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Electronically Filed
9/8/2020 5:12 PM
Superior Court of California
County of Stanislaus
Clerk of the Court
By: Joshua Teixeira, Deputy

13 **SUPERIOR COURT OF CALIFORNIA**

14 **IN AND FOR THE COUNTY OF STANISLAUS**

15 **IVAN OROZCO, an individual,**

16 **Plaintiff,**

17 **vs.**

18 **E. & J. GALLO WINERY, a corporation;
19 and DOES 1-100, inclusive,**

20 **Defendants.**

Case No.: CV-20-002637

**FIRST AMENDED CLASS ACTION
COMPLAINT**

1. **FAILURE TO FURNISH ACCURATE
AND COMPLETE ITEMIZED WAGE
STATEMENTS**
2. **PRIVATE ATTORNEYS GENERAL ACT**

JURY TRIAL DEMANDED

21 Plaintiff Ivan Orozco brings this class action against E. & J. Gallo Winery, a corporation; and
22 Does 1 through 100, for violations of the Labor Code.

23 **PARTIES**

24 1. Ivan Orozco ("Orozco" or "Plaintiff") is and at all times relevant herein was employed
25 in Stanislaus County, California, and was an "employee" as defined by the Labor Code and the
26 applicable California Industrial Wage Commission ("IWC") Order(s).

27 2. E. & J. Gallo Winery ("Gallo" or "Defendant") is a California corporation formed
28 under the laws of that state.

3. At all times relevant herein, Gallo has been an “employer” under the Labor Code and the applicable California Industrial Wage Commission (“IWC”) Order(s).

4. Gallo and Does 1-100 are collectively referred to as Defendants.

5. Plaintiff is not aware of the true names and capacities of the Defendants sued herein as Does 1 through 100, whether individual, corporate, associate, or otherwise and therefore sues such Defendants by these fictitious names. Plaintiff will amend this Complaint to allege their true names and capacities when ascertained. Plaintiff is informed and believes, and on that basis alleges, that each of the fictitiously named Defendants is responsible in some manner for the occurrences herein alleged and that Plaintiff's injuries and damages herein alleged were legally caused by such Defendants. Unless otherwise indicated, each Defendant was acting within the course and scope of said agency and/or employment, with the knowledge and/or consent of said co-Defendant.

6. Plaintiff is informed and believes and thereupon alleges that at all times mentioned herein, each of the Defendants, including each Doe Defendant, was acting as the agent, servant, employee, partner and/or joint venturer of and was acting in concert with each of the remaining Defendants, including each Doe Defendant, in doing the things herein alleged, while at all times acting within the course and scope of such agency, service, employment partnership, joint venture and/or concert of action. Each Defendant, in doing the acts alleged herein, was acting both individually and within the course and scope of such agency and/or employment, with the knowledge and/or consent of the remaining Defendants.

VENUE AND JURY TRIAL DEMAND

7. Venue is proper in this court because the unlawful acts alleged herein took place in Stanislaus County, California and Plaintiff's place of employment with Defendants was within Stanislaus County. Plaintiff hereby demands a jury trial.

GENERAL ALLEGATIONS

8. Orozco worked for Gallo from May 2007 until March 27, 2020 as a Machine Operator.

1 9. During his employment with Gallo, Orozco was given itemized wage statements that
2 did not accurately show all applicable hourly rates in effect during the pay period and the
3 corresponding number of hours worked at each rate.

4 10. Specifically, the wage statements showed incorrect overtime and double-time hourly
5 rates and an incorrect number of regular hours worked. This is because, instead of simply showing the
6 overtime and doubletime rates for that they in fact were (1.5 times and 2 times the regular rate of
7 compensation, respectively), Gallo employed a highly confusing system of showing those rates as
8 “premiums”—either (a) half the base rate, (b) slightly more than half the base rate, or (c) exactly the
9 base rate. (See **Exhibit 1.**)

10 11. Adding to this confusion, all hours worked by Orozco were inaccurately shown as
11 “regular” hours, even if they were in fact in excess of eight (or twelve) hours in a workday, in excess
12 of forty hours in a workweek, or were worked on the seventh day of the workweek (in other words, *not*
13 regular hours).

14 12. Thus, the wage statements issued by Gallo failed to accurately show all applicable
15 hourly rates in effect during the pay period and the corresponding number of hours worked at each
16 rate, in violation of Labor code section 226, subdivision (a)(9).

17 13. Gallo was, at all times relevant herein, aware of the requirements of Labor Code section
18 226.

19 14. Gallo has, at all times relevant herein, furnished wage statements to each of its
20 California employees pursuant to an established set of policies, procedures and practices.

21 15. Orozco and Gallo’s other California employees, both current and former, have suffered
22 injury as a result of TTL’s knowing and intentional failure to comply with Labor Code section 226,
23 subdivision (a)(9).

24 16. Orozco and Gallo’s other California employees, both current and former, were unable
25 to promptly and easily determine, from the wage statements furnished by Gallo, all applicable hourly
26 rates in effect during the pay period and the corresponding number of hours worked at each hourly
27 rate.

17. The foregoing list of misconduct is a partial list only and set forth by way of example.

18. On May 21, 2020, Orozco provided written notice to the Labor and Workforce Development Agency (“LWDA”) and Gallo regarding the specific provisions of the Labor Code alleged to have been violated, including the facts and theories to support those alleged violations. (Exhibit 2.)

19. As of the filing of this Complaint, more than 65 calendar days after Orozco's written notice, the LWDA has not provided written notice that it intends to investigate Orozco's allegations as set forth above. Accordingly, Orozco has satisfied the administrative prerequisites under Labor Code section 2699.3 to bring a civil action to recover civil penalties against Gallo, in addition to other remedies, for violations of the California Labor Code.

CLASS ACTION ALLEGATIONS

20. Plaintiff brings the First Cause of Action as a class action, on his behalf and on behalf of all those other persons similarly situated, pursuant to Code of Civil Procedure section 382. The class (“the Class”) that Plaintiff seeks to represent is defined as follows:

a. All current and former hourly California employees of Gallo who received one or more wage statements from Gallo, in which they were paid some amount of overtime and/or double-time wages, at any time from one year prior to the filing of this complaint through the entry of final judgment in this action.

21. The class of persons is so numerous that joinder of all members is impracticable, and the disposition of their claims in a class action is a benefit to the parties and to the Court. Plaintiff is informed and believes, and based thereon alleges, that Defendants employ more than 500 employees who satisfy the class definition. Although the exact number and identity of class members is not presently known, they can be identified in Defendants' records through coordinated discovery pursuant to this class action.

22. This action may be maintained as a class pursuant Code of Civil Procedure section 382 because the questions of law and fact which are common to Class members clearly predominate over

1 any questions affecting only individual members and because a class action is superior to other
2 available methods for adjudicating the controversy.

3 23. There are numerous common questions of law and fact arising out of Defendants'
4 conduct. This class action focuses on Defendants' repeated, systematic, and willful failure to issue
5 accurate itemized wage statements as required by the Labor Code.

6 24. Furthermore, common questions of fact and law predominate over any questions
7 affecting only individual members of the Class. The predominating common or class-wide questions
8 of law and fact include the following:

- 9 a. Whether Defendants provided their California employees with itemized wage
10 statements in compliance with Labor Code section 226(a);
11 b. Whether the Class is entitled to injunctive relief; and
12 c. Whether the Class is entitled to statutory penalties and the amount thereof.

13 25. Plaintiff's claims are typical of the claims of the members of the Class as a whole, all of
14 whom have sustained and/or will sustain damage and injury as a proximate and/or legal result of the
15 alleged violations of Defendants. Plaintiff's claims are typical of those of the Class because
16 Defendants subjected Plaintiff and each member of the Class to the same violations alleged herein.

17 26. The defenses of Defendants, to the extent that such defenses apply, are applicable
18 generally to the whole Class and are not distinguishable as to the proposed class members.

19 27. Plaintiff will fairly and adequately protect the interests of all members of the Class, and
20 has retained attorneys with extensive experience in litigation, including class and representative
21 actions. Plaintiff has no interests that conflict with those of the Class. Plaintiff is able to fairly and
22 adequately protect the interests of all members of the class because it is in his best interest to prosecute
23 the claims alleged herein in order to obtain the full compensation due herself and the other class
24 members.

25 28. A class action is superior to any other method available for fairly and efficiently
26 adjudicating the controversy because 1) joinder of individual class members is not practicable, 2)
27 litigating the claims of individual class members would be unnecessarily costly and burdensome and
28

1 would deter individual claims, 3) litigating the claims of individual class members would create a risk
2 of inconsistent or varying adjudications that would establish incompatible standards of conduct for
3 Defendants, 4) class members still working for Defendants may be fearful of retaliation if they were to
4 bring individual claims, 5) class members would be discouraged from pursuing individual claims
5 because the damages available to them are relatively small, and 6) public policy encourages the use of
6 the class actions to enforce employment laws and protect individuals who, by virtue of their
7 subordinate position, are particularly vulnerable.

8 29. Judicial economy will be served by maintenance of this lawsuit as a class action. To
9 process numerous virtually identical individual cases will significantly increase the expense on the
10 Court, the class members, and Defendants, all while unnecessarily delaying the resolution of this
11 matter. There are no obstacles to effective and efficient management of this lawsuit as a class action
12 by this Court and doing so will provide multiple benefits to the litigating parties including, but not
13 limited to, efficiency, economy, and uniform adjudication with consistent results.

14 30. Notice of a certified class action and any result or resolution of the litigation can be
15 provided to class members by mail, email, publication, or such other methods of notice as deemed
16 appropriate by the Court.

17 **FIRST CAUSE OF ACTION**
18 **FAILURE TO FURNISH ACCURATE ITEMIZED WAGE STATEMENTS**
19 **(Lab. Code, § 226, subd. (a))**
20 **Against Defendants**

21 31. Plaintiff hereby realleges and incorporates by reference each and every allegation set
22 forth above as though fully set forth herein, except as said paragraphs are inconsistent with the
23 allegations of this cause of action.

24 32. Pursuant to Labor Code section 226, subdivision (a), "every employer shall,
25 semimonthly or at the time of each payment of wages, furnish each of his or her employees, either as a
26 detachable part of the check, draft, or voucher paying the employee's wages, or separately when the
27 wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross
28 wages earned, (2) total hours worked by the employee . . . , (3) the number of piece-rate units earned

1 and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, (5) net
2 wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the
3 employee and only the last four digits of his or her social security number or an employee
4 identification number, (8) the name and address of the legal entity that is the employer . . . , (9) all
5 applicable hourly rates in effect during the pay period and corresponding number of hours worked at
6 each hourly rate by the employee and, if the employer is a temporary services employer . . . , the rate of
7 pay and the total hours worked for each temporary services assignment.”

8 33. An employee suffering injury as a result of the knowing and intentional failure by an
9 employer to comply with Labor Code section 226, subdivision (a) is entitled to recover the greater of
10 all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one
11 hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed the
12 aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable
13 attorney’s fees. (Lab. Code, § 226, subd. (e)(1).)

14 34. An employee is deemed to suffer injury if the employer fails to provide a wage
15 statement or if the employer fails to provide accurate and complete information as required by any one
16 or more of the items (1) to (9), inclusive, of subdivision (a) and the employee cannot promptly and
17 easily determine from the wage statement alone, i) the amount of gross/net wages paid to the employee
18 during the pay period or any of the other information required to be provided pursuant to Labor Code
19 section 226, subdivision (a)(2)-(4), inclusive, (6) and (9), ii) deductions made by the employer, iii) the
20 name and address of the employer and iv) the name of the employee and the last four digits of his or
21 her social security number or employee identification number. (Lab. Code, § 226, subds. (e)(2)(A)
22 and (B)(i)-(iv).) “Promptly and easily determine” means a reasonable person would be able to readily
23 ascertain the information without reference to other documents or information. (Lab. Code, § 226,
24 subd. (e)(2)(C).)

25 35. During the relevant time period, Defendants intentionally and willfully failed to furnish
26 accurate itemized wage statements in violation of Labor Code section 226, subdivision (a).

1 36. Wherefore, Plaintiff and the other members of the Class have been injured and request
2 relief as hereinafter provided.

3 **SECOND CAUSE OF ACTION**
4 **PRIVATE ATTORNEYS GENERAL ACT**
5 **(Lab. Code, § 2698 *et seq.*)**
6 **Against Defendants**

7 37. Plaintiff hereby realleges and incorporates by reference each and every allegation
8 set forth above as though fully set forth herein, except as said paragraphs are inconsistent with the
9 allegations of this cause of action.

10 38. Pursuant to Labor Code section 2699, subdivision (a), any provision of the Labor
11 Code which provides for a civil penalty to be assessed and collected by the LWDA for violations
12 of the Labor Code may, as an alternative, be recovered through a civil action brought by an
13 aggrieved employee on behalf of himself or herself and other current or former employees pursuant
14 to the procedures outlined in Labor Code section 2699.3.

15 39. Plaintiff was employed by Defendants and the alleged violations were committed
16 against him during his time of employment. Plaintiff is therefore an aggrieved employee as
17 defined by Labor Code section 2699, subdivision (c). Other current and former employees are also
18 aggrieved employees in that one or more of the alleged violations were also committed against
19 them during their time of employment with Defendants.

20 40. Pursuant to Labor Code section 2699, subdivision (f), the civil penalty recoverable
21 in a PAGA action is that which is provided for by the Labor Code or, where no civil penalty is
22 specifically provided, one hundred dollars (\$100) for each aggrieved employee per pay period for
23 the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for
24 each subsequent violation.

25 41. Pursuant to California Labor Code section 2699, subdivision (g), an aggrieved
26 employee may recover the civil penalty on behalf of himself or herself and other current or former
27 employees against whom one or more of the alleged violations was committed. Furthermore, any
28

1 employee who prevails in any such action shall be entitled to an award of reasonable attorney's fees
2 and costs.

3 42. Wherefore, Plaintiff has been aggrieved as set forth above and request relief as
4 hereafter provided.

5 **PRAYER FOR RELIEF**

6 WHEREFORE, Plaintiff prays judgment against Defendants as follows:

7 **As to the First Cause of Action:**

- 8 1. That this Court certify the Class;
- 9 2. That this Court certify Plaintiff as the representative of the Class;
- 10 3. That this Court award injunctive relief, including that available under Labor Code
11 section 226(h);
- 12 4. That this Court award statutory penalties including, but not limited to, those available
13 under Labor Code section 226;
- 14 5. That this Court award statutory attorneys' fees and costs, including those available
15 under Labor Code section 226, subdivisions (e)(1) and (h), as well as those available
16 under Code of Civil Procedure section 1021.5;
- 17 6. That this Court award prejudgment and post-judgment interest according to any
18 applicable provision of law or as otherwise permitted by law; and
- 19 7. That this Court award such other and further relief as the court deems just and proper.

20 **As to the Second Cause of Action:**

- 21 1. For civil penalties, including but not limited to those available under Labor Code
22 sections 226.3 and 2699(f);
 - 23 2. For injunctive relief;
 - 24 3. For statutory attorneys' fees and costs, including but not limited to those available
25 under Labor Code section 2699(g);
- 26
27
28

1 4. For prejudgment and post-judgment interest according to any applicable provision
2 of law or as otherwise permitted by law, including those available under Civil Code
3 sections 3287(a) and 3289(b); and

4 5. For such other and further relief as the court deems just and proper.

5 ///

6 **DATED:** September 8, 2020

MAYALL HURLEY P.C.

7
8 By _____



ROBERT J. WASSERMAN
JOHN P. BRISCOE
RACHEL ALLGAIER
Attorneys for Plaintiff,
IVAN OROZCO

EXHIBIT 1

CO FILE DEPT CLOCK YCHR NO
EJJ 253653 130252 13906 0000380705 1

161-0084

E. & J. GALLO WINERY
600 YOSEMITE BLVD
MODESTO, CA 95354
(209) 341-3357

Earnings Statement



Period Beginning: 09/02/2019
Period Ending: 09/15/2019
Pay Date: 09/20/2019

Taxable Marital Status: Single
Exemptions/Allowances:
Federal: 0.525 Additional Tax
CA: 0

IVAN R OROZCO

Earnings	Rate	Hours/Units	This Period	Year To Date	Other	this period	year to date
Regular	29.9100	80.96	2,421.52	34,628.46	401K Vanguard	-118.07*	1,736.64
Dbtime CBAx	29.9100	.02	0.60	13.87	Union Dues 186		405.00
Govt Hol Wrkd	14.9550	.53	7.93	23.48			
Holiday	30.3100	8.00	242.48	2,136.32	Net Pay	\$1,616.52	
Overtime CBAx	14.9550	16.26	243.17	1,122.68	Checking	-1,616.52	
Overtime STAT	15.1549	16.23	245.96	1,112.24	Net Check	\$0.00	
Shift Dif	0.4000	80.95	32.38	466.28			
Shift Dif Prm X	0.2000	16.79	3.37	15.86			
Shift Dif Prm X	0.4000	.02	0.01				
Jury Duty				244.48			
Meal Prem				28.76			
OTAdj Wk Lkbk				0.02			
Premium Offset			-245.96	-1,111.28			
Sick				1,189.80			
Vacation				3,545.21			
				43,416.18			
Gross Pay			\$2,951.46				

* Excluded from federal taxable wages

Your federal taxable wages this period are
\$2,688.71

Other Benefits and Information	this period	total to date
Current Hrs Wrk	80.96	
1500 Hrs Goal	88.96	1,372.62
Deduction Total	1,334.94	
Employee ID		0000253653

Deductions	Statutory	
	Federal Income Tax	-425.09
	Social Security Tax	-174.02
	Medicare Tax	-40.70
	CA State Income Tax	-141.56
	CA SUI/SDI Tax	-28.07
	Other	
	Delta Dental Pr	-11.18*
	Medical Pretax	-133.50*
	401K Loan 5	-262.75

E. & J. GALLO WINERY
600 YOSEMITE BLVD
MODESTO, CA 95354
(209) 341-3357

Advice number: 00000380705
Pay date: 09/20/2019

Deposited to the account of
IVAN R OROZCO
account number
transit ABA
XXXX XXXX
amount
\$1,616.52

THIS IS NOT A CHECK

NON-NEGOTIABLE

Exhibit 2

LAW OFFICES
MAYALL HURLEY

A PROFESSIONAL CORPORATION

SOUTHERN CALIFORNIA OFFICE
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VLADIMIR J. KOZINA
RACHAEL ALLGAIER

OF COUNSEL
J. ANTHONY ABBOTT

May 21, 2020

SUBMITTED ELECTRONICALLY

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

SENT VIA CERTIFIED MAIL

E & J. Gallo Winery
600 Yosemite Blvd.
Modesto, California 95354

Re: Ivan Orozco

To whom it may concern:

This firm represents Ivan Orozco in relation to his former employment with E & J. Gallo Winery ("Gallo"). In accordance with California Labor Code section 2699.3, this letter shall serve as Mr. Orozco's written notice to the Labor and Workforce Development Agency ("LWDA") and Gallo regarding the following violations, and facts and theories supporting those violations, on Mr. Orozco's behalf and, as a proxy for the LWDA, on behalf of current and other former California employees of Gallo.

Mr. Orozco worked for Gallo from May 2007 until March 27, 2020 as a Machine Operator. During his employment with Gallo, Mr. Orozco was given itemized wage statements that did not accurately show all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each rate. Specifically, the wage statements showed incorrect overtime and double-time hourly rates and an incorrect amount of regular hours worked. This is because, instead of simply showing the overtime and doubletime rates for that they in fact were (1.5 times and 2 times the regular rate of compensation, respectively), Gallo employed a highly confusing system of showing those rates as "premiums"—either (a) half the base rate, (b) slightly more than half the base rate, or (c) exactly the base rate. (See **Exhibit A.**) Adding to this confusion, all hours worked by Mr. Orozco were inaccurately shown as "regular" hours, even if they were in fact in excess of eight (or twelve) hours in a workday, in excess of forty hours in a workweek, or were worked on the seventh day of the workweek (in other words, *not* regular hours). Thus, the wage statements issued by Gallo failed to accurately show all

Labor and Workforce Development Agency
E & J. Gallo Winery
Re: Ivan Orozco
May 21, 2020
Page 2 of 2

applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each rate, in violation of Labor code section 226, subdivision (a)(9). These violations of Labor Code section 226, subdivision (a) were committed against current and other former employees of Gallo in California, and within the last year.

If the LWDA believes that it needs additional information to determine whether to investigate these claims, please contact me immediately to request the additional information, which I will provide to the extent it is available to me or my client.

If the LWDA does not intend to investigate these violations, Mr. Orozco intends to file a civil complaint against Gallo pursuant to the Labor Code Private Attorneys General Act of 2004 (Labor Code, § 2698 *et seq.*), on his behalf and, as a proxy for the LWDA, on behalf of all aggrieved current and former employees. Thank you for your attention in this matter.

Sincerely,

MAYALL HURLEY P.C.

By


JOHN P. BRISCOE

Enclosure

Exhibit A

CO. FILE DEPT. CLOCK VCHR. NO.
EJJ 253653 130252 15906 0000380705 1

161-0084

E. & J. GALLO WINERY
600 YOSEMITE BLVD
MODESTO, CA 95354
(209) 341-3357

Taxable Marital Status: Single
Exemptions/Allowances:
Federal: 0,525 Additional Tax
CA: 0

Earnings Statement



Period Beginning: 09/02/2019
Period Ending: 09/15/2019
Pay Date: 09/20/2019

IVAN R OROZCO

Earnings	Rate	Hours/Units	This Period
Regular	29.9100	80.96	2,421.52
Dbltime CBAx	29.9100	.02	0.60
Govt Hol Wrkd	14.9550	.53	7.93
Holiday	30.3100	8.00	242.48
Overtime CBAx	14.9550	16.26	243.17
Overtime STAT	15.1549	16.23	245.96
Shift Dif	0.4000	80.95	32.38
Shift Dif Prm X	0.2000	16.79	3.37
Shift Dif Prm X	0.4000	.02	0.01
Jury Duty			
Meal Prem			
OTAdj Wk Lkbk			
Premium Offset			-245.96
Sick			
Vacation			

Gross Pay \$2,951.46

Deductions	Statutory
Federal Income Tax	-425.09
Social Security Tax	-174.02
Medicare Tax	-40.70
CA State Income Tax	-141.56
CA SUI/SDI Tax	-28.07
Other	
Delta Dental Pr	-11.18*
Medical Pretax	-133.50*
401K Loan 5	-262.75

Year To Date
34,628.46
13.87
23.48
2,136.32
1,122.68
1,112.24
466.28
15.86
244.48
28.76
0.02
-1,111.28
1,189.80
3,545.21
43,416.18

Other	this period	year to date
401K Vanguard	-118.07*	1,736.64
Union Dues 186		405.00

Net Pay \$1,616.52

Checking -1,616.52

Net Check \$0.00

* Excluded from federal taxable wages

Your federal taxable wages this period are
\$2,688.71

Other Benefits and Information	this period	total to date
Current Hrs Wrk	80.96	
1500 Hrs Goal	88.96	1,372.62
Deduction Total	1,334.94	

Employee ID 0000253653

E. & J. GALLO WINERY
600 YOSEMITE BLVD
MODESTO, CA 95354
(209) 341-3357

Advice number: 00000380705
Pay date: 09/20/2019

Deposited to the account of
IVAN R OROZCO

account number transit ABA amount
XXXX XXXX \$1,616.52

THIS IS NOT A CHECK

NON-NEGOTIABLE

PROOF OF SERVICE

I, the undersigned, certify and declare as follows:

I am over the age of eighteen years and not a party to this action. My business address is 2453 Grand Canal Boulevard, Stockton, California 95207 that is located in the county where the mailing and/or delivery below took place.

On September 8, 2020, I served the following document:

FIRST AMENDED CLASS ACTION COMPLAINT

addressed to:

Nancy L. Abell
Paul Hastings LLP
515 South Flower Street, Twenty-Fifth Floor
Los Angeles, CA 90071

☒ **BUSINESS PRACTICE TO ENTRUST DEPOSIT TO OTHERS:** I am readily familiar with the business practice at my place of business for collection and processing of correspondence for mailing with the United States Postal Service. Correspondence so collected and processed is deposited with the United States Postal Service that same day in the ordinary course of business. On the date specified below, at my place of business at Stockton, California a copy of the document described above was placed for deposit in the United States Postal Service in a sealed envelope, with postage fully prepaid addressed to the individuals and/or entities mentioned above; and that envelope was placed for collection and mailing on that date following ordinary business practice.

☐ **BY EXPRESS SERVICE CARRIER:** On the date specified below, I directed to be deposited in a box or other facility regularly maintained by Federal Express or delivered to a courier or driver authorized by said express service carrier to receive documents, a copy of the document mentioned above, in an envelope designed by the said express service carrier, with delivery fees paid or provided for, addressed to the individuals and/or entities mentioned above.

☐ **BY FAX TRANSMISSION:** On the date specified below, I directed to be transmitted by facsimile transmission machine the documents described above. The above-described transmission was reported as complete without error by a transmission report issued by the facsimile transmission machine upon which the said transmission was made immediately following the transmission.

I certify and declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on September 8, 2020, at Stockton, California.


JOHN P. BRISCOE