$1 million in stolen wages returned to Cheesecake Factory Janitors

The settlement was possible because of California's powerful up the chain liability law. Assembly Bill 1897 (California Labor Code Section 2810.3) took effect in 2015 and holds client employers, in this case Cheesecake Factory Restaurants, Inc., that obtain labor from a subcontractor responsible for their workplace violations. A client employer may be liable for the subcontractor's owed wages, damages, and penalties, as well as workers' compensation violations.

Publication Date **01/24/2024**
Source: **Imperial Valley Press (El Centro, CA)**

SAN DIEGO – Five hundred and eighty-nine janitors who worked cleaning eight Cheesecake Factory restaurants in San Diego and Orange counties will start recovering $1 million in wages stolen from them while they were working as janitors.

According to a press release from the Maintenance Cooperation Trust Fund (MCTF), through conversations with the workers, investigators with the MCTF discovered that multiple janitorial companies contracted and subcontracted by the Cheesecake Factory were committing wage theft. Through the investigation, the MCTF and the Dept. of Industrial Relations have identified more than 60 impacted workers. More than 500 individuals who may be eligible for the settlement are asked to call (619) 213-5260 if they worked as a janitor at the Cheesecake Factory between August 31, 2014-August 31, 2017.

Per the release, the Cheesecake Factory locations investigated include:

- **Brea Mall Way, Brea**
- **Spectrum Center Drive, Irvine**
- **Edinger Avenue, Huntington Beach**
- **Friars Road, San Diego**
- **Newport Center Drive, Newport Beach**
- **The Shops at Mission Viejo, Mission Viejo**
- **Via Rancho Parkway, Escondido**
- **Harbor Drive, San Diego**

"When we were working long nights cleaning the kitchen and the dining room of the restaurant, we knew the employer and the restaurant owner were taking advantage of us. It took a lot of courage to speak up and put the fear behind us, but we did, and we won," said Naxhili Perez, a former worker at a Cheesecake Factory restaurant in San Diego. "Many companies think they can hire a contractor and avoid responsibility, but they cannot. If the law is being broken inside your company, you are responsible. Now the Cheesecake Factory understands there are no shortcuts when it comes to workers' rights."

According to the release, an investigation into the Cheesecake Factory by the state Labor Commissioner's Office found that workers began their shifts around midnight and worked until morning without proper meal or rest break periods. After working for eight hours, workers were not released until Cheesecake Factory kitchen managers conducted walkthroughs to review their work. These walkthroughs would frequently lead to additional tasks that the janitorial workers had to complete before they were released for the day. This resulted in each worker logging up to 10 hours of unpaid overtime each week.

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The settlement also includes a formal apology by the janitorial contractor employed by the Cheesecake Factory to the janitors and continued labor law education for two years past the settlement.

"Per the release, the Labor Commissioner first cited the Cheesecake Factory and its contractors in June 2018, finding that the 'case illustrates common wage theft practices in the janitorial industry, where businesses have contracted and subcontracted to avoid responsibility for ensuring workers are paid what they are owed."

"For too long, big corporations have tried to hide behind their contractors. This practice is very common in the janitorial industry and the Cheesecake Factory case exemplifies it," Yardenna Aaron, Executive Director of MCTF, said in the release. "These workers are brave and they stuck it out in a long investigation, but ultimately we were able to recuperate their stolen wages and hold the Cheesecake Factory accountable. It's a message to all brand names out there - if you don't ensure your contractors comply with laws protecting workers, there are very real consequences."

Janitorial workers are disproportionately affected by wage theft, often facing language and legal barriers to coming forward with complaints. MCTF and other community-based organizations work with the Labor Commissioner to proactively address labor violations that workers in these marginalized communities face and workers have a history of brave leadership.

"Both workers and employers should know that abuse will not be tolerated and shall not go unnoticed. Labor rights are not limited by immigration status," Carlos González Gutiérrez, Consul General of Mexico in San Diego, who attended the press conference, said in the release. "The Mexican Consulate welcomes any resolution intended to repair damage caused to our nationals. We assist our partner agencies by searching for those Mexican nationals whose rights were violated and are entitled to compensation or other

remedies, while we stress that threat and retaliation are not alternatives for employers.”- Carlos González Gutiérrez, Consul General of Mexico in San Diego.