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18 *Aggrieved Employees*

19 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

20 **FOR THE COUNTY OF LOS ANGELES**

21 **Diego Terrones**, individually and on
22 behalf of all similarly situated individuals,

23 Plaintiff,

24 vs.

25 **TRB, LLC d/b/a Tin Roof Bistro**, a
26 California limited liability company;
27 **Simms Restaurants, LLC**, a California
28 limited liability company; **Thomas M.**
Simms, Jr., an individual; and **Does 1-**
100;

Defendants.

Case No. 24STCV32371

COMPLAINT FOR:

1) PAGA Penalties

1 Plaintiff Diego Terrones (“Plaintiff”), on behalf of himself and all other similarly
2 situated current and former employees (“Aggrieved Employees”), by and through his
3 counsel of record, alleges as follows against TRB, LLC d/b/a Tin Roof Bistro; Simms
4 Restaurants, LLC; Thomas M. Simms, Jr.; and DOES 1-100 (collectively, “Defendants”):

5 **PAGA ONLY ACTION**

6 1. PAGA authorizes “an aggrieved employee, acting as a proxy or agent of the
7 state Labor and Workforce Development Agency, to bring a civil action against an employer
8 on behalf of himself or herself and other current or former employees to recover civil
9 penalties for Labor Code violations they have sustained.” *Adolph v. Uber Techs.*, 14 Cal.5th
10 1104, 1113 (Cal. 2023).

11 2. “PAGA is designed primarily to benefit the general public, not the party
12 bringing the action.” *Id.*, at 1117. “A PAGA claim for civil penalties is fundamentally a law
13 enforcement action. The government entity on whose behalf the plaintiff files suit is the
14 real party in interest.” *Id.* PAGA’s default civil penalties are thus calculated to punish the
15 employer’ for wrongdoing and to deter violations rather than “compensate employees for
16 actual losses incurred.” *Id.*

17 3. Under the authority expressed in *Adolph* and *Balderas v. Fresh Start*
18 *Harvesting, Inc.* 101 Cal.App.5th 533 (2024), Plaintiff does not bring suit in his individual
19 capacity and does not seek to recover anything through this suit other than civil penalties
20 as permitted under PAGA—he brings this action solely in his representative capacity under
21 PAGA, on behalf of the State of California, the public, and the aggrieved employees.

22 4. To the extent that statutory violations are mentioned for wage violations,
23 Plaintiff does not seek underlying general and/or special damages for those violations, but
24 only references those predicate violations as part of the State’s claim for civil penalties
25 under PAGA.

26 5. Nothing in this complaint is—or should be construed—as an attempt to seek
27 any relief that would not be available in a PAGA-only proceeding.
28

PARTIES

6. Plaintiff **Diego Terrones** is a resident of Manhattan Beach, California, County of Los Angeles. Plaintiff was as an hourly, non-exempt employee of Defendants from approximately February 2021 to August 16, 2024. Plaintiff Diego Terrones was subject to the policies and practices described in this Complaint at all times during his employment with Defendants.

7. Defendant **TRB, LLC d/b/a Tin Roof Bistro** (“TRB”) is a California limited liability company and is in the restaurant business. On information and belief, TRB, LLC d/b/a Tin Roof Bistro has employed at least 100 hourly, non-exempt employees in a variety of capacities through the four years leading to this Complaint within the state of California. TRB, LLC d/b/a Tin Roof Bistro’s principal place of business is located at 108 Arena Street, El Segundo, CA 90245.

8. Defendant **Simms Restaurants, LLC** (“Simms”) is a California limited liability company and is in the restaurant business. On information and belief, Simms Restaurants, LLC has employed at least 100 hourly, non-exempt employees in a variety of capacities through the four years leading to this Complaint within the state of California. Simms Restaurants, LLC’s principal place of business is located at 15705 Condon Avenue, D-1 Lawndale, California 90260.

9. Defendant **Thomas M. Simms, Jr.** is the sole listed Manager and Agent for TRB and Simms, and on information and belief is a resident of the County of Los Angeles. Upon information and belief, he violated or caused to be violated the regulations and statutes described in greater detail below. Since Thomas M. Simms, Jr. is a managing agent, director, and/or officer of Simms and TRB, and because he violated or caused to be violated the statutes at issue in this action, he is personally liable for the Labor Code violations complained of herein per Labor Code § 558.1.

10. Plaintiff is not currently aware of the names and true identities of defendants Does 1-100. Plaintiff reserves the right to amend this complaint to allege their true names and capacities when this information is available. Each Doe defendant is responsible for

1 the damages alleged pursuant to each of the causes of action asserted, either through its
2 own conduct, or vicariously through the conduct of others. Further references in this
3 complaint to any named Defendants includes the fictitiously named defendants.

4 11. At all times alleged herein, each Defendant was an agent, servant, joint
5 employer, employee, partner, and/or joint venture of every other Defendant and was acting
6 within the scope of the Defendants' relationship. Moreover, the conduct of every Defendant
7 was ratified by each Defendant.

8 **VENUE AND JURISDICTION**

9 12. The court has jurisdiction over all causes of action in this complaint pursuant
10 to Article VI, § 10 of the California Constitution. No federal question is at issue; Plaintiff
11 relies solely on California statutes and law, including the Labor Code and Business &
12 Professions Code. Because Defendants conduct substantial business in Los Angeles County,
13 Defendants are within the jurisdiction of the court for service of process. Moreover,
14 Business & Professions Code § 17204 provides that any person acting on their own behalf
15 may bring an action in any court of competent jurisdiction.

16 13. Venue as to Defendants is proper in this Superior Court pursuant to
17 California Code of Civil Procedure § 395. Defendant Simms Restaurants, LLC's principal
18 place of business is located in Lawndale, California in the County of Los Angeles. Defendant
19 TRB, LLC d/b/a Tin Roof Bistro's principal place of business is located in Manhattan Beach,
20 California in the County of Los Angeles. A substantial amount of the unlawful acts alleged
21 have directly affected Plaintiff, and similarly situated employees, in Los Angeles County,
22 where Plaintiff was employed by Defendants and earned wages at issue in this action.
23 Accordingly, this Court maintains appropriate jurisdiction over this dispute.

24 **FACTUAL ALLEGATIONS**

25 14. As a matter of uniform and systemic policy, Defendants failed to accurately
26 name the correct corporate entity who employed and paid Plaintiff on Plaintiff's wage
27 statements.

28 15. Labor Code § 226 requires employers to furnish employees with an accurate,

1 itemized statement in writing showing, among other things, “the name and address of the
2 legal entity that is the employee.”

3 16. “[A] copy of the statement . . . shall be kept on file by the employer for at least
4 three years at the place of employment or at a central location within the State of California.
5 For purposes of this subdivision, “copy” includes a duplicate of the itemized statement
6 provided to an employee or a computer-generated record that accurately shows all of the
7 information required by this subdivision. Lab. Code § 226.

8 17. Defendant failed to provide the required information under Section 226 on
9 all applicable wage statements and/or computer-generated record that were provided to
10 employees or maintained by defendants for the requisite three years as they failed to list
11 the correct employer on Plaintiff and aggrieved employee’s wage stubs.

12 18. While “fictitious business names can satisfy Labor Code § 226,” “more severe
13 truncations or alterations of the employer’s name can violate Labor Code § 226, particularly
14 where confusion might ensue.” *See Noori v. Countrywide Payroll & HR Sols., Inc.*, 43 Cal.
15 App. 5th 957, 965 (2019) (“[M]ore severe truncations or alterations of the employer’s name
16 can violate the statute, particularly where confusion might ensue.”); *see also Cicairos v.*
17 *Summit Logistics, Inc.*, 133 Cal.App.4th 949, 961 (2005) (using “SUMMIT” violated Section
18 226 when the employer was ‘Summit Logistics, Inc.’”); *Clarke v. First Transit, Inc.*, No. CV
19 07-6476 GAF (MANX), 2010 WL 11459323, at *4 (C.D. Cal., Nov. 4, 2010) (Section 226
20 violated where Defendants “listed the employer as ‘First Transit [Logo],’ which did not
21 clearly refer to ‘First Transit Transportation, LLC’ (Clarke’s actual employer) as opposed to
22 First Transit, Inc., a separate and distinct entity.”); *Mays v. Wal-Mart Stores, Inc.*, 354
23 F.Supp.3d 1136, 1142-1144 (C.D. Cal. 2019) (use of “Wal-Mart Associates, Inc.” instead of
24 “Wal-Mart Stores, Inc.” violated Section 226 where multiple Wal-Mart entities shared the
25 same address).

26 19. Defendants violated this requirement of the Labor Code.

27 20. Defendants listed multiple, sometimes nonexistent entities, on Plaintiff’s
28 wage statements while maintaining other valid corporate entities under different names,

1 through which they ran their restaurant business, increasing the confusion that Labor Code
2 § 226 seeks to avoid.

3 21. For example, Defendants cut checks and prepared wage statements
4 throughout 2021 that listed the employer's name as "Tin Roof Bistro, LLC." No such
5 corporate entity exists or has existed in California. A fictitious business name was registered
6 in Los Angeles County for "Tin Roof Bistro," but this registration was only filed in 2024 –
7 nearly three years after the wage statements were cut. Even then, the wage statements
8 added a corporate entity designation to the end of the name (LLC) that was missing from
9 the fictitious business name registration, creating further confusion.

10 22. Defendants cut checks and prepared wage statements from 2021 through
11 2024 that listed the employer's name as "TRB" – an acronym for Tin Roof Bistro. But there
12 is no corporate entity or fictitious business name in California known simply as "TRB."
13 Defendants omitted the corporate entity designation at the end of the name ("TRB, LLC").¹
14 Numerous of corporate entities exist in California that include "TRB" in their names,
15 eliciting precisely the sort of confusion warned against in *Cicairos*. Defendants also listed
16 their corporate address at 15705 Condon Ave., Ste. D1, Lawndale, CA 90260, but TRB,
17 LLC's principal place of business as registered with the Secretary of State is 108 Arena
18 Street El Segundo, CA 90245.

19 23. Meanwhile, on other documents, including a notice regarding health care
20 coverage, issued under OMB No. 1210-0149, Plaintiff's employer was identified as "Simms
21 Restaurants." On Plaintiff's handbook acknowledgement, executed in January 2024 by
22 Plaintiff, Defendant identified itself as "Tin Roof Bistro Restaurants, LLC"—which appears
23 to be non-existent corporate entity.

24 24. The combination of multiple employer names, omitting corporate
25 designations when they existed and adding them where they did not exist, and non-existent
26 corporate entities all serve to violate Labor Code § 226.

27 _____
28 ¹ On other documents signed by Plaintiff during his onboarding, his employer was correctly
identified as "TRB, LLC." This includes a "Notice to Employee" under Lab. Code § 2810.5.

1 **CAUSES OF ACTION**

2 **FIRST CAUSE OF ACTION**

3 ***California Labor Code § 2698, et seq.***

4 ***Private Attorneys General Act (“PAGA”) Penalties***

5 **(Plaintiff and Aggrieved Employees Against Defendants)**

6 25. Plaintiff repeats and incorporates by reference all the allegations of this
7 Complaint as though fully set forth herein.

8 26. As described in greater detail above, Defendants violation Lab. Code § 226,
9 and Plaintiff seeks civil penalties under PAGA for that predicate violation.

10 27. Entitlement to Penalties. Under the California Private Attorneys General Act
11 (“PAGA”), Labor Code § 2698, *et seq.*, an aggrieved employee may bring a representative
12 action as a private attorney general, on behalf of himself and other current or former
13 employees, against whom a violation of the same provision(s) was committed, as well as
14 the general public, to recover penalties for an employer’s violations of the Labor Code and
15 IWC Wage Orders within one year of filing a notice to the Labor and Workforce
16 Development Agency. These penalties are in addition to any other relief available under the
17 Labor Code and are allocated sixty-five percent to the Labor and Workforce Development
18 Agency and thirty-five percent to the affected employees.

19 28. These penalties may be “stacked” separately for each of Defendants’
20 violations of the Labor Code, subject to the exception enumerated in Labor Code section
21 2698(i). *See, e.g., Hernandez v. Towne Park, Ltd.*, No. CV 12-02972, 2012 WL 2373372, at
22 *17 n.77 (C.D. Cal. June 22, 2012); *see also O’Connor v. Uber Techs., Inc.*, No. 13-CV-
23 03826-EMC, 2016 WL 3548370, at *7 (N.D. Cal. June 30, 2016); Labor Code § 2698(i).

24 29. Plaintiff is an “aggrieved employee” under PAGA, as he was employed by
25 Defendants during the applicable statutory period and suffered the Labor Code violations
26 alleged herein. Accordingly, he seeks to recover, on behalf of himself and all other current
27 and former aggrieved employees of Defendants pursuant to the procedures specified in
28 Labor Code § 2699.3, the civil penalties provided by PAGA, including civil penalties for

Defendants' violations of Labor Code §§ 226, 2698 *et seq.*, and Industrial Wage Order No. 5, plus reasonable attorneys' fees and costs.

30. Representative Action. Plaintiff seeks to recover the PAGA civil penalties through a representative action as permitted by PAGA and the California Supreme Court in *Arias v. Superior Court*, 46 Cal. 4th 969 (2009). Therefore, class certification of the PAGA claims is not required, but Plaintiff may choose to seek certification of the PAGA claims.

31. Penalties. Labor Code § 2699(f), which is part of PAGA, provides:

32. For all provisions of this code except those for which a civil penalty is specifically provided, there is established a civil penalty for a violation of these provisions, as follows: . . . (2) If, at the time of the alleged violation, the person employs one or more employees, the civil penalty is as follows: (A) One hundred dollars (\$100) for each aggrieved employee per pay period.² Labor Code § 2699(f).

33. Based on the foregoing, Plaintiff and aggrieved employees are entitled to civil penalties, to be paid by Defendants and allocated as required by PAGA in the following formula: (a) in an amount set forth as a civil penalty in the underlying statute; or (b) \$100 per violation per employee per pay period; or (c) in an amount consistent with the exceptions enumerated in Labor Code section 2698(f).

34. Plaintiff, the aggrieved employees, and the State of California are entitled to recover the maximum civil penalties allowed by law for the violations of the Labor Code and IWC Wage Orders as alleged in this Complaint.

35. Procedural Requirements Met. On October 3, 2024, Plaintiff electronically filed a notice of claims with the LWDA and sent a copy to Defendants by certified mail. Plaintiff did not receive notice from the LWDA that it was exercising jurisdiction over the allegations set forth in the notice within the 60-day period under Labor Code § 2699.3(a)(2)(A). As of 65 days from date of electronic filing, *i.e.*, December 7, 2024, all

² Certain exceptions apply to this penalty structure. *See* Labor Code § 2699(f).

requirements for administrative exhaustion for bringing these PAGA claims will have been met. Labor Code § 2699.3(a)(2)(B). A true and correct copy of Plaintiff's PAGA Notice is attached herein as **Exhibit A**.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays judgment as follows:

- A. For statutory and civil penalties, according to proof at trial;
- B. For pre- and post-judgment interest on monetary damages;
- C. For preliminary and permanent injunctive relief;
- D. For reasonable attorney's fees and costs and expert fees and costs as allowed by law; and
- E. For such other relief as this Court deems just and proper.

Dated: December 9, 2024

Respectfully submitted,

KING & SIEGEL LLP

By: Elliot J. Siegel
ELLIOT J. SIEGEL, ESQ.
Attorneys for Plaintiff and the Aggrieved
Employees

Dated: December 9, 2024

AVENUE LAW APC

By: /s/ Michael Y. Yadegaran
MICHAEL Y. YADEGARAN, ESQ.
Attorneys for Plaintiff and the Aggrieved
Employees

Exhibit A

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October 3, 2024

Original filed online via the LWDA's PAGA Claim Notice Portal

Labor & Workforce Development Agency

1515 Clay Street, Ste. 801
Oakland, CA 94612

Copy Sent via certified mail to:

TRB, LLC d/b/a Tin Roof Bistro

c/o Thomas M. Simms Jr.
108 Arena Street
El Segundo, CA 90245

Simms Restaurants, LLC

c/o Thomas M. Simms Jr.
15705 Condon Avenue, Unit D1
Lawndale, CA 90260

Thomas M. Simms Jr.

15705 Condon Avenue, Unit D1
Lawndale, CA 90260

Re: *Diego Terrones v. TRB, LLC d/b/a Tin Roof Bistro, et al.*

To Whom it May Concern:

We represent Diego Terrones against defendants TRB, LLC d/b/a Tin Roof Bistro, Simms Restaurants, LLC, and Thomas M. Simms, Jr (referred to as "Defendants") in a lawsuit soon to be filed against Defendants in Los Angeles County Superior Court (the "Action"). A copy of the proposed PAGA Representative Complaint to be filed in the Action is enclosed as **Exhibit A**.

Together with this correspondence, the enclosed Complaint serves as notice pursuant to Labor Code § 2699.3, *et seq.* that we intend to prosecute representative claims for civil penalties under the Private

Attorney's General Act ("PAGA") on behalf of those of Defendants' employees employed from one year prior to filing of this Notice through trial (the "Aggrieved Employees") for the Labor Code violations asserted in the Complaint. *See* Cal. Lab. Code §§ 2699, *et seq.*

As set forth in greater detail in the Complaint, Defendant violated their obligations under the California Labor Code by (1) failing to provide and maintain accurate records under Lab. Code § 226 due to Defendants' practices and policies.

Please feel free to contact us with any questions.

Sincerely,



Elliot G. Siegel

KING & SIEGEL LLP