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22 *Counsel for Plaintiff and the Proposed Representative Class*

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Case No. ~~CRVI2306468~~ CVRI2306468

**FIRST AMENDED
REPRESENTATIVE
ACTION COMPLAINT;**

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

Judge: The Hon. Harold Hopp
Dept: 1
Action Filed: 12/1/2023

PRELIMINARY STATEMENT

2. Raising Cane's operates more than 80 fried chicken fast food restaurants in California. In these restaurants, Raising Cane's requires its Operations Managers to work well over forty hours per week, over eight hours per day, at times over twelve hours per day, and to regularly work their shifts without being provided meal and rest breaks during which they are relieved of all duty. Additionally, Raising Cane's failed to reimburse Operations Managers for all necessary business expenses they incurred on behalf of the Company. Although Raising Cane's Operations Managers spend significantly more than fifty percent of their time performing non-managerial tasks,

1 such as cooking, cashiering, serving customers, and cleaning, Raising Cane's misclassifies these
2 Operations Managers as "exempt" and pays them a salary. As a result, Raising Cane's fails to pay
3 Operations Managers premium pay for overtime hours worked and meal and rest break penalties for
4 missed meal and rest breaks, and reimbursement for business expenses incurred on behalf of the
5 Company.

6 3. Because of Defendants' unlawful misclassification of Operations Managers as
7 exempt, salaried employees, Defendants failed to pay Plaintiff Robertson and PAGA Members for
8 overtime hours worked in violation of California Labor Code §§ 510, 1194, and Industrial Welfare
9 Commission ("IWC") Order No. 5-2001; failed to provide compliant meal and rest periods in
10 violation of California Labor Code §§ 218.5, 226.7, 512, and IWC Order No. 5-2001; failed to
11 provide accurate wage statements in violation of California Labor Code § 226(a), and IWC Order
12 No. 5-2001; failed to maintain requisite payroll records in violation of California Labor Code §§
13 226, 1174, and 1174.5; failed to pay them all earned wages timely and upon discharge in violation
14 of California Labor Code §§ 201-204 and 210; failed to reimburse them for all necessary business
15 expenses in violation of California Labor Code § 2802; and violated California's Private Attorneys
16 General Act ("PAGA"), California Labor Code §§ 2698-2699.5.

17 **JURISDICTION AND VENUE**

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

24 5. Venue is proper in this Court pursuant to California Code of Civil Procedure §
25 395(a) and § 395.5 because the injuries to the persons complained of herein occurred at least in part
26 in the County of Riverside and/or because Raising Cane's conducts business within the County of
27 Riverside.

1 **THE PARTIES**

2 **Plaintiff Sarah Robertson**

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

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

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

10 **Defendant Raising Cane's USA LLP**

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

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

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

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

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

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

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

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

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

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

13 **COMMON FACTUAL ALLEGATIONS**

14 18. Plaintiff Robertson and PAGA Members consistently spent the majority of their time
15 performing non-managerial tasks, including but not limited to cooking, cashiering, serving
16 customers, and cleaning. These duties are the same as the duties performed by Raising Cane’s non-
17 exempt, hourly paid workers.

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

20 20. Throughout their employment with Raising Cane’s, Plaintiff Robertson and PAGA
21 Members regularly worked more than eight hours per workday, sometimes more than twelve hours
22 per workday, and more than forty hours per workweek.

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

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

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

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

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

19 26. Defendants required Plaintiff Robertson and PAGA Members, to use their personal
20 vehicles, personal cell phones and data plans, personal computers, and home utilities to perform
21 work on behalf of the Company. Defendants did not reimburse Plaintiff Robertson or PAGA
22 Members for the necessary use of their personal vehicles, personal computers, and home utilities,
23 and Defendants did not fully reimburse Plaintiff Robertson and PAGA Members for the use of their
24 cell phones and data plans.

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

9 **FIRST CAUSE OF ACTION**

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

11 28. Plaintiff Robertson re-alleges each paragraph of this Complaint as though fully set
12 forth herein.

13 29. Under the California Private Attorneys General Act of 2004, California Labor Codes
14 §§ 2698-2699.5 ("PAGA"), an aggrieved employee, on behalf of himself or herself and other
15 current or former employees, as well as the general public, may bring a representative action as a
16 private attorney general to recover penalties for an employer's violations of the California Labor
17 Code and IWC Orders. These civil penalties are in addition to any other relief available under the
18 California Labor Code and must be allocated 75% to the California Labor and Workforce
19 Development Agency ("LWDA") and 25% to the aggrieved employee, pursuant to California Labor
20 Code § 2699.

21 30. Plaintiff Robertson is an "aggrieved employee" under PAGA, as she was employed
22 by Defendants during the applicable statutory period and suffered each of the wage and hour
23 violations alleged herein. Specifically, Defendants failed to pay Plaintiff Robertson and PAGA
24 Members for overtime hours worked in violation of California Labor Code §§ 510, 1194, and
25 Industrial Welfare Commission ("IWC") Order No. 5-2001; failed to provide compliant meal and
26 rest periods in violation of California Labor Code §§ 218.5, 226.7, 512, and IWC Order No. 5-2001;
27 failed to provide accurate wage statements in violation of California Labor Code § 226(a), and IWC
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1 Order No. 5-2001; failed to maintain requisite payroll records in violation of California Labor Code
2 §§ 226, 1174, and 1174.5; failed to reimburse all necessary business expenses under § 2802; and
3 failed to pay them all earned wages timely and upon discharge in violation of California Labor
4 Code §§201-204 and 210, each of which is actionable under PAGA.

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

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

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

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

25 35. On November 30, 2023, Plaintiff Robertson provided an amended written notice by
26 online submission and certified mail of the legal claims and theories asserted in this Representative
27 Action Complaint to the LWDA and to Raising Cane's. More than sixty-five calendar days have
28

1 passed since the postmark date of the November 30, 2023 notice provided to the LWDA, and
2 Plaintiff Robertson has not received a response from the LWDA. Accordingly, Plaintiff Robertson
3 has exhausted her administrative remedies pursuant to PAGA. A true and correct copy of Plaintiff's
4 November 30, 2023 PAGA notice is attached hereto as Exhibit B.

5 36. Plaintiff Robertson's September 26, 2023, PAGA notice and her November 30, 2023
6 amended PAGA notice exhausted administrative remedies pursuant to PAGA for Operations
7 Managers regarding the allegations referenced above.

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

11 **PRAYER FOR RELIEF**

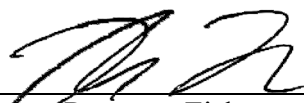
12 WHEREFORE, Plaintiff Robertson, on behalf of all similarly situated persons, prays for
13 relief as follows:

- 14 A. Designation of Plaintiff Robertson as Representative of the Representative Class;
15 B. An award of civil penalties pursuant to PAGA;
16 C. Pre-judgment and post-judgment interest, as provided by law;
17 D. Attorneys' fees and costs of action incurred herein, including any expert fees; and
18 E. Such other injunctive and equitable relief as the Court may deem just and proper.
19

20 Dated: February 5, 2024

Respectfully submitted,

21
22 By:


23 Rebecca Peterson-Fisher

24 KATZ BANKS KUMIN LLP
25 Rebecca Peterson-Fisher (State Bar No.
26 255359)
27 Jennifer L. Liu (State Bar No. 279370)
28 Alexis Ronickher (State Bar No. 260614)
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7 forthcoming)
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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 OM's overtime for hours over 8 in a day or over 40 in a week.

Raising Cane's classifies OM's as exempt employees, not entitled to overtime premium pay for all overtime hours worked. While OM's are scheduled to work five ten-hour shifts per week, they often work many more hours than that. Moreover, OM's are unable to take their required meal and rest breaks throughout the day. When OM's 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 OM's work substantial overtime hours and that OM's do not regularly take their meal or rest breaks, Raising Cane's does not pay OM's overtime wages for the overtime hours that they work, relying on the fact that they have classified OM's as overtime-exempt. This classification is improper because there are no applicable exemptions under California law that apply to OM's, particularly because OM's 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,

A handwritten signature in black ink, appearing to read "Logan A. Pardell", written in a cursive style.

Logan A. Pardell

Exhibit B



PARDELL, KRUYK
&
GIRIBALDO PLLC

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

November 30, 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 and
Raising Cane's Restaurants, LLC
Littler Mendelson, PC
100 Congress Avenue, Suite 1400
Austin, TX 78701

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

Dear PAGA Administrator:

On September 26, 2023, undersigned counsel submitted a PAGA Notice advising the California Labor and Workforce Development Agency that Pardell, Kruzyk & Giribaldo, PLLC, represents Sarah Robertson, a former employee of Raising Cane's USA, LLC and Raising Cane's Restaurants, LLC (collectively, "Raising Cane's"), with respect to multiple violations of California Labor Code and its intention to pursue civil remedies for such violations pursuant to the Private Attorneys General Act ("PAGA"), Cal. Lab. Code §§ 2698 *et seq.* The original PAGA Notice is attached hereto as Exhibit A.

As set forth below and in the original PAGA Notice, Ms. Robertson was employed by Raising Cane's as an Operations Manager from March 18, 2021, through November 4, 2022. 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 Operations Managers, including all salaried restaurant-level managers regardless of exact title (excluding General Managers) (collectively, "OMs"), overtime for hours over 8 in a day, over 12 in a day, or over 40 in a week. Ms. Robertson also alleges that Raising Cane's failed to reimburse OMs for all necessary business expenses they incurred on behalf of the Company.

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, at times working more than twelve hours in a day. 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.

Raising Cane's also required OMs, including Ms. Robertson, to use their personal vehicles, personal cell phones and data plans, personal computers, and home utilities to perform work on behalf of the Company. Raising Cane's did not reimburse OMs for the necessary use of their personal vehicles, personal computers, and home utilities, and Raising Cane's did not fully reimburse OMs for the use of their cell phones and data plans.

Because Ms. Robertson is owed overtime compensation, meal and break premiums, and reimbursements for all necessary business expenses, she was not paid all of her wages upon termination. Further, her paystubs did not accurately reflect her hours worked.

This letter clarifies the definition of the employees that are similarly situated to Ms. Robertson as OMs. It also 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 but were not reimbursed for all necessary business expenses that they incurred on behalf of the Company at any time since November 30, 2022. As set forth in this amended Notice and in the original PAGA Notice, 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, 1198, and 2802, as well as 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.

California Labor and Workforce Development Agency

November 30, 2023

Page 3 of 3

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,

A handwritten signature in black ink, appearing to read 'Logan A. Pardell', with a stylized, flowing script.

Logan A. Pardell

Enclosure.