

VIA ONLINE SUBMISSION

Stewart Knox, Secretary
California Labor & Workforce
Development Agency
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VIA CERTIFIED MAIL

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**NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO CALIFORNIA LABOR CODE
SECTION 2698, ET SEQ.**

To: The California Labor and Workforce Development Agency; BHFC Operating, LLC dba Bottega Louie; BHFC Operating II, LLC dba Bottega Louie; BHFC Capital, LLC

From: Bradley Turner, on behalf of himself and all other current and former hourly nonexempt employees for violations of the California Labor Code

To Whom It May Concern:

Abramson Labor Group has been retained by current employee Bradley Turner ("Mr. Turner") to seek compensation and all other available relief, including civil penalties on his behalf and on the behalf of all those similarly aggrieved (collectively with Mr. Turner, "Claimants") who have been injured by BHFC Operating, LLC dba Bottega Louie; BHFC Operating II, LLC dba Bottega Louie; BHFC Capital, LLC (collectively, "Bottega Louie") violations of the California Labor Code. Mr. Turner, on behalf of himself and all other similarly aggrieved current and former hourly nonexempt employees of Bottega Louie, intend to seek civil penalties, attorneys' fees, costs, and other available relief for violations of the California Labor Code, which are recoverable under sections 2698, *et seq.* of the Labor Code Private Attorneys General Act of 2004 ("PAGA").

Factual Statement:

Bottega Louie operates two Bottega Louie restaurant locations in California, each of which offers patrons an upscale dining atmosphere as well as pick-up/to-go orders, catering, and private events.

Claimant Mr. Turner has worked at both Bottega Louie locations from approximately April 2017 to the present as an hourly, nonexempt employee in the positions of Server (earning \$16.00 per hour plus gratuities) and Server Trainer (earning \$18.00 per hour plus gratuities, which has since been reduced to \$16.00 per hour plus gratuities). Mr. Turner worked at the West Hollywood location from approximately November 2020 through November 2021 and the Downtown Los Angeles location at all other times. Mr. Turner, on behalf of himself and all other similarly aggrieved current and former employees in California in various positions, are or were generally engaged in serving customers and providing labor at various Bottega Louie restaurants. As part of his employment with Bottega Louie, Claimant and other hourly, nonexempt employees, collectively, “hourly nonexempt employees,” are or were assigned to and required to suffer and permitted to work without pay, while performing tasks collectively including, but not limited to, greeting and seating guests; taking customers’ orders; running food and bar drinks to customers; pre-bussing and bussing tables; processing customers’ payments; keeping track of finances; customer services; training new servers; and performing side work (folding pizza boxes and napkins, rolling silverware, and polishing plates).

Claimant Ms. Lopez regularly works 4-5 days per week for 5-8 hours or more hours per day. During the entire course of his employment, Bottega Louie failed to provide Mr. Turner and continues to fail to provide those similarly aggrieved with some overtime pay and compliant meal periods and rest breaks. Bottega Louie has also failed to remit all gratuities owed and pay minimum wages to Mr. Turner and other hourly, nonexempt employees in violation of Labor Code sections 510, 1194, 1197, and 1182.12, and section 4 of IWC Wage Order No. 5-2001. As a consequence of failing to pay minimum wages, Bottega Louie has failed to comply with Labor Code sections 226.7, 510, and 512, and sections 3, 11, and 12 of all applicable Industrial Welfare Commission (“IWC”) Wage Orders, including but not limited to, IWC Wage Order No. 5-2001. In violation of Labor Code sections 510, 1194, 1197, and 1182.12, Bottega Louie has failed to compensate Claimants at a rate of one and one-half (1.5) times their regular rate for all hours worked over eight (8) hours per workday and the first eight (8) hours worked on the seventh day of a workweek and at two (2) times their regular rate for hours worked over twelve (12) hours per workday and eight (8) hours on the seventh day of a workweek.

Bottega Louie has also failed and continues to fail to pay all wages owed every pay period in violation of Labor Code section 204. Likewise, Bottega Louie has failed and continues to fail to provide timely, accurate wage statements to Mr. Turner and other aggrieved persons in violation of Labor Code section 226(a). With regard to those no longer employed by Bottega Louie, Bottega Louie violated Labor Code section 203 by failing to pay all wages due upon separation. Bottega Louie has failed and continues to fail to fully reimburse Claimants for all necessary, business-related expenses and losses they incurred, including, but not limited to, all costs for cell phone service required to use the Sling phone application on behalf of Bottega Louie, in violation of Labor Code section 2802. Mr. Turner is informed and believes that such violations are ongoing, systematic, and continuous. Mr. Turner intend to bring an action against Bottega Louie under the Private Attorneys General Act (“PAGA”) to recover wages and penalties as provided by California law.¹

¹ Without limitation, Ms. Lopez and Mr. Turner, if permitted, will seek any and all penalties otherwise capable of being collected by the Commission. This includes each provision as set forth in Labor Code section 2699.5 as follows:

The provisions of subdivision (a) of Section 2699.3 apply to any alleged violation of the following provisions: subdivision (k) of Section 96, Sections 98.6, 201, 201.3, 201.5, 201.7, 202, 203, 203.1, 203.5, 204, 204a,

Theories of Labor Code Violations and Remedies:

Claimant Mr. Turner has been employed by Bottega Louie from approximately April 2017 to the present as an hourly, nonexempt employee holding the positions of Server and Serve Trainer. For a period of at least four (4) years prior to August 2024, but for our purposes here, one (1) year prior, Bottega Louie has violated and continues to violate the California Labor Code sections as detailed below.

Claimants also were at all times entitled to payment of **minimum wages**. Bottega Louie has failed and continues to fail to pay Claimants minimum wages for all hours worked as required by Labor Code sections 510, 1194, and 1194.2 and sections 4 and 5 of IWC Wage Order No. 5-2001. First, Claimants worked while off-the-clock—meaning they were not punched in for work—and therefore, those working hours were not recorded and then compensated. This off-the-clock time primarily occurred after clocking out at the end of their shifts because working overtime was discouraged, and Bottega Louie's policy was that exceeding six hours in a 6-hour shift is cause for termination. As such, when work remained at the end of a shift, to avoid strikes leading to termination, Claimants clocked out and continued working to complete any remaining tasks such as rolling silverware and other side work, as defined earlier. Accordingly, Claimants were not paid for that time spent working off the clock. That is, Defendant implemented policies and enforced practices requiring Claimants to perform work while clocked out and what should have been their meal periods and rest breaks, the effects of which Defendant could have mitigated by adjusting expectations and/or by adding more staff to reduce the expected daily workload. However, Defendant instead chose to instruct Claimants to continue working while clocked out and to skip rest breaks. In effect, these policies and practices cause Claimants to remain on-duty during rest breaks, and therefore, constitute a failure on Bottega Louie's part to provide compliant rest breaks. With that, Bottega Louie's corresponding failure to provide premium pay at the correct regular rate, if any premiums were paid at all, in lieu of compliant meal periods and rest breaks constitutes Bottega Louie's failure to pay minimum wages and all hours worked every pay period and upon separation in violation of Labor Code sections 201, 202, 203, 204, 226(a), 510, 1182.12, 1194, and 1197. Second, Bottega Louie's failure to pay Claimants their meal period and rest break premiums for noncompliant meal periods and rest breaks, as explained in further detail below, also constitutes a failure to pay minimum wages to Claimants. For all of the foregoing reasons, Claimants are entitled to recover wages and/or penalties as provided by Labor Code section 1197.1 and section 20 of IWC Wage Order No. 5-2001.

Claimants were at all times entitled to unpaid off-duty, uninterrupted **meal periods**. As explained in the preceding paragraph, Bottega Louie failed to authorize and permit timely, full-length meal periods for Mr. Turner and all other similarly aggrieved employees as required by Labor Code sections 226.7 and 512 and section 11 of IWC Wage Order No. 5-2001. Mr. Turner and all similarly aggrieved persons were required to perform work during their meal periods in the form of continuing to perform their assigned services that either cut into their 30-minute meal periods necessitating that they returned from their meal period early before 30 minutes had elapsed or else forcing them to commence their meal periods after the

204b, 204.1, 204.2, 205, 205.5, 206, 206.5, 208, 209, and 212, subdivision (d) of Section 213, Sections 221, 222, 222.5, 223, and 224, subdivision (a) of Section 226, Sections 226.7, 227, 227.3, 230, 230.1, 230.2, 230.3, 230A, 230.7, 230.8, and 231, subdivision (c) of Section 232, subdivision (c) of Section 232.5, Sections 233, 234, 351, 353, and 403, subdivision (b) of Section 404, Sections 432.2, 432.5, 432.7, 435, 450, 510, 511, 512, 513, 551, 552, 601, 602, 603, 604, 750, 751.8, 800, 850, 851, 851.5, 852, 921, 922, 923, 970, 973, 976, 1021, 1021.5, 1025, 1026, 1101, 1102, 1102.5, and 1153, subdivisions (c) and (d) of Section 1174, Sections 1194, 1197, 1197.1, 1197.5, and 1198, subdivision (b) of Section 1198.3, Sections 1199, 1199.5, 1290, 1292, 1293, 1293.1, 1294, 1294.1, 1294.5, 1296, 1297, 1298, 1301, 1308, 1308.1, 1308.7, 1309, 1309.5, 1391, 1391.1, 1391.2, 1392, 1683, and 1695, subdivision (a) of Section 1695.5, Sections 1695.55, 1695.6, 1695.7, 1695.8, 1695.9, 1696, 1696.5, 1696.6, 1697.1, 1700.25, 1700.26, 1700.31, 1700.32, 1700.40, and 1700.47, paragraphs (1), (2), and (3) of subdivision (a) of, and subdivision (e) of, Section 1701.4, subdivision (a) of Section 1701.5, Sections 1701.8, 1701.10, 1701.12, 1735, 1771, 1774, 1776, 1777.5, 1811, 1815, 2651., and 2673, subdivision (a) of Section 2673.1, Sections 2695.2, 2800, 2801, 2802, 2806, and 2810, subdivision (b) of Section 2929, and Sections 3095, 6310, 6311, and 6399.7.

end of the fifth hour. Despite that, Bottega Louie did not compensate Claimants with an extra hour of pay at the regular rate for noncompliant meal periods for each workday on which they occurred. Accordingly, since Bottega Louie required Mr. Turner and others similarly situated to work during their meal periods in violation of Labor Code sections 226.7(a) and 512, Claimants seek all available penalties as set forth in Labor Code sections 558, section 20 of IWC Wage Order No. 5-2001, and 2699(f).

Claimants were at all times entitled to take paid, off duty 10-minute **rest breaks**. However, for the same reasons cited in the preceding paragraph regarding meal periods and additional reasons, Bottega Louie likewise failed to authorize and permit Mr. Turner and all other similarly aggrieved employees to take any full-length, off-duty rest breaks as required by Labor Code sections 226.7 and section 12 of IWC Wage Order No. 5-2001. Bottega Louie enforced a policy requiring Claimants to request permission to leave to take their rest breaks, which functioned as a deterrent for Claimants from asking to take their rest breaks because they would not elect to ask knowing that the restaurant was very busy. As such, Claimants were not able to take their requisite number of 10-minute rest breaks based on their shift duration; Claimants regularly worked through their rest breaks. Bottega Louie did not compensate Claimants with an extra hour of pay at the regular rate for noncompliant rest breaks for each workday on which they occurred. Therefore, Claimants are entitled to recover wages and/or penalties as provided by Labor Code section 558 and section 20 of IWC Wage Order No. 5-2001. Furthermore, since Bottega Louie required their hourly nonexempt employees to perform work during rest periods in violation of Labor Code section 226.7(b), Claimants seek all available penalties set forth in Labor Code sections 558 and 2699.

At all times relevant herein, Claimants were entitled to the payment of **overtime**. That is, pursuant to Labor Code sections 510, 1194, 1197, and 1182.12, Bottega Louie was required to compensate Claimants at a rate of one-and-one-half (1.5) times their regular rate for all hours worked over eight (8) hours per workday and the first eight (8) hours worked on the seventh day of a workweek and at two (2) times their regular rate for hours worked over 12 hours per workday and eight hours on the seventh day of a workweek. Mr. Turner occasionally worked and Claimants regularly worked overtime hours. Bottega Louie has failed to and continues to fail to pay Claimants overtime wages owed for off-the-clock time worked that should have been compensated as overtime, yet regularly required them to work these overtime hours without premium pay under Labor Code section 1194. In short, during the entire course of their employment, Bottega Louie failed to provide Ms. Lopez and Mr. Turner and continues to fail to provide all others similarly situated with all overtime pay in violation of 226.7, 510, and 512 and all applicable IWC Wage Orders, including but not limited to IWC Wage Order 5-2001, section 3.

Claimants were at all times entitled to receive all gratuities paid to or left for employees by patrons regardless of the form in which the gratuity was delivered, which shall not be deducted by credit card fees assessed to Bottega Louie by credit card companies. Cal. Lab. Code § 351. Bottega Louie failed to remit all gratuities owed Claimants as required by Labor Code section 351. For example, Bottega Louie engaged in improper tip withholding practices by reducing the tips collected by the amount credit card companies assessed to Bottega Louie on those particular transactions. Accordingly, Claimants seek all available penalties as set forth in Labor Code sections 226(e) and 2699.

Pursuant to Labor Code sections 201–203, Claimants who have since separated from Bottega Louie were entitled to be paid all **wages owed upon separation** within the statutorily allotted time—immediately (resignation with notice and termination) or within 72 hours (resignation without notice). Claimants did not receive all wages owed upon separation based on Bottega Louie’s prior failings to pay all wages owed every pay period, including but not limited to gratuities and meal and rest premiums owed and for all hours worked, as explained above.

Claimants were at all times entitled to be provided timely and accurate **wage statements** from Bottega Louie pursuant to Labor Code section 226. First, Mr. Turner’s wage statements (and 2023 W-2) do not reflect the correct legal name of Defendant—BHFC Operating, LLC—his paystubs are missing the comma. Second, because Bottega Louie failed to pay Claimants all of their meal period and rest break

premiums for noncompliant meal periods and rest breaks and failed to pay Claimants minimum wages for all hours worked before, during, and after their shifts and for all overtime wages due, Claimants' wage statements were inaccurate in reflecting meal period and rest break premiums owed, overtime and minimum wages, and all hours worked every pay period. As a consequence, Claimants' wage statements also do not reflect the accurate amount of net and gross wages owed. Accordingly, Claimants seek all available penalties as set forth in Labor Code sections 226(e) and 2699.

Finally, Claimants were entitled to be reimbursed by Bottega Louie for all necessary, **business-related expenses** they incurred in executing their duties for Bottega Louie. California Labor Code section 2802 provides that "An employer shall indemnify his or his employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or his duties, or of his or his obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful." Mr. Turner and Claimants were required to use their personal cell phones to operate the Sling phone application for the benefit of Bottega Louie, particularly to handle scheduling matters. Bottega Louie, however, has failed to reimburse Mr. Turner and Claimants for all necessary, business-related expenses and losses they incurred, including, but not limited to, these costs incurred for the use of their personal cell phones for Bottega Louie during and off their shifts. Accordingly, Claimants are entitled to recover their unreimbursed expenditures and losses pursuant to Labor Code section 2802.

Bottega Louie's uniform failure to pay overtime and minimum wages, failure to authorize and permit full-length, off-duty rest breaks and meal periods or pay Claimants adequate premium compensation in lieu thereof, failure to remit all gratuities, failure to furnish timely and accurate wage statements, and failure to reimburse all necessary, business-related expenses violate Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 351, 510, 512, 1182.12, 1194, 1197, and 2802, and as such, penalties are recoverable as set forth in Labor Code sections 210, 1194, *et seq.*, and 2699.

Claimants are entitled to recover unpaid wages, with interest, and are entitled to an award of attorneys' fees as permitted by Labor Code section 1194, other penalties as permitted by Labor Code sections 210 and 2699, and waiting time penalties for former employees pursuant to Labor Code section 203.

Accordingly, Claimants seek the remedies set forth in the above-referenced Labor Code sections for themselves, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 2699(a), 2699.3(a), 2699.3(c), and 2699.5, Mr. Turner, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for themselves, all other aggrieved employees, and the State of California against Bottega Louie for violations of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 351, 510, 512(a), 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, and 2802.

Should you require any additional information, please feel free to contact me.

Sincerely,

ABRAMSON LABOR GROUP

A handwritten signature in cursive script that reads "Cheryl Kenner".

Cheryl A. Kenner