

**MESSRELIAN LAW INC.**

Harout Messrelian, Esq. (272020)  
500 N. Central Ave., Suite 840  
Glendale, California 91203  
Telephone: (818) 484-6531  
Facsimile: (818) 956-1983

Electronically FILED by  
Superior Court of California,  
County of Los Angeles  
5/14/2024 12:37 PM  
David W. Slayton,  
Executive Officer/Clerk of Court,  
By Y. Tarasyuk, Deputy Clerk

Attorneys for Plaintiff Milena Nunez

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**FOR THE COUNTY OF LOS ANGELES**

MILENA NUNEZ,

Plaintiff,

vs.

SNS DINER LLC; SUDESH SOOD; AMIT  
SINGH; and DOES 1 to 25, inclusive,

Defendants.

CASE NO.: **24STCV12073**

**COMPLAINT FOR DAMAGES FOR:**

- 1) FAILURE TO COMPENSATE FOR ALL HOURS WORKED;**
- 2) FAILURE TO PAY MINIMUM WAGES;**
- 3) FAILURE TO PAY OVERTIME;**
- 4) FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS;**
- 5) FAILURE TO PAY WAGES OWED EVERY PAY PERIOD;**
- 6) FAILURE TO PAY WAGES WHEN EMPLOYMENT ENDS;**
- 7) FAILURE TO PROVIDE REST BREAKS;**
- 8) FAILURE TO PROVIDE MEAL BREAKS;**
- 9) FAILURE TO REIMBURSE BUSINESS EXPENSES;**
- 10) PRIVATE ATTORNEYS GENERAL ACT ("PAGA")**
- 11) FAILURE TO PROVIDE PERSONNEL FILE;**
- 12) FAILURE TO PROVIDE PAY RECORDS;**
- 13) VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17200**

**JURY TRIAL DEMANDED**

COMES NOW Plaintiff, MILENA NUNEZ (hereinafter “Plaintiff”), and alleges as follows:

**PARTIES, JURISDICTION, and VENUE**

1. Jurisdiction and Venue are proper in this Court and this action is properly filed in the County of Los Angeles in this judicial district because Defendants SNS DINER LLC; SUDESH SOOD; AMIT SINGH; and DOES 1 to 25, inclusive (hereinafter collectively “SNS DINER” or “Defendant(s)”) do business in the County of Los Angeles, and because Defendants’ obligations and liabilities arise therein, and because the work that was performed by Plaintiff in the County of Los Angeles is the subject of this action. Moreover, Plaintiff’s damages sought herein exceed \$35,000.

2. Plaintiff is a female resident of the County of Los Angeles, State of California.

3. Plaintiff is informed and believes that at all times herein mentioned, Defendant SNS DINER LLC is a California Limited Liability Company, doing business in the County of Los Angeles, State of California, and which employed Plaintiff.

4. Plaintiff is informed and believes that at all times herein mentioned, Defendant SUDESH SOOD and AMIT SINGH are residents of the State of California, and the owners, managing agents, and/or directors of SNS DINER LLC. They are being included in this lawsuit pursuant to Labor Code Section 558.1 because they were and are involved in the day-to-day operations of the business, including the wage and hour policies and practices, and as such, they controlled the hours, wages, and/or working conditions of Plaintiff and other hourly, non-exempt employees. Defendants SNS DINER LLC; SUDESH SOOD and AMIT SINGH are collectively referred to herein as “Defendant(s)” (unless otherwise noted) or “SNS DINER”.

5. Plaintiff is ignorant of the true names and capacities, whether individual, corporate, or

1 associate of those defendants fictitiously sued as DOES 1 to 25, inclusive, and so Plaintiff sues  
2 them by these fictitious names. Plaintiff is informed and believes that each of the DOE  
3 defendants, numbers 1 to 25, reside in the State of California and are in some manner responsible  
4 for the conduct alleged herein. Upon discovering the true names and capacities of these  
5 fictitiously named defendants, Plaintiff will amend this complaint to show the true names and  
6 capacities of these fictitiously named defendants.

7  
8 6. Unless otherwise alleged in this complaint, Plaintiff is informed, and on the basis of  
9 that information and belief, alleges that at all times herein mentioned, each of the remaining  
10 codefendants, in doing the things hereinafter alleged, were acting within the course, scope, and  
11 under the authority of their agency, employment, or representative capacity, with the consent of  
12 his/her codefendants.

### 13 **GENERAL ALLEGATIONS**

14 7. Plaintiff started working at SNS DINER on or around late 2022/early 2023 as a  
15 waitress/server. Plaintiff was classified as an hourly, non-exempt employee. Plaintiff's  
16 employment ended in or around January 2024.

17  
18 8. In the case of Huff v. Securitas Sec. Servs. USA, Inc., 23 Cal. App. 5th 745 (2018),  
19 Plaintiff, Huff, was employed as a security guard for the Defendant Employer, Securitas  
20 Security Services USA, Inc., an onsite security provider. After about a year of employment,  
21 Huff resigned. Huff then filed suit against Securitas under PAGA. In his claim, Huff  
22 specifically alleged violations to the Labor Code requiring immediate payment of wages upon  
23 termination of employment and weekly payment of wages to temporary employees. The trial  
24 court determined Huff was not a temporary employee, and therefore, lacked standing to bring  
25 the claim. Thus, Securitas was granted a motion for summary judgement. Later, the trial court  
26 granted Huff a new trial. Securitas then appealed the grant of a new trial. On appeal, the issue  
27  
28

1 was whether Huff could bring a PAGA claim and sue for Labor Code violations that did not  
2 directly affect him. Securitas unsuccessfully argued that the PAGA statute only allows the  
3 PAGA representative to sue for violations that the representative has personally suffered. The  
4 PAGA statute states that an “aggrieved employee” is able to file suit on behalf of themselves  
5 and others. The statute also states that an “aggrieved employee” is “any person who was  
6 employed by the alleged violator and against whom one or more of the alleged violations was  
7 committed.” Because at least one of the violations that Huff had alleged had affected him  
8 personally, the Court of Appeal denied Securitas’ motion.  
9

10 9. In sum, since PAGA allows Plaintiffs to bring suit on behalf of both themselves and  
11 other employees, it allows for suits broader than the specific violations the named  
12 employee experienced. Therefore, even if the employee did not personally experience the  
13 Labor Code violations, the employer may still be liable to under PAGA. Consequently, it is  
14 Plaintiff’s position that Plaintiff can equivocally bring the following labor code violations on  
15 behalf of all other employees, including ALL hourly, non-exempt employees who worked for  
16 SNS DINER anywhere in the state of California (at all different restaurant locations) during the  
17 relevant PAGA period.  
18

19 10. It is Plaintiff’s position that SNS DINER has violated the following Labor Code  
20 Sections against Plaintiff and other similarly situated aggrieved employees, who include all  
21 non-exempt, hourly employees who worked for SNS DINER at their various  
22 locations/restaurants in the State of California during the relevant PAGA period.  
23

24 11. SNS DINER violated Labor Code § 1194, 1194.2, 1197, and 1197.1 because it failed to  
25 pay Plaintiff and other similarly situated aggrieved employees for all hours worked, including  
26 the statutory minimum wage for all hours worked and for “off the clock” work. This is so  
27 because SNS DINER had a company policy wherein they would disproportionately round  
28

1 down the number of hours worked, resulting in “time shaving” and further resulting in  
2 aggrieved employees not being paid for all hours worked. In addition, and to the extent  
3 Plaintiff and other employees worked through meal periods on the rare occasion on which they  
4 received them, the latter would be considered a minimum wage violation under California law.  
5 Moreover, SNS DINER failed to provide its employees with proper and accurate reporting  
6 time pay. In addition, Plaintiff and others would perform preparation duties prior to clocking in  
7 and clean-up duties after clocking out.

8  
9 12. Due to the above “off the clock” violations, SNS DINER also violated Labor Code  
10 §510 because it failed to pay Plaintiff and other aggrieved employees overtime compensation,  
11 even though they worked more than 8 hours per day, 12 hours per day, and/or 40 hours per  
12 week throughout their employment. Plaintiff’s and other aggrieved employees’ actual work  
13 hours entitled them to overtime compensation, however, SNS DINER did not compensate its  
14 hourly, non-exempt employees with the correct amount of overtime due to the “off the clock”  
15 work and time shaving as described above. Furthermore, SNS DINER failed to include  
16 bonuses/incentive payments in calculating employees’ regular rate of pay for use in  
17 deciphering the correct overtime rate of pay. Additionally, the incentive and bonus payments  
18 were also not factored into employees’ regular rate for purposes of receiving meal and rest  
19 break premiums per the Ferra v. Loews case.  
20

21 13. SNS DINER also violated Labor Code § 226.7 and the appropriate Industrial Welfare  
22 Commission Wage Order no. 5 because it failed to provide Plaintiff and other similarly situated  
23 aggrieved employees with 10-minute rest periods for every four hours of work, or majority  
24 portion thereof, throughout their employment. SNS DINER did not completely relieve  
25 Plaintiff and others of all duty during said rest periods. SNS DINER did not pay to Plaintiff  
26 and others one additional hour of pay at Plaintiff’s regular rate of compensation for each  
27  
28

workday that one or more statutory rest periods was not provided. It was not part of the company policy for employees such as Plaintiff to take at least two rest breaks per shift. In fact, Plaintiff never took a rest break during her employment tenure. The concept of rest breaks was not at all implemented as it was not company policy. Moreover, it would not have been possible for employees such as Plaintiff to take such rest breaks due to being understaffed and due to a heavy workload, especially in the fast-paced restaurant industry wherein customer service is of paramount importance. As such, the culture as well as the policies and procedures of SNS DINER did not lend itself to the employees receiving consistent statutory rest breaks wherein they were relieved of all work duties. The environment at SNS DINER was not conducive to receiving multiple statutory rest breaks under California law and timely, statutory rest breaks were not authorized or enforced.

14. SNS DINER violated Labor Code §§ 512 and 226.7 and the appropriate Industrial Welfare Commission Wage Order no. 5 because it failed to provide hourly, non-exempt employees, including Plaintiff and others, the requisite 30-minute, uninterrupted meal periods for every five (5) hours of work throughout their employment. SNS DINER did not completely relieve Plaintiff and other employees of all duty during said meal periods. SNS DINER did not pay to Plaintiff and its hourly, non-exempt employees one additional hour of pay at their regular rate of compensation for each workday that one or more statutory meal periods was not provided. For most of Plaintiff's employment, meal breaks were simply not taken due to the restaurant being consistently full and Plaintiff and others being too busy with work obligations, especially due to understaffing. If meal periods were taken, the hourly, non-exempt employees would often not be able to receive meal periods before the 5<sup>th</sup> hour worked that were actually uninterrupted. The latter was again due to the workload, being understaffed, and due to being in a fast-paced restaurant environment. Like the rest breaks, receiving a thirty-minute

1 uninterrupted and timely meal break was not consistently part of the company culture and was  
2 not enforced by SNS DINER. Consequently, it was the normal practice and custom of SNS  
3 DINER not to authorize, permit, and enforce timely statutory meal periods. If SNS DINER had  
4 Plaintiff sign a meal period waiver, it would not be valid and enforceable since Plaintiff and  
5 others generally worked more than a 6-hour shift. If SNS DINER had Plaintiff sign an on-duty  
6 meal period agreement wherein Plaintiff agreed to work through the meal periods, it would be  
7 invalid and unenforceable because the nature of Plaintiff's job does not and did not prevent her  
8 from taking a meal period and the company could have hired "breakers" to relieve Plaintiff of  
9 her job duties so that she can actually take a timely, uninterrupted meal period. Moreover, any  
10 such "on duty" meal period agreement did not allow for Plaintiff to revoke such an agreement  
11 even if it was signed. As such, Plaintiff and others did not always receive statutory, timely  
12 meal periods during their employment. To the extent that SNS DINER argues that employees  
13 receive meal break premium pay for missed meal periods, that argument is inconsequential for  
14 PAGA penalty purposes since the PAGA penalties are for the violations themselves,  
15 irrespective of whether an employee received the premium payment for a missed, short, or  
16 interrupted meal period. In *Kirby v. Immoos Fire Protection, Inc.*, the Court stated, "section  
17 226.7 does not give employers a lawful choice between providing *either* meal and rest  
18 breaks *or* an additional hour of pay." See *Kirby v. Immoos Fire Protection, Inc.*, (2012) 53  
19 Cal.4th 1244, 1256 (emphasis in original). Thus, the extra hour of pay does not excuse the  
20 violation; the employer has still committed a violation even if the remedy for the violation has  
21 been paid. See *Wert v. U.S. Bancorp*, (S.D. Cal. Mar. 22, 2016, 2016 WL 1110302 at \*4). As  
22 such, the work environment and culture at SNS DINER was not conducive to receiving  
23 consistent, timely, statutory meal breaks under California law. Moreover, any meal or rest  
24  
25  
26  
27  
28

1 break premiums paid were not compensated at the weighted average regular rate, inclusive of  
2 bonuses and/or incentive payments as well as overtime compensation.

3 15. Furthermore, during the relevant time period, and due to the above labor code  
4 violations, SNS DINER failed to pay Plaintiff and other similarly situated aggrieved employees  
5 all wages due to them within any time period specified by California Labor Code section 204.  
6 Since Plaintiff was not compensated for her “off the clock” work and since Plaintiff did not  
7 receive meal and rest break premiums, Plaintiff would still be owed wages pursuant to Labor  
8 Code Section 204. SNS DINER was also in violation of California Labor Code section 226(a)  
9 by failing to include pertinent information on the wage statements, including but not limited to,  
10 the correct hourly rate, all hours worked, overtime hours worked, correct overtime pay, gross  
11 wages earned, net wages earned, premium pay for missed meal and rest breaks, all deductions,  
12 the correct start and end of the pay period, all employee identifying information, the correct  
13 and complete name and address of the legal employer, and reimbursement for business  
14 expenses, among others. As such, SNS DINER did not provide Plaintiff and other similarly  
15 situated aggrieved employees with complete, accurate itemized wage statements. Moreover,  
16 Plaintiff and others did not have access to their pay stubs and would not be able to figure out  
17 the breakdown of wages when they received their paychecks.

20 16. During the relevant time period, SNS DINER also failed to keep accurate and complete  
21 payroll records showing the actual hours worked per day and the wages paid to Plaintiff and  
22 others pursuant to California Labor Code sections 1174(d).

24 17. SNS DINER also violated Labor Code § 203 because it willfully failed to pay Plaintiff  
25 and other similarly situated aggrieved employees earned and due wages upon separation of  
26 employment, either immediately upon involuntary termination, or within 72 hours of  
27 resignation. These earned but unpaid wages include compensation for all hours worked,  
28

1 including minimum wages, overtime compensation, and premium pay for missed meal and rest  
2 breaks.

3 18. During the relevant time period, Plaintiff and other aggrieved employees incurred  
4 necessary, business-related expenses and costs that were not reimbursed by SNS DINER.  
5 These costs include, but are not limited to, uniforms. Accordingly, SNS DINER was in  
6 violation of California Labor Code sections 2800 and 2802.

7 19. Additionally, SNS DINER violated Labor Code Section 351 and 353 by taking some of  
8 the tips meant for employees and also deducting the tips from Plaintiff's and others' earned  
9 wages. SNS DINER also deducted the credit card fee from Plaintiff's and others' tips and did  
10 not timely provide the credit card and even cash tips to Plaintiff and other similarly situated  
11 aggrieved employees. As such, Plaintiff and the other similarly situated employees were not  
12 given accurate tips to which they were entitled.

13 20. Furthermore, SNS DINER did not provide proper and correct/accurate sick pay that  
14 was also delineated on employee pay stubs and also failed to provide proper sick leave in  
15 violation of Labor Code sections 233 and 246. Moreover, there was no suitable seating/rest  
16 break facilities for the employees pursuant to Wage Order no. 5-2001.

17 21. Furthermore, Plaintiff believes Defendants have also violated Labor Code Section 558  
18 and has engaged in business practices which violate Business and Professions Code Section  
19 17200.

20  
21  
22 **FIRST CAUSE OF ACTION**

23 **FAILURE TO COMPENSATE FOR ALL HOURS WORKED**

24  
25 **(California Industrial Welfare Commission Order 5-2001, California Code of**  
26 **Regulations Title 8 Section 11050, and California Labor Code Section 1198)**

27 **(Plaintiff against all named defendants and all DOE defendants)**  
28

1 22. Plaintiff re-alleges and incorporates by reference each and every allegation in  
2 paragraphs 1 through 21, inclusive, of this Complaint as though fully set forth herein.

3 23. At all times relevant herein, Defendants were required to compensate its employees for  
4 all hours worked upon reporting for work at the appointed time stated by the employer  
5 pursuant to Industrial Welfare Commission Order 5-2001, California Code of  
6 Regulations, Title 8, Section 11050.

7 24. For the three (3) years preceding filing of this action, Defendants failed to compensate  
8 Plaintiff for all hours worked.  
9

10 25. Under the aforementioned wage order and regulations, Plaintiff is to recover  
11 compensation for all hours worked but not paid by Defendants for the three (3) years  
12 preceding the filing of this Complaint.

13 26. As a proximate result of the aforementioned violations, Plaintiff has been damaged in  
14 an amount according to proof at time of trial, but in an amount in excess of the jurisdiction of  
15 this Court.  
16

17 27. Defendants' conduct described herein violates Labor Code Section 512, 558, 1194, and  
18 1198. Therefore, pursuant to Labor Code Sections 218.5, 512, 558, and 1194, Plaintiff is  
19 entitled to recover damages for the nonpayment of wages for all hours worked, penalties, plus  
20 reasonable attorney's fees and costs of suit.

21 28. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged  
22 along with any allowable interest, penalties, attorney's fees, and costs which will equal an  
23 amount known to Plaintiff once she has obtained all of her payroll records from  
24 Defendants.  
25  
26  
27  
28



1 34. For all hours worked by Plaintiff for which she was paid less than the minimum wage  
2 rate by Defendants, Plaintiff is entitled to not less than the applicable California minimum  
3 wage rate and, pursuant to Labor Code Section 1194.2(a), liquidated damages in an amount  
4 equal to unpaid minimum wages and interests thereon. Pursuant to Labor Code Section 1194,  
5 Plaintiff is also entitled to attorney's fees, costs and interests according to proof.

6 35. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged  
7 along with any allowable interest, penalties, attorney's fees, and costs according to proof at  
8 trial.  
9

10 **THIRD CAUSE OF ACTION**

11 **FAILURE TO PAY OVERTIME**

12 **(California Industrial Welfare Commission Order 5-2001, California Code of**  
13 **Regulations Title 8 Section 11050; California Labor Code Section 510)**

14 **(Plaintiff against all named defendants and all DOE defendants)**

15 36. Plaintiff re-alleges and incorporates by reference each and every allegation in  
16 paragraphs 1 through 35, inclusive, of this Complaint as though fully set forth herein.

17 37. Pursuant to Industrial Welfare Commission Order No. 5-2001, Cal. Code of  
18 Regs., Title 8, Section 11050, for the period of Plaintiff's employment, Defendants were  
19 required to compensate Plaintiff for all overtime, which is calculated at one and one-half (1.5)  
20 times the regular rate of pay for hours worked in excess of eight (8) in a day or forty (40) hours  
21 in a week, and two (2) times the regular rate of pay for hours worked in excess of twelve (12)  
22 hours in a day or hours worked in excess of eight (8) on the seventh consecutive work day in a  
23 week.  
24

25 38. Plaintiff was a non-exempt employee entitled to the protections of the California  
26 Industrial Welfare Commission Order No. 5-2001, California Code of Regulations,  
27  
28

1 Title 8, Section 11050.

2 39. Plaintiff worked more than eight (8) hours in a single workday, twelve (12) hours in a  
3 single workday or forty (40) hours in a single workweek on numerous occasions.

4 40. Plaintiff was entitled to the above overtime premiums.

5 41. Defendants did not pay Plaintiff premium wages of at least one and one-half times  
6 Plaintiff's regular rate of pay for hours worked past eight (8) in a day. Defendants did not pay  
7 Plaintiff premium wages of at least twice Plaintiff's regular rate of pay for hours worked past  
8 twelve (12) in a day.  
9

10 42. Defendants did not pay Plaintiff premium wages of at least one and one-half times  
11 Plaintiff's regular rate of pay for hours worked past forty (40) in a week.

12 43. Plaintiff worked at least one pay period in which she was not properly paid overtime  
13 within the three (3) years prior to the initiation of this lawsuit.

14 44. Defendants know or should know the actual dates of overtime worked, the amount of  
15 overtime worked, and the amount of unpaid overtime due.  
16

17 45. As a proximate result of Defendants' violations, Plaintiff has been damaged in an  
18 amount according to proof at time of trial, but in an amount in excess of the jurisdiction of this  
19 Court.

20 46. Pursuant to California Labor Code Sections 218.6, 510, 1194, and California Code of  
21 Regulations, Title 8, Sections 11050, Plaintiff is entitled to recover damages for the  
22 nonpayment of overtime premiums for all overtime hours worked, penalties, interest, plus  
23 reasonable attorney's fees and costs of suit.  
24

25 47. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged  
26 along with any allowable interest, penalties, attorney's fees, and costs according to proof at  
27 trial.  
28

**FOURTH CAUSE OF ACTION**

**FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

**(California Labor Code Section 226)**

**(Plaintiff against all named defendants and all DOE defendants)**

48. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1 through 47, inclusive, of this Complaint as though fully set forth herein.

49. Pursuant to California Labor Code Section 226, every employer must furnish each employee an itemized statement of wages and deductions at the time of payment of wages.

50. Defendants knowingly and intentionally did not furnish Plaintiff with any pay stubs that accurately reflected all information required by Labor Code Section 226, including but not limited to, gross wages earned, including overtime, minimum wages, and premium pay for missed meal and rest breaks, net wages earned, total hours worked by the employee, and all deductions. Therefore, Defendants failed to maintain and provide accurate itemized wage statements to Plaintiff in accordance with California Labor Code Section 226(a).

51. Pursuant to California Labor Code Section 226(e), Plaintiff is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not exceeding an aggregate amount of four thousand dollars (\$4,000), plus costs and reasonable attorney's fees.

52. As a direct and proximate result of Defendants' unlawful conduct, Plaintiff has sustained damages, including loss of earnings, in an amount to be established at trial. As a further direct and proximate result of Defendants' unlawful conduct, as set forth herein, Plaintiff is entitled to recover penalties, in an amount to be established at trial, as well as costs and attorney's fees pursuant to statute.

1 53. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged  
2 along with any allowable interest, penalties, attorney's fees, and costs according to proof at  
3 trial.

4 **FIFTH CAUSE OF ACTION**

5 **FAILURE TO PAY WAGES OWED EVERY PAY PERIOD**

6 **(California Labor Code Section 204)**

7 **(Plaintiff against all named defendants and all DOE defendants)**

8  
9 54. Plaintiff re-alleges and incorporates by reference each and every allegation in  
10 paragraphs 1 through 53, inclusive, of this Complaint as though fully set forth herein.

11 55. California Labor Code Section 204 establishes the fundamental right of all employees  
12 in the State of California to be paid wages in a timely fashion for their work.

13 56. At all times relevant during the liability period, Defendants failed to pay Plaintiff the  
14 full amount of all owed wages when due as required by California Labor Code Section 204.

15 57. Defendants failed to pay Plaintiff all wages earned each pay period. Plaintiff is  
16 informed, believes, and thereon alleges, that all times relevant during the liability period,  
17 Defendants maintained a policy or practice of not paying Plaintiff wages for all hours worked,  
18 including overtime hours, the minimum wage, and premium pay for missed meal and rest  
19 breaks.  
20

21 58. As a result of Defendants' unlawful conduct, Plaintiff has suffered damages in an  
22 amount, subject to proof, to the extent she was not paid all wages each pay period. The precise  
23 amount of unpaid wages is not presently known to Plaintiff but can be determined directly  
24 from Defendants' records or indirectly based on information from Defendants' records.  
25

26 59. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged  
27 along with any allowable interest, penalties, attorney's fees, and costs according to proof at  
28

1 trial.

2 **SIXTH CAUSE OF ACTION**

3 **FAILURE TO PAY WAGES WHEN EMPLOYMENT ENDS**

4 **(California Labor Code Sections 201, 203)**

5 **(Plaintiff against all named defendants and all DOE defendants)**

6 60. Plaintiff re-alleges and incorporates by reference each and every allegation in  
7 paragraphs 1 through 59, inclusive, of this Complaint as though fully set forth herein.

8 61. Pursuant to California Labor Code Section 201(a), an employer who discharges an  
9 employee must immediately pay for all compensation due and owing.  
10

11 62. Pursuant to California Labor Code Section 202, when an employee resigns, the  
12 employer must pay all compensation due and owing within 72 hours of resignation, or on the  
13 employee's last day of work, if the employee gives more than 72 hours notice of resignation.

14 63. Pursuant to California Labor Code Section 203, if an employer willfully fails to pay,  
15 without abatement or reduction, any wages of an employee whose employment ends, the wages  
16 of the employee shall continue as a penalty from the due date at the same rate until paid or until  
17 an action is commenced; however, the wages shall not continue for more than 30 days for  
18 failure to pay an employee owed wages.  
19

20 64. After Plaintiff's employment with Defendants ended, Defendants willfully refused and  
21 continue to refuse to pay her unpaid wages as required by Labor Code Section 203.

22 65. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged  
23 along with any allowable interest, penalties, attorney's fees, and costs according to proof at  
24 trial. Moreover, Plaintiff prays for the above-mentioned money from 3 years immediately  
25 preceding the filing of this lawsuit.  
26

27 66. Under this cause of action, Plaintiff also prays for attorney's fees and costs under  
28

1 California Labor Code Section 218.5 for time spent pursuing the non-payment of wages as set  
2 forth herein. Plaintiff also prays for interest under California Labor Code Section 218.6.

3 67. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged  
4 along with any allowable interest, penalties, attorney's fees, and costs according to proof at  
5 trial.

6 **SEVENTH CAUSE OF ACTION**

7 **FAILURE TO GIVE REST BREAKS**

8 **(Plaintiff against all named defendants and all DOE defendants)**

9  
10 68. Plaintiff re-alleges and incorporates by reference each and every allegation in  
11 paragraphs 1 through 67, inclusive, of this Complaint as though fully set forth herein.

12 69. Plaintiff brings this cause of action under the following laws, for the following reasons:

- 13 a. Title 8 of the California Code of Regulations Sections 11050(12)(A), which  
14 provides that every employer shall authorize and permit all employees to take rest  
15 periods, which insofar as practicable shall be in the middle of each work period.  
16 The authorized rest period time shall be based on the total hours worked daily at the  
17 rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof;  
18  
19 b. Title 8 of the California Code of Regulations Sections 11050(12)(B), which  
20 provides that if an employer fails to provide an employee a rest period in  
21 accordance with the applicable provisions of this order, the employer shall pay the  
22 employee one (1) hour of pay at employee's regular rate of compensation for each  
23 workday that the rest period is not provided;  
24  
25 c. Title 8 of the California Code of Regulations sections 11050(20)(A), which  
26 penalizes the employer \$50.00 for each initial violation, per employee, of any  
27 provision of the Wage Order, and \$100.00 for each additional violation thereafter  
28

per employee; and

- d. California Labor Code section 226.7, which states that (a) no employer shall require any employee to work during any rest period mandated by an applicable order of the Industrial Welfare Commission, and (b) if an employer fails to provide an employee a rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one (1) additional hour of pay at employee's regular rate of compensation for each work day that the rest period is not provided.

70. Plaintiff alleges that she was not authorized and permitted to take a ten (10) minute rest break after every four (4) hours of work or major fraction thereof, as required by California law.

71. Under this cause of action, Plaintiff prays for wages due to her under the statutes, regulations, and wage orders alleged in this cause of action along with any allowable interest, penalties, attorney's fees and costs according to proof at trial. Specifically, Plaintiff prays for the foregoing moneys calculated from 3 years immediately preceding the filing of this lawsuit.

72. Plaintiff also prays for Labor Code section 218.5 recovery of costs and attorney's fees as well as interest under Labor Code section 218.6.

73. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged along with any allowable interest, penalties, attorney's fees, and costs according to proof at trial.

### **EIGHTH CAUSE OF ACTION**

#### **FAILURE TO GIVE MEAL BREAKS**

**(Plaintiff against all named defendants and all DOE defendants)**

74. Plaintiff re-alleges and incorporates by reference each and every allegation in

1 paragraphs 1 through 73, inclusive, of this Complaint as though fully set forth herein.

2 75. Plaintiff brings this cause of action under the following laws, for the following reasons:

- 3 a. California Labor Code section 512(a), which requires that employees be given a 30-  
4 minute uninterrupted meal break after five (5) hours of work, and a second  
5 uninterrupted meal break after ten (10) hours of work;
- 6 b. California Labor Code section 226.7, which states that (a) no employer shall require  
7 any employee to work during any meal period mandated by an applicable order of  
8 the Industrial Welfare Commission, and (b) if any employer fails to provide an  
9 employee a meal period in accordance with an applicable order of the Industrial  
10 Welfare Commission, the employer shall pay the employee one (1) additional hour  
11 of pay at the employee's regular rate of compensation for each workday that the  
12 meal period is not provided;
- 13 c. California Industrial Welfare Commission Order No. 5 section 11(B), as codified  
14 under Title 8 of the California Code of Regulations Section 11050, which states that  
15 if an employer fails to provide an employee a meal period in accordance with the  
16 applicable provisions of the Wage Order, the employer shall pay the employee one  
17 (1) hour of pay at the employee's regular rate of compensation for each workday  
18 that the meal period is not provided;
- 19 d. California Industrial Welfare Commission Wage Order No. 5 Section 7(A)(3), as  
20 codified under Title 8 of the California Code of Regulations Section 11050, which  
21 requires an employer to maintain records documenting its employees' meal periods;
- 22 e. California Industrial Welfare Commission wage order No. 5 Section 20(A), as  
23 codified under California Code of Regulations Section 11050, which penalizes the  
24 employer \$50.00 for each initial violation, per employee, of any provision of the  
25  
26  
27  
28

1 Wage Order, and \$100.00 for each additional violation thereafter per employee; and

- 2 f. California Labor Code section 1171 and 1173, which have given the California  
3 Labor Commission jurisdiction to enact Wage Orders (such as Wage Order no. 5)  
4 as enforceable law.

5 76. Plaintiff alleges that she was not authorized and permitted to take relieved meal breaks  
6 after five (5) hours of work. Plaintiff further alleges that she was not authorized and permitted  
7 to take a second relieved meal break after ten (10) hours of work, as required by California  
8 law. California Labor Code section 512(a) and California Industrial Welfare Commission  
9 Order No. 5, as codified under California Code of Regulations Sections 11050 et. seq. requires  
10 that employees receive uninterrupted meal periods every five (5) hours of consecutive work,  
11 and that the meal period be at least 30 minutes in length, wherein employee is relieved of all  
12 work duty. California Labor Code section 226.7 provides that employers may not require their  
13 employees to work through their meal periods. California Labor Code section 226.7 and  
14 California Code of Regulations section 11050 requires that if the employer fails to provide the  
15 employee with an uninterrupted meal period, the employer must pay the employee one (1) hour  
16 of pay for each work day that the meal period is not given.  
17  
18

19 77. Under this cause of action, Plaintiff prays for wages due to her under the statutes,  
20 regulations, and wage orders alleged in this cause of action along with any allowable interest,  
21 penalties, attorney's fees and costs according to proof at trial. Specifically, Plaintiff prays for  
22 the foregoing moneys calculated from 3 years immediately preceding the filing of this lawsuit.  
23

24 78. Plaintiff also prays for Labor Code section 218.5 recovery of costs and attorney's  
25 fees as well as interest under Labor Code section 218.6.

26 79. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged  
27 along with any allowable interest, penalties, attorney's fees, and costs according to proof at  
28

trial.

**NINTH CAUSE OF ACTION**

**FAILURE TO REIMBURSE FOR BUSINESS EXPENSES**

**(Plaintiff against All Named Defendants and all DOE defendants)**

80. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1 through 79, inclusive, of this Complaint as though fully set forth herein.

81. Labor Code section 2802 provides that “[a]n employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties.”

82. Beginning at least 3 years prior to the filing of this complaint, in order to discharge their duties for Defendant, Plaintiff incurred reasonable and necessary expenses in the course of completing her job duties, which were not reimbursed by Defendant. These expenses include, but are not limited to, uniforms, including specific shoes that needed to be purchased, and use of personal cell phones/equipment for work purposes.

83. Plaintiff is entitled to reimbursement for these necessary expenditures, plus interest and attorney’s fees and costs, under Labor Code section 2802.

**TENTH CAUSE OF ACTION**

**PRIVATE ATTORNEYS GENERAL ACT**

**Representative Claim for PAGA penalties under California Labor Code sections 201, 202, 203, 204 and/or 204b, 210, 226, 226.3, 226.7, 233, 246, 351, 353 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2800, 2802 and IWC 5-2001)**

**(Plaintiff against SNS DINER and all DOE defendants)**

84. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1 through 83, inclusive, of this Complaint as though fully set forth herein.

85. Plaintiff has complied with the procedures for bringing suit specified in California Labor Code § 2699.3. By letter dated March 1, 2024, Plaintiff gave written notice by certified mail to the Labor and Workforce Development Agency (“LWDA”) and Defendants of the

1 specific provisions of the California Labor Code alleged to have been violated, including the  
2 facts and theories to support the alleged violations.

3 86. Pursuant to California Labor code section 2699.3, no response was received from  
4 the LWDA within 65 days of the postmark date of the above-alleged letter.

5 87. Plaintiff therefore has exhausted all administrative remedies required of her under  
6 California Labor Code sections 2698, 2699, and 2699.3, and, as a result, may prosecute this  
7 cause of action and pursue penalties in a representative action for Defendants' violations of the  
8 Labor Code.

9 88. Pursuant to California Labor Code section 2699, any provisions of the Labor  
10 Code that provides for a civil penalty to be assessed and collected by the LWDA or any of its  
11 departments, divisions, commissions, boards, agencies, or employees for violation of the code  
12 may, as an alternative, be recovered through a civil action brought by an aggrieved employee  
13 on behalf of himself or herself and other current or former employees pursuant to the procedures  
14 specified in California Labor Code section 2699.3.

15 89. Plaintiff is an "aggrieved employee" because Plaintiff was employed by the alleged  
16 violator and had one or more of the alleged violations committed against her, and therefore is  
17 properly suited to represent the interests of other current and former employees, including all  
18 current and former hourly, non-exempt employees who worked for SNS DINER at any and all  
19 locations in the State of California during the applicable PAGA Period.

20 90. Based on the acts alleged above, Plaintiff, on behalf of others, seeks penalties  
21 under California Labor Code sections 2698 and 2699 because of Defendants' violations of  
22 numerous provisions of the California Labor Code as alleged in this Complaint.

23 91. Plaintiff therefore has exhausted all administrative remedies required of her under  
24 California Labor Code sections 2698, 2699, and 2699.3, and, as a result, may prosecute  
25 this cause of action and pursue penalties in a representative action for Defendants' violations of  
26 the Labor Code.

27 92. California Labor Code section 2699 et seq. imposes penalties upon culpable  
28 Defendants for violating the Labor Code.

93. Plaintiff seeks penalties for Defendants' misconduct as alleged herein as permitted by

1 law, but only those penalties that are required to be shared with the LWDA as Plaintiff is not  
2 seeking individual penalties/victim specific relief or underpaid wages for herself or other  
3 employees under this specific PAGA cause of action. Plaintiff has separate causes of action in  
4 this Complaint for individual wages but is not seeking wages through the PAGA action.

5 94. Specifically, Plaintiff seeks penalties under California Labor Code  
6 section 2699, for the following:

7 Violations of California Labor Code sections 201, 202, 203, 204, and/or 204b, 210, 226,  
8 226.3, 226.7, 233, 246. 351, 353, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1,  
9 1198, 2800, 2802, and any other Labor Codes/Industrial Welfare Commission Order (No. 5)  
10 violated based on the facts alleged in this Complaint.

11 95. Pursuant to Labor Code section 2698 et seq., Plaintiff seeks to recover attorney's fees,  
12 costs, and civil penalties on behalf of Plaintiff and other current and former aggrieved employees  
13 as alleged herein in an amount to be shown according to proof at trial and within the jurisdictional  
14 limits of this Court.

## 15 **ELEVENTH CAUSE OF ACTION**

### 16 **FAILURE TO PROVIDE PERSONNEL FILE**

17 **(Plaintiff against All Named Defendants and all DOE defendants)**

18 96. Plaintiff re-alleges and incorporates by reference each and every allegation in  
19 paragraphs 1 through 95, inclusive, of this Complaint as though fully set forth herein.

20 97. Labor Code section 1198.5 dictates "every current and former employee, or his or her  
21 representative, has the right to inspect and receive a copy of the personnel records that the  
22 employer maintains relating to the employee's performance or to any grievance concerning the  
23 employee."  
24

25 98. Moreover, pursuant to sub-part (b)(1) of Labor Code section 1198.5, "the employer  
26 shall make the contents of those personnel records available for inspection to the current or  
27 former employee, or his or her representative, at reasonable intervals and at reasonable  
28

1 times...” On information and belief, Defendants intentionally failed to provide Plaintiff with  
2 personnel records when requested by Plaintiff via letter on March 1, 2024, as required by law.  
3 Plaintiff requested her personnel records in accordance with California Labor Code section  
4 1198.5 on March 1, 2024 via U.S. Certified Mail.

5 99. Defendants failed to provide Plaintiff with an opportunity to inspect or copy her  
6 records within 30 days. As a direct result of Defendants’ violations alleged herein, Plaintiff has  
7 suffered and continues to suffer substantial losses related to Defendants’ failure to provide  
8 personnel records.  
9

10 100. Plaintiff seeks all available remedies for Defendants’ violations including, but not  
11 limited penalties, and costs to the extent permitted by law and according to proof at trial.  
12 Pursuant to Labor Code section 1198.5, Plaintiff prays for judgment against Defendants  
13 in the amount of \$750.00, along with costs and attorney’s fees.  
14

## 15 **TWELFTH CAUSE OF ACTION**

### 16 **FAILURE TO PROVIDE PAY RECORDS**

17 **(Plaintiff against All Named Defendants and all DOE defendants)**

18 101. Plaintiff re-alleges and incorporates by reference each and every allegation in  
19 paragraphs 1 through 100, inclusive, of this Complaint as though fully set forth herein.  
20

21 102. Labor Code section 226 sub-section (b) dictates “an employer...shall afford current  
22 and former employees the right to inspect or copy records pertaining to their employment,  
23 upon reasonable request to the employer...”

24 103. Moreover, pursuant to sub-section (c) of Labor Code section 226, “an employer who  
25 receives a written or oral request to inspect or copy records pursuant to subdivision (b)  
26 pertaining to a current or former employee shall comply with the request as soon as  
27 practicable, but no later than 21 calendar days from the date of the request.” On information  
28

1 and belief, Defendants intentionally failed to provide Plaintiff with pay records when requested  
2 by Plaintiff via U.S. Certified letter, on March 1, 2024, and as required by law.

3 104. As a direct result of Defendants' violations alleged herein, Plaintiff has suffered and  
4 continues to suffer substantial losses related to Defendants' failure to provide pay records.

5 Pursuant to Labor Code section 226, Plaintiff prays for judgment against Defendants  
6 in the amount of \$750.00, along with costs and attorney's fees.

7 105. Plaintiff seeks all available remedies for Defendants' violations including, but not  
8 limited penalties, and costs to the extent permitted by law and according to proof at trial.  
9

10 **THIRTEENTH CAUSE OF ACTION**

11 **VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17200**

12 **(California Business and Professions Code Section 17200)**

13 **(Plaintiff against All Named Defendants and all DOE defendants)**

14 106. Plaintiff re-alleges and incorporates by reference each and every allegation in  
15 paragraphs 1 through 105, inclusive, of this Complaint as though fully set forth herein.  
16

17 107. By virtue of the foregoing statutes, regulations, and laws, the acts of  
18 Defendants constitute unfair and unlawful business practices under California Business and  
19 Professions Code Section 17200, et seq.

20 108. Defendant's violations of the California labor laws and the Labor Code  
21 constitutes a business practice because it was done repeatedly over a significant period of time  
22 in a systematic manner that was detrimental to Plaintiff and other employees.  
23

24 109. As a result of the acts of Defendants, as alleged herein, Plaintiff is entitled to  
25 reasonable attorneys' fees and costs of said suit as specifically provided in California Code of  
26 Civil Procedure Section 1021.5 and California Business and Professions Code section 17200 et  
27 seq.  
28

1 110. As a result of the acts of Defendants, as alleged herein, Plaintiff is entitled to  
2 multiple damages as specifically provided in California Business and Professions Code section  
3 17200 et seq.

4 111. For the four years preceding the filing of this action, Plaintiff requests  
5 restitution of all monies and profits to be disgorged from Defendants in an amount according to  
6 proof at time of trial, but in excess of the jurisdiction of this Court.  
7

8 **PRAYER FOR RELIEF**

9 WHEREFORE, Plaintiff prays for Judgment against Defendants, and each of them, as  
10 follows:  
11

- 12 1. For compensatory damages including lost past and future wages, regular wages,  
13 overtime, and all other sums of money, including employment benefits, together with  
14 interest on said amounts, and any other economic injury to Plaintiff, up to an amount of  
15 **\$150,000;**
- 16 2. For special and consequential damages to Plaintiff in an amount up to **\$150,000;**
- 17 3. For damages and penalties under Labor Code Section 226 for Plaintiff in an amount up  
18 to **\$4,000;**
- 19 4. For damages and penalties pursuant to Labor Code Section 203 in an amount up to  
20 **\$10,000;**
- 21 5. For damages and penalties pursuant to Labor Code Section 204/210 in an amount up to  
22 **\$25,000;**
- 23 6. For restitution and disgorgement for all unfair business practices by corporate Defendants  
24 against Plaintiff in an amount subject to proof at trial;
- 25 7. For an order enjoining corporate Defendants from further unfair and unlawful business  
26 practices in violation of Business and Professions Code Sections 17200, et seq.;
- 27 8. For one hour of wages due to Plaintiff for each work period of more than five (5) hours  
28

1 when Plaintiff did not receive an uninterrupted thirty (30) minute meal period for an  
2 amount up to **\$25,000**;

3 9. For one hour of wages due to Plaintiff for each work period of four (4) hours or major  
4 fraction thereof when Plaintiff did not receive a ten (10) minute rest break for an amount  
5 up to **\$25,000**;

6 10. For maximum civil penalties available under the Labor Code and applicable Wage Order  
7 against Defendant as described more particularly in the Complaint and Representative  
8 PAGA claim/action up to an amount of **\$150,000** for Plaintiff individually;

9 11. For all remedies available to Plaintiff under the applicable Wage Order and the  
10 Labor Code including an award of attorney's fees, costs, interest, and penalties  
11 according to proof to the extent permitted by law;

12 12. For restitution and/or damages for all amounts unlawfully withheld from the wages of  
13 Plaintiff, as may be proven;

14 13. For the imposition of civil penalties and/or statutory penalties;

15 14. For all interest as allowed by law;

16 15. For all costs and disbursements incurred in this suit;

17 16. Reasonable attorney's fees where available by law, including but not limited to,  
18 pursuant to the California Labor Code, Code of Civil Procedure section 1021.5, and/or  
19 other applicable laws; and

20 17. For such other and further relief as this Court may deem proper.

21 DATED: May 14, 2024

MESSRELIAN LAW INC.

22 By   
23 Harout Messrelian, Esq.  
24 Attorneys for Plaintiff Milena Nunez

25 ///

26 ///

27 ///

1  
2 **DEMAND FOR JURY TRIAL**

3 Plaintiff hereby demands, as a matter of right, a trial by jury in this case.  
4

5 DATED: May 14, 2024

MESSRELIAN LAW INC.

6  
7 By  \_\_\_\_\_  
8 Harout Messrelia, Esq.  
9 Attorneys for Plaintiff Milena Nunez  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28