 30-minute meal period no later than the end of the tenth hour of work in a workday. Further, employees are entitled to be paid one hour of additional wages for each workday they were not provided with a required meal period(s).

20. Despite these legal requirements, Defendants wrongfully failed, at times, to provide Plaintiff and Aggrieved Employees, or some of them, with their legally mandated 30-minute, uninterrupted, and duty-free meal period in a manner required by law. Defendants also continued to assert control over Plaintiff and Aggrieved Employees, or some of them, by, among other things, requiring, pressuring, or encouraging them to perform work tasks which could not be completed without working in lieu of taking mandatory meal periods, or by denying Plaintiff and certain Aggrieved Employees permission to take a meal period under the conditions required by law, and without properly compensating Plaintiff and Aggrieved Employees, or some of them, for meal periods that were not provided as required by law. Defendants also failed, at times, to permit Plaintiff to take a second meal period when Plaintiff worked at least ten hours of work in a workday. Accordingly, Defendants failed, at times, to provide meal periods to Plaintiff and certain Aggrieved Employees in compliance with California law.

21. Plaintiff and Aggrieved Employees, or some of them, are thus entitled to be paid one hour of additional wages for each workday he or she was not provided with all required meal period(s). Defendants, however, at times, failed to pay Plaintiff and Aggrieved Employees, or some of them, the additional wages to which they were entitled for meal periods that were not provided.

C. Failure to Authorize and Permit Rest Breaks

22. Employers are required by California law to authorize and permit breaks of ten uninterrupted minutes for each four hours of work or major fraction of four hours (i.e. more than

1 two hours). Thus, for example, if an employee's work time is six hours and ten minutes, the
2 employee is entitled to two rest breaks. Each failure to authorize rest breaks as so required is itself
3 a violation of California's rest break laws.

4 23. Throughout the statutory period, Defendants have, at times, wrongfully failed to
5 authorize and permit Plaintiff and Aggrieved Employees, or some of them, to take legally
6 compliant rest periods in a manner required by law. Defendants, at times, also required Plaintiff
7 and Aggrieved Employees, or some of them, to work in excess of four consecutive hours a day
8 without Defendants authorizing and permitting them to take a 10-minute, uninterrupted, duty-free
9 rest period for every four hours of work (or major fraction of four hours), and without properly
10 compensating Plaintiff and Aggrieved Employees, or some of them, for rest periods that were not
11 authorized or permitted. Instead, among other things, Defendants continued to assert control over
12 Plaintiff and Aggrieved Employees, or some of them, by requiring, pressuring, or encouraging
13 them to perform work tasks which could not be completed without working in lieu of taking
14 mandatory rest periods, and by denying Plaintiff and Aggrieved Employees, or some of them,
15 permission to take a rest period under the conditions required by law. Accordingly, Defendants
16 failed, at times, to authorize and permit Plaintiff and Aggrieved Employees, or some of them, to
17 take rest periods in compliance with California law.

18 24. Plaintiff and certain Aggrieved Employees are thus entitled to be paid one hour of
19 additional wages for each workday he or she was not authorized and permitted to take all required
20 rest periods. Defendants, however, at times, failed to pay Plaintiff and certain Aggrieved
21 Employees the additional wages to which they were entitled for rest periods and that they were not
22 authorized and permitted to take.

23 **D. Failure to Timely Pay All Wages at Termination**

24 25. Labor Code §§ 201 and 202 provide that if an employer discharges an employee,
25 the wages earned and unpaid at the time of discharge are due and payable immediately, and that if
26 an employee voluntarily leaves his or her employment, his or her wages shall become due and
27 payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-
28 two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled

1 to his or her wages at the time of quitting.

2 26. Within the applicable period, the employment of Plaintiff and many other
3 Aggrieved Employees ended, i.e., was terminated by quitting or being discharged, and the
4 employment of others will be terminated. However, during the relevant time period, Defendants at
5 times failed, and continue to fail, to pay Plaintiff and certain terminated Aggrieved Employees,
6 without abatement, all wages required to be paid by Labor Code sections 201 and 202 either at the
7 time of discharge, or within seventy-two (72) hours of their leaving Defendants' employment.
8 These unpaid wages include wages for unpaid work time (including minimum, straight time, and
9 overtime wages), missed meal period premium wages, and missed rest period premium wages.

10 27. Defendants' conduct violates Labor Code §§ 201 and 202. Labor Code § 203
11 provides that if an employer willfully fails to pay wages owed, in accordance with sections 201
12 and 202, then the wages of the employee shall continue as a penalty wage from the due date, and
13 at the same rate until paid or until an action is commenced; but the wages shall not continue for
14 more than thirty (30) days.

15 28. Accordingly, Plaintiff and Aggrieved Employees, or some of them, are entitled to
16 recover from Defendants their additionally accruing wages for each day they were not paid, at their
17 regular hourly rate of pay, up to thirty (30) days maximum pursuant to Labor Code § 203.

18 **E. Failure to Furnish Accurate Itemized Wage Statements**

19 29. Labor Code § 226(a) provides that every employer shall furnish each of his or her
20 employees an accurate itemized wage statement in writing showing nine pieces of information,
21 including: (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-
22 rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all
23 deductions, provided that all deductions made on written orders of the employee may be aggregated
24 and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the
25 employee is paid, (7) the name of the employee and the last four digits of his or her social security
26 number or an employee identification number other than a social security number, (8) the name
27 and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect
28 during the pay period and the corresponding number of hours worked at each hourly rate by the

employee. An employee is presumed to suffer an injury if this information is missing. (Labor Code § 226(e)(2)(B)(iii).)

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

31. Throughout the statutory period, Defendants failed, at times, to furnish Plaintiff and Aggrieved Employees, or some of them, with accurate, itemized wage statements showing all applicable hourly rates, and all gross and net wages earned (including correct hours worked, correct wages for meal periods that were not provided in accordance with California law, and correct wages for rest periods that were not authorized and permitted to take in accordance with California law). Because Defendants violated Labor Code § 226, Plaintiff and similarly Aggrieved Employees, or some of them, suffered injury and damage to their statutorily protected rights. Accordingly, Plaintiff and similarly Aggrieved Employees, or some of them, are entitled to recover damages from Defendants including the greater of their actual damages caused by Defendants’ failure to comply with Labor Code § 226(a), or an aggregate penalty not exceeding four thousand dollars (\$4,000) dollars per employee, or as otherwise permitted by PAGA based upon all bases of liability.

F. Failure to Indemnify for Necessary Expenditures

32. Labor Code § 2802(a) provides that employers shall indemnify their employees for all necessary business expenditures or losses that have been incurred by the employees in direct discharge of his or her duties. Throughout the period applicable to this cause of action, Defendants wrongfully required Plaintiff and certain Aggrieved Employees to pay expenses that they incurred in direct discharge of their duties for Defendants. Plaintiff and similarly Aggrieved Employees, or some of them, paid out-of-pocket for necessary employment-related expenses. Plaintiff and similarly Aggrieved Employees, or some of them, incurred substantial expenses as a direct result

1 of performing their job duties for Defendants, but Defendants failed, at times, to indemnify
2 Plaintiff and certain Aggrieved Employees for these employment-related expenses.

3 33. As a result, Defendants are liable to Plaintiff and certain Aggrieved Employees for
4 the civil penalties provided for in Labor Code §§ 2802 and 2699(f)(2) for failing to indemnify
5 Plaintiff and Aggrieved Employees for necessary business expenditures.

6 **FIRST CAUSE OF ACTION**

7 **(By All Plaintiffs Against All Defendants for Civil Penalties Under the Private Attorneys**
8 **General Act of 2004, Cal. Lab. Code § 2698 et seq.)**

9 34. Plaintiff incorporates by reference and re-alleges all preceding paragraphs as though
10 fully set forth herein.

11 35. At all times herein mentioned, Defendants were subject to the Labor Code of the
12 State of California and the applicable IWC Orders.

13 36. California Labor Code § 2699(a) specifically provides for a private right of action
14 to recover penalties for violations of the Labor Code: “Notwithstanding any other provision of law,
15 any provision of this code that provides for a civil penalty to be assessed and collected by the Labor
16 and Workforce Development Agency or any of its departments, divisions, commissions, boards,
17 agencies, or employees, for a violation of this code, may, as an alternative, be recovered through a
18 civil action brought by an aggrieved employee on behalf of herself or himself and other current or
19 former employees pursuant to the procedures specified in Section 2699.3.”

20 37. Plaintiff gave written notice by online filing pursuant to California Labor Code §
21 2699.3 to the Labor and Workforce Development Agency and by certified mail to Defendants of
22 the specific provisions of the Labor Code that Defendants have violated against Plaintiff and
23 certain current and former Aggrieved Employees, or some of them, including the facts and theories
24 to support the violations. Plaintiff also paid the filing fee. Plaintiff’s PAGA case number is LWDA-
25 CM-1147049-25 (*Patrice Flora Shell v. High Performance Hospitality LLC, and Burton Foods*
26 *LLC, et al.*). The Labor and Workforce Development Agency has not indicated that it intends to
27 investigate Defendants’ Labor Code violations discussed in the notice. Plaintiff hereby commences
28 a civil action to recover penalties under Labor Code § 2699 pursuant to § 2699.3 for the violations

1 of the Labor Code described in this Complaint. These penalties include, but are not limited to,
2 penalties under California Labor Code §§ 210, 226.3, 1174.5, 1197.1, and 2699.

3 38. Based on the conduct described in this Complaint, Plaintiff is entitled to an award
4 of civil penalties individually, on behalf of the State of California and certain similarly Aggrieved
5 Employees of Defendants. The exact amount of the applicable penalties, in all, is in an amount to
6 be shown according to proof at trial. These penalties are in addition to all other remedies permitted
7 by law.

8 39. In addition, Plaintiff seeks an award of reasonable attorneys' fees and costs pursuant
9 to Labor Code § 2699(g)(1), which states, "Any employee who prevails in any action shall be
10 entitled to an award of reasonable attorney's fees and costs."

11 **PRAYER FOR RELIEF**

12 Plaintiff, individually, and on behalf of the State of California, and on behalf of all similarly
13 Aggrieved Employees, prays for relief and judgment against Defendants, jointly and severally, as
14 follows:

15 1. That the Court declare, adjudge and decree that Defendants violated the California
16 Labor Code by failing to pay for all hours worked (minimum, straight time, and overtime wages),
17 failing to provide meal periods, failing to authorize and permit rest periods, failing to timely pay
18 final wages, failing to furnish accurate wage statements, and failing to indemnify for necessary
19 expenditures;

20 2. An award of civil penalties on behalf of Plaintiff, individually, and on behalf of the
21 State of California, and all similarly Aggrieved Employees pursuant to PAGA;

22 3. Pre-judgment and post-judgment interest at the maximum rate allowed;

23 4. Attorneys' fees and costs reasonably incurred;

24 5. Injunctive and declaratory relief to the extent allowed by PAGA; and,

25 6. Such other and further relief that the Court deems proper.

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Respectfully submitted,

Dated: September 9, 2026

WILSHIRE LAW FIRM

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