



January 15, 2026

Via Upload to the LWDA Website and U.S. Certified Mail

**NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO
LABOR CODE SECTION 2699.3**

TO: California Labor and Workforce Development Agency; HORN BARBECUE PERALTA LLC; HORN BARBECUE CEDAR LLC; HORN BARBECUE BROADWAY LLC; HORN BARBECUE MANDELA, LLC; HORN BARBECUE SF LLC; MATTHEW HORN

Francisco Berber, on behalf of himself, others similarly situated, and the general public v. Horn Barbecue Peralta LLC; Horn Barbecue Cedar LLC; Horn Barbecue Broadway LLC; Horn Barbecue Mandela, LLC; Horn Barbecue SF LLC; Matthew Horn

Factual Background and Theories of Labor Code Violations

Horn Barbecue¹ has a repeated and continuous practice of blatantly stealing from its employees and depriving them of their rightfully earned wages. Horn Barbecue has shown complete disregard for its employees and its responsibilities under the Labor Code. In many cases, Horn Barbecue has forced employees to work without any compensation at all. Instead of paying its employees, Horn Barbecue has decided to expand its business, commit to substantial remodels, and open new locations.

Horn Barbecue owns and operates barbecue restaurants in the State of California. Due to the hard work of its employees, Horn Barbecue has achieved great success and national recognition including, amongst other things, a feature in the Michelin Guide and a James Beard award for best new restaurant in the country. Rather than show employees appreciation, Horn Barbecue has decided to not pay its employees.

Notably, since 2022, there have been 10 wage claims filed with the DLSE against Horn Barbecue. The San Francisco Chronicle has also taken notice of Horn Barbecue's growing reputation for wage theft. *See Kadvan, Elena, It became one of the nation's hottest restaurants. One man is telling his side of the story*, SAN FRANCISCO CHRONICLE (May 25, 2024).

¹ "Horn Barbecue" collectively refers to Horn Barbecue Peralta LLC; Horn Barbecue Cedar LLC; Horn Barbecue Broadway LLC; Horn Barbecue Mandela, LLC; Horn Barbecue SF LLC; and Matthew Horn.

However, Horn Barbecue remains unperturbed and has continued to withhold wages from its employees. Again, Horn Barbecue is actively seeking to expand its operations, despite numerous employees being left without their rightful compensation.

Francisco Berber is one of many victims of Horn Barbecue. Francisco Berber was employed by Horn Barbecue as a non-exempt hourly employee in California, with the job title of kitchen manager. Mr. Berber worked his first shift with Horn Barbecue on or around January 21, 2025. Mr. Berber's employment with Horn Barbecue ended on or around February 7, 2025.

During his time with Horn Barbecue, Mr. Berber worked around 10 shifts and over 110 hours. In one instance, Mr. Berber was forced to work a continuous shift of 25 hours. Mr. Berber has not received any compensation whatsoever from Horn Barbecue, despite reaching out for payment on numerous different occasions. Several other former employees have reached out with similar experiences.

Thus, Mr. Berber gives notice of his intent to file a lawsuit for violations of the Private Attorneys General Act of 2004 ("PAGA") for Horn Barbecue's failure to comply with California's wage and hour requirements on behalf of himself and all other non-exempt aggrieved employees.

I. Horn Barbecue Fails to Pay All Straight Time and Minimum Wages Owed

It is fundamental that an employer must pay its employees for all time worked. *California Labor Code* sections 218 and 218.5 provide a right of action for nonpayment of wages. *California Labor Code* section 222 prohibits the withholding of part of a wage. *California Labor Code* section 223 prohibits the payment of less than a statutory or contractual wage scale. *California Labor Code* section 1197 prohibits the payment of less than the minimum wage. *California Labor Code* section 1194 states that an employee receiving less than the legal minimum wage is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage. *California Labor Code* section 1194.2 states that an employee receiving less than the legal minimum wage is entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon. *California Labor Code* section 224 only permits deductions from wages when the employer is required or empowered to do so by state or federal law or when the deduction is expressly authorized in writing by the employee for specified purposes that do not have the effect of reducing the agreed upon wage.

Horn Barbecue has a continuous policy of stealing from Mr. Berber's and the aggrieved employee's wages by not paying them anything for any of the hours they worked. For example, Mr. Berber worked over 110 hours for Horn Barbecue without any compensation despite reaching out to Horn Barbecue on numerous occasions for payment.

Even when Horn Barbecue does decide to pay its employees for work, Horn Barbecue has a continuous and consistent policy of not paying aggrieved employees for all of the hours they worked and are subject to Horn Barbecue's control. Specifically, Horn Barbecue requires employees to work before clocking in, after clocking out, and during meal periods. Mr. Berber and the aggrieved employees are not paid for this time.

Furthermore, when Mr. Berber and the aggrieved employees are able to take meal periods, Mr. Berber and the aggrieved employees are not relieved of all duties and/or employer control during their meal periods. For example, Mr. Berber and the aggrieved employees were routinely forced to work through their meal periods to satisfy their demanding work duties imposed by Horn Barbecue, thereby denying them the right to be completely free from employer control under California law. Thus, Horn Barbecue shaves/steals earned wages from Mr. Berber and the aggrieved employees every day they work without a lawful meal period and have time deducted for a meal period.

Mr. Berber and the aggrieved employees are informed and believe and thereon allege that Horn Barbecue breached the legal duty to pay full wages to Mr. Berber by failing to pay Mr. Berber and similarly aggrieved employees for time when Mr. Berber and the aggrieved employees were not relieved of all duties and/or employer control.

Horn Barbecue committed the acts alleged herein knowingly and willfully, with the wrongful and deliberate intention of injuring Mr. Berber and the aggrieved employees. Horn Barbecue acted with malice or in conscious disregard of Mr. Berber's and the aggrieved employees' rights.

These claims are for Mr. Berber and all similarly situated hourly, non-exempt employees who worked for Horn Barbecue in California.

Mr. Berber, as a representative of the people of the State of California, will seek any and all penalties otherwise capable of being collected by the Labor Commission and/or the Department of Labor Standards Enforcement (DLSE). This includes each of the following, as set forth in *Labor Code* section 2699.5, which provides that section 2699.3(a) applies to any alleged violation of the following provisions: sections 1194, 1194.2, 1197.1, and 1199.

II. Horn Barbecue Fails to Pay All Overtime Wages Owed

It is fundamental that an employer must pay its employees for all time worked. *California Labor Code* section 510 states that eight (8) hours of labor constitutes a day's work. Any work in excess of eight (8) hours in one workday and any work in excess of forty (40) hours in any one workweek and the first eight (8) hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half (1.5) times the regular rate of pay for an employee.

California Labor Code section 510 dictates that any work in excess of twelve (12) hours in one (1) day shall be compensated at the rate of no less than two (2) times the regular rate of pay for an employee. In addition, any work in excess of eight (8) hours on any seventh day of a workweek shall be compensated at the rate of no less than two (2) times the regular rate of pay of an employee.

Horn Barbecue continuously failed to pay overtime to Mr. Berber and the aggrieved employees as required by the California Labor Code. Horn Barbecue failed to pay overtime when Mr. Berber and the aggrieved employees worked over eight (8) hours per day and forty (40) hours in a week. Additionally, Horn Barbecue failed to pay aggrieved employees double-time whenever they worked in excess of twelve (12) hours in one day.

Mr. Berber and the aggrieved employees were deprived of wages for overtime hours worked because Horn Barbecue routinely fails to pay aggrieved employees any wages at all. Subsequently, Mr. Berber and the aggrieved employees are not paid all overtime wages owed to them.

As discussed, Horn Barbecue has a continuous policy of stealing from Mr. Berber's and the aggrieved employee's wages by not paying them anything for any of the hours they worked, let alone overtime hours worked. For example, Mr. Berber worked over 110 hours for Horn Barbecue without any compensation despite reaching out to Horn Barbecue on numerous occasions for payment.

Horn Barbecue routinely forces aggrieved employees to work shifts over eight (8) hours and shifts over twelve (12) hours without any compensation whatsoever. For instance, Horn Barbecue required Mr. Berber to work a shift of twenty-five (25) hours without any straight time, one and one-half (1.5) time, or double-time pay.

Even when Horn Barbecue does decide to pay its employees for work, Horn Barbecue has a continuous and consistent policy of not paying aggrieved employees for all of the hours they worked and are subject to Horn Barbecue's control. Specifically, Horn Barbecue requires employees to work before clocking in, after clocking out, and during meal periods. Mr. Berber and the aggrieved employees are not paid for this time. When Mr. Berber and the aggrieved employees work over eight (8) hours in a shift and forty (40) hours in a week, these unpaid hours must be compensated at an overtime rate. Likewise, when Mr. Berber and the aggrieved employees work over twelve (12) hours in a shift they must be compensated at a double-time rate.

Furthermore, when Mr. Berber and the aggrieved employees are able to take meal periods, Mr. Berber and the aggrieved employees are not relieved of all duties and/or employer control during their meal periods. For example, Mr. Berber and the aggrieved employees were routinely forced to work through their meal periods to satisfy their demanding work duties imposed by Horn Barbecue, thereby denying them the right to be completely free from employer control under California law. Thus, Horn Barbecue shaves/steals earned wages from Mr. Berber and the aggrieved employees every day they work without a lawful meal period and have time deducted for a meal period. When Mr. Berber and the aggrieved employees work over eight (8) hours in a shift and forty (40) hours in a week, these unpaid hours must be compensated at an overtime rate. Likewise, when Mr. Berber and the aggrieved employees work over twelve (12) hours in a shift they must be compensated at a double-time rate.

Mr. Berber and the aggrieved employees are informed and believe and thereon allege that Horn Barbecue breached the legal duty to pay full wages to Mr. Berber by failing to pay Mr. Berber and similarly aggrieved employees for time when Mr. Berber and the aggrieved employees were not relieved of all duties and/or employer control.

Mr. Berber and the aggrieved employees have suffered, and continue to suffer, substantial unpaid wages, and lost interest on such wages, and expenses.

These claims are for Mr. Berber and all similarly situated hourly, non-exempt employees who worked for Horn Barbecue in California.

Mr. Berber, as a representative of the people of the State of California, will seek any and all penalties otherwise capable of being collected by the Labor Commission and/or the Department of Labor Standards Enforcement (DLSE) for violations of *California Labor Code* section 510.

III. Horn Barbecue Failed to Provide Lawful Meal Periods

Under *California Labor Code* section 512, no employer shall employ any person for a work period of more than five (5) hours without providing a meal period of not less than thirty (30) minutes. During this meal period of not less than thirty (30) minutes, the employee is to be completely free of the employer's control and must not perform any work for the employer. If the employee does perform work for the employer during the thirty (30) minute meal period, the employee has not been provided a meal period in accordance with the law. Also, the employee is to be compensated for any work performed during the thirty (30) minute meal period.

In addition, an employer may not employ an employee for a work period of more than ten (10) hours per day without providing the employee with another meal period of not less than thirty (30) minutes.

Under *California Labor Code* section 226.7 Under *California* if an employer fails to provide an employee a meal or rest or recovery period in accordance with a state law, 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.

Horn Barbecue breached the legal duty to provide meal periods to employees by failing to provide employees with meal periods within the timeframes outlined by California law. Specifically, Horn Barbecue fails to provide Mr. Berber and the aggrieved employees with meal periods, if at all, within the first five (5) continuous hours of work and fails to provide Mr. Berber and the aggrieved employees with second meal periods, if at all, within the first ten (10) continuous hours of work.

Furthermore, when Mr. Berber and the aggrieved employees are able to take meal periods, Mr. Berber and the aggrieved employees are not relieved of all duties and/or employer control during their meal periods. For example, Mr. Berber and the aggrieved employees were routinely forced to work through their meal periods to satisfy their demanding work duties imposed by Horn Barbecue, thereby denying them the right to be completely free from employer control under California law. Thus, Horn Barbecue shaves/steals earned wages from Mr. Berber and the aggrieved employees every day they work without a lawful meal period and have time deducted for a meal period.

In addition, Horn Barbecue fails to keep accurate records of meal periods for Mr. Berber and the aggrieved employees.

By failing to provide statutory first and/or second meal periods, and by failing to provide compensation for unprovided meal periods, as alleged above, Horn Barbecue willfully violated the

provisions of *Labor Code* sections 226.7 and 512.

These claims are for Mr. Berber and all similarly situated hourly, non-exempt employees who worked for Horn Barbecue in California.

Mr. Berber, as a non-exempt employee who unlawfully was deprived of first and second meal periods, is an aggrieved employee with standing to bring an action under the PAGA. Mr. Berber has satisfied all prerequisites to serve as a representative of the general public to enforce California's labor laws, and the penalty provisions identified in *Labor Code* section 2699.5 for violations of *Labor Code* sections 226.7 and 512.

IV. Horn Barbecue Failed to Provide Lawful Rest Periods

Horn Barbecue has had a consistent policy and/or practice of not providing duty free paid ten (10) minute paid rest periods for every four (4) hours worked, or a major fraction thereof, to Mr. Berber and the aggrieved employees.

Industrial Welfare Commission Order No. 5-2001 section 12(A) states “[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work week period....The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time for every four (4) hours worked, or major fraction thereof.”

Under *California Labor Code* section 226.7 Under *California* if an employer fails to provide an employee a meal or rest or recovery period in accordance with a state law, 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.

Horn Barbecue has a continuous policy and practice that fails to provide Mr. Berber and the aggrieved employees with any paid rest periods at all. As outlined above, Horn Barbecue has a continuous policy of stealing from Mr. Berber's and the aggrieved employee's wages by not paying them anything for any of the hours they worked. For example, Mr. Berber worked over 110 hours for Horn Barbecue without any compensation despite reaching out to Horn Barbecue on numerous occasions for payment; thus, Mr. Berber never received a paid rest period.

Horn Barbecue also has a continuous policy and practice of not providing Mr. Berber and the aggrieved employees rest breaks “at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof.” Specifically, Horn Barbecue regularly does not provide Mr. Berber and the aggrieved employees with any rest periods at all, let alone rest periods consisting of ten (10) minutes net rest time per four (4) hours worked or major fraction thereof.

Furthermore, even when Mr. Berber and the aggrieved employees are able to take rest periods, Mr. Berber and the aggrieved employees are not relieved of all duties and/or employer control during their rest periods. For example, Mr. Berber and the aggrieved employees were routinely forced to work through their rest periods to satisfy their demanding work duties imposed by Horn Barbecue, thereby denying them the right to be completely free from employer control under California law.

By failing to provide rest periods for every four hours or major fraction thereof worked per day by non-exempt employees, and by failing to provide compensation for these unprovided rest periods, as alleged above, Horn Barbecue willfully violated the provisions of *Labor Code* section 226.7 and Industrial Welfare Commission Order No. 5-2001 section 12(A).

These claims are for Mr. Berber and all similarly situated hourly, non-exempt employees who worked for Horn Barbecue in California.

Mr. Berber, as a non-exempt employee who was unlawfully deprived of paid ten (10) minute rest periods, is an aggrieved employee with standing to bring an action under the PAGA. Mr. Berber has satisfied all prerequisites to serve as a representative of the general public to enforce California's labor laws, and the penalty provisions identified in *California Labor Code* section 2699.5 and Industrial Welfare Commission Order No. 5-2001 section 20 for violations of *California Labor Code* section 226.7 and Industrial Welfare Commission Order No. 5-2001 section 12(A).

V. Horn Barbecue Failed to Pay All Wages Due at Termination and During Employment

Horn Barbecue willfully failed to pay, in a timely manner, wages owed to the aggrieved employees who left Horn Barbecue's employ or who were terminated.

The aggrieved employees who ended their employment with Horn Barbecue during the last year were entitled to be promptly paid all lawful compensation, and other premiums, as required by *California Labor Code* sections 201 through 203.

At all relevant times, *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 his employment, his or his wages shall become due and payable no later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours' notice of his or his intention to quit, in which case the employee is entitled to his or his wages at the time of quitting.

During the relevant time period, Horn Barbecue intentionally and willfully failed to pay the aggrieved employees who are no longer employed by Horn Barbecue their wages, that were earned and unpaid, within seventy-two (72) hours of their leaving Horn Barbecue's employ.

Horn Barbecue has a continuous policy of not providing final wages to employees who are fired at the time of termination or who quit within seventy-two (72) hours of their leaving Horn Barbecue's employ.

As outlined above, Horn Barbecue has a continuous policy of stealing from Mr. Berber's and the aggrieved employee's wages by not paying them anything for any of the hours they worked. For example, Mr. Berber worked over 110 hours during his employment with Horn Barbecue and never received any compensation despite reaching out to Horn Barbecue on numerous occasions for payment.

Even when Horn Barbecue does decide to pay its employees for work, Horn Barbecue has a continuous and consistent policy of not paying aggrieved employees for all of the hours they worked and are subject to Horn Barbecue's control. Specifically, Horn Barbecue requires employees to work before clocking in, after clocking out, and during meal periods. Mr. Berber and the aggrieved employees are not paid for this time.

Furthermore, when Mr. Berber and the aggrieved employees are able to take meal periods, Mr. Berber and the aggrieved employees are not relieved of all duties and/or employer control during their meal periods. For example, Mr. Berber and the aggrieved employees were routinely forced to work through their meal periods to satisfy their demanding work duties imposed by Horn Barbecue, thereby denying them the right to be completely free from employer control under California law. Thus, Horn Barbecue shaves/steals earned wages from Mr. Berber and the aggrieved employees every day they work without a lawful meal period and have time deducted for a meal period.

Mr. Berber and the aggrieved employees are informed and believe and thereon allege that Horn Barbecue breached the legal duty to pay full wages to Mr. Berber by failing to pay Mr. Berber and similarly aggrieved employees for time when Mr. Berber and the aggrieved employees were not relieved of all duties and/or employer control.

In addition, through its failure to provide aggrieved employees with lawful meal and rest periods, Horn Barbecue does not pay all meal and rest period premiums owed to Mr. Berber and the aggrieved employees at the time of termination.

Horn Barbecue's failure to pay the aggrieved employees who are no longer employed by Horn Barbecue their wages, that were earned and unpaid, at the time of termination or within seventy-two (72) hours of their leaving Horn Barbecue's employ, is in violation of *California Labor Code* sections 201 and 202.

California Labor Code section 203 provides that when an employer willfully fails to pay wages owed, in accordance with sections 201 and 202, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until action is commenced; but the wages shall not continue for more than thirty (30) days.

These claims are for Mr. Berber and all similarly situated hourly, non-exempt employees who worked for Horn Barbecue in California.

Mr. Berber, as a representative of the people of the State of California, will seek any and all penalties otherwise capable of being collected by the Labor Commission and/or the Department of Labor Standards Enforcement ("DLSE"). This includes each of the following, as set forth in *Labor Code* section 2699.5 for violations of sections 201 through 203.

VI. Horn Barbecue's Knowing and Intentional Failure to Comply with Itemized Employee Wage Statement Provisions

Section 226(a) of the *California Labor Code* requires Horn Barbecue to itemize in wage statements all deductions from payment of wages and to accurately report total hours worked by Mr. Berber and the aggrieved employees.

California Labor Code section 226 subdivision (a) requires that Horn Barbecue, at the time of each payment of wages, “furnish each of his or his employees, either as a detachable part of the check, draft, or voucher paying the employee’s wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing (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 his social security number or an employee identification number other than the social security number, (8) the name and address of the legal entity that is the employer...(9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee...”

California Labor Code section 226, subdivision (a) also requires that “deductions made from payment of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement and the record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California” to itemize in wage statements and to accurately report the total hours worked and total wages earned.

In addition, *California Labor Code* section 204(b) 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.” An employer complies with *California Labor Code* section 226(a) “if hours worked in excess of the normal work period during the current pay period are itemized as corrections on the paystub for the next regular pay period. Any corrections set out in a subsequently issued paystub shall state the inclusive dates of the pay period for which the employer is correcting its initial report of hours worked.”

Horn Barbecue has knowingly and intentionally failed to comply with *California Labor Code* section 226(a) by failing to provide all wage statements owed to Mr. Berber and aggrieved employees and by failing to provide wage statements that include all of the information required by *California Labor Code* section 226(a)(1) through (9).

As outlined above, Horn Barbecue has a continuous policy of stealing from Mr. Berber’s and the aggrieved employee’s wages by not paying them anything for any of the hours they worked. For example, Mr. Berber worked over 110 hours for Horn Barbecue without any compensation despite reaching out to Horn Barbecue on numerous occasions for payment. In failing to pay Mr. Berber and aggrieved employees, Horn Barbecue also fails to provide them with wage statements.

Even when Horn Barbecue does provide wage statements, Horn Barbecue fails to include all of the information required by *California Labor Code* section 226(a)(1) through (9) on each and every wage statement.

By virtue of its failure to pay for all time worked, Horn Barbecue knowingly and intentionally did not correctly itemize the gross wages earned, total hours worked, net wages earned, and number of hours worked at each hourly rate on wage statements provided to Mr. Berber and the aggrieved employees as *California Labor Code* section 226, subsection (a), requires in every pay period during the period of the relevant statute of limitations.

Again, Horn Barbecue routinely fails to provide aggrieved employees any compensation for any time worked. Even when Horn Barbecue does pay aggrieved employees, Horn Barbecue has a continuous and consistent policy of not paying aggrieved employees for all of the hours they worked and are subject to Horn Barbecue's control. Specifically, Horn Barbecue requires employees to work before clocking in, after clocking out, and during meal periods. Mr. Berber and the aggrieved employees are not paid for this time.

Furthermore, when Mr. Berber and the aggrieved employees are able to take meal periods, Mr. Berber and the aggrieved employees are not relieved of all duties and/or employer control during their meal periods. For example, Mr. Berber and the aggrieved employees were routinely forced to work through their meal periods to satisfy their demanding work duties imposed by Horn Barbecue, thereby denying them the right to be completely free from employer control under California law. Thus, Horn Barbecue shaves/steals earned wages from Mr. Berber and the aggrieved employees every day they work without a lawful meal period and have time deducted for a meal period.

In addition, Horn Barbecue failed to pay all meal and rest period premiums owed to Mr. Berber and the aggrieved employees for Horn Barbecue's failure to provide lawful meal and rest periods.

Throughout the statutory period, as a result of the knowing and intentional failure by Horn Barbecue to comply with itemized employee wage statement provisions, aggrieved employees have been able to reconstruct only a reasonable estimate of the hours worked and have, therefore, not received full compensation.

Further, in addition to any penalties levied upon Horn Barbecue for its failure to comply with *California Labor Code* section 226 subdivision (a)'s requirement to provide Mr. Berber and the aggrieved employees accurate, itemized wage statements, *California Labor Code* section 226.3 assesses additional penalties for the failure to keep the records required in subdivision (a) of Section 226. *California Labor Code* section 226 subdivision (a) requires Horn Barbecue to maintain records that "accurately shows all of the information required by this subdivision." Horn Barbecue has violated its statutory duty to maintain records for Mr. Berber and the aggrieved employees that contain all of the information under *California Labor Code* section 226(a)(1) through (9).

These claims are for Mr. Berber and all similarly situated hourly, non-exempt employees who worked for Horn Barbecue in California.

Mr. Berber, as a non-exempt employee who Horn Barbecue failed to provide accurate and itemized wage statements, is an aggrieved employee with standing to bring an action under the PAGA. Mr.

Berber has satisfied all prerequisites to serve as a representative of the general public to enforce California's labor laws, and the penalty provisions identified in *California Labor Code* section 2699.5 for violations of *California Labor Code* section 226 and 226.3.

VII. Horn Barbecue Failed to Pay Employees Twice Per Month

Section 204(a) of the *California Labor Code* required Horn Barbecue to pay Mr. Berber and the aggrieved employees twice during each calendar month.

California Labor Code section 204 subdivision (a) provides “[a]ll wages . . . earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month shall be paid for between the 1st and 10th day of the following month.”

During the relevant time period, by virtue of its failure to pay for all time worked, Horn Barbecue intentionally and willfully failed to pay Mr. Berber and the aggrieved employees their wages, that were earned and unpaid, twice during each calendar month.

As outlined above, Horn Barbecue has a continuous policy of stealing from Mr. Berber's and the aggrieved employee's wages by not paying them anything for any of the hours they worked. For example, Mr. Berber worked over 110 hours for Horn Barbecue without any compensation despite reaching out to Horn Barbecue on numerous occasions for payment.

Even when Horn Barbecue does decide to pay its employees for work, Horn Barbecue has a continuous and consistent policy of not paying aggrieved employees for all of the hours they worked and are subject to Horn Barbecue's control. Specifically, Horn Barbecue requires employees to work before clocking in, after clocking out, and during meal periods. Mr. Berber and the aggrieved employees are not paid for this time.

Furthermore, when Mr. Berber and the aggrieved employees are able to take meal periods, Mr. Berber and the aggrieved employees are not relieved of all duties and/or employer control during their meal periods. For example, Mr. Berber and the aggrieved employees were routinely forced to work through their meal periods to satisfy their demanding work duties imposed by Horn Barbecue, thereby denying them the right to be completely free from employer control under California law. Thus, Horn Barbecue shaves/steals earned wages from Mr. Berber and the aggrieved employees every day they work without a lawful meal period and have time deducted for a meal period.

Mr. Berber and the aggrieved employees are informed and believe and thereon allege that Horn Barbecue breached the legal duty to pay full wages to Mr. Berber by failing to pay Mr. Berber and similarly aggrieved employees for time when Mr. Berber and the aggrieved employees were not relieved of all duties and/or employer control.

In addition, Horn Barbecue failed to pay all meal and rest period premiums owed to Mr. Berber and the aggrieved employees for Horn Barbecue's failure to provide lawful meal and rest periods.

Horn Barbecue's failure to pay Mr. Berber and the aggrieved employees their wages, that were earned and unpaid, twice during each calendar month, is in violation of *California Labor Code* section 204.

During the relevant time period, Horn Barbecue intentionally and willfully failed to pay Mr. Berber and the aggrieved employees their wages, that were earned and unpaid, within the timeframes as required by *California Labor Code* section 204.

These claims are for Mr. Berber and all similarly situated hourly, non-exempt employees who worked for Horn Barbecue in California.

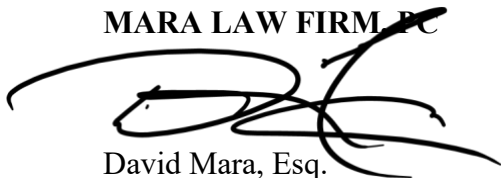
Mr. Berber, as a representative of the people of the State of California, will seek any and all penalties otherwise capable of being collected by the Labor Commission and/or the Department of Labor Standards Enforcement ("DLSE"). This includes each of the following, as set forth in *Labor Code* section 2699.5 for violations of section 204.

VIII. Conclusion

If after 65 days from the date of this letter, the LWDA does not take action or declines to intervene, Mr. Berber will file a complaint alleging PAGA violations, as described above.

Respectfully submitted,

MARA LAW FIRM, PC



David Mara, Esq.

Attn: PAGA Administrator
California Labor and Workforce Development Agency
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102
Via Web Submission

Attn: Horn Barbecue Peralta LLC
Juanita Horn
49 W 10TH STREET
TRACY, CA 95376
Agent for Service of Process for Horn Barbecue Peralta LLC
Via Certified Mail

Horn Barbecue Peralta LLC

7023 BROADWAY TER

OAKLAND, CA 94611

Via Certified Mail

Attn: Horn Barbecue Cedar LLC [formerly known as Horn Barbecue Broadway LLC]

Juanita Horn

7023 BROADWAY TER

OAKLAND, CA 94611

Agent for Service of Process for Horn Barbecue Cedar LLC

Via Certified Mail

Horn Barbecue Cedar LLC

7023 BROADWAY TER

OAKLAND, CA 94611

Via Certified Mail

Attn: Horn Barbecue Mandela, LLC

Matthew Horn

2534 MANDELA PKWY

OAKLAND, CA 94607

Agent for Service of Process for Horn Barbecue Mandela LLC

Via Certified Mail

Horn Barbecue Mandela, LLC

2534 MANDELA PKWY

OAKLAND, CA 94607

Via Certified Mail

Attn: Horn Barbecue SF LLC

Matthew Horn

2534 MANDELA PKWY

OAKLAND, CA 94607

Agent for Service of Process for Horn Barbecue SF LLC

Via Certified Mail

Horn Barbecue SF, LLC

2534 MANDELA PKWY

OAKLAND, CA 94607

Via Certified Mail

Attn: Matthew Horn

Matthew Horn

7023 BROADWAY TER

OAKLAND, CA 94611

Via Certified Mail