

1 Ian Pancer (SBN 246600)
2 Joe Virgilio (SBN 344081)
3 PANCER LAW CORPORATION
4 4603 Mission Blvd., Suite 220
5 San Diego, California 92109
6 Telephone: (619) 955-6644
7 Facsimile: (619) 374-7410
8 Email: ian@sandiegolegal.net; joe@sandiegolegal.net
9 Attorneys for Plaintiff
10 KINNY VALENZUELA
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Superior Court of California,
County of San Diego

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Clerk of the Superior Court
By G. Escorcía, Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

KINNY VALENZUELA, individually and
on behalf of the State of California and all
other aggrieved employees,
Plaintiff,

vs.

KENNY BROTHERS, INC., a California
corporation; and DOES 1 through 20,
inclusive,
Defendants.

Case No. 26CU049266C

**REPRESENTATIVE ACTION COMPLAINT
FOR CIVIL PENALTIES UNDER THE
PRIVATE ATTORNEYS GENERAL ACT
(LABOR CODE § 2699, ET SEQ.)**

1 Plaintiff KINNY VALENZUELA ("Plaintiff"), individually and as a proxy of the State
2 of California and on behalf of all other aggrieved employees, by and through his attorneys, Pancer
3 Law Corporation, alleges as follows:

4 **INTRODUCTION**

5 1. This is a representative enforcement action brought under the Labor Code Private
6 Attorneys General Act of 2004, California Labor Code sections 2698 through 2699.8 ("PAGA").
7 Plaintiff brings this action as an aggrieved employee, acting on behalf of the State of California
8 and all other aggrieved employees of Defendants, to recover civil penalties for Defendants'
9 violations of the California Labor Code and the applicable Industrial Welfare Commission Wage
10 Order.

11 2. This action seeks only the civil penalties recoverable under PAGA and the remedies
12 available under Labor Code section 2699. It is separate from, and does not assert, Plaintiff's
13 individual claims for damages, statutory penalties, and other relief alleged in his separately filed
14 individual complaint.

15 **THE PARTIES**

16 3. Plaintiff Kinny Valenzuela is an individual who resides, and at all relevant times
17 resided, in the County of San Diego, California. Defendants employed Plaintiff as an hourly, non-
18 exempt associate at their Jersey Mike's sandwich shop from approximately June 7, 2025 to
19 approximately January 25, 2026, at an hourly rate of \$20.00. Plaintiff is an "aggrieved employee"
20 within the meaning of Labor Code section 2699, subdivision (c), because he was employed by
21 Defendants and personally suffered each of the Labor Code violations alleged herein during the
22 applicable limitations period.

23 4. Defendant Kenny Brothers, Inc. is, and at all relevant times was, a California
24 corporation doing business in the County of San Diego, California. Defendant owns and operates
25 Jersey Mike's franchise locations in Point Loma and other locations in San Diego. Defendant was
26 Plaintiff's employer within the meaning of the Labor Code and the applicable Industrial Welfare
27 Commission Wage Order.

28 5. Plaintiff does not know the true names and capacities of the defendants sued herein as
Does 1 through 20, inclusive, and therefore sues these defendants by fictitious names pursuant to

1 California Code of Civil Procedure section 474. Plaintiff will amend this Complaint to allege their
2 true names and capacities when ascertained. Plaintiff is informed and believes, and on that basis
3 alleges, that each fictitiously named defendant is responsible in some manner for the acts and
4 violations alleged herein.

5 6. Plaintiff is informed and believes, and on that basis alleges, that at all relevant times
6 each Defendant was the agent, employer, joint employer, representative, or employee of each of
7 the remaining Defendants and, in doing the acts alleged herein, was acting within the course and
8 scope of that agency, employment, or representative capacity. The acts and omissions alleged
9 herein were performed by Defendants' managerial employees, and Defendants authorized,
10 ratified, and condoned a continuing pattern of unlawful practices in violation of the California
11 Labor Code. Kenny Brothers, Inc. and Does 1 through 20 are referred to collectively as
12 "Defendants."

13 **JURISDICTION AND VENUE**

14 7. This Court has subject matter jurisdiction over this action because it is an unlimited
15 civil action and no statutory exception to jurisdiction applies. The civil penalties, wages, interest,
16 attorneys' fees, and costs sought exceed the jurisdictional minimum of this Court.

17 8. This Court has personal jurisdiction over Defendants because Kenny Brothers, Inc. is a
18 California corporation that conducts business in California and in the County of San Diego, and
19 the conduct giving rise to this action occurred in California.

20 9. Venue is proper in this Court pursuant to Code of Civil Procedure sections 395 and
21 395.5 because Defendants transact business and reside in the County of San Diego, Plaintiff
22 performed his work for Defendants in the County of San Diego, and the Labor Code violations
23 and other conduct giving rise to this action occurred in the County of San Diego.

24 **EXHAUSTION OF ADMINISTRATIVE PREREQUISITES**

25 10. Before commencing this action, Plaintiff complied with the notice and exhaustion
26 requirements of Labor Code section 2699.3. On June 5, 2026, Plaintiff, through counsel, gave
27 written notice to Defendant and to the California Labor and Workforce Development Agency
28 ("LWDA") of the specific provisions of the Labor Code alleged to have been violated, including

1 the facts and theories supporting the alleged violations. Plaintiff provided the notice to the LWDA
2 by online filing and to Defendant by certified mail, and paid the filing fee required by Labor Code
3 section 2699.3.

4 11. More than sixty-five (65) calendar days have elapsed since the postmark date of
5 Plaintiff's June 5, 2026 notice. The LWDA did not, on the same facts and theories, issue a citation,
6 provide notice of its intention to investigate the alleged violations within the time prescribed by
7 Labor Code section 2699.3, or otherwise preclude this action. Accordingly, Plaintiff has
8 exhausted all administrative prerequisites and is authorized to commence and prosecute this civil
9 action to recover civil penalties under Labor Code section 2699.

10 12. The facts and theories alleged in this Complaint are the same as, and are not materially
11 different from, those set forth in Plaintiff's June 5, 2026 PAGA notice.

12 **GENERAL FACTUAL ALLEGATIONS**

13 13. Throughout Plaintiff's employment, Defendants employed Plaintiff and other
14 aggrieved employees as hourly, non-exempt employees. The employment of Plaintiff and other
15 aggrieved employees is governed by the Labor Code and by Industrial Welfare Commission Wage
16 Order No. 5-2001, which regulates wages, hours, and working conditions in the public
17 housekeeping industry, including restaurants.

18 14. Plaintiff regularly worked a full-time schedule and frequently worked overtime,
19 working approximately 90 to 95 hours per pay period.

20 15. Defendants maintained policies and practices, aimed at reducing labor costs and
21 prioritizing revenue over compliance, that failed to authorize and permit Plaintiff and other
22 aggrieved employees to take legally compliant, duty-free rest periods of at least ten (10) minutes
23 for every four (4) hours worked or major fraction thereof. As a result of Defendants' policies and
24 chronic understaffing, Plaintiff and other aggrieved employees were regularly required to work
25 four (4) or more hours without being authorized and permitted a compliant rest period, and were
26 not paid one additional hour of premium pay for each workday a compliant rest period was not
27 provided.
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1 16. Defendants failed to provide Plaintiff and other aggrieved employees with timely,
2 complete, and duty-free meal periods of at least thirty (30) minutes. Defendants scheduled
3 Plaintiff and other aggrieved employees to take a meal period after approximately two hours of
4 work and then required them to continue working, causing them to work more than five (5) hours
5 without a compliant meal period. Defendants did not pay one additional hour of premium pay for
6 each workday a compliant meal period was not provided.

7 17. Defendants failed to pay Plaintiff and other aggrieved employees all wages owed,
8 including minimum wages for all hours worked and overtime and double-time compensation for
9 hours worked in excess of the applicable daily and weekly thresholds, including for time worked
10 off the clock and for meal, rest, and work periods that were not properly recorded or compensated.

11 18. Defendants required Plaintiff and other aggrieved employees to use their personal
12 cellular telephones to perform their duties, including taking and transmitting numerous work-
13 related photographs, and failed to reimburse them for the necessary business expenses they
14 incurred, including the cost of purchasing and maintaining a cellular telephone and phone plan.

15 19. As a result of Defendants' unlawful policies and practices, and their failure to pay all
16 minimum, overtime, and premium wages, Defendants furnished Plaintiff and other aggrieved
17 employees with inaccurate and incomplete itemized wage statements and failed to maintain
18 accurate payroll and related employment records.

19 20. Defendants failed to timely pay Plaintiff and other aggrieved employees all wages due
20 upon separation of employment, and failed to timely produce personnel and payroll records upon
21 request.

22 21. The violations alleged herein were committed pursuant to Defendants' uniform
23 policies and practices and are representative in nature, having been perpetrated on all aggrieved
24 employees of Defendants in the State of California. Plaintiff brings this action on a representative
25 basis on behalf of himself and all other aggrieved employees.

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1 **CAUSE OF ACTION**

2 **Civil Penalties Under the Private Attorneys General Act (Labor Code § 2699, et seq.)**

3 **(By Plaintiff, as a Representative Action, Against All Defendants)**

4 22. Plaintiff incorporates by this reference each and all of the preceding paragraphs of this
5 Complaint as if fully set forth herein.

6 23. PAGA authorizes an aggrieved employee, as a proxy of the State of California, to
7 bring a civil action to recover civil penalties for violations of the Labor Code on behalf of the
8 employee and all other current and former aggrieved employees, pursuant to the procedures
9 specified in Labor Code section 2699.3. Plaintiff is an aggrieved employee who personally
10 suffered each of the violations alleged herein and has standing to prosecute this action.

11 24. During the applicable limitations period, Defendants committed, and caused to be
12 committed, the following violations of the Labor Code and the applicable Wage Order against
13 Plaintiff and other aggrieved employees:

14 (a) Failure to pay all overtime and double-time wages, in violation of Labor Code sections
15 204, 510, 558, 1194, and 1198, and the applicable Wage Order;

16 (b) Failure to pay minimum wages for all hours worked, in violation of Labor Code
17 sections 1182.12, 1194, 1194.2, and 1197, and the applicable Wage Order;

18 (c) Failure to provide lawful, timely, complete, and duty-free meal periods, or to pay meal
19 period premiums, in violation of Labor Code sections 226.7, 512, and 516, and the
20 applicable Wage Order;

21 (d) Failure to authorize and permit lawful, timely, complete, and duty-free rest periods, or
22 to pay rest period premiums, in violation of Labor Code sections 226.7 and 516, and the
23 applicable Wage Order;

24 (e) Failure to furnish timely, accurate, and complete itemized wage statements, in violation
25 of Labor Code section 226;

26 (f) Failure to timely pay all wages due upon separation of employment, in violation of
27 Labor Code sections 201, 202, and 203;

1 (g) Failure to timely pay all wages earned during employment, in violation of Labor Code
2 section 204;

3 (h) Failure to maintain accurate records, in violation of Labor Code sections 1174 and
4 1174.5, and the applicable Wage Order;

5 (i) Failure to reimburse necessary business expenses, including cellular telephone costs,
6 in violation of Labor Code section 2802; and

7 (j) Failure to timely produce personnel and payroll records upon request, in violation of
8 Labor Code sections 226, subdivision (c), 432, and 1198.5.

9 25. As a result of the foregoing violations, Plaintiff, as a proxy for the State of California
10 and on behalf of all other aggrieved employees, is entitled to recover civil penalties pursuant to
11 Labor Code section 2699, including the default civil penalty of one hundred dollars (\$100) for
12 each aggrieved employee per pay period under Labor Code section 2699, subdivision (f)(2)(A),
13 the enhanced penalty of two hundred dollars (\$200) for each aggrieved employee per pay period
14 where applicable under Labor Code section 2699, subdivision (f)(2)(B), and any civil penalty
15 specifically provided by the Labor Code sections alleged above, in amounts according to proof.

16 26. Pursuant to Labor Code section 2699, subdivision (m), the civil penalties recovered
17 shall be distributed sixty-five percent (65%) to the LWDA and thirty-five percent (35%) to the
18 aggrieved employees.

19 27. Pursuant to Labor Code section 2699, subdivision (k), Plaintiff is entitled to an award
20 of reasonable attorneys' fees and costs, including the filing fee paid under Labor Code section
21 2699.3, and to injunctive relief to ensure Defendants' compliance with the Labor Code.

22 **PRAYER FOR RELIEF**

23 WHEREFORE, Plaintiff, individually and as a representative on behalf of the State of
24 California and all other aggrieved employees, prays for judgment against Defendants, and each
25 of them, as follows:

26 1. For civil penalties under Labor Code section 2699, including the penalties set forth in
27 subdivisions (f)(2)(A) and (f)(2)(B) and any penalties specifically provided by the Labor
28 Code provisions alleged herein, for each aggrieved employee for each pay period,
according to proof;

2. For all unpaid wages recoverable as civil penalties under Labor Code section 2699 and the underlying Labor Code provisions, according to proof;
3. For reasonable attorneys' fees and costs pursuant to Labor Code section 2699, subdivision (k), including reimbursement of the PAGA filing fee;
4. For injunctive relief requiring Defendants to comply with the Labor Code and the applicable Wage Order;
5. For prejudgment and post-judgment interest as allowed by law;
6. For costs of suit incurred herein; and
7. For any and all other relief the Court deems just and proper.

Respectfully submitted,

Dated: September 16, 2026

PANCER LAW CORPORATION
By: /s/Joe Virgilio
Joe Virgilio
Attorneys for Plaintiff
KINNY VALENZUELA