

Jonathan M. Genish (State Bar No. 259031)
jgenish@blackstonepc.com
Karen I. Gold (State Bar No. 258360)
kgold@blackstonepc.com
Marissa A. Mayhood (State Bar No. 334376)
mmayhood@blackstonepc.com
BLACKSTONE LAW, APC
8383 Wilshire Boulevard, Suite 745
Beverly Hills, California 90211
Telephone: (310) 622-4278

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County of Santa Cruz
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Clerk of the Court by Deputy,
Karen Broughton



Attorneys for Plaintiff
CHRISTINA RODRIGUEZ individually, and
on behalf of Aggrieved Employees pursuant to
the California Private Attorneys General Act

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CRUZ**

CHRISTINA RODRIGUEZ, individually, and
on behalf of Aggrieved Employees pursuant to
the California Private Attorneys General Act;

Plaintiff,

vs.

SEASCAPE RESORT, LTD, a California
Limited Partnership; and DOES 1 through 25,
inclusive,

Defendants.

Case No. 23CV02085

**COMPLAINT FOR ENFORCEMENT
ACTION UNDER THE PRIVATE
ATTORNEYS GENERAL ACT,
CALIFORNIA LABOR CODE §§ 2698 ET
SEQ.**

COMES NOW, Plaintiff CHRISTINA RODRIGUEZ (“Plaintiff”), individually, and on behalf of other aggrieved employees pursuant to the California Labor Code Private Attorneys General Act, and alleges as follows:

INTRODUCTION

1. This is an enforcement action under the California Labor Code Private Attorneys General Act of 2004, California Labor Code sections 2698, et seq. (“PAGA”) to recover civil penalties on behalf of Plaintiff, the State of California, and all individuals who worked for Defendants in the State of California as hourly-paid and/or non-exempt employees at any time during the period from April 2022 to final judgment (“Aggrieved Employees”).

2. Defendants hired Plaintiff and Aggrieved Employees but failed to properly pay them all wages owed for all time worked (including minimum wages, straight time wages, and overtime wages), failed to provide them with compliant meal periods and rest periods and associated premium wages to which they were entitled, failed to timely pay them all wages during their employment, failed to timely pay them all wages due upon termination of their employment, failed to provide them with accurate itemized wage statements, failed to maintain accurate payroll records, and failed to reimburse them for necessary business expenses.

3. As a result, Defendants violated California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 2800, and 2802, and the applicable Industrial Welfare Commission (“IWC”) Wage Order.

4. Through this action, Plaintiff seeks to recover all available remedies under PAGA, including, but not limited to, civil penalties and attorney’s fees and costs.

JURISDICTION AND VENUE

5. This Court has jurisdiction over this action pursuant to the California Constitution, Article VI, section 10. The statutes under which this action is brought do not specify any other basis for jurisdiction.

6. This Court has jurisdiction over all Defendants because, upon information and belief, Defendants are either citizens of California, have sufficient minimum contacts in California, or otherwise intentionally avail themselves of the California market so as to render the exercise of

1 jurisdiction over them by the California courts consistent with traditional notions of fair play and
2 substantial justice. Further, no federal question is at issue because the claims asserted herein are based
3 solely on California law.

4 7. Venue is proper in this Court because, upon information and belief, Defendants
5 maintain offices, have agents, employ individuals, and/or transact business in the State of California,
6 County of Santa Cruz. Moreover, the acts, events, and violations alleged herein relating to Plaintiff
7 occurred in the State of California, County of Santa Cruz.

8 **THE PARTIES**

9 8. Plaintiff CHRISTINA RODRIGUEZ was and is a resident of Santa Cruz County in the
10 State of California.

11 9. Defendant SEASCAPE RESORT, LTD, was and is, upon information and belief, a
12 California Limited Partnership, and at all times hereinafter mentioned, an employer whose employees
13 are engaged throughout Santa Cruz County in the State of California.

14 10. Plaintiff is unaware of the true names or capacities of the Defendants sued herein under
15 the fictitious names DOES 1 through 25 but will seek leave of this Court to amend the complaint and
16 serve such fictitiously named Defendants once their names and capacities become known.

17 11. Plaintiff is informed and believes, and based thereon alleges, that each and all of the
18 acts and omissions alleged herein were performed by, or are attributable to Defendant SEASCAPE
19 RESORT, LTD, and/or DOES 1 through 25, each acting as the agent, employee, alter ego, and/or joint
20 venturer of, or working in concert with, each of the other co-defendants and within the course and
21 scope of such agency, employment, joint venture, or concerted activity with legal authority to act on
22 the others' behalf. The acts of any and all Defendants represent and were in accordance with
23 Defendants' official policy.

24 12. At all relevant times, Defendants were the employers of Plaintiff within the meaning
25 of all applicable state laws and statutes. Defendants directly or indirectly controlled or affected the
26 working conditions, wages, working hours, and conditions of employment of Plaintiff so as to make
27 each of said Defendants employers and employers liable under the statutory provisions set forth herein.

28 13. Defendants had the authority to hire and terminate Plaintiff and the Aggrieved

Employees, to set work rules and conditions governing Plaintiff and the Aggrieved Employees' employment, and to supervise their daily employment activities.

14. Defendants exercised sufficient authority over the terms and conditions of Plaintiff and the Aggrieved Employees' employment for them to be their joint employers.

15. Defendants directly hired and paid wages and benefits to Plaintiff and the Aggrieved Employees.

16. Defendants continue to employ hourly paid and/or non-exempt employees within the State of California.

17. At all relevant times, Defendants, and each of them, ratified each and every act or omission complained of herein. At all relevant times, Defendants, and each of them, aided and abetted the acts and omissions of each and all the other Defendants in proximately causing the damages herein alleged.

18. Plaintiff is informed and believes, and based thereon alleges, that each of said Defendants is in some manner intentionally, negligently, or otherwise responsible for the acts, omissions, occurrences, and transactions alleged herein.

GENERAL ALLEGATIONS

19. Defendants jointly and severally employed Plaintiff CHRISTINA RODRIGUEZ from approximately October 2020 to September 2022 as a non-exempt, hourly-paid employee. During her employment with Defendants, Plaintiff was employed as a kitchen line cook at the Seascape Beach Resort in Aptos, California.

20. Defendants had the authority to hire and terminate Plaintiff and the other aggrieved employees, to set work rules and conditions governing Plaintiffs and the other aggrieved employees' employment, and to supervise their daily employment activities.

21. 24. Defendants exercised sufficient authority over the terms and conditions of Plaintiff's and the other aggrieved employees' employment for them to be joint employers of Plaintiff and the other aggrieved employees.

22. Defendants directly hired and paid wages and benefits to Plaintiff and the other aggrieved employees.

23. Defendants continue to employ hourly-paid or non-exempt employees, within the State of California.

24. As set forth in detail below, Plaintiff is informed and believes, and based thereon alleges, that Defendants engaged in a uniform policy and systematic scheme of wage abuse against their hourly-paid or non-exempt employees. This scheme involved, inter alia, failing to properly pay Plaintiff and Aggrieved Employees overtime wages and minimum wages due for all hours worked, failing to provide compliant meal and rest breaks to which they were entitled and failing to pay meal and rest break premiums, failing to maintain adequate employment records, failing to timely pay all wages upon termination of employment, failing to provide accurate wage statements, failing to reimburse necessary business-related expenses, and failing to adhere to other related protections afforded by the California Labor Code and applicable Industrial Welfare Commission Wage Order.

25. Plaintiff is informed and believes, and based thereon alleges, that as a California employer, Defendants knew or should have known the applicable labor laws, but that their conduct was nevertheless in violation of such laws.

PAGA ALLEGATIONS

26. At all times set forth herein, PAGA is and was applicable to Plaintiff and the Aggrieved Employees' employment with Defendants.

27. PAGA provides that any provision of law under the California Labor Code that provides for a civil penalty, including unpaid wages and premium wages, to be assessed and collected by the California Labor & Workforce Development Agency ("LWDA") for violations of the California Labor Code may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees pursuant to procedures outlined in California Labor Code section 2699.3.

28. Pursuant to PAGA, a civil action may be brought by an "aggrieved employee," who is any person that was employed by the alleged violator and against whom one or more of the alleged violations was committed.

29. Plaintiff was employed by Defendants and the alleged violations were committed against her during her time of employment and she is, therefore, an aggrieved employee. Plaintiff and

1 the other employees are “Aggrieved Employees” as defined by California Labor Code section 2699(c)
2 in that they are current or former employees of Defendants, and one of more of the alleged violations
3 were committed against them.

4 30. Pursuant to California Labor Code sections 2699.3 and 2699.5, an aggrieved employee,
5 including Plaintiff, may pursue a civil action arising under PAGA after the following requirements
6 have been met:

7 (a) The Aggrieved Employee shall give written notice by certified mail (hereinafter
8 “Employee’s Notice”) to the LWDA and the employer of the specific provisions of the
9 Labor Code alleged to have been violated, including the facts and theories to support the
10 alleged violations.

11 (b) The LWDA shall provide notice (hereinafter “LWDA Notice”) to the employer and the
12 aggrieved employee by certified mail that it does not intend to investigate the alleged
13 violation within sixty (60) calendar days of the postmark date of the Employee’s Notice.
14 Upon receipt of the LWDA Notice, or if the LWDA Notice is not provided within sixty-
15 five (65) calendar days of the postmark date of the Employee’s Notice, the aggrieved
16 employee may commence a civil action pursuant to California Labor Code section 2699
17 to recover civil penalties in addition to any other penalties to which the employee may be
18 entitled.

19 31. On June 23, 2023, Plaintiff provided notice by electronic submission to the LWDA and
20 by certified mail to Defendants regarding the specific provisions of the Labor Code alleged to have
21 been violated, including the facts and theories to support the alleged violations, pursuant to Labor
22 Code section 2699.3. Plaintiff did not receive an LWDA Notice within sixty-five calendar days of
23 providing the Employee’s Notice. Attached as **Exhibit A** is a copy of the LWDA Letter submitted by
24 Plaintiff to the LWDA.

25 32. Therefore, the administrative prerequisites under California Labor Code section
26 2699.3(a) to recover civil penalties against Defendants, in addition to other remedies for violations of
27 California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197,
28 1197.1, 1198, 2800 and 2802 have been satisfied.

1 **FIRST CAUSE OF ACTION**

2 **Violation of California Labor Code §§ 2698, *et seq.***

3 **(Against SEASCAPE RESORT, LTD, and DOES 1-25)**

4 33. Plaintiff incorporates herein by specific reference, as though fully set forth, the
5 allegations in all preceding paragraphs.

6 34. Plaintiff brings this action as a representative action on behalf of herself, other
7 Aggrieved Employees, and the State of California, in her capacity as a private attorney general
8 pursuant to the Private Attorneys General Act of 2004, California Labor Code section 2698, *et seq.*

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

16 36. Whenever the LWDA, or any of its departments, divisions, commissions, boards,
17 agencies, or employees has discretion to assess a civil penalty, a court in a civil action is authorized to
18 exercise the same discretion, subject to the same limitations and conditions, to assess a civil penalty.

19 37. Plaintiff and the other hourly-paid, non-exempt employees are “Aggrieved Employees”
20 as defined by California Labor Code section 2699(c) in that they are all current or former employees
21 of Defendants, and one or more of the alleged violations were committed against them.

22 38. Defendants’ conduct, as alleged herein, violates numerous sections of the California
23 Labor Code, including, but not limited to, the following:

- 24 (a) Violation of California Labor Code sections 510 and 1198 for failure to pay
25 overtime wages, as set forth more fully below;
- 26 (b) Violation of California Labor Code sections 1194, 1197, and 1197.1 for failure to
27 pay minimum wages, as set forth more fully below;
- 28 (c) Violation of California Labor Code sections 226.7 and 512(a) for failure to provide

legally required meal periods, as set forth more fully below;

(d) Violation of California Labor Code section 226.7 for failure to provide legally required rest periods, as set forth more fully below;

(e) Violation of California Labor Code section 204 for failure to timely pay wages to Plaintiff and Aggrieved Employees during employment, as set forth more fully before;

(f) Violation of California Labor Code sections 201, 202, and 203 for failure to pay all wages at time of discharge from employment, as set forth more fully below;

(g) Violation of California Labor Code section 226(a) for failure to provide accurate wage statements to Plaintiff and Aggrieved Employees, as set forth more fully below;

(h) Violation of California Labor Code section 1174(d) for failure to keep complete and accurate payroll records relating to Plaintiff and Aggrieved Employees, as set forth more fully below; and

(i) Violation of California Labor Code sections 2800 and 2802 for failure to reimburse Plaintiff and Aggrieved Employees for necessary business-related expenses, as set forth more fully below.

39. Pursuant to PAGA, and in particular Labor Code sections 2699(a), 2699.3, and 2699.5, Plaintiff, acting in the public interest as a private attorney general, seek assessment and collection of civil penalties for Plaintiff, all Aggrieved Employees, and the State of California against Defendants for violations of Labor Code sections set forth herein, including penalties under California Labor Code sections 2699, 558, 210, 1197.1, , 226, 226.3, 1174.5, and 1197.1, penalties under the applicable IWC Wage Order, and any and all additional penalties and remedies as provided by the California Labor Code and/or other statutes.

40. Pursuant to California Labor Code section 2699(i), civil penalties recovered by Aggrieved Employees shall be distributed as follows: seventy-five percent (75%) to the LWDA for the enforcement of labor laws and education of employers and employees about their rights and responsibilities and twenty-five (25%) to the Aggrieved Employees.

1 41. Plaintiff was compelled to retain the services of counsel to file this court action, and to
2 assess and collect the civil penalties owed by Defendants. Plaintiff therefore seeks an award of
3 reasonable attorney's fees and costs pursuant to Labor Code §§ 210, 218.5, 2699(g)(1), and any other
4 applicable statute.

5 **Failure to Pay Compliant Overtime Wages**

6 42. California Labor Code section 1198 and IWC Wage Order No. 5-2001 provide that it
7 is unlawful to employ persons without compensating them at a rate of pay either time-and-one-half or
8 two-times that person's regular rate of pay, depending on the number of hours worked by the person
9 on a daily or weekly basis.

10 43. Specifically, the applicable IWC Wage Order provides that Defendants are and were
11 required to pay Plaintiff and Aggrieved Employees employed by Defendants, and working more than
12 eight (8) hours in a day or more than forty (40) hours in a workweek or seven (7) consecutive days in
13 a workweek, at the rate of time-and-one-half for all hours worked in excess of eight (8) hours in a day,
14 more than forty (40) hours in a workweek, and/or for the first eight (8) hours worked on the seventh
15 (7th) consecutive day of work in a workweek.

16 44. The applicable IWC Wage Order further provides that Defendants are and were
17 required to pay Plaintiff and Aggrieved Employees employed by Defendants, and working more than
18 twelve (12) hours in a day and/or in excess of eight (8) hours on the seventh (7th) consecutive day of
19 work in a workweek, overtime compensation at a rate of two (2) times their regular rate of pay.

20 45. California Labor Code section 510 codifies the right to overtime compensation at one-
21 and-one half times the regular hourly rate for hours worked in excess of eight (8) hours in a day or
22 forty (40) hours in a week or for the first eight (8) hours worked on the seventh day of work, and to
23 overtime compensation at twice the regular hourly rate for hours worked in excess of twelve (12) hours
24 in a day or in excess of eight (8) hours in a day on the seventh day of work.

25 46. During the relevant time period, Plaintiff and Aggrieved Employees regularly worked
26 in excess of eight (8) hours in a day, in excess of twelve (12) hours in a day, in excess of forty (40)
27 hours in a week and/or seven (7) consecutive days in a workweek, but were not properly paid overtime
28 for such work.

1 47. Defendants' failure to pay Plaintiff and Aggrieved Employees the unpaid balance of
2 overtime compensation, as required by California law, violates the provisions of California Labor
3 Code sections 510 and 1198, and is therefore unlawful.

4 **Failure to Pay Minimum Wages**

5 48. California Labor Code sections 1194, 1197 and 1197.1 provide that the minimum wage
6 for employees fixed by the IWC is the minimum wage to be paid to employees, and the payment of a
7 wage less than the minimum so fixed is unlawful.

8 49. IWC Wage Order 5-2001 sets the applicable minimum wages for individuals in
9 Plaintiff's industry.

10 50. Defendants failed to pay minimum wages for time spent working "off-the-clock"
11 performing duties, including but not limited to, preparing meal orders, stocking the kitchen, and
12 cleaning the workstations before and after her scheduled shifts and during purported meal periods.

13 51. Accordingly, Defendants regularly failed to pay at least minimum wages to Plaintiff
14 and Aggrieved Employees for all hours worked in violation of California Labor Code sections 1194,
15 1197 and 1197.1.

16 **Failure to Provide Meal Periods**

17 52. California Labor Code section 226.7 provides that no employer shall require an
18 employee to work during any meal period mandated by an applicable IWC Order.

19 53. California Labor Code section 512(a) provides that an employer may not require, cause,
20 or permit an employee to work for a period of more than five (5) hours per day without providing the
21 employee with a meal period of not less than thirty (30) minutes, except that if the total work period
22 per day of the employee is not more than six (6) hours, the meal period may be waived by mutual
23 consent of both the employer and the employee.

24 54. California Labor Code section 512(a) further provides that an employer may not
25 employ an employee for a work period of more than 10 hours per day without providing the employee
26 with a second meal period of not less than 30 minutes, except that if the total hours worked is no more
27 than 12 hours, the second meal period may be waived by mutual consent of the employer and the
28 employee only if the first meal period was not waived.

1 55. IWC Wage Order 5-2001 sets forth the same requirements for meal breaks.

2 56. Plaintiff and Aggrieved Employees who were scheduled to work for no longer than six
3 (6) hours, and who did not waive their legally mandated meal periods by mutual consent, were required
4 to work for periods longer than five (5) hours without a meal period of not less than thirty (30) minutes.

5 57. Plaintiff and the Aggrieved Employees who were scheduled to work excess of six (6)
6 hours, were required to work for periods longer than five (5) hours without an uninterrupted meal
7 period of not less than thirty (30) minutes.

8 58. Plaintiff and the Aggrieved Employees who were scheduled to work in excess of ten
9 (10) hours but no longer then twelve (12) hours, and who did not waive their legally-mandated meal
10 periods by mutual consent, were required to work in excess of ten (10) hours without receiving a
11 second uninterrupted meal period of not less than thirty (30) minutes.

12 Plaintiff and the Aggrieved Employees, who were scheduled to work in excess of twelve (12) hours,
13 were required to work for periods longer than ten (10) hours without a second uninterrupted meal
14 period of not less than thirty (30) minutes.

15 59. Such conduct violates California Labor Code sections 226.7 and 512(a) and the
16 applicable IWC Wage Order.

17 **Failure to Pay Compliant Meal Break Premiums**

18 60. California Labor Code section 226.7 provides: “[i]f an employer fails to provide an
19 employee a [meal] period in accordance with a state law, including, but not limited to, an applicable
20 statute or applicable regulation, standard, or order of the Industrial Welfare Commission... the
21 employer shall pay the employee one additional hour of pay at the employee's regular rate of
22 compensation for each workday that the [meal] period is not provided.

23 61. IWC Wage Order 5-2001 provides: “[i]f an employer fails to provide an employee a
24 meal period in accordance with the applicable provisions of this Order, the employer shall pay the
25 employee one (1) hour of pay at the employee’s regular rate of compensation for each work day that
26 the meal period is not provided.”

27 62. Defendants failed to pay Plaintiff and Aggrieved Employees meal period premiums
28 due in violation of California Labor Code sections 226.7 and 512 on each day when a timely,

1 uninterrupted meal period of at least thirty (30) minutes was not provided.

2 63. Moreover, in the limited circumstances when meal break premiums were provided,
3 Defendants failed to incorporate all nondiscretionary payments for work performed by Plaintiff and
4 the Aggrieved Employees in the regular rate of compensation for purposes of such premiums.

5 64. Defendants' conduct violates the applicable IWC Wage Orders and California Labor
6 Code section 226.7.

7 **Failure to Provide Rest Periods**

8 65. California Labor Code section 226.7 provides that no employer shall require an
9 employee to work during any rest period mandated by an applicable order of the California IWC.

10 66. IWC Wage Order 5-2001 provides that every employer shall authorize and permit all
11 employees to take rest periods, which insofar as practicable shall be in the middle of each work period,
12 and that the "rest period time shall be based on the total hours worked daily at the rate of ten (10)
13 minutes net rest time per four (4) hours or major fraction thereof unless the total daily work time is
14 less than three and one-half (3½) hours.

15 67. Defendants required Plaintiff and the Aggrieved Employees to work four (4) or more
16 hours without authorizing or permitting a ten (10) minute rest period per each four (4) hour period, or
17 major fraction thereof worked. Moreover, to the extent limited rest breaks were permitted, they were
18 often late or cut short, and Defendants often failed to relieve Plaintiff and Aggrieved Employees of all
19 duties during such rest breaks. As a result, Plaintiff and the Aggrieved Employees often were unable
20 to take compliant rest breaks.

21 68. Defendants' conduct violates the applicable IWC Wage Orders and California Labor
22 Code section 226.7.

23 **Failure to Pay Rest Break Premiums**

24 69. California Labor Code section 226.7 provides: "[i]f an employer fails to provide an
25 employee a meal or rest or recovery period in accordance with a state law, including, but not limited
26 to, an applicable statute or applicable regulation, standard, or order of the Industrial Welfare
27 Commission,... the employer shall pay the employee one additional hour of pay at the employee's
28 regular rate of compensation for each workday that the [rest] period is not provided.

1 70. IWC Wage Order 5-2001 provides: “[i]f an employer fails to provide an employee a
2 rest period in accordance with the applicable provisions of this Order, the employer shall pay the
3 employee one (1) hour of pay at the employee’s regular rate of compensation for each work day that
4 the rest period is not provided.

5 71. Defendants failed to pay Plaintiff and Aggrieved Employees required rest break
6 premiums due when compliant rest periods were not provided.

7 72. Such conduct is in direct violation of California Labor Code section 226.7, and is
8 therefore illegal.

9 **Failure to Timely Pay Wages During Employment**

10 73. California Labor Code section 204 provides that all wages earned by any person in any
11 employment between the 1st and 15th days, inclusive, of any calendar month, other than those wages
12 due upon termination of an employee, are due and payable between the 16th and the 26th day of the
13 month during which the labor was performed. It further provides that all wages earned by any person
14 in any employment between the 16th and the last day, inclusive, of any calendar month, other than
15 those wages due upon termination of an employee, are due and payable between the 1st and the 10th
16 day of the following month. California Labor Code section 204 further provides that all wages earned
17 for labor in excess of the normal work period shall be paid no later than the payday for the next regular
18 payroll period.

19 74. Defendants intentionally and willfully failed to pay Plaintiff and the Aggrieved
20 Employees all wages due to them, within any time period permissible under California Labor Code
21 section 204, including wages for overtime compensation, minimum wage compensation, meal break
22 period premiums, and rest period premiums.

23 75. Such conduct violates Labor Code section 204, and therefore is illegal.

24 **Failure to Timely Pay Wages Upon Termination**

25 76. Pursuant to California Labor Code sections 201, 202, and 203, Defendants are required
26 to timely pay all earned and unpaid wages to an employee who is discharged.

27 77. California Labor Code section 201 mandates that if an employer discharges an
28 employee, the employee’s wages accrued and unpaid at the time of discharge are due and payable

1 immediately.

2 78. California Labor Code section 202 mandates that if an employee quits, his or her wages
3 shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee
4 has given seventy-two (72) hours' notice of his or her intention to quit, in which case the employee
5 is entitled to his or her wages at the time of quitting.

6 79. California Labor Code section 203 provides that if an employer willfully fails to pay,
7 in accordance with California Labor Code sections 201 and 202, any wages of an employee who is
8 discharged or who quits, the wages of the employee shall continue as a penalty from the due date
9 thereof at the same rate until paid or until an action therefore is commenced; but the wages shall not
10 continue for more than thirty (30) days.

11 80. Defendants knowingly and willfully failed to pay Plaintiff and the Aggrieved
12 Employees all wages owed to them upon termination pursuant to California Labor Code sections 201
13 and 202, including, without limitation, overtime wages, minimum wages, meal period premium wages,
14 and rest period premium wages.

15 81. Such conduct violates Labor Code sections 201, 202 and 203, and therefore is illegal.

16 **Failure to Provide Compliant Wage Statements**

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

26 83. Defendants intentionally and willfully failed to provide employees with complete and
27 accurate wage statements. The deficiencies include, among other things, the failure to state all correct
28 rates of pay, all hours worked, all meal period premium wages earned, and all rest period premium

1 wages earned.

2 84. Such conduct violates Labor Code section 226, and therefore is illegal.

3 **Failure to Keep Requisite Payroll Records**

4 85. California Labor Code section 1174(d) requires an employer to keep, at a central
5 location in the state or at the plants or establishments at which employees are employed, payroll
6 records showing the hours worked daily by and the wages paid to, and the number of piece-rate units
7 earned by and any applicable piece rate paid to, employees employed at the respective plants or
8 establishments. These records shall be kept in accordance with rules established for this purpose by
9 the commission, but in any case shall be kept on file for not less than three years.

10 86. Defendants intentionally and willfully failed to keep accurate and complete payroll
11 records showing the correct number of hours worked and wages owed to Plaintiff and the Aggrieved
12 Employees.

13 87. Such conduct violates Labor Code section 1174(d), and therefore is illegal.

14 **Failure to Reimburse Necessary Business Expenses**

15 88. Pursuant to California Labor Code sections 2800 and 2802, an employer must
16 reimburse its employees for all necessary expenditures incurred by the employee in direct consequence
17 of the discharge of his or her job duties or in direct consequence of his or her job duties or in direct
18 consequence of his or her obedience to the directions of the employer.

19 89. Plaintiff and the Aggrieved Employees incurred necessary business-related expenses
20 and costs that were not fully reimbursed by Defendants, including, but not limited to, purchase of
21 uniforms, non-slip shoes, and kitchen tools for work-related purposes.

22 90. Defendants intentionally and willfully failed to reimburse Plaintiff and the Aggrieved
23 Employees for all necessary business-related expenses and costs.

24 91. Such conduct violates Labor Code sections 2802, and therefore is illegal.

25 **PRAYER FOR RELIEF**

26 Plaintiff prays for relief and judgment against Defendants, jointly and severally, as follows:

27 1. For the imposition of civil penalties pursuant to California Labor Code §§ 2699, 210,
28 558, 226, 226.3, 1174.5, 1197.1 and all other penalties allowed by the California Labor Code and/or

1 other applicable statutes;

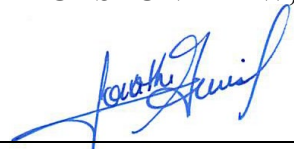
2 2. For statutory attorneys' fees and costs pursuant to sections 210, 218.5 and 2699(g)(1)
3 of California Labor Code; and

4 3. For such other and further relief as the Court may deem proper.
5

6 Respectfully Submitted,

7 Dated: August 29, 2023

BLACKSTONE LAW, APC

8
9 By: 

10 Jonathan M. Genish, Esq.

11 Karen I. Gold, Esq.

12 Marissa A. Mayhood, Esq.

13 Attorneys for Plaintiff

14 CHRISTINA RODRIGUEZ individually,
15 and on behalf of all similarly aggrieved
16 employees
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EXHIBIT A

June 23, 2023

PAGA Claim Notice Via Online Electronic Submission

California Labor & Workforce Development Agency

800 Capitol Mall, Suite 5000 (MIC-55)

Sacramento, CA 95814

<https://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-Act.html>

RE: *Christina Fernando Rodriguez v. Seascape Resort, Ltd., A California Limited Partnership*

Dear Representative:

This office represents Christina Fernando Rodriguez (“Claimant”) with respect to her claims under the California Labor Code against Seascape Resort, Ltd., A California Limited Partnership (including any and all affiliates, subsidiaries, parents, directors, and officers thereof) (collectively referred to herein as “Employer”). This letter is being sent simultaneously to Employer by certified mail.

Employer employed Claimant from approximately October 28, 2020, through approximately September 2022, as a non-exempt, hourly paid employee. During her employment with Employer, Claimant was employed as a kitchen line cook at Employer’s facilities including the Seascape Beach Resort in Aptos, California. Employer is in the service industry and runs resort hotels.

Claimant intends to bring a representative action seeking penalties for violations of the California Labor Code which are recoverable under the Labor Code Private Attorneys General Act of 2004, California Labor Code section 2698, *et seq.* (“PAGA”). Claimant is seeking penalties on behalf of himself and in a representative capacity on behalf of the State of California and all current and former hourly-paid and/or non-exempt employees who worked for Employer in the State of California during the relevant statutory period (“Aggrieved Employees”). This letter is being sent in compliance with California Labor Code section 2699.3 and shall serve as Claimant’s notice of the provisions of the California Labor Code alleged to have been violated, including the facts and theories in support thereof.

As detailed below, Employer violated several of California’s wage and hour laws during Claimant’s employment, including but not limited to California Labor Code sections 201, 202, 203,

204, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 2800, 2802, and the Industrial Welfare Commission Wage Orders (“IWC Wage Order”). The claims made on behalf of Claimant and Aggrieved Employees are based upon the following facts and theories:

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

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

California Labor Code sections 1194, 1197, and 1197.1 and the applicable IWC Wage Orders require employers to pay at least the legal minimum wage to their employees. California Labor Code sections 510 and 1198 and the applicable IWC Wage Orders further require employers to pay no less than one and one-half times the regular rate of pay of the employee for hours worked in excess of eight (8) hours in one workday, for hours worked in excess of forty (40) hours in one workweek, and for the first eight (8) hours worked on the seventh day of work in any one workweek, and to pay no less than twice the regular rate of pay of the employee for hours worked in excess of twelve (12) hours in one workday and for any work in excess of eight (8) hours on any seventh day of a workweek.

Throughout the relevant time period, Employer regularly required Claimant and other Aggrieved Employees to perform work off-the-clock because, among other things, they were forced to work while clocked out for meal periods. Claimant and Aggrieved Employees sometimes noted that their superiors, (*e.g.*, Claimant’s superiors in the kitchen area), would alter time sheets so as to create the appearance that Claimant and Aggrieved Employees had not performed off-the-clock work they in fact, had performed, to prevent Claimant and Aggrieved Employees from receiving overtime pay to which they were entitled.

Employer failed to compensate Claimant and other Aggrieved Employees for any of the aforementioned off-the-clock work, in violation of California law and, as noted, purposefully altered time sheets to prevent Claimant and Aggrieved Employees from collecting all wages due to them at either the regular or at overtime rates.

The uncompensated work described herein was often performed when Claimant and other Aggrieved Employees had already worked eight (8) hours in a day and/or forty (40) hours in week resulting in a failure to pay overtime compensation. Finally, Employer failed to pay overtime to Claimant and Aggrieved Employees for all overtime hours worked based on regular rates of pay correctly calculated to include all applicable remuneration, including non-discretionary commissions, non-discretionary bonuses, and non-discretionary performance pay.

As a result of the foregoing practices, Employer has failed to pay Claimant and other Aggrieved Employees for all wages earned at the correct rates of pay, including minimum wages and overtime compensation. Accordingly, Employer violated the applicable IWC Wage Orders and

California Labor Code sections 204, 510, 1194, 1197, 1197.1 and 1198.

Claimant and Aggrieved Employees will therefore seek PAGA default penalties pursuant to California Labor Code section 2699; the penalties section of the applicable IWC Wage Orders; penalties pursuant to California Labor Code sections 558, 1197.1, and 1199; and attorneys' fees and costs.

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

California law requires employers to provide employees with an opportunity to take an uninterrupted meal period of no less than thirty (30) minutes before the end of the fifth hour of work when an employee works more than five (5) hours in a day. Cal. Lab. Code §§ 226.7, 512(a). A second meal period of no less than thirty (30) minutes must be provided before the end of the tenth hour of work when an employee works more than ten (10) hours in a day. Cal. Lab. Code §§ 226.7, 512(a). When an employer fails to provide a meal or rest period, an hour of pay at the employee's regular rate of compensation is owed to the employee. Cal. Lab. Code § 226.7(c).

During the relevant time period, Employer failed to provide Claimant and other Aggrieved Employees with legally compliant 30-minute meal periods. Claimant and other Aggrieved Employees were required by Employer to work more than five (5) hours per day but were not provided with uninterrupted 30-minute meal periods. Further, Claimant and other 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 Claimant and other Aggrieved Employees to work through their first and second meal periods, to take their first meal period after their fifth (5th) hour of work, and/or to take their second meal periods after their tenth (10th) hour of work. Meal periods, when provided, were oftentimes interrupted or cut short.

Employer's policies, practices, and procedures were responsible for the violations alleged above and prevented Claimant 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 failed and refused to implement and enforce legally compliant meal period policies and practices; (3) Employer failed to adequately inform and train Claimant and other Aggrieved Employees regarding their right to take timely, uninterrupted, and duty-free meal periods; (4) Employer failed to adequately inform and train Claimant 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 Claimant and other Aggrieved Employees to take timely, uninterrupted, and duty-free meal periods; (6) Employer required Claimant 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 telephone calls and radios; (7) Employer prohibited Claimant and other Aggrieved Employees from leaving their assigned work areas during meal periods; and (8) Employer's policy

and culture prevented Claimant and other Aggrieved Employees from taking timely, uninterrupted, and duty-free meal periods because of the priority placed on maximizing profits over employees' right to receive timely, uninterrupted, and duty-free meal periods.

Claimant and other 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 the applicable IWC Wage Orders and California Labor Code sections 226.7, 512(a) and 1198.

Claimant and Aggrieved Employees will therefore seek PAGA default penalties pursuant to California Labor Code section 2699; the penalties section of the applicable IWC Wage Orders; 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

California law requires employers to authorize and permit employees to take an uninterrupted rest period of no less than ten (10) minutes rest for every four (4) hours, or major fraction thereof, worked. Cal. Lab. Code § 226.7. When an employer fails to authorize and permit a rest period, an hour of pay at the employee's regular rate of compensation is owed to the employee. Cal. Lab. Code § 226.7(c).

Employer failed to authorize and permit Claimant and other Aggrieved Employees to take legally compliant 10-minute rest periods. Employer required Claimant and other Aggrieved Employees to work through rest periods. Claimant 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, Claimant and other 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. In the rare event that a rest period was taken, it was frequently interrupted or cut short. Moreover, Claimant and other 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 Claimant 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 failed and refused to implement and enforce legally compliant rest period policies and practices; (3) Employer failed to adequately inform and train Claimant and other Aggrieved Employees regarding their right to take timely,

uninterrupted, and duty-free rest periods; (4) Employer failed to adequately inform and train Claimant 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 Claimant and other Aggrieved Employees to take timely, uninterrupted, and duty-free rest periods; (6) Employer required Claimant and other Aggrieved Employees to remain on-call and respond to work-related requests at all times, including during rest periods, which included responding to telephone calls and radios; (7) Employer prohibited Claimant and other Aggrieved Employees from leaving their assigned work areas during rest periods; and (8) Employer's policy and culture prevented Claimant 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.

Claimant and other 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 the applicable IWC Wage Orders and California Labor Code sections 226.7, and 1198.

Claimant and Aggrieved Employees will therefore seek PAGA default penalties pursuant to California Labor Code section 2699; the penalties section of the applicable IWC Wage Orders; California Labor Code sections 558 and 1199 penalties; and attorneys' fees and costs.

4. FAILURE TO TIMELY PAY WAGES DURING EMPLOYMENT

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. During the relevant time period, Employer has failed to timely pay all wages earned because Claimant and other Aggrieved Employees were not paid all the wages they were owed including, *inter alia*, overtime compensation, minimum wages, and meal and rest period premiums. Accordingly, Employer violated California Labor Code section 204(a).

Claimant 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.

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5. FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS

California Labor Code section 226(a) requires an employer semimonthly or at the time of each payment of wages to furnish wage statements to its employees setting forth, *inter alia*, (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, and (8) the name and address of the legal entity that is the employer.

As a result of the practices described herein, the wage statements provided to Claimant and other Aggrieved Employees failed to include the actual hours worked (including time spent working off-the-clock), the actual gross wages earned (including wages owed for time spent working off the clock and meal and rest period premiums), and the correct rates of pay. The wage statements provided to Claimant and other Aggrieved Employees also failed to include the name of the legal entity that employed Claimant and the Aggrieved Employees. Accordingly, Employer violated California Labor Code section 226(a).

Claimant 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

California Labor Code section 1174(d) requires an employer to keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept with rules established for this purpose by the commission, but in any case, shall be kept on file for not less than two years. During the relevant time period, Employer has failed to maintain accurate records relating to Claimant and other Aggrieved Employees' work periods, meal periods, total daily hours worked, and total hours worked per payroll period. Accordingly, Employer violated the applicable IWC Wage Orders and California Labor Code sections 1198.5 and 1174(d).

Claimant and Aggrieved Employees will therefore seek PAGA default penalties pursuant to California Labor Code section 2699; penalties pursuant to the penalties paragraph of the applicable IWC Wage Orders; 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 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. The IWC Wage Orders require employers to provide employees with the tools or equipment necessary for the performance of their job. During the relevant time period, Claimant 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, Claimant and Aggrieved Employees sometimes being required to use their own cell phones for Employer's purposes, without proper reimbursement.

Accordingly, Employer violated the applicable IWC Orders and California Labor Code sections 2800 and 2802.

Claimant and Aggrieved Employees will therefore seek PAGA default penalties pursuant to California Labor Code section 2699; the penalties section of the applicable IWC Wage Orders; and attorneys' fees and costs.

8. FAILURE TO TIMELY PAY ALL WAGES UPON TERMINATION OF EMPLOYMENT

California Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and if an employee quits his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours' notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

During the relevant time period, upon the termination of employment (including but not limited to when they were temporarily laid off, laid off, discharged, and/or resigned), Aggrieved Employees were not paid all wages due to them within twenty-four (24) hours or even within seventy-two (72) hours for those who resigned. Specifically, as a result of Employer's practices of requiring Aggrieved Employees to work off-the-clock without compensation, failing to pay proper overtime compensation, unlawful rounding practices, failure to properly calculate regular rates, and failure to accurately record all hours actually worked, Employer failed to pay Aggrieved Employees for all minimum wages and overtime compensation owed to them upon termination of their employment. Employer also failed to pay Aggrieved Employees for meal period premiums and rest period premiums they were owed, amongst other wages. Accordingly, Employer violated California Labor Code sections 201 and 202.

Claimant and Aggrieved Employees will therefore seek PAGA default penalties pursuant to California Labor Code section 2699; penalties pursuant to California Labor Code sections 203 and 1199; and attorneys' fees and costs.

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9. EMPLOYER'S OTHER VIOLATIONS OF THE CALIFORNIA LABOR CODE

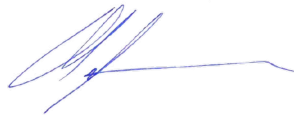
Finally, pursuant to *Huff v. Securitas Security Services USA, Inc.* (2018) 25 Cal.App.5th 745 (“*Huff*”), as an Aggrieved Employee, Claimant has standing, and intends, on behalf of LWDA, to pursue civil penalties against Employer for any and all other Labor Code violations committed by Employer. In *Huff*, the California Court of Appeals held that an employee alleging a single violation of the Labor Code under PAGA may also bring PAGA claims against Employer for all other alleged Labor Code violations, even those suffered by other employees of the same employer. According to the *Huff* decision, Employee, as an “aggrieved” employee affected by at least one Labor Code violation may, and hereby does, pursue penalties on behalf of LWDA for unrelated Labor Code violations by Employer.

Employer is in direct violation of numerous California wage and hour laws including but not limited to said sections stated above. We hereby provide notice under the California Labor Code Private Attorneys General Act of 2004, California Labor Code Sections 2698, *et seq.*, and specifically ask for an investigation, or if the agency does not intend to investigate the alleged violations, a letter confirming the same so that we may allege a cause of action under PAGA against Employer for the violations discussed in this letter.

This letter is sent in compliance with the reporting requirements of California Labor Code section 2699.3. By law, an employee alleging a violation of one of the above referenced sections must notify his or her employer and the Labor and Workforce Development Agency (LWDA) before he or she can invoke the provisions of Sections 2699, *et seq.*, by seeking redress in court. Cal. Lab. Code § 2699.3(a)(1). The LWDA must then notify the employer and the employee within 60 calendar days regarding whether it intends to investigate the alleged violation. Cal. Lab. Code § 2699.3(a)(2)(B). If the LWDA advises it will not investigate, or if no notice is provided within 65 calendar days, the employee may file a lawsuit invoking the provisions under Labor Code § 2699. Cal. Lab. Code § 2699.3(a)(2)(A). It is Claimant’s intention to file a civil complaint and to bring the appropriate claims under California Labor Code § 2699 on behalf of themselves, the State of California and all Aggrieved Employees should your office not address Employer’s alleged violations within this time.

If you have any questions or require additional information, please do not hesitate to contact my office. Thank you for your attention to this matter.

BLACKSTONE LAW



Alexander K. Spellman

Cc: By U.S. Certified Mail, Return Receipt Requested

Seascape Resort, Ltd., A Limited California Partnership
19 Seascape Village
Aptos, CA 95003

Seascape Resort, Ltd., A Limited California Partnership
Mark Holcomb, Agent for Service of Process
19 Seascape Village
Aptos, CA 95003