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Counsel for Plaintiff and the Proposed Representative Class

SUPERIOR COURT OF STATE OF CALIFORNIA

COUNTY OF RIVERSIDE

CVRI 2306468 mm.

SARAH ROBERTSON, on behalf of all
those similarly situated to her,

Plaintiff,

v.

RAISING CANE'S USA, LLC, RAISING
CANES RESTAURANTS, LLC, and DOES
1 THROUGH 100, inclusive,

Defendants.

**REPRESENTATIVE ACTION
COMPLAINT;**

**(1) Civil Penalties Under the Private
Attorneys General Act of 2004
("PAGA") §§ 2698-2699.5.**

PRELIMINARY STATEMENT

1
2 1. This is a representative action against Defendants Raising Cane's USA, LLC; Raising
3 Cane's Restaurants, LLC; and Does 1 through 100 (collectively, "Raising Cane's" or "Defendants"),
4 brought by Plaintiff Sarah Robertson ("Plaintiff") on behalf of a proposed representative class in
5 California under California's Private Attorneys General Act ("PAGA"), California Labor Code §§
6 2698, *et seq.* ("Representative Class"). Plaintiff and members of the proposed representative-class
7 Members are current and former Operations Managers, including all other salaried restaurant-level
8 employees who perform the same or similar duties to Operations Managers regardless of their exact
9 title (excepting General Managers/Restaurant Leaders), employed by Raising Cane's at any of its
10 restaurant locations in California between September 26, 2022 and the present (the "Class Period")
11 ("PAGA Members").

12 2. Raising Cane's operates more than 80 fried chicken fast food restaurants in California.
13 In these restaurants, Raising Cane's requires its Operations Managers to work well over forty hours per
14 week, over eight hours per day, at times over twelve hours per day, and to regularly work their shifts
15 without being provided meal and rest breaks during which they are relieved of all duty. Although
16 Raising Cane's Operations Managers spend significantly more than fifty percent of their time
17 performing non-managerial tasks, such as cooking, cashiering, serving customers, and cleaning,
18 Raising Cane's misclassifies these Operations Managers as "exempt" and pays them a salary. As a
19 result, Raising Cane's fails to pay Operations Managers premium pay for overtime hours worked and
20 meal and rest break penalties for missed meal and rest breaks.

21 3. Because of Defendants' unlawful misclassification of Operations Managers as exempt,
22 salaried employees, Defendants failed to pay Plaintiff Robertson and PAGA Members for overtime
23 hours worked in violation of California Labor Code §§ 510, 1194, and Industrial Welfare Commission
24 ("IWC") Order No. 5-2001; failed to provide compliant meal and rest periods in violation of California
25 Labor Code §§ 218.5, 226.7, 512, and IWC Order No. 5-2001; failed to provide accurate wage
26 statements in violation of California Labor Code § 226(a), and IWC Order No. 5-2001; failed to
27 maintain requisite payroll records in violation of California Labor Code §§ 226, 1174, and 1174.5;
28

1 failed to pay them all earned wages timely and upon discharge in violation of California Labor Code §§
2 201-204 and 210; and violated California's Private Attorneys General Act ("PAGA"), California Labor
3 Code §§ 2698-2699.5.

4 **JURISDICTION AND VENUE**

5 4. This Court has jurisdiction over this action pursuant to Article 6, § 10 of the California
6 Constitution and California Code of Civil Procedure § 410.10. Plaintiff Robertson brings this action on
7 behalf of all PAGA Members as defined herein. Raising Cane's owns property, maintains offices,
8 transacts business, and/or has an agent or agents within the County of Riverside or otherwise is found
9 within the County of Riverside, and Raising Cane's is within the jurisdiction of this Court for purposes
10 of service of process.

11 5. Venue is proper in this Court pursuant to California Code of Civil Procedure § 395(a)
12 and § 395.5 because the injuries to the persons complained of herein occurred at least in part in the
13 County of Riverside and/or because Raising Cane's conducts business within the County of Riverside.

14 **THE PARTIES**

15 **Plaintiff Sarah Robertson**

16 6. Plaintiff Sarah Robertson, at all times relevant hereto, was a resident of the State of
17 California and currently resides in Vista, California.

18 7. Plaintiff Robertson was employed by Raising Cane's as an Operations Manager at a
19 Raising Cane's restaurant location in Temecula, California between March 18, 2021, and November 4,
20 2022.

21 8. At all relevant times, Plaintiff Robertson was a covered employee within the meaning of
22 the California Labor Code and all applicable IWC Orders.

23 **Defendant Raising Cane's USA, LLC**

24 9. Defendant Raising Cane's USA, LLC, ("Raising Cane's USA") is a company founded in
25 Louisiana, with its corporate headquarters in Baton Rouge, Louisiana, and its principal office in Plano,
26 Texas. Raising Cane's USA is registered to do business in California.

27 10. Raising Cane's USA operates over 80 restaurants located in California.
28

1 11. Raising Cane's USA employed Plaintiff Robertson and has employed each PAGA
2 Member, as described in paragraph 1.

3 12. At all times relevant herein, Raising Cane's USA has maintained control, oversight, and
4 direction over Plaintiff Robertson and PAGA Members, including over the timekeeping, payroll, and
5 other employment practices that applied to them.

6 **Defendant Raising Cane's Restaurants, LLC**

7 13. Defendant Raising Cane's Restaurants, LLC, ("Raising Cane's Restaurants") is a
8 company founded in Louisiana, with its principal office in Plano, Texas. Raising Cane's Restaurants is
9 registered to do business in California.

10 14. Raising Cane's Restaurants operates over 80 restaurants located in California.

11 15. Raising Cane's Restaurants employed Plaintiff Robertson and has employed each PAGA
12 Member, as described in paragraph 1.

13 16. At all times relevant herein, Raising Cane's Restaurants has maintained control,
14 oversight, and direction over Plaintiff Robertson and PAGA Members, including over the timekeeping,
15 payroll, and other employment practices that applied to them.

16 17. Plaintiff Robertson is ignorant of the true names or capacities, whether as individuals,
17 partners, corporate entities, or joint venturers, of the Defendants sued herein as Does 1 through 100,
18 inclusive, and for that reason, Defendants are sued under such fictitious names. Plaintiff Robertson will
19 seek leave from the Court to amend this Representative Action Complaint when such true names and
20 capacities are discovered. Plaintiff Robertson is informed and believes, and thereupon alleges, that
21 each of said Doe Defendants, whether individuals, partners, corporate entities, or joint venturers, were
22 responsible in some manner for the circumstances alleged herein, and proximately caused Plaintiff
23 Robertson and PAGA Members to be subject to the unlawful employment and business practices,
24 wrongs, injuries, and damages complained of herein.

25 **COMMON FACTUAL ALLEGATIONS**

26 18. Plaintiff Robertson and PAGA Members consistently spent the majority of their time
27 performing non-managerial tasks, including but not limited to cooking, cashiering, serving customers,
28

1 and cleaning. These duties are the same as the duties performed by Raising Cane's non-exempt, hourly
2 paid workers.

3 19. Plaintiff Robertson and PAGA Members consistently spent significantly less than half of
4 their working time performing managerial and/or exempt duties.

5 20. Throughout their employment with Raising Cane's, Plaintiff Robertson and PAGA
6 Members regularly worked more than eight hours per workday, sometimes more than twelve hours per
7 workday, and more than forty hours per workweek.

8 21. Defendants were aware that Plaintiff Robertson and PAGA Members regularly worked
9 more than eight hours per workday, sometimes more than twelve hours per workday, and more than
10 forty hours per workweek, yet Defendants failed to pay Plaintiff Robertson and PAGA Members any
11 overtime compensation for any hours worked over eight hours a workday or forty hours in a workweek.

12 22. Defendants did not keep accurate records of hours worked by Plaintiff Robertson and
13 PAGA Members. That is, Plaintiff Robertson's and PAGA Members' work hours were not accurately
14 recorded on pay stubs, and Defendants did not require Plaintiff Robertson and PAGA Members to
15 clock in or out, or otherwise record their time worked at the restaurant and at home.

16 23. Plaintiff Robertson and PAGA Members regularly worked in excess of five-hour shifts
17 for Raising Cane's, without being afforded at least a half-hour meal break in which they were relieved
18 of all work duties. They also worked ten-hour shifts for Raising Cane's without being afforded a
19 second half-hour meal break in which Raising Cane's relieved them of all duty. Plaintiff Robertson
20 and PAGA Members regularly worked for Raising Cane's without being afforded at least one ten-
21 minute rest break, in which Raising Cane's relieved them of all duty, per four hours of work performed
22 (or major fraction thereof).

23 24. Raising Cane's had common, company-wide policies and/or practices of failing to
24 relieve Plaintiff Robertson and PAGA Members of all duties so that they could take the meal and rest
25 periods to which they were entitled by law.

26 25. As a matter of common, company-wide policy and/or practice, Defendants also failed to
27 ensure that Raising Cane's paid Plaintiff Robertson and PAGA Members proper meal and rest break
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1 penalties when Plaintiff Robertson and PAGA Members did not receive the meal and rest breaks to
2 which they were entitled by law.

3 26. Plaintiff Robertson is informed and believes, and based thereupon alleges, that the
4 conduct, actions, omissions, and manner of failing to provide overtime wages, failing to provide proper
5 meal and rest breaks, failing to pay all earned wages upon discharge, failing to provide accurate wage
6 statements and maintain requisite payroll records, and failing to timely pay wages during employment
7 and upon termination of employment continues to the present and is willful, known, and intended to
8 violate the laws, and that officers, directors, and managing agents of Raising Cane's approved, ratified,
9 and/or directed the conduct in order to inflate profits at the expense of their own employees' earnings
10 and wages. Through these policies and/or practices, Raising Cane's lowers its operating costs by
11 failing to pay its Operations Managers overtime wages and failing to pay meal and rest break penalties
12 for their missed breaks.

13 **FIRST CAUSE OF ACTION**

14 **Violation of the Private Attorneys General Act ("PAGA"), Cal. Labor Code §§ 2698-2699.5.** 15 (On Behalf of the State of California and the Representative Class)

16 27. Plaintiff Robertson re-alleges each paragraph of this Complaint as though fully set forth
17 herein.

18 28. Under the California Private Attorneys General Act of 2004, California Labor Codes §§
19 2698-2699.5 ("PAGA"), an aggrieved employee, on behalf of himself or herself and other current or
20 former employees, as well as the general public, may bring a representative action as a private attorney
21 general to recover penalties for an employer's violations of the California Labor Code and IWC Orders.
22 These civil penalties are in addition to any other relief available under the California Labor Code and
23 must be allocated 75% to the California Labor and Workforce Development Agency ("LWDA") and
24 25% to the aggrieved employee, pursuant to California Labor Code § 2699.

25 29. Plaintiff Robertson is an "aggrieved employee" under PAGA, as she was employed by
26 Defendants during the applicable statutory period and suffered each of the wage and hour violations
27 alleged herein. Specifically, Defendants failed to pay Plaintiff Robertson and PAGA Members for
28 overtime hours worked in violation of California Labor Code §§ 510, 1194, and Industrial Welfare

1 Commission ("IWC") Order No. 5-2001; failed to provide compliant meal and rest periods in violation
2 of California Labor Code §§ 218.5, 226.7, 512, and IWC Order No. 5-2001; failed to provide accurate
3 wage statements in violation of California Labor Code § 226(a), and IWC Order No. 5-2001; failed to
4 maintain requisite payroll records in violation of California Labor Code §§ 226, 1174, and 1174.5; and
5 failed to pay them all earned wages timely and upon discharge in violation of California Labor Code §§
6 201-204 and 210, each of which is actionable under PAGA.

7 30. As an aggrieved employee, Plaintiff Robertson seeks to recover, on behalf of all current
8 and former aggrieved PAGA Members, the civil penalties provided by PAGA, plus reasonable
9 attorneys' fees and costs.

10 31. The State of California and all current and former aggrieved PAGA Members are
11 entitled to civil penalties, to be paid by Defendants and allocated as PAGA requires, pursuant to
12 California Labor Code § 2699(a) for Defendants' violations of the California Labor Code and IWC
13 Orders for which violations a civil penalty is already specifically provided by law. Further, Plaintiff
14 Robertson is entitled to civil penalties, to be paid by Defendants and allocated as PAGA requires,
15 pursuant to California Labor Code § 2699(f) for Defendants' violations of the California Labor Code
16 and IWC Orders for which violations a civil penalty is not already specifically provided by law.

17 32. Plaintiff Robertson has satisfied the requirements for bringing a civil action under
18 PAGA, as set forth in California Labor Code § 2699.3.

19 33. On September 26, 2023, Plaintiff Robertson provided written notice by online
20 submission and certified mail to the LWDA and to Raising Cane's of the legal claims and theories
21 asserted in this Representative Action Complaint. More than sixty-five calendar days have passed
22 since the postmark date of the September 26, 2023 notice provided to the LWDA, and Plaintiff
23 Robertson has not received a response from the LWDA. Accordingly, Plaintiff Robertson has
24 exhausted her administrative remedies pursuant to PAGA. A true and correct copy of Plaintiff's
25 September 26, 2023 PAGA notice is attached hereto as Exhibit A.

26 34. Plaintiff Robertson's September 26, 2023, PAGA notice exhausted administrative
27 remedies pursuant to PAGA for Operations Managers regarding the allegations referenced above. We
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1 are filing an amended PAGA notice contemporaneously with this filing that includes allegations that
2 Raising Cane's failed to reimburse PAGA Members for all necessary business expenses they incurred
3 on behalf of the Company, as well as that clarifies that the Representative Class of Operations
4 Managers includes all salaried restaurant-level employees who perform the same or similar duties to
5 Operations Managers regardless of specific title, excepting General Managers/Restaurant Leaders.

6 35. Under PAGA, Plaintiff Robertson and the State of California are entitled to recover the
7 maximum civil penalties permitted by law for violations of the California Labor Code and IWC Order
8 No. 52001 that are alleged in this Complaint.

9 **PRAYER FOR RELIEF**

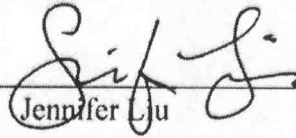
10 WHEREFORE, Plaintiff Robertson, on behalf of all similarly situated persons, prays for relief
11 as follows:

- 12 A. Designation of Plaintiff Robertson as Representative of the Representative Class;
13 B. An award of civil penalties pursuant to PAGA;
14 C. Pre-judgment and post-judgment interest, as provided by law;
15 D. Attorneys' fees and costs of action incurred herein, including any expert fees; and
16 E. Such other injunctive and equitable relief as the Court may deem just and proper.
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1 Dated: November 30, 2023

Respectfully submitted,

2
3 By:


Jennifer Liu

4
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*Counsel for Plaintiff and the Proposed
Representative Class*

Exhibit A



**PARDELL, KRUYK
&
GIRIBALDO PLLC**

Logan A. Pardell, Esq.
Email: lpardell@pkglegal.com

September 26, 2023

VIA ONLINE SUBMISSION

California Labor and Workforce Development Agency
800 Capitol Mall, MIC-55
Sacramento, CA 95814

VIA CERTIFIED U.S. MAIL

Kim R. Myers
Nicole LeFave
c/o Raising Cane's USA, LLC
Littler Mendelson, PC
100 Congress Avenue, Suite 1400
Austin, TX 78701

Re: PAGA Notice of California Labor Code Claims against Raising Cane's USA, LLC

Dear PAGA Administrator:

Pardell, Kruzyk & Giribaldo, PLLC, represents Sarah Robertson, a former employee of Raising Cane's USA, LLC ("Raising Cane's"). Ms. Robertson was employed by Raising Cane's as an Operations Manager ("OM") from approximately March 2021 through November 2022.

As set forth below, Ms. Robertson alleges that Raising Cane's failed to pay her and other similarly-situated employees as required by California law. Specifically, Ms. Robertson alleges that Raising Cane's failed to pay OMs overtime for hours over 8 in a day or over 40 in a week.

Raising Cane's classifies OMs as exempt employees, not entitled to overtime premium pay for all overtime hours worked. While OMs are scheduled to work five ten-hour shifts per week, they often work many more hours than that. Moreover, OMs are unable to take their required meal and rest breaks throughout the day. When OMs do not receive their meal or rest breaks, Raising Cane's fails to pay them the required meal and rest break premiums, respectively. Despite knowing or having reason to know that OMs work substantial overtime hours and that OMs do not regularly take their meal or rest breaks, Raising Cane's does not pay OMs overtime wages for the overtime hours that they work, relying on the fact that they have classified OMs as overtime-exempt. This classification is improper because there are no applicable exemptions under California law that apply to OMs, particularly because OMs spend more than 50% of their workday performing non-exempt job duties.

Because Ms. Robertson is owed overtime compensation, she was not paid all of her wages upon termination. Further, her paystubs did not accurately reflect her hours worked.

This letter serves as notice of our intent to seek civil penalties pursuant to the Private Attorneys General Act ("PAGA"), Cal. Lab. Code §§ 2698 *et seq.*, on behalf of Ms. Robertson and similarly-situated OMs who worked for Raising Cane's in the State of California at any time since August 31, 2022. Ms. Robertson alleges that Raising Cane's violated numerous provisions of the California Labor Code, including, but not limited to: §§ 201-204, 210, 218.5, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, and 1198, and provisions of the applicable Wage Order. Ms. Robertson will seek all applicable civil penalties on behalf of herself and all similarly-situated OMs, including but not limited to, penalties pursuant to the aforementioned statutes and California Labor Code §§ 226.3, 558.1, 1174.5, 2698 *et seq.*, and the applicable Wage Order.

The facts and claims contained herein are based on the information available at the time of this writing. Therefore, if through further review or informal or formal discovery, Ms. Robertson becomes aware of additional compensation or penalties owed to her and other current or former aggrieved employees or of additional claims against Raising Cane's, she reserves the right to revise these facts and/or add any new claims by amending this letter.

Based on the foregoing, Ms. Robertson intends to file a civil action to pursue claims against Raising Cane's and to seek PAGA remedies for these violations. Ms. Robertson respectfully requests that the Labor & Workforce Development Agency notify her if it intends to investigate the above allegations pursuant to PAGA.

Thank you for your attention to this matter. Please direct all communications and correspondence to our office going forward. If you have any questions, please do not hesitate to contact us at 561-726-8344.

Very truly yours,



Logan A. Pardell