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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF RIVERSIDE**

VANNISHA MURPHY, an individual, on
behalf of the State of California,

Plaintiff,

v.

SABREEN AT 68444 PEREZ ROAD, INC., a
California corporation; and DOES 1 through
10, inclusive,

Defendants.

CASE NO.: **CVRI 2402639**

**REPRESENTATIVE ACTION
COMPLAINT FOR VIOLATION OF THE
CALIFORNIA PRIVATE ATTORNEYS
GENERAL ACT OF 2004**

[California Labor Code § 2698, *et seq.*]

1. Plaintiff Vannisha Murphy (“Plaintiff”) brings this representative action on behalf of the State of California, pursuant to the California Private Attorneys General Act of 2004 (“PAGA”), against Defendant Sabreen at 68444 Perez Road, Inc. d/b/a Desert Showgirls, and Does 1 through 10, inclusive (“Defendant”). Plaintiff makes the following allegations on information and belief, except as to allegations pertaining to Plaintiff individually, which are based on her personal knowledge.

INTRODUCTION

2. Defendant has implemented common policies and practices that have resulted in systematic violations of California’s Labor Code and the applicable Industrial Welfare Commission (“IWC”) Wage Order(s). Accordingly, Plaintiff, on behalf of the State of California, brings this representative action to recover civil penalties for the California Labor and Workforce Development Agency (“LWDA”), herself, and all other aggrieved employees—i.e., non-exempt employees who worked for Defendant in California during the statute of limitations period—predicated on, *inter alia*, Defendant’s failure to provide legally compliant meal periods and rest breaks and failure to provide compensation for missed and otherwise unlawful meal periods and rest breaks, unpaid regular and overtime compensation, unpaid minimum wages, unlawful sharing in tips and otherwise engaging in an unlawful tip pooling practice, failure to timely pay wages, failure to pay all wages owed and due to discharged or quitting non-exempt employees, failure to maintain required records, failure to provide accurate itemized wage statements, and failure to provide required information at the time of hiring.

JURISDICTION AND VENUE

3. The Superior Court of the State of California has jurisdiction in this matter because Plaintiff is a resident of the State of California and Defendant regularly conducts business in the State of California. No federal question is at issue because Plaintiff's claims are based solely on California law.

4. Venue is proper in this judicial district and the County of Riverside because Plaintiff and other aggrieved employees performed work for Defendant in the County of Riverside, and a substantial portion of the unlawful actions and omissions, as alleged herein, occurred in the County of Riverside.

1 **THE PARTIES**

2 5. Plaintiff is a resident of the State of California. Plaintiff was employed by Defendant
3 as a dancer, a non-exempt position, from approximately 2017 to November 2023.

4 6. On information and belief, Defendant is a California corporation that has done
5 business as Desert Showgirls, a strip club located at 68444 Perez Rd., Cathedral City, CA 92234, at
6 all times relevant herein.

7 7. The true names and capacities of Does 1 through 10, inclusive, are unknown to
8 Plaintiff at this time, and Plaintiff therefore sues such Defendant under fictitious names. Plaintiff is
9 informed and believes, and thereon alleges, that each Defendant designated as a Doe is in some
10 manner highly responsible for the occurrences alleged herein, and that Plaintiff and other aggrieved
11 employees' injuries and damages, as alleged herein, were proximately caused by the conduct of such
12 Doe Defendant. Plaintiff will seek leave of the Court to amend this Complaint to allege the true
13 names and capacities of such Doe Defendant when ascertained.

14 **REPRESENTATIVE ACTION ALLEGATIONS**

15 8. On February 27, 2024, Plaintiff gave written notice by certified mail, pursuant to
16 California Labor Code § 2699.3, to the LWDA and Defendant, of the specific provisions of the
17 California Labor Code and applicable IWC Wage Orders alleged to have been violated, including the
18 facts and theories to support the alleged violations. Within sixty-five (65) calendar days of the
19 postmark date of Plaintiff's notice letter, the LWDA did not provide notice to Plaintiff that it intends
20 to investigate the alleged violations. Nor did Defendant respond to any of the allegations contained in
21 Plaintiff's notice letter. Therefore, Plaintiff has complied with all the requirements set forth in
22 California Labor Code § 2699.3 to commence a representative action under the PAGA.

23 9. Plaintiff was employed as a non-exempt employee by Defendant during the time
24 period beginning one year and 65 days prior to the filing of this Complaint to the present—i.e., the
25 statute of limitations period. Plaintiff also personally experienced violations of the California Labor
26 Code during her employment with Defendant, as alleged herein. Thus, Plaintiff is an “aggrieved
27 employee” who has standing to assert these claims. *Huff v. Securitas Security Services USA, Inc.*, 23
28 Cal.App.5th 745, 757 (2018) (“For PAGA standing a plaintiff need only have been employed by the

1 violator and affected by ‘one or more’ of the alleged violations. (Sec. 2699, subds. (a), (c)’); *see also*
2 *Holak v. K Mart Corp.*, No. 1:12-cv-00304-AWI-MJS, 2015 WL 2384895, at *5 (E.D. Cal. May 19,
3 2015) (“By the plain language of the statute, an aggrieved employee need only suffer one of the
4 Labor Code violations alleged against his or her employer to be able to bring a PAGA claim on
5 behalf of...employees who suffered any Labor Code violation at the hands of the employer. Plaintiff
6 need not have actually suffered all of the Labor Code violations she alleges to have taken place for
7 purposes of seeking PAGA penalties.”).

8 **FACTUAL ALLEGATIONS**

9 **Failure to Provide Required Meal Periods**

10 **[Cal. Lab. Code §§ 226.7, 512; IWC Wage Order No. 5-2001, § 11]**

11 10. During the statute of limitations period, Defendant has required, permitted or
12 otherwise suffered Plaintiff and other aggrieved employees to perform work during their meal
13 periods, to completely skip their meal periods, to take late and short meal periods, and Defendant has
14 otherwise failed to provide the required meal periods to Plaintiff and other aggrieved employees as
15 required under California Labor Code §§ 226.7, 512, and IWC Wage Order No. 5-2001, § 11.

16 11. Defendant has implemented several common policies and practices that have caused
17 Plaintiff and other aggrieved employees to systematically miss and otherwise take non-compliant
18 meal periods. Among other things, Defendant engaged in gross understaffing, which resulted in
19 overwork and the inability to secure coverage, thereby causing Plaintiff and aggrieved employees to
20 miss or otherwise not be able to take compliant meal periods. Additionally, Defendant did not
21 authorize and permit aggrieved employees to take meal periods, nor did it schedule meal periods. *See*
22 *Benton v. Telecom Network Specialists, Inc.*, 220 Cal.App.4th 701, 722-23 (2013) (“*Brinker* made
23 clear that when an employer has not authorized and not provided legally required meal and/or rest
24 breaks, the employer has violated the law and is liable.”).

25 12. As a direct consequence of these common policies and practices, Plaintiff and other
26 aggrieved employees had so much work to complete within their scheduled shifts that they are forced
27 to skip their meal periods altogether, to take them after working longer than five (5) hours, to perform
28 work during their meal periods, or return to work after taking less than a thirty (30) minute meal

1 period.

2 13. Plaintiff and other aggrieved employees' time records will reveal meal period
3 violations. *Donohue v. AMN Services, LLC*, 11 Cal.5th 58, 61 (2021) ("we hold that time records
4 showing noncompliant meal periods raise a rebuttable presumption of meal period violations,
5 including at the summary judgment stage."). However, not all violations will be reflected in the
6 edited time records, as Defendant has engaged in a practice of editing time records to remove meal
7 period violations. Plaintiff is informed and believes that the original time records are still in
8 existence.

9 14. Defendant never paid Plaintiff or aggrieved employees a single meal period premium
10 payment. Despite work conditions that systematically result in missed and non-compliant meal
11 periods, and in order to keep labor costs down, Defendant has implemented a policy and practice of
12 never paying meal period premium payments when owed and due. This is a policy and practice that is
13 unlawful and unfair in and of itself. *Safeway, Inc. v. Superior Court*, 238 Cal.App.4th 1138, 1155
14 (2015).

15 15. In short, Defendant has also violated California Labor Code §§ 226.7 and § 11 of the
16 applicable IWC Wage Order by failing to compensate Plaintiff and other aggrieved employees who
17 were not authorized and permitted to take a complete, timely, uninterrupted meal period, one
18 additional hour of compensation at the proper regular rate of pay for each workday that such a meal
19 period was not authorized or permitted.

20 **Failure to Provide Required Rest Breaks**

21 **[Cal. Lab. Code §§ 226.7, 512; IWC Wage Order No. 5-2001, § 12]**

22 16. During the statute of limitations period, Defendant has failed to authorize and permit
23 Plaintiff and other aggrieved employees to take rest breaks as required under California Labor Code
24 §§ 226.7 and 512, and IWC Wage Order No. 5-2001, § 15.

25 17. The same common policies and practices that deprive Plaintiff and other aggrieved
26 employees from taking their meal periods, as alleged herein, similarly deprive them of their ability to
27 take their rest breaks. Namely, Defendant did not authorize and permit Plaintiff and other aggrieved
28 employees to take compliant rest breaks, nor did Defendant schedule such breaks. Defendant also

1 engaged in a policy of gross understaffing, which resulted in overwork and the inability to secure
2 coverage, thereby causing Plaintiff and aggrieved employees to miss or otherwise not be able to take
3 compliant rest breaks.

4 18. In addition, Plaintiff and aggrieved employees were paid at least in part on a
5 commission basis. To the extent Plaintiff and aggrieved employees could take rest breaks, Defendant
6 has not separately compensated them for rest break time, in violation of California law. *Bluford v.*
7 *Safeway Inc.* (2013) 216 Cal.App.4th 864, 872 (“rest periods must be separately compensated in a
8 piece-rate system,” either under “the legal minimum wage or the contractual hourly rate.”).

9 19. Defendant never paid Plaintiff or aggrieved employees a single rest break premium
10 payment. Despite work conditions that systematically result in missed and non-compliant rest breaks,
11 and to keep labor costs down, Defendant has implemented a policy and practice of never paying rest
12 break premium payments when owed and due. This is a policy and practice that is unlawful and
13 unfair in and of itself. *Safeway, Inc. v. Superior Court*, 238 Cal.App.4th 1138, 1155 (2015).

14 20. In short, Defendant has also violated California Labor Code §§ 226.7 and § 12 of the
15 applicable IWC Wage Order by failing to compensate Plaintiff and other aggrieved employees who
16 were not authorized and permitted to take a rest break, one additional hour of compensation at the
17 proper regular rate of pay for each workday that such a rest break was not authorized or permitted.

18 **Failure to Pay Overtime Wages**

19 **[Cal. Lab. Code §§ 510, 1194, 1198; IWC Wage Order No. 5-2001, § 3]**

20 21. Pursuant to California Labor Code §§ 510, 1194, and IWC Wage Order No. 5-2001, §
21 3, employers are required to compensate Plaintiff and other aggrieved employees for all overtime,
22 which is calculated at one and one-half (1 ½) times the regular rate of pay for all hours worked in
23 excess of eight (8) hours per day and/or forty (40) hours per week, and for the first eight (8) hours on
24 the seventh consecutive workday, with double time for all hours worked in excess of twelve (12)
25 hours in any workday and for all hours worked in excess of eight (8) hours on the seventh
26 consecutive day of work in any workweek.

27 22. During the statute of limitations period, Defendant failed to compensate Plaintiff and
28 other aggrieved employees for all overtime hours worked as required under the foregoing provisions

1 of the California Labor Code and IWC Wage Order by, among other methods, requiring, permitting
2 or suffering Plaintiff and other aggrieved employees to work off-the-clock, including *inter alia*,
3 during meal periods and rest breaks, but not compensating them for this time, inaccurately recording
4 time in which Plaintiff and other aggrieved employees worked, requiring, permitting or suffering
5 aggrieved employees to work off-the-clock (including systematically clocking them out but requiring
6 them to continue working); failing to include the value of remuneration such as commissions in the
7 calculation of the regular rate of pay; requiring, suffering, or permitting aggrieved employees to work
8 through meal and rest periods but not compensating them for this time, and failing to include this
9 time in all hours worked; maintaining inaccurate records of time worked (including systematically
10 adjusting time records to avoid payment of overtime wages and to conceal meal and rest break
11 violations and work performed during these breaks); and other methods to be discovered.

12 23. Defendant has knowingly and willfully refused to perform its obligations to
13 compensate Plaintiff and other aggrieved employees for all wages earned and all hours worked in
14 violation of California Labor Code §§ 510, 1194 and 1198 and IWC Wage Order No. 1-2001, § 3.

15 **Failure to Minimum Wages**

16 **[Cal. Lab. Code §§ 1194, 1197; IWC Wage Order No. 5-2001, § 4]**

17 24. Pursuant to California Labor Code §§ 1194, 1197, and § 4 of the applicable IWC
18 Wage Order, payment to an employee of less than the applicable minimum wage for all hours worked
19 in a payroll period is unlawful.

20 25. During the statute of limitations period, Defendant has paid Plaintiff and other
21 aggrieved employees less than minimum wage. Defendant has a policy to pay employees on a
22 commission-basis for things such as lap dances, but it routinely steals these commissions. Defendant
23 also tethers hourly wages it pays to commissions earned by Plaintiff and other aggrieved employees,
24 and because Defendant has required, suffered, or permitted Plaintiff and other aggrieved employees
25 to work off-the-clock, including during meal periods and rest breaks, but not compensated them for
26 this time, unlawfully and inaccurately recorded time that Plaintiff and other aggrieved employees
27 worked, and other methods to be discovered, it has resulted in the systematic underpayment of
28 minimum wages.

1
2 **Unlawful Tip Pooling**

3 **[Cal. Lab. Code § 351]**

4 26. California law provides that voluntary tips left for an employee for services performed
5 belong to the employee and not the employer. Specifically, Cal. Lab. Code § 351 provides: “No
6 employer or agent shall collect, take or receive any gratuity or a part thereof that is paid, given to, or
7 left for an employee by a patron ... Every gratuity is hereby declared to be the sole property of the
8 employee or employees to whom it was paid, given, or left for.”

9 27. Defendant has violated Cal. Lab. Code § 351, and otherwise engaged in an unlawful
10 tip pooling practice, by sharing in tips left to aggrieved employees by patrons. Patrons of Desert
11 Showgirls leave tips to the dancers, who are then required to tip out other employees. However,
12 Defendant, including its managing agents, unlawfully share in tips left for service employees, such as
13 dancers, DJs, bartenders, and security guards, and also take these tips entirely.

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

15 **[Cal. Lab. Code § 204]**

16 28. Pursuant to California Labor Code § 204, for all labor performed between the 1st and
17 15th days of any calendar month, employers are required to pay their nonexempt employees between
18 the 16th and 26th day of the month during which the labor was performed. California Labor Code §
19 204 also provides that for all labor performed between the 16th and 26th days of any calendar month,
20 Employers are required to pay their non-exempt employees between the 1st and 10th day of the
21 following calendar month. In addition, California Labor Code § 204 provides that all wages earned
22 for labor in excess of the normal work period shall be paid no later than the payday of the next
23 regular payroll period.

24 29. During the statute of limitations period, Defendant has knowingly and willfully failed
25 to timely pay Plaintiff and other aggrieved employees all the wages for labor performed by the next
26 regular payroll period as required by California Labor Code § 204.

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28 ///

1 **Failure to Pay All Wages Due to Discharged and Quitting Employees**

2 **[Cal. Lab. Code §§ 201-203]**

3 30. Pursuant to California Labor Code §§ 201, 202 and 203, employers are required to pay
4 all earned and unpaid wages to an employee who is discharged. California Labor Code § 201
5 mandates that if an employer discharges an employee, the employee's wages accrued and unpaid at
6 the time of discharge are due and payable immediately.

7 31. Furthermore, pursuant to California Labor Code § 202, employers are required to pay
8 all accrued wages due to an employee no later than 72 hours after the employee quits his or her
9 employment, unless the employee provided 72 hours previous notice of his or her intention to quit, in
10 which case the employee is entitled to his or wages at the time of quitting.

11 32. California Labor Code § 203 provides that if an employer willfully fails to pay, in
12 accordance with California Labor Code §§ 201 and 202, any wages of an employee who is
13 discharged or who quits, the employer is liable for waiting time penalties in the form of continued
14 compensation to the employee at the same rate for up to 30 workdays.

15 33. During the statute of limitations period, Defendant has willfully failed to pay accrued
16 wages and other compensation to Plaintiff and other aggrieved employees in accordance with
17 California Labor Code §§ 201 and 202. Because Defendant has failed and continue to fail to properly
18 compensate Plaintiff and other aggrieved employees for all hours worked when due, overtime wages,
19 and compensation for non-compliant meal periods and rest breaks, Defendant has also willfully failed
20 and continue to fail to pay accrued wages and other compensation to Plaintiff and other aggrieved
21 employees in accordance with California Labor Code §§ 201 and 202.

22 **Failure to Maintain Required Records**

23 **[Cal. Lab. Code §§ 226(a), 1174(d); IWC Wage Order No. 5-2001, § 7]**

24 34. During the relevant statute of limitations period, Defendant has knowingly and
25 intentionally failed to maintain records as required under California Labor Code §§ 226(a) and
26 1174(d) and IWC Wage Order No. 5-2001, § 7, including but not limited to, the following records:
27 total daily hours worked by each employee; applicable rates of pay; all deductions; meal periods;
28 time records showing when each employee begins and ends each work period; and accurate itemized

1 statements. Moreover, Defendant has failed to provide non-exempt employees with proper meal
2 periods and rest breaks, but it omits from the wage statements such compensation and/or
3 remuneration owed and due. Additionally, Defendant has required non-exempt employees to work
4 off-the-clock but fails to record this time or compensate them for this time, which invariably results
5 in inaccurate time and payroll records.

6 **Failure to Furnish Accurate Itemized Wage Statements**

7 **[Cal. Lab. Code § 226(a); IWC Wage Order No. 5-2001, § 7]**

8 35. During the relevant statute of limitations period, Defendant has routinely failed to
9 provide Plaintiff and other aggrieved employees with timely and accurate itemized wage statements.

10 36. Defendant's pay stubs violate California Labor Code § 226 in that Defendant has not
11 provided Plaintiff and other aggrieved employees with proper meal periods and rest breaks but failed
12 to include in their wage statements one (1) additional hour of compensation at their regular rates of
13 pay for each missed or non-compliant meal or rest period. *See Naranjo v. Spectrum Sec. Servs., Inc.*
14 (2022) 13 Cal.5th 93, 972 ("failure to report premium pay for missed breaks can support monetary
15 liability under section 226 for failure to supply an accurate itemized statement reflecting an
16 employee's gross wages earned, net wages earned, and credited hours worked."). In addition,
17 Defendant does not properly pay aggrieved employees' overtime and minimum wages owed and due
18 to them, resulting in accurate wage statements. Defendant also suffers and permits aggrieved
19 employees to work off-the-clock without compensation, yet such compensation and/or remuneration
20 is not listed on the wage statements, nor are all deductions from wages listed. In addition, Defendant
21 has failed to list on its wage statements, at all, the hours worked by aggrieved employees, in violation
22 of Cal. Lab. Code § 226(a)(2), or the address or the legal entity that is the employer, in violation of
23 Cal. Lab. Code § 226(a)(8). To conceal its wage theft, Defendant knowingly and intentionally failed
24 to provide Plaintiff and other aggrieved employees with timely and accurate itemized wage
25 statements in accordance with California Labor Code § 226(a) IWC Wage Order No. 5-2001 § 7.

26 **Failure to Provide Required Information at Time of Hiring**

27 **[Cal. Lab. Code § 2810.5]**

28 37. California Labor Code § 2810.5 requires employers in California to provide written

1 notice at the time of hiring of certain employment-related information, as follows.

2 “(A) The rate or rates of pay and basis thereof, whether paid by the hour, shift, day, week,
3 salary, piece, commission, or otherwise, including any rates for overtime, as applicable.

4 (B) Allowances, if any, claimed as part of the minimum wage, including meal or lodging
5 allowances.

6 (C) The regular payday designated by the employer in accordance with the requirements of
7 this code.

8 (D) The name of the employer, including any “doing business as” names used by the
9 employer.

10 (E) The physical address of the employer’s main office or principal place of business, and a
11 mailing address, if different.

12 (F) The telephone number of the employer.

13 (G) The name, address, and telephone number of the employer’s workers’ compensation
14 insurance carrier.

15 (H) That an employee: may accrue and use sick leave; has a right to request and use accrued
16 paid sick leave; may not be terminated or retaliated against for using or requesting the use of
17 accrued paid sick leave; and has the right to file a complaint against an employer who
18 retaliates.

19 (I) Any other information the Labor Commissioner deems material and necessary.”

20 38. During the statute of limitations period, Defendant has failed to comply with
21 California Labor Code § 2801.5 because it simply did not provide Plaintiff and other aggrieved
22 employees with notice of the required information set forth above at the time of their hiring, or any
23 other time during their employment.

24 **FIRST CAUSE OF ACTION**

25 **VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT**

26 **[Cal. Lab. Code § 2698, *et seq.*]**

27 ***(Against all Defendants)***

28 39. Plaintiff incorporates herein by specific reference, as though fully set forth, the
allegations in paragraphs 1 through 38.

40. Plaintiff is an “aggrieved employee” within the meaning of California Labor Code §

1 2699(c), and a proper representative to bring a civil action on behalf of herself and other current and
2 former non-exempt employees of Defendant pursuant to the procedures specified in California Labor
3 Code § 2699.3, because Plaintiff was employed by Defendant and one or more of the alleged
4 California Labor Code violations was committed against Plaintiff during the statute of limitations
5 period.

6 41. Pursuant to California Labor Code § 2699, Plaintiff seeks to recover civil penalties
7 under the PAGA, for Defendant's violations of the provisions of the California Labor Code and IWC
8 Wage Order alleged herein.

9 42. All civil penalties sought and recovered under this action will be allocated as follows:
10 seventy-five (75) percent to the State of California and twenty-five (25) percent to Plaintiff and
11 aggrieved employees.

12 43. Plaintiff additionally seeks reasonable attorneys' fees and costs pursuant to California
13 Labor Code § 2699(g)(1).

14 **PRAYER FOR RELIEF**

15 **WHEREFORE**, Plaintiff, on behalf of herself and the State of California, prays for relief
16 against Defendant as follows:

- 17 1. For civil penalties pursuant to California Labor Code § 2699 according to proof;
18 2. For reasonable attorneys' fees and costs pursuant to California Labor Code §
19 2699(g)(1), California Code of Civil Procedure § 1021.5, and/or any other applicable provisions
20 providing for attorneys' fees and costs; and
21 3. For such further relief that the Court may deem just and proper.
22

23 DATED: May 6, 2024

THE WAND LAW FIRM, P.C.

24 

25 By: _____

26 Aubry Wand

27 *Counsel for Plaintiff*