

LIDMAN LAW, APC
Scott M. Lidman (SBN 199433)
slidman@lidmanlaw.com
Milan Moore (SBN 308095)
mmoore@lidmanlaw.com
2155 Campus Drive, Suite 150
El Segundo, California 90245
Tel: (424) 322-4772
Fax: (424) 322-4775

Attorneys for Plaintiff
MARTIN MORENO

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

MARTIN MORENO, as an individual and on
behalf of all other aggrieved employees,

Plaintiff,

vs.

MORTON'S OF CHICAGO/PALM
DESERT, INC., a Delaware corporation;
ARNIE MORTON'S OF
CHICAGO/BURBANK LLC, a Delaware
corporation; ARNIE MORTON'S OF
CHICAGO/FIGUEROA LLC, a Delaware
corporation; ARNIE MORTON'S OF
CHICAGO/WOODLAND HILLS, LLC, a
Delaware corporation; MORTON'S OF
CHICAGO/ANAHEIM LLC, a Delaware
corporation; MORTON'S OF
CHICAGO/CAPITOL MALL, LLC, a
Delaware corporation; MORTON'S OF
CHICAGO/SAN DIEGO, INC., a Delaware
corporation; MORTON'S OF
CHICAGO/SAN FRANCISCO, INC., a
Delaware corporation;
MORTON'S OF CHICAGO/SAN JOSE,
LLC, a Delaware corporation; MORTON'S
OF CHICAGO/SANTA ANA, INC., a
Delaware corporation; And DOES 1 through
100,

Defendants.

Case No.: **CVRI 2404012**

**REPRESENTATIVE ACTION
COMPLAINT:**

**(1) CIVIL PENALTIES UNDER THE
PRIVATE ATTORNEYS GENERAL
ACT (LABOR CODE § 2698 et seq.)**

UNLIMITED CIVIL CASE

HAINES LAW GROUP, APC

Paul K. Haines (SBN 248226)
phaines@haineslawgroup.com
2155 Campus Drive, Suite 180
El Segundo, California 90245
Tel: (424) 292-2350
Fax: (424) 292-2355

Attorneys for Plaintiff
MARTIN MORENO

1 Plaintiff MARTIN MORENO (hereinafter “Plaintiff”), on behalf of himself and all aggrieved
2 employees, hereby brings this Representative Action Complaint (“Complaint”) against Defendants
3 MORTON’S OF CHICAGO/PALM DESERT, INC., a Delaware corporation; ARNIE MORTON’S OF
4 CHICAGO/BURBANK LLC, a Delaware corporation; ARNIE MORTON’S OF
5 CHICAGO/FIGUEROA LLC, a Delaware corporation; ARNIE MORTON’S OF
6 CHICAGO/WOODLAND HILLS, LLC, a Delaware corporation; MORTON’S OF
7 CHICAGO/ANAHEIM LLC, a Delaware corporation; MORTON’S OF CHICAGO/CAPITOL MALL,
8 LLC, a Delaware corporation; MORTON’S OF CHICAGO/SAN DIEGO, INC., a Delaware corporation;
9 MORTON’S OF CHICAGO/SAN FRANCISCO, INC., a Delaware corporation; MORTON’S OF
10 CHICAGO/SAN JOSE, LLC, a Delaware corporation; MORTON’S OF CHICAGO/SANTA ANA,
11 INC., a Delaware corporation; and DOES 1 to 100, inclusive (collectively “Defendants”), and on
12 information and belief alleges as follows:

13 **JURISDICTION**

14 1. Plaintiff, on behalf of himself and all other all aggrieved employees, hereby brings this
15 Complaint for recovery of civil penalties under California Labor Code Private Attorneys General Act of
16 2004 (“PAGA”), Cal. Labor Code § 2698 *et seq.* This Complaint is brought pursuant to California Code
17 of Civil Procedure § 382. This Court has jurisdiction over Defendants’ violations of the California Labor
18 Code because the amount in controversy exceeds this Court’s jurisdictional minimum.

19 **VENUE**

20 2. Venue is proper in this judicial district pursuant to California Code of Civil Procedure §§
21 395(a) and 395.5, as at least some of the acts and omissions complained of herein occurred in the County
22 of Riverside. Defendants own, maintain offices, transact business, have an agent or agents within the
23 County of Riverside, and/or otherwise are found within the County of Riverside, and Defendants are
24 within the jurisdiction of this Court for purposes of service of process.

25 **PARTIES**

26 3. Plaintiff is an individual over the age of eighteen (18). At all relevant times herein,
27 Plaintiff was a California resident. During the one year immediately preceding Plaintiff giving the
28 required notice under the PAGA, and within the statute of limitations periods applicable to each cause of

1 action pled herein, Plaintiff was employed by Defendants as a non-exempt employee.

2 4. Plaintiff is informed and believes, and based thereon alleges, that during the one year
3 preceding Plaintiff giving the required notice under the PAGA, Defendants did (and continue to do)
4 business by owning and operating various restaurants, and employed Plaintiff and other, similarly-
5 situated non-exempt employees within Riverside County (as well as various other counties in California)
6 and the State of California and, therefore, were (and are) doing business in Riverside County and the
7 State of California.

8 5. Plaintiff does not know the true names or capacities, whether individual, partner, or
9 corporate, of the defendants sued herein as DOES 1 to 100, inclusive, and for that reason, said defendants
10 are sued under such fictitious names, and Plaintiff will seek leave from this Court to amend this
11 Complaint when such true names and capacities are discovered. Plaintiff is informed, and believes, and
12 based thereon alleges, that each of said fictitious defendants, whether individual, partners, or corporate,
13 were responsible in some manner for the acts and omissions alleged herein, and proximately caused
14 Plaintiff to be subject to the unlawful employment practices, wrongs, injuries and damages complained
15 of herein.

16 6. Plaintiff is informed and believes, and thereon alleges, that at all times mentioned herein,
17 Defendants were and are the employers of Plaintiff and the aggrieved employees.

18 7. At all times herein mentioned, each of said Defendants participated in the doing of the
19 acts hereinafter alleged to have been done by the named Defendants; and furthermore, the Defendants,
20 and each of them, were the agents, servants, and employees of each and every one of the other
21 Defendants, as well as the agents of all Defendants, and at all times herein mentioned were acting within
22 the course and scope of said agency and employment. Defendants, and each of them, approved of,
23 condoned, and/or otherwise ratified each and every one of the acts or omissions complained of herein.

24 8. At all times mentioned herein, Defendants, and each of them, were members of and
25 engaged in a joint venture, partnership, and common enterprise, and acting within the course and scope
26 of and in pursuance of said joint venture, partnership, and common enterprise. Further, Plaintiff alleges
27 that all Defendants were joint employers for all purposes of Plaintiff and other aggrieved employees.
28 Indeed, although the various Defendants are entities which are technically organized separately, Plaintiff

1 is informed and believes and based thereon alleges that in practice they act, and have always acted, as
2 the same, joint enterprise, and they each exert control over the wages, hours, and/or working conditions
3 of Plaintiff and other aggrieved employees of Defendants.

4 **GENERAL FACTUAL ALLEGATIONS**

5 9. Defendants are in the business of owning and operating various restaurants throughout
6 California.

7 10. Plaintiff, a current employee, was employed by Defendants as a non-exempt, hourly server
8 and boardroom captain at their Palm Desert location from approximately 2018 through the present.
9 Plaintiff was generally scheduled to work five to six days a week, although the particular days varied
10 based on the needs of the restaurant. Plaintiff would clock in and out by using an electronic timeclock
11 by way of scanning an employee badge.

12 11. During his employment with Defendants, Defendants did not compensate Plaintiff and
13 other non-exempt employees for all hours worked. Specifically, Defendants would unlawfully shave his
14 work time and/or round his work time such that he would not be fully paid for all time worked. This
15 time-shaving/rounding practice utilized by Defendants was not even-handed over time and would almost
16 exclusively round and shave in favor of Defendants such that Plaintiff was routinely underpaid for his
17 time worked.

18 12. Additionally, Plaintiff and other aggrieved employees would be required to perform work
19 functions off-the-clock, including during lunch breaks when they were clocked out, for which they were
20 not properly paid. As a boardroom captain, Plaintiff often spent significant hours working off-the-clock
21 planning and preparing for private events. Defendants were aware that Plaintiff and other non-exempt
22 employees were working off-the-clock, as Defendants would email Plaintiff on his personal work email
23 account about planning and scheduling for private events.

24 13. Defendants also failed to pay Plaintiff and other non-exempt employees all wages owed
25 when service charges were automatically added to large party and private events. For example, while
26 Defendants imposed a 22% service charge that customers believe would be paid to the wait staff and
27 back-of-house employees, approximately 1% was paid to Defendants as a house charge and 6% to the
28 exempt manager as a “commission,” thereby leaving the wait staff and back-of-house employees with

only 15% of the service charge to split. As a result of this policy and practice, Defendants failed to pay Plaintiffs and other non-exempt employees all wages owed.

14. Throughout Plaintiff's employment with Defendants, Plaintiff and other hourly, non-exempt employees were not provided all legally required meal periods due to the meal period policies and practices of Defendants. Due to the work demands imposed by Defendants, Plaintiff and other hourly, non-exempt employees were often provided with a meal period that was late, short, missed, and/or otherwise unlawful. Additionally, Plaintiff and other non-exempt employees would be required to clock out before completing six hours of work, or at the six-hour mark, but were required to continue performing off-the-clock work so that their meal period records would make it appear that there had been no meal period violations, when in fact there had been.

15. Although Plaintiff and other hourly, non-exempt employees were not provided with all legally-compliant meal periods to which they were entitled, Defendants failed to compensate Plaintiff and other hourly, non-exempt employees with the required meal period premium for each workday in which they experienced a meal period violation as mandated by Labor Code § 226.7.

16. In addition, throughout Plaintiff's employment with Defendants, Plaintiff and other hourly, non-exempt employees were not authorized and permitted to take legally required rest periods due to the unlawful rest period policies and practices of Defendants. The rest period policies and practices of Defendants fail to authorize and permit paid rest periods for every four hours worked, or major fraction thereof.

17. On those occasions when Plaintiff and other hourly, non-exempt employees were not authorized and permitted to take all legally-compliant rest periods to which they were entitled, Defendants failed to compensate Plaintiff and other hourly, non-exempt employees with the required rest period premium for each workday in which they experienced a rest period violation as mandated by Labor Code § 226.7.

18. During Plaintiff's employment with Defendants, Plaintiff and other hourly, non-exempt employees were required to use their personal cellular phone to discharge their duties. Specifically, Plaintiff and other non-exempt employees were required to use their personal cellular phone for a variety of required work activities, including, but not limited to communicating with other employees and

managers. Defendants knew or should have known that Plaintiff and other hourly, non-exempt employees were necessarily incurring expenses due to the use of their personal cellular phones in the direct discharge of their duties. Yet, despite the necessity of Plaintiff and other non-exempt employees using their personal cellular phone for work activities and Defendants knowing or should have knowing about same, they were not reimbursed for a reasonable portion of their cellular phone expenses by Defendants, as mandated by *Cochran v. Schwan's Home Service, Inc.* (2014) 228 Cal.App.4th 1137.

19. As a result of the failure by Defendants to pay all minimum and overtime wages, as well as meal and rest period premium wages, Defendants maintained inaccurate payroll records and issued inaccurate wage statements to Plaintiff and other hourly, non-exempt employees.

FIRST CAUSE OF ACTION

LABOR CODE PRIVATE ATTORNEYS GENERAL ACT OF 2004

(AGAINST ALL DEFENDANTS)

20. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

21. Defendants have committed several Labor Code violations against Plaintiff and other aggrieved employees. Plaintiff, an "aggrieved employee" within the meaning of Labor Code § 2698 *et seq.*, acting on behalf of herself and other aggrieved employees, brings this representative action against Defendants to recover the civil penalties due to Plaintiff, the other aggrieved employees, and the State of California according to proof pursuant to Labor Code § 558 and § 2699 (a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for each failure to pay each employee and \$200.00 for each subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$250.00 for each initial violation and \$1,000.00 for each subsequent violation pursuant to Labor Code § 226.3 per employee per pay period; (3) \$50.00 for each initial violation and \$100.00 for each subsequent violation pursuant to Labor Code § 558 per employee per pay period; and/or (4) \$100.00 for each initial violation and \$200.00 for each subsequent violation per employee per pay period for those violations of the Labor Code for which no civil penalty is specifically provided, based on the following Labor Code violations:

- a) Defendants violated Labor Code §§ 1194, 1194.2, and 1197 by failing to pay Plaintiff and other aggrieved employees the statutory minimum wage for all hours worked;

- b) Defendants violated Labor Code §§ 204, 510, 558, 1194, and 1198 by failing to pay Plaintiff and other aggrieved employees all overtime compensation earned;
- c) Defendants violated Labor Code §221 by failing to pay all wages and unlawfully deducting wages from amounts owed to Plaintiff and the other aggrieved employees;
- d) Defendants violated Labor Code §§ 226.7, 512, and 558 by failing to provide all legally required meal periods and failing to pay meal period premiums to Plaintiff and the aggrieved employees;
- e) Defendants violated Labor Code §§ 226.7, 516, and 558 by failing to provide all legally required rest periods and failing to pay rest period premiums to Plaintiff and the aggrieved employees;
- f) Defendants violated Labor Code § 226 by failing to furnish Plaintiff and other aggrieved employees with accurate and compliant itemized wage statements;
- g) Defendants violated Labor Code §§ 204 and 210 by failing to pay Plaintiff and other aggrieved employees all earned wages at least twice during each calendar month;
- h) Defendants violated Labor Code § 2802 by failing to reimburse Plaintiff and other aggrieved employees for all necessary expenditures incurred; and
- i) Defendants violated Labor Code § 1174 by failing to maintain accurate records on behalf of Plaintiff and other aggrieved employees.

22. On April 16, 2024, Plaintiff notified Defendants via certified mail, and the California Labor and Workforce Development Agency (“LWDA”) via e-mail, of Defendants’ violations of the California Labor Code and Plaintiff’s intent to bring a claim for civil penalties under California Labor Code § 2698 et seq. with respect to violations of the California Labor Code identified in Paragraph 21 (a)-(i). Attached hereto as **Exhibit A** is a true and correct copy of the April 16, 2024 correspondence. Now that at least sixty-five days have passed from Plaintiff notifying Defendants of these violations, Plaintiff has exhausted his administrative requirements for bringing a claim under the Labor Code Private Attorneys General Act with respect to these violations.

23. Plaintiff was compelled to retain the services of counsel to file this court action to protect his interests and the interests of other aggrieved employees, and to assess and collect the civil penalties

owed by Defendants. Plaintiff has thereby incurred attorneys' fees and costs, which he is entitled to receive under California Labor Code § 2699.

PRAYER

WHEREFORE, Plaintiff prays for judgment for himself and for all others on whose behalf this suit is brought against Defendants, as follows:

1. Upon the First Cause of Action, for civil penalties due to Plaintiff, other aggrieved employees, and the State of California according to proof pursuant to Labor Code §§ 558 and 2699(a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for each failure to pay each employee and \$200.00 for each subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$250.00 for each initial violation and \$1,000.00 for each subsequent violation pursuant to Labor Code § 226.3 per employee per pay period; (3) \$50.00 for each initial violation and \$100.00 for each subsequent violation pursuant to Labor Code § 558 per employee per pay period; and/or (4) \$100.00 for each initial violation and \$200.00 for each subsequent violation per employee per pay period for those violations of the Labor Code for which no civil penalty is specifically provided, based on the Labor Code violations cited in Paragraph 21 (a)-(i) above;

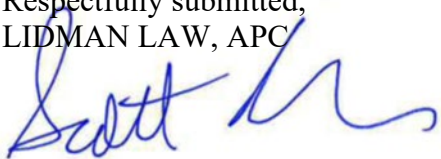
2. Upon the First Cause of Action, for attorneys' fees and costs as provided by Labor Code § 2699(g) and Code of Civil Procedure § 1021; and

3. For such other and further relief the Court may deem just and proper.

Dated: July 12, 2024

Respectfully submitted,
LIDMAN LAW, APC

By:



Scott M. Lidman
Attorneys for Plaintiff
MARTIN MORENO

EXHIBIT A

EXHIBIT A

LIDMAN LAW

2155 CAMPUS DRIVE, SUITE 150, EL SEGUNDO, CA 90245

OFFICE: (424) 322-4772

FAX: (424) 322-4775

April 16, 2024

VIA LWDA WEBSITE

Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

**VIA U.S. CERTIFIED MAIL – RETURN
RECEIPT REQUESTED**

Morton's of Chicago/Palm Desert, Inc.
c/o CT Corporation
Agent for Service of Process
330 N Brand Blvd.
Glendale, CA 91203

Re: *Martin Moreno v. Morton's of Chicago/Palm Desert, Inc., et al.*

To Whom It May Concern:

Please be advised that this law firm represents Maritn Moreno ("Mr. Moreno") in claims arising from his employment with Morton's of Chicago/Palm Desert, Inc. Mr. Moreno is informed, and believes, and thereon alleges, that Morton's of Chicago/Palm Desert, Inc is part of a group of restaurants in California which are jointly owned and operated, and which include Morton's of Chicago/Anaheim, LLC, Morton's of Chicago/Burbank LLC, Arnie Morton's of Chicago/Figueroa LLC, Arnie Morton's of Chicago/Woodland Hills, LLC, Morton's of Chicago/Capitol Mall, LLC, Morton's of Chicago/San Diego, Inc., Morton's of Chicago/San Francisco, Inc., Morton's of Chicago/San Jose, LLC, and Morton's of Chicago/Santa Ana, Inc. (Morton's of Chicago/Palm Desert, Inc. and all of these other entities are collectively referred to herein as the "Morton's Restaurants").

Although the various Morton's Restaurants are entities which are organized separately, Mr. Moreno is informed and believes and based thereon alleges that in practice they act, and have always acted, as the same, joint enterprise, and they each exert control over the wages, hours, and/or working conditions of Mr. Moreno and other aggrieved employees of the Morton's Restaurants.

The Morton's Restaurants did (and do) business by operating various restaurants in California.

Mr. Moreno is an "aggrieved employee" as defined by Labor Code sections 2699, *et seq.* due to the numerous violations of the Labor Code committed by the Morton's Restaurants as set forth below. The purpose of this letter is to comply with Labor Code section 2699.3, which requires aggrieved employees to notify their employer and the Labor and Workforce Development Agency ("LWDA") of the specific provisions of the Labor Code allegedly violated. For purposes of this letter, an "aggrieved employee" should be considered to include all current and former hourly, non-exempt employees working at any of the Morton's Restaurants in California during the one year immediately preceding

the date of this letter through the present date, and continuing through a civil judgment if the LWDA takes no action and Mr. Moreno files a civil lawsuit seeking civil penalties.

Mr. Moreno, a current employee, was employed by the Morton's Restaurants as a non-exempt, hourly server and boardroom captain from approximately 2018 through the present. Mr. Moreno was generally scheduled to work five to six days a week, although the particular days varied based on the needs of the restaurant. Mr. Moreno would clock in and out by using an electronic timeclock by way of scanning an employee badge.

During his employment with the Morton's Restaurants, the Morton's Restaurants did not compensate Mr. Moreno and other non-exempt employees for all hours worked. Specifically, the Morton's Restaurants would unlawfully shave his work time and/or round his work time such that he would not be fully paid for all time worked. This time-shaving/rounding practice utilized by the Morton's Restaurants was not even-handed over time and would almost exclusively round and shave in favor of the Morton's Restaurants such that Mr. Moreno was routinely underpaid for his time worked.

Additionally, Mr. Moreno and other aggrieved employees would be required to perform work functions off-the-clock, including during lunch breaks when they were clocked out, for which they were not properly paid. As a boardroom captain, Mr. Moreno often spent significant hours working off-the-clock planning and preparing for private events. Defendants were aware that Mr. Moreno and other non-exempt employees were working off-the-clock, as Defendants would email Mr. Moreno on his personal work email account about planning and scheduling for private events.

Defendants also failed to pay Mr. Moreno and other non-exempt employees all wages owed when service charges were automatically added to large party and private events. For example, while Defendants imposed a 22% service charge that customers believe would be paid to the wait staff and back-of-house employees, approximately 1% was paid to Defendants as a house charge and 6% to the exempt manager as a "commission," thereby leaving the wait staff and back-of-house employees with only 15% of the service charge to split. As a result of this policy and practice, Defendants failed to pay Plaintiffs and other non-exempt employees all wages owed.

Throughout Mr. Moreno's employment with the Morton's Restaurants, Mr. Moreno and other hourly, non-exempt employees were not provided all legally required meal periods due to the meal period policies and practices of the Morton's Restaurants. Due to the work demands imposed by the Morton's Restaurants, Mr. Moreno and other hourly, non-exempt employees were often provided with a meal period that was late, short, missed, and/or otherwise unlawful. Additionally, Mr. Moreno and other non-exempt employees would be required to clock out before completing six hours of work, or at the six-hour mark, but were required to continue performing off-the-clock work so that their meal period records would make it appear that there had been no meal period violations, when in fact there had been.

Although Mr. Moreno and other hourly, non-exempt employees were not provided with all legally-compliant meal periods to which they were entitled, the Morton's Restaurants failed to compensate Mr. Moreno and other hourly, non-exempt employees with the required meal period premium for each workday in which they experienced a meal period violation as mandated by Labor Code § 226.7.

In addition, throughout Mr. Moreno's employment with the Morton's Restaurants, Mr. Moreno and other hourly, non-exempt employees were not authorized and permitted to take legally required rest

periods due to the unlawful rest period policies and practices of the Morton's Restaurants. The rest period policies and practices of the Morton's Restaurants fail to authorize and permit paid rest periods for every four hours worked, or major fraction thereof.

On those occasions when Mr. Moreno and other hourly, non-exempt employees were not authorized and permitted to take all legally-compliant rest periods to which they were entitled, the Morton's Restaurants failed to compensate Mr. Moreno and other hourly, non-exempt employees with the required rest period premium for each workday in which they experienced a rest period violation as mandated by Labor Code § 226.7.

During Mr. Moreno's employment with the Morton's Restaurants, Mr. Moreno and other hourly, non-exempt employees were required to use their personal cellular phone to discharge their duties. Specifically, Mr. Moreno and other non-exempt employees were required to use their personal cellular phone for a variety of required work activities, including, but not limited to communicating with other employees and managers. The Morton's Restaurants knew or should have known that Mr. Moreno and other hourly, non-exempt employees were necessarily incurring expenses due to the use of their personal cellular phones in the direct discharge of their duties. Yet, despite the necessity of Mr. Moreno and other non-exempt employees using their personal cellular phone for work activities and the Morton's Restaurants knowing or should have knowing about same, they were not reimbursed for a reasonable portion of their cellular phone expenses by the Morton's Restaurants, as mandated by *Cochran v. Schwan's Home Service, Inc.* (2014) 228 Cal.App.4th 1137.

As a result of the failure by the Morton's Restaurants to pay all minimum and overtime wages, as well as meal and rest period premium wages, the Morton's Restaurants maintained inaccurate payroll records and issued inaccurate wage statements to Mr. Moreno and other hourly, non-exempt employees.

As described above, the Morton's Restaurants committed the following violations of the Labor Code and Industrial Welfare Commission Wage Order No. 5 ("Wage Order 5"):

Minimum Wage Violations/Unlawful Deductions

The Morton's Restaurants were required to pay Mr. Moreno and other aggrieved employees an hourly rate at least equal to the minimum wage for each hour actually worked. *See* Labor Code §§ 221, 1194; 1194.2, 1197, 1197.1; The Wage Order 5, § 4. Mr. Moreno and other aggrieved employees were not paid for all hours worked due to the unlawful practices and procedures of the Morton's Restaurants. As alleged above, the unlawful policies and procedures of the Morton's Restaurants included shaving of work time and also requiring work while off the clock and not compensating for same. These practices by the Morton's Restaurants resulted in the Morton's Restaurants not paying Mr. Moreno and other aggrieved employees for all wages owed for the work they performed, including failing to pay them all required minimum wages.

Overtime Violations

The Morton's Restaurants were required to pay Mr. Moreno and other aggrieved employees overtime wages for all hours worked in excess of eight hours per workday and/or forty hours per workweek. *See* Labor Code §§ 1194(a) and 1198; the Wage Order 5, § 3. According to Labor Code § 510(a), "Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall

be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee.” This Section further provides, “Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee.” As alleged above, the unlawful policies and procedures of the Morton’s Restaurants included shaving of work time and also requiring work while off the clock and not compensating for same. As a result of the policies and/or practices of included shaving of work time and also requiring work while off the clock and not compensating for same that fail to compensate for all hours worked, Mr. Moreno and other aggrieved employees were deprived all required overtime wages earned.

Unlawful Deductions from Wages

As alleged above, the Morton’s Restaurants failed to pay all wages owed and unlawfully deducted amounts owed to Mr. Moreno and other aggrieved employees. *See* Labor Code §§ 221. As described above, Defendants failed to pay Mr. Moreno and other non-exempt employees all wages owed when service charges were automatically added to large party and private events. For example, while Defendants imposed a 22% service charge that customers believe would be paid to the wait staff and back-of-house employees, approximately 1% was paid to Defendants as a house charge and 6% to the exempt manager as a “commission,” thereby leaving the wait staff and back-of-house employees with only 15% of the service charge to split. As a result of this policy and practice, Defendants failed to pay Plaintiffs and other non-exempt employees all wages owed.

Meal Period Violations

As alleged above, the Morton’s Restaurants failed to provide the aggrieved employees with all required and compliant meal periods. *See* Labor Code §§ 226.7 and 512; Wage Order 5, § 11. As described above, due to the work demands, the Morton’s Restaurants failed to provide Mr. Moreno and other aggrieved employees with all legally compliant meal periods. Therefore, the aggrieved employees are owed an additional hour of wages at their regular rate of compensation for each workday they experienced a meal period violation. *See* Labor Code § 226.7 (“If an employer fails to provide an employee a meal or rest or recovery period in accordance with ... [an] order of the Industrial Welfare Commission ... the employer shall pay the employee one additional hour of pay at the employee’s regular rate of compensation for each workday that the meal or rest or recovery period is not provided.”). Although Mr. Moreno and other aggrieved employees were not provided with all legally-compliant meal periods to which they were entitled, the Morton’s Restaurants failed to compensate them with the required meal period premium for each workday in which they experienced a meal period violation as mandated by Labor Code § 226.7.

Rest Period Violations

The Morton’s Restaurants also failed to authorize and permit their aggrieved employees to take all required rest periods. *See* Labor Code §§ 226.7 and 516; Wage Order 5, § 12. Specifically, Mr. Moreno and other aggrieved employees were not authorized and permitted to take all required rest periods due to the rest period policies/practices of the Morton’s Restaurants, which upon information and belief, fail to authorize and permit all rest periods for every four hours worked, or *major fraction thereof*. As a result, Mr. Moreno and the aggrieved employees are owed an additional hour of wages at their regular rate of compensation for each workday that they were not authorized and permitted to take all legally required rest periods. *See* Labor Code § 226.7 (“If an employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the Industrial Welfare

Commission, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest period is not provided.")

Failure to Reimburse Business Expenses

The Morton's Restaurants failed to reimburse Mr. Moreno and other Aggrieved Employees for necessary work expenses, including, but not limited to, expenses incurred for the reasonable portion of cellular phone expenses incurred in the direct discharge of the job duties of such employees. The policy of the Morton's Restaurants of not providing reimbursement for necessary work-related expenses is in violation of Wage Order 5, § 9, and Labor Code § 2802 ("An employer shall indemnify his or her employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer.") Mr. Moreno and other Aggrieved Employees are therefore entitled to reimbursement of such unpaid work expenses with interest.

Wage Statement Violations

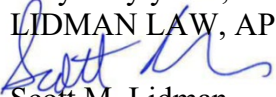
The Morton's Restaurants knowingly and intentionally, as a matter of uniform practice and policy, failed to furnish Mr. Moreno and other aggrieved employees with accurate and complete, itemized wage statements that included, among other requirements, all minimum and/or overtime wages earned, meal and rest period premiums, total gross wages earned, and total net wages earned, in violation of Labor Code § 226 *et seq.* The Morton's Restaurants' failure to furnish Mr. Moreno and other aggrieved employees with complete and accurate, itemized wage statements resulted in actual injury, as said failures led to, among other things, the non-payment of all minimum and/or overtime wages earned and meal and rest period premiums, and deprived them of the information necessary to identify discrepancies in the reported data of the Morton's Restaurants.

As an "aggrieved employee," Mr. Moreno will initiate a civil action on behalf of himself and other aggrieved employees to recover damages, statutory penalties, and civil penalties resulting from the wage and hour violations alleged herein. Based on Mr. Moreno's own investigation, and on information and belief, the Morton's Restaurants committed the following Labor Code violations:

- a) The Morton's Restaurants violated Labor Code §§ 1194, 1194.2, and 1197 by failing to pay Mr. Moreno and other aggrieved employees the statutory minimum wage for all hours worked;
- b) The Morton's Restaurants violated Labor Code §§ 204, 510, 558, 1194, and 1198 by failing to pay Mr. Moreno and other aggrieved employees all overtime compensation earned;
- c) The Morton's Restaurants violated Labor Code § 221 by failing to pay and/or deduction from pay for Mr. Moreno and other aggrieved employees all compensation earned, including with respect to service charges;
- d) The Morton's Restaurants violated Labor Code §§ 226.7, 512, and 558 by failing to provide all legally required meal periods and failing to pay meal period premiums to Mr. Moreno and the aggrieved employees;

- e) The Morton's Restaurants violated Labor Code §§ 226.7, 516, and 558 by failing to provide all legally required rest periods and failing to pay rest period premiums to Mr. Moreno and the aggrieved employees;
- f) The Morton's Restaurants violated Labor Code § 2802 by failing to reimburse Mr. Moreno and other Aggrieved Employees for necessary work expenditures;
- g) The Morton's Restaurants violated Labor Code § 226 by failing to furnish Mr. Moreno and other aggrieved employees with accurate and compliant itemized wage statements;
- h) The Morton's Restaurants violated Labor Code §§ 204 and 210 by failing to pay Mr. Moreno and other aggrieved employees all earned wages at least twice during each calendar month; and
- i) The Morton's Restaurants violated Labor Code § 1174 by failing to maintain accurate records on behalf of Mr. Moreno and other aggrieved employees.

Pursuant to Labor Code section 2699.3(a)(2)(A), please notify us and the Morton's Restaurants if the LWDA intends to investigate these alleged violations of the Labor Code. Please contact me should you require additional information.

Very truly yours,
LIDMAN LAW, APC

Scott M. Lidman

Cc: Arnie Morton's of Chicago/Burbank LLC, c/o, CT Corporation, Agent for Service of Process (via certified mail to 330 N Brand Blvd., Glendale, CA 91203)

Arnie Morton's of Chicago/Figueroa LLC, c/o, CT Corporation, Agent for Service of Process (via certified mail to 330 N Brand Blvd., Glendale, CA 91203)

Arnie Morton's of Chicago/Woodland Hills, LLC, c/o, CT Corporation, Agent for Service of Process (via certified mail to 330 N Brand Blvd., Glendale, CA 91203)

Morton's of Chicago/Anaheim LLC, c/o, CT Corporation, Agent for Service of Process (via certified mail to 330 N Brand Blvd., Glendale, CA 91203)

Morton's of Chicago/Capitol Mall, LLC, c/o, CT Corporation, Agent for Service of Process (via certified mail to 330 N Brand Blvd., Glendale, CA 91203)

Morton's of Chicago/San Diego, Inc., c/o, CT Corporation, Agent for Service of Process (via certified mail to 330 N Brand Blvd., Glendale, CA 91203)

Morton's of Chicago/San Francisco, Inc., c/o, CT Corporation, Agent for Service of Process (via certified mail to 330 N Brand Blvd., Glendale, CA 91203)

Morton's of Chicago/San Jose, LLC, c/o, CT Corporation, Agent for Service of Process (via certified mail to 330 N Brand Blvd., Glendale, CA 91203)

Morton's of Chicago/Santa Ana, Inc., c/o, CT Corporation, Agent for Service of Process (via certified mail to 330 N Brand Blvd., Glendale, CA 91203)