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Attorneys for Plaintiff MICHAEL MOTT,
on behalf of the general public as private attorney general

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF EL DORADO**

MICHAEL MOTT, on behalf of the general
public as private attorney general,

Plaintiff,

v.

LCP LAKE TAHOE EMP, LLC, a California
Limited Liability Company; LCOF Lake Tahoe
Investment, LLC dba BEACH RETREAT &
LODGE AT TAHOE, a Delaware Limited
Liability Company; LCOF LAKE TAHOE
OPERATING LLC, a Delaware Limited
Liability Company; LINCHRIS HOTEL,
CORP., New Hampshire Corporation and
DOES 1-50, inclusive,

Defendants

Case No.
ASSIGNED FOR ALL PURPOSES TO:
JUDGE:
DEPT:

**PAGA REPRESENTATIVE ACTION
COMPLAINT PURSUANT TO THE
PRIVATE ATTORNEYS GENERAL ACT
(Labor Code §§ 2698 et seq).**

COMES NOW Plaintiff MICHAEL MOTT (“Plaintiff”), on behalf the general public and all non-exempt aggrieved employees, acting on behalf of the California Attorney General as private attorney general, asserts claims against Defendants LCP LAKE TAHOE EMP, LLC, a California Limited Liability Company; LCOF Lake Tahoe Investment, LLC dba BEACH RETREAT & LODGE AT TAHOE, a Delaware Limited Liability Company; LCOF LAKE TAHOE OPERATING LLC, a Delaware Limited Liability Company; LINCHRIS HOTEL, CORP., New Hampshire Corporation and DOES 1-50, inclusive, (collectively “Defendants”) as follows:

I. INTRODUCTION

1. This is a representative action for recovery of penalties under the Private Attorneys General Act of 2004 (“PAGA”), Cal. Lab. Code sections 2698 *et seq.* PAGA permits “aggrieved employees” to bring a lawsuit as a representative action on behalf of the general public as private attorney general and all other current and former aggrieved employees, to recover civil penalties and address an employer’s violations of the California Labor Code.

2. In this case, Defendants violated various provisions of the California Labor Code. As set forth below, Defendants implemented policies and practices which led to unpaid wages resulting from Defendants’: (a) failure to provide meal periods, (b) failure to provide rest periods, (c) failure to pay wages timely during employment, (d) failure to provide accurate itemized wage statements, and (e) failure to pay reporting time pay. As a result, Plaintiff seeks penalties under Labor Code 2698, *et. seq.* on behalf of the general public as private attorney general and all other aggrieved employees.

II. JURISDICTION AND VENUE

3. The California Superior Court has jurisdiction over this action pursuant to California Constitution Article VI, Section 10, which grants the Superior Court “original jurisdiction in all cases except those given by statute to other trial courts.” The statutes under which this action is brought do not give jurisdiction to any other court.

4. This Court has jurisdiction over Defendants because, upon information and belief,

1 Defendants either has sufficient minimum contacts in California, or otherwise intentionally avails
2 itself of the California market so as to render the exercise of jurisdiction over it by the California
3 Courts consistent with traditional notions of fair play and substantial justice.

4 5. Venue as to each Defendants is proper in this judicial district pursuant to Code of
5 Civil Procedure section 395. Defendants is doing business throughout California, including but
6 not limited to El Dorado County, and each Defendants is within the jurisdiction of this Court for
7 service of process purposes. The unlawful acts alleged herein have a direct effect on Plaintiff and
8 all other aggrieved employees within the State of California. Defendants employs numerous
9 aggrieved employees in in the State of California.

10 6. On information and belief, Defendants has conducted business within the State of
11 California during the purported liability period and continue to conduct business throughout the
12 State of California. The unlawful acts alleged herein have had a direct effect on Plaintiff, and the
13 similarly situated aggrieved employees within California.

14 7. The California Superior Court also has jurisdiction in this matter because on
15 information and belief there are no federal questions at issue, as the issues herein are based solely
16 on California statutes and law, including the California Labor Code, the IWC Wage Orders, the
17 California Code of Civil Procedure, the California Civil Code, and the California Business and
18 Professions Code.

19 8. On information and belief, during the statutory liability period and continuing to
20 the present ("liability period"), Defendants consistently maintained and enforced against
21 Defendants' aggrieved Employees, among others, the following unlawful practices and policies,
22 in violation of California state wage and hour laws: (a) failure to provide meal periods, (b) failure
23 to provide rest periods, (c) failure to pay wages timely during employment, (d) failure to provide
24 accurate itemized wage statements, and (e) failure to pay reporting time pay.

25 9. On information and belief, during the statutory liability period and continuing to
26 the present, Defendants have failed to provide meal periods to Plaintiff and aggrieved employees.
27 Defendants have also failed to provide meal premiums for missed meal periods.
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10. On information and belief, during the statutory liability period and continuing to the present, Defendants have failed to provide rest periods to Plaintiff and aggrieved employees. Defendants have also failed to provide rest premiums for missed rest periods.

11. On information and belief, during the statutory liability period and continuing to the present, Defendants have had a consistent policy of failing to timely pay wages during Plaintiff and Aggrieved Employees' employment.

12. On information and belief, during the statutory liability period and continuing to the present, Defendants have failed to provide Plaintiff and aggrieved employees accurate itemized wage statements.

13. On information and belief, during the statutory liability period and continuing to the present, Defendants have failed to pay Plaintiff and aggrieved employees reporting time pay.

14. Plaintiff on behalf of the general public as private attorney general and all other aggrieved employees bring this action pursuant to Labor Code 2698, et. seq. for violations enumerated under 2699.5 as follows: sections 201-204, 226, 510, 558, 226.3, 1174, 1174.5, 1175, 1194, 1197, 1197.1, 1198, and seeking penalties, interest, attorneys' fees and costs.

III. PARTIES

A. Plaintiff

15. Plaintiff, MICHAEL MOTT, was at all times relevant to this action, a resident of California. Plaintiff was employed by Defendants in April 2022 as a Non-Exempt Employee with the title of Line Cook and worked during the liability period for Defendants until Plaintiff's separation from Defendants' employ in approximately March 2024.

16. As Defendants' employee, Plaintiff, and all other aggrieved employees were regularly required to and subsequently suffered:

- a) not being provided meal periods nor paid premium wages;
- b) not being provided rest periods nor paid premium wages;
- c) not paid timely during their employment;
- d) not provided accurate itemized wage statements; and

1 e) not paid reporting time pay.

2 17. On information and belief, Defendants willfully failed to pay all earned wages in
3 the form regular wages and overtime wages, to its Non-Exempt Employees and members of the
4 Representative Group; nor have Defendants returned to Plaintiff or members of the
5 Representative Group, upon or after separation from employment with Defendants, all wages
6 earned and owing. Plaintiff seeks penalties under Labor Code 2698, *et. seq.* on behalf of the
7 general public as private attorney general and all other aggrieved employees.

8 **B. Defendants**

9 20. Defendant LCP LAKE TAHOE EMP, LLC, a California Limited Liability
10 Company; LCOF Lake Tahoe Investment, LLC dba BEACH RETREAT & LODGE AT
11 TAHOE, a Delaware Limited Liability Company; LCOF LAKE TAHOE OPERATING LLC, a
12 Delaware Limited Liability Company; LINCHRIS HOTEL, CORP., New Hampshire
13 Corporation were Plaintiff's Employer. Defendants operate as a hotel and hospitality business.
14 Plaintiff estimates there are in excess of one hundred (100) Non-Exempt Employees who work
15 or have worked for Defendants over the last year.

16 21. Other than identified herein, Plaintiff is unaware of the true names, capacities,
17 relationships and extent of participation in the conduct alleged herein, of the Defendants sued as
18 DOES 1 through 50, but is informed and believes and thereon alleges that said Defendants is
19 legally responsible for the wrongful conduct alleged herein and therefore sues these Defendants
20 by such fictitious names. Plaintiff will amend this complaint when their true names and
21 capabilities are ascertained.

22 22. Plaintiff is informed and believes and thereon alleges that each Defendants, directly
23 or indirectly, or through agents or other persons, employed Plaintiff and other members of the
24 Representative Group, and exercised control over their wages, hours, and working conditions.
25 Plaintiff is informed and believes and thereon alleges that each Defendants acted in all respects
26 pertinent to this action as the agent of the other Defendants, carried out a joint scheme, business
27 plan or policy in all respects pertinent hereto, and the acts of each Defendants is legally attributable
28

1 to the other Defendants.

2 **IV. GENERAL ALLEGATIONS**

3 23. At all times set forth herein, Defendants employed Plaintiff and other persons in
4 the capacity of non-exempt positions, however titled, throughout the state of California.

5 24. Plaintiff is informed and believes Aggrieved Employees have at all times pertinent
6 hereto been Non-Exempt within the meaning of the California Labor Code and the implementing
7 rules and regulations of the IWC California Wage Orders.

8 25. Defendants continue to employ Non-Exempt Employees, however titled, in
9 California and implement a uniform set of policies and practices to all non-exempt employees, as
10 they were all engaged in the job duties related to Defendants' hotel business.

11 26. Plaintiff is informed and believes, and thereon allege, that Defendants are and were
12 advised by skilled lawyers and other professionals, employees, and advisors with knowledge of
13 the requirements of California's wage and employment laws.

14 27. Plaintiff is informed and believes that during the relevant time-frame, all Aggrieved
15 Employees are citizens of the state of California.

16 28. During the relevant time-frame, Defendants compensated Plaintiff and Aggrieved
17 Employees based upon an hourly rate.

18 29. Indeed, during the relevant time, as a consequence of Defendants' staffing and
19 scheduling practices, work demands, and Defendants' policies and practices, Defendants
20 frequently failed to provide Plaintiff and the Aggrieved Employees timely, legally compliant
21 uninterrupted 30-minute meal periods on shifts over five hours as required by law.

22 30. On information and belief, Plaintiff and Aggrieved Employees did not waive their
23 rights to meal periods under the law.

24 31. Plaintiff and the Aggrieved Employees were not provided with valid lawful on-duty
25 meal periods.

26 32. Despite the above-mentioned meal period violations, Defendants failed to
27 compensate Plaintiff, and on information and belief, failed to compensate Aggrieved Employees,
28

one additional hour of pay at their regular rate as required by California law when meal periods were not timely or lawfully provided in a compliant manner.

33. Plaintiff is informed and believes, and thereon alleges, that Defendants know, should know, knew, and/or should have known that Plaintiff and the other Aggrieved Employees were entitled to receive premium wages based on their regular rate of pay under Labor Code §226.7 but were not receiving such compensation.

34. In addition, during the relevant time frame, Plaintiff and the Non-Exempt Employees were systematically not authorized and permitted to take one net ten-minute paid, rest period for every four hours worked or major fraction thereof, which is a violation of the California Labor Code and IWC wage order.

35. Defendants maintained and enforced scheduling practices, policies, and imposed work demands that frequently required Plaintiff and Aggrieved Employees to forego their lawful, paid rest periods of a net ten minutes for every four hours worked or major fraction thereof. Such requisite rest periods were not timely authorized and permitted as a result of Defendants' failure to provide relief for Plaintiff and Aggrieved Employees to take their lawfully required breaks. Plaintiff was not given a third rest break on the aforementioned ten (10) hour and above work days.

36. Despite the above-mentioned rest period violations, Defendants did not compensate Plaintiff, and on information and belief, did not pay Aggrieved Employees one additional hour of pay at their regular rate as required by California law, including California Labor Code § 226.7 and the applicable IWC wage order, for each day on which lawful rest periods were not authorized and permitted. Plaintiff's time clock records fail to contain any Rest Premium pay, as required by law. Defendants failed to pay for missed, late or short meal breaks as required by law.

37. On numerous occasions, Plaintiff and Aggrieved Employees were scheduled to work a shift of at least two hours, showed up for work as scheduled, but were provided with less than two hours of work and asked to go home without being paid reporting time pay.

38. Defendants also failed to provide accurate, lawful itemized wage statements to Plaintiff and the Aggrieved Employees in part because of the above-specified violations. In

1 addition, upon information and belief, Defendants omitted an accurate itemization of total hours
2 worked, including premiums due and owing for meal period violations, overtime pay, gross pay
3 and net pay figures from Plaintiff and the Aggrieved Employees' wage statements.

4 39. Upon information and belief, Defendants knew and or should have known that it
5 is improper to implement policies and commit unlawful acts such as:

6 (a) requiring employees to work in excess of five (5) hours or ten (10) hours per day
7 without being provided an uninterrupted thirty-minute meal period and/or a second meal period,
8 and without compensating employees with one (1) hour of pay at the regular rate of compensation
9 for each workday that such a meal period was not provided;

10 (b) failure to provide any rest periods;

11 (c) failing to provide accurate itemized wage statements;

12 (d) failing to pay reporting time pay; and

13 (e) conducting and engaging in unfair business practices.

14 40. In addition to the violations above, and on information and belief, Defendants knew
15 they had a duty to compensate Plaintiff and Aggrieved Employees for the allegations asserted
16 herein, and that Defendants had the financial ability to pay such compensation, but willfully,
17 knowingly, recklessly, and/or intentionally failed to do so.

18 41. Plaintiff and Aggrieved Employees they seek to represent are covered by, and
19 Defendants are required to comply with, applicable California Labor Codes, Industrial Welfare
20 Commission Occupational Wage Orders (hereinafter "IWC Wage Orders") and corresponding
21 applicable provisions of California Code of Regulations, Title 8, section 11000 *et seq.*
22

23 **V. REPRESENTATIVE CLAIMS**

24 **THE PRIVATE ATTORNEYS GENERAL ACT- LABOR CODE §§ 2698 *et seq.***

25 42. Plaintiff incorporates by reference and re-alleges each and every allegation
26 contained above, as though fully set forth herein.

27 43. PAGA is a mechanism by which the State of California can enforce state labor laws
28 through the employee suing under the PAGA who do so as the proxy or agent of the state's labor

1 law enforcement agencies. An action to recover civil penalties under PAGA is fundamentally a
2 law enforcement action designed to protect the public and not to benefit private parties. The
3 purpose of the PAGA is not to recover damages or restitution, but to create a means of “deputizing”
4 citizens as private attorneys general to enforce the Labor Code. In enacting PAGA, the California
5 Legislature specified that “it was...in the public interest to allow aggrieved employees, acting as
6 private attorneys general to recover civil penalties for Labor Code violations...” Stats. 2003, Ch.
7 906, section 1.

8 44. Plaintiff brings this Representative Action on behalf of the State of California with
9 respect to himself and all other individuals who are or previously were employed by Defendants
10 as non-exempt California employees during the applicable statutory period (the “aggrieved
11 employees”).

12 45. On November 20, 2024, Plaintiff complied with notice requirements pursuant to
13 Labor Code section 2699.3. A copy of the letter sent to the LWDA is attached hereto as **Exhibit**
14 **A**, indicating that the LWDA and Defendants were put on notice of the claims alleged here and
15 that the notice requirement has been satisfied. Sixty five days have passed and the LWDA has not
16 indicated intent to investigate the claims. Therefore, Plaintiff may proceed with this action in a
17 representative capacity. The substance and violations set forth in this Complaint of which the
18 LWDA was provided timely notice, Plaintiff has also sent a copy of this PAGA Representative
19 Action Complaint to the LWDA.

20 46. Plaintiff is an aggrieved employee as defined in Labor Code Section 2699(a).
21 Plaintiff brings this cause of action on behalf of all current and former California non-exempt
22 Employees of Defendants.

23 47. Pursuant to Labor Code section 2699(a) Plaintiff seek to recover civil penalties for
24 which Defendants is liable due to numerous Labor Code violations as set forth in this Complaint,
25 including without limitation Labor Code section 201-204, 226, 226.3, 510, 558, 1174, 1174.5,
26 1175, 1194, 1197, 1197.1, 1198, and, 2698 *et seq.*, applicable IWC Wage Orders and California
27 Code of Regulations, Title 8, section 11000 *et. seq.*
28

1 48. Defendants violated Labor Code section 510, and 1194 by failing to accurately pay
2 overtime wages owed. Therefore, Defendants violated section 510, and 1194 by not compensating
3 its Non-Exempt Employees for work performed in excess of eight hours (8) in a day or forty hours
4 in a work week (40). Section 510 of the Labor Code codifies the right to overtime compensation
5 at the rate of one and one-half times the regular rate of pay for all hours worked in excess of eight
6 (8) hours in a day or forty (40) hours in a work week and to overtime compensation twice the
7 regular rate of pay for hours worked in excess of twelve (12) hours in a day or in excess of eight
8 (8) hours in a day on the seventh day of work in a particular work week

9 49. Plaintiff and all other aggrieved employees who were separated from employment
10 are entitled to compensation for all forms of wages earned, including but not limited to
11 compensation minimum and overtime wages, but to date have not received such compensation,
12 therefore entitling them to penalties under PAGA for violations of Labor Code sections 201-204.

13 50. On information and belief, Defendants willfully failed to pay all wages due and
14 owing during employment. These wages include minimum and overtime wages.

15 51. On information and belief, Defendants failed to provide accurate itemized wage
16 statements which failed to include all hours worked, including overtime, due and owing to Plaintiff
17 and the aggrieved employees pursuant to Labor Code section 226(a). Defendants further failed to
18 include or itemize the gift card payments made to Plaintiff and Aggrieved Employees.

19 52. Pursuant to Labor Code section 226.3, any employer who violates subdivision (a)
20 of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250)
21 per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee
22 for each violation in a subsequent citation, for which the employer fails to provide the employee a
23 wage deduction statement or fails to keep the records required in subdivision (a) of Section 226.

24 53. Additionally, Defendants have no accurate records relating to aggrieved
25 employees' work periods, total daily hours worked, total hours worked per payroll period and
26 applicable pay rates, in violation of applicable Wage Orders. Similarly, Defendants failed to
27 maintain accurate records relating to hours worked daily in violation of Labor Code sections
28

1 1174(d), 1174.5.

2 54. Plaintiff and Aggrieved Employees are entitled to recover for improper warehouse
3 conditions that put them at risk of heat illness and exhaustion on a daily basis under Labor Code
4 section 226.7.

5
6 55. Defendants failed to pay reporting time pay as outlined above. Reporting time pay
7 constitutes wages. (*Murphy v. Kenneth Cole Productions, Inc.* (2007) 40 Cal. 4th 1094). Thus,
8 failure to pay all reporting time pay due at the time of employment termination may be the basis
9 for waiting time penalties pursuant to Labor Code § 203. The IWC's purpose in adopting reporting
10 time pay requirements was two-fold: "to compensate employees" and "encourag[e] proper notice
11 and scheduling". *Id.* at pp. 1111-1112.

12 56. As a result of Defendants' unlawful conduct, Plaintiff and aggrieved employees
13 are entitled to penalties to the extent they were not paid at the prevailing wage rate for all hours
14 worked.

15 57. Plaintiff and all other aggrieved employees who were separated from employment
16 are entitled to compensation for all forms of wages earned, including but not limited to
17 compensation minimum and overtime wages, but to date have not received such compensation,
18 therefore entitling them to penalties under PAGA for violations of Labor Code sections 201-204.

19 58. Plaintiff and the Representative aggrieved Employees are entitled to recover
20 Penalties and attorneys' fees and costs under Labor Code section 2698, et. seq.

21 **PRAYER FOR RELIEF**

22 WHEREFORE, Plaintiff prays for judgment against Defendants, as follows:

- 23
- 24 1. For penalties according to proof, pursuant to Labor Code §§ 2698 et seq.;
 - 25 2. For reasonable attorneys' fees and costs; and
 - 26 3. For such other and further relief as the Court deems proper.
- 27
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1 Dated: November 20, 2024

JAMES HAWKINS APLC

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3 By: _____

JAMES R. HAWKINS
GREGORY MAURO
MICHAEL CALVO
LAUREN FALK
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6 Attorneys for Plaintiff MICHAEL MOTT on
7 behalf of the general public as private
8 attorney general
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