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**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**COUNTY OF LOS ANGELES**

JACK GUFFEY and JEFFREY MOORE,  
individuals, in their representative capacity  
on behalf of all others similarly situated and  
the State of California,

Plaintiffs,

v.

ROKIT INC, a Nevada corporation, ROKIT  
DRINKS LLC, a California limited liability  
company, ROKIT IMPORTS INC., a  
California corporation, ROKIT DRINKS  
IMPORTS INC., a California corporation,  
ROKIT DRINKS RESOURCES INC., a  
Delaware corporation, ROKIT DISTILLERY  
INC., a California Corporation, DANIEL  
LEWIS, an individual, JONATHAN  
KENDRICK, an individual, DEAN  
BECKER, an individual, and DOES 1-10,  
inclusive,

Defendants.

Case No.: 22STCV15379

**REPRESENTATIVE ACTION COMPLAINT:**

**1. VIOLATIONS OF THE PRIVATE  
ATTORNEYS GENERAL ACT OF 2004  
(Cal. Lab. Code § 2698 et seq.)**

**DEMAND FOR JURY TRIAL**

Plaintiffs Jack Guffey and Jeffery Moore (hereinafter "Plaintiffs"), by and through their  
attorneys of record, bring this action in their representative capacity on behalf of themselves, all

others similarly situated, and the State of California, against Defendants ROKiT Inc., ROKiT Drinks LLC, ROKiT Imports Inc., ROKiT Drinks Imports Inc., ROKiT Drinks Resources Inc., ROKiT Distillery Inc., Daniel Lewis, Jonathan Kendrick and Dean Becker (collectively, “Defendants”) on the following grounds:

### **INTRODUCTION**

1. This case is brought as a representative action on behalf of the State of California for civil penalties pursuant to the Private Attorney General Act (“PAGA”), Cal. Lab. Code §2698 et seq., arising out of Defendants’ wage and hour violations against current and former employees who held the position of sales representative and the State of California.

2. Through this action, Plaintiffs allege that Defendants have engaged in a systematic pattern of violating the California Labor Code.

3. Plaintiffs are informed and believe, and thereon allege, that Defendants have increased their profits by violating state wage and hour laws by, among other things:

- a. Willfully misclassifying their employees as independent contractors;
- b. Failing to pay all wages owed, including earned commissions;
- c. Failing to provide employees with wage statements accurately reflecting the commissions they earned during the pay period and the name and address of the legal entity that is the employer;
- d. Failing to reimburse employees for expenses incurred in using their personal cell phones and vehicles for business purposes;
- e. Failing to provide paid sick leave as required under California law;
- f. Failing to timely pay earned commissions; and
- g. Failing to pay all wages owed upon termination of employment.

4. Plaintiffs bring this lawsuit against Defendants to recover, among other things, civil penalties, attorneys’ fees and litigation costs.

5. All allegations in this complaint are based upon information and belief, except for those allegations that specifically pertain to Plaintiffs, which are based upon their own personal knowledge. Each allegation in this complaint has evidentiary support or is likely to have evidentiary

1 support after a reasonable opportunity for further investigation and discovery.

2 **JURISDICTION AND VENUE**

3 6. The Court has jurisdiction over this action pursuant to Labor Code § 2698 et seq. and  
4 Code of Civil Procedure § 410.10. Defendants are licensed to do business, and are actually doing  
5 business, in the state of California. The amount in controversy, exclusive of interest, costs, and  
6 attorneys' fees, exceeds the minimum jurisdictional amount for this Court.

7 7. Venue is proper in this judicial district pursuant to Code of Civil Procedure §§ 395  
8 and 395.5 because Defendants' business operations are headquartered in Los Angeles County and  
9 many of the acts and events alleged herein occurred in this county.

10 **THE PARTIES**

11 8. Plaintiff Jack Guffey is, and at all times relevant to this complaint was, an adult  
12 individual residing in Fresno County, in the state of California. Plaintiff Guffey was employed by  
13 Defendants as a sales representative.

14 9. Plaintiff Jeffrey Moore is, and at all times relevant to this complaint was, an adult  
15 individual residing in Monterey County, in the state of California. Plaintiff Moore is employed by  
16 Defendants as a sales representative.

17 10. Defendant ROKiT Inc. is a Nevada corporation doing business in the state of  
18 California and the county of Los Angeles. The company's principal business office in the state is  
19 located at 3617 Hayden Avenue, Culver City, California 90232. Defendant ROKiT Inc. is in the  
20 business of manufacturing, marketing, and distributing alcoholic beverages to retail customers  
21 throughout the state.

22 11. Defendant ROKiT Drinks LLC is a California limited liability company doing  
23 business in the state of California and the county of Los Angeles. The company's principal business  
24 office is located at 3617 Hayden Avenue, Culver City, California 90232. Defendant ROKiT Drinks  
25 LLC is in the business of marketing and distributing alcoholic beverages to retail customers  
26 throughout the state.

27 12. At all times relevant to this complaint, Defendant ROKiT Imports Inc. was a  
28 California corporation doing business in the state of California and the county of Los Angeles. The

1 company's principal business office is located at 6440 Corvette Street, Unit 1, Commerce, California  
2 90040. Defendant ROKiT Imports Inc. is in the business of marketing and distributing alcoholic  
3 beverages to retail customers throughout the state. Plaintiffs contend that shortly after Defendant  
4 ROKiT Imports Inc. learned that a representative action was pending against it, the company filed  
5 an Election to Terminate certificate and dissolved the corporation in an effort to avoid liability.

6 13. Defendant ROKiT Drinks Imports Inc. is a California corporation doing business in  
7 the state of California and the county of Los Angeles. The company's principal business office is  
8 located at 6440 Corvette Street, Unit 1, Commerce, California 90040. Defendant ROKiT Drinks  
9 Imports Inc. is in the business of marketing and distributing alcoholic beverages to retail customers  
10 throughout the state.

11 14. Defendant ROKiT Drinks Resources Inc. is a Delaware corporation doing business  
12 in the state of California and the county of Los Angeles. The company's principal business office in  
13 the state is located at 3617 Hayden Avenue, Culver City, California 90232. Defendant ROKiT  
14 Drinks Resources Inc. is in the business of marketing and distributing alcoholic beverages to retail  
15 customers throughout the state.

16 15. Defendant ROKiT Distillery Inc. is a California corporation doing business in the  
17 state of California and the county of Los Angeles. The company's principal business office is located  
18 at 2600 Yosemite Boulevard, Suite A, Modesto, California 95354. According to public records, its  
19 business mailing address is 3617 Hayden Avenue, Culver City, California 90232. Defendant ROKiT  
20 Distillery Inc. is in the business of manufacturing, marketing, and distributing alcoholic beverages  
21 to retail customers throughout the state.

22 16. Plaintiffs are informed and believe, and thereon allege, that Defendant Daniel Lewis  
23 is, and all times relevant to this complaint was, an individual conducting business in the state of  
24 California and in the county of Los Angeles. Defendant Lewis is the chief financial officer of  
25 Defendants ROKiT Inc., ROKiT Drinks Resources Inc., and ROKiT Distillery Inc. Defendant Lewis  
26 is alleged to have acted individually and as an officer, managing agent, or employee of Defendants,  
27 and is therefore personally liable for many of the Labor Code violations described herein. *See*  
28 *Atempa v. Pedrazzani* (2018) 27 Cal.App.5th 809, 811-13.

1           17.     Plaintiffs are informed and believe, and thereon allege, that Defendant Jonathan  
2 Kendrick is, and all times relevant to this complaint was, an individual conducting business in the  
3 state of California and in the county of Los Angeles. Defendant Kendrick is the chief executive  
4 officer of Defendants ROKiT Inc., ROKiT Drinks Imports Inc., ROKiT Drinks Resources Inc., and  
5 ROKiT Imports Inc. Defendant Kendrick is alleged to have acted individually and as an officer,  
6 managing agent, or employee of Defendants, and is therefore personally liable for many of the Labor  
7 Code violations described herein. *See Atempa v. Pedrazzani*, supra, 27 Cal.App.5th at 811-13.

8           18.     Plaintiffs are informed and believe, and thereon allege, that Defendant Dean Becker  
9 is, and all times relevant to this complaint was, an individual residing in and conducting business in  
10 the state of California and in the county of Los Angeles. Defendant Becker is the global vice  
11 chairman of ROKiT Group of Companies, which includes all or most of the corporate entities named  
12 herein. Defendant Beck is alleged to have acted individually and as an officer, managing agent, or  
13 employee of Defendants, and is therefore personally liable for many of the Labor Code violations  
14 described herein. *See Atempa v. Pedrazzani*, supra, 27 Cal.App.5th at 811-13.

15           19.     Plaintiffs contend that while Defendants Lewis and Kendrick are believed to be  
16 citizens of the United Kingdom, they purposefully avail themselves of the privilege of conducting  
17 business in California by contracting with employees in the state, implementing and enforcing the  
18 unlawful policies and practices described herein, and personally profiting from such. The Labor  
19 Code violations alleged herein are the direct result of their activities within the state.

20           20.     Plaintiffs are informed and believe, and thereon allege, that Defendants, at all times  
21 relevant to this complaint, were and are employers as defined in the Labor Code, whose employees  
22 were and are engaged throughout this county and the state of California.

23           21.     Plaintiffs are informed and believe, and thereon allege, that at all times relevant to  
24 this complaint, Defendants have essentially operated, and currently cooperate, as a single integrated  
25 business enterprise and should therefore be treated as a single employer. Although Defendants have  
26 multiple corporate, entity, and individual personalities, they have largely acted as one enterprise and  
27 this enterprise has been so handled that it should respond as a whole for the acts committed by  
28 Defendants.

1           22.     The true names and capacities, whether individual, corporate, subsidiary, partnership,  
2 associate, or otherwise of Doe Defendants 1 through 10, are unknown to Plaintiffs, who therefore  
3 sue these defendants by such fictitious names pursuant to Code of Civil Procedure § 474. Plaintiffs  
4 will amend their complaint to allege the true names and capacities of Does 1 through 10 when they  
5 are ascertained.

6           23.     At all times relevant to this complaint, acts alleged to have been done by Defendants  
7 are also alleged to have been done by the unascertained defendants mentioned above, and by each  
8 of their agents and employees who acted within the scope of their agency and/or employment.

9           24.     At all times relevant to this complaint, the acts and omissions of each of the  
10 defendants concurrently contributed to the various acts and omissions of each and every one of the  
11 other defendants in proximately causing the wrongful conduct, harm, and damages alleged herein.  
12 Each of the defendants approved of, condoned, and/or otherwise ratified each and every one of the  
13 acts or omissions complained of herein.

14                               **GENERAL FACTUAL ALLEGATIONS**

15           25.     Plaintiffs incorporate by reference all preceding paragraphs as though fully set forth  
16 herein.

17           26.     Plaintiff Guffey was employed by Defendants as a sales representative from  
18 December 2020 until he resigned January 24, 2022. His assigned sales territory included most of  
19 Fresno, Tulare, King and Madera Counties.

20           27.     Plaintiff Moore has been employed by Defendants as a sales representative since  
21 October 2020. Over the course of his employment, his assigned sales territory has included all or  
22 parts of San Francisco, San Mateo, Santa Cruz, Monterey and Santa Barbara Counties.

23           28.     As sales representatives, Plaintiffs' primary job duties included marketing,  
24 promoting and selling Defendants' products, specifically, beer and spirits, to retail customers in the  
25 state. At all times, Plaintiffs were paid purely on a commission basis, earning a set commission for  
26 each case of product sold and bonuses for reaching certain sales goals.<sup>1</sup> In order to perform their  
27

28 <sup>1</sup> As sales representatives, Plaintiffs spent the majority of their time away from Defendants' workplace, engaged primarily in sales and sales related activities. They do not dispute that they would likely qualify as an exempt employee under California's outside sales exemption.

1 work, Plaintiffs were provided a company email address and business cards, and were encouraged  
2 to wear clothing bearing Defendants' logo during product demonstrations. Plaintiffs were also  
3 provided with copies of Defendants' license from the Department of Alcoholic Beverage Control  
4 and seller's permit from the California State Board of Equalization, which they were to show to  
5 customers when making a sale.

6 29. Plaintiffs contend that as a matter of policy and practice, Defendants willfully  
7 misclassified them and other employees as independent contractors in violation of California law.  
8 Indeed, not only do Defendants exert substantial control over their sales representatives' work  
9 performance, but product sales and marketing are Defendants' primary business. In addition,  
10 because sales representatives are prohibited from working for any company that markets and sells  
11 products similar to Defendants' products, Plaintiffs and other employees are not "customarily  
12 engaged in an independently established trade, occupation, or business of the same nature as that  
13 involved in the work performed."

14 30. Plaintiffs allege that although Defendants provided them and other employees with  
15 written bonus and commission agreements at various times throughout their employment,  
16 Defendants consistently failed to pay earned commissions and bonuses in accordance with the  
17 agreements. As of the date of this filing, Plaintiffs have not been paid several thousand dollars in  
18 earned commissions and bonuses. This is true despite the fact that both have made numerous verbal  
19 and written requests for payment.

20 31. Over the course of their employment, Defendants failed to provide Plaintiffs and  
21 other employees with wage statements that comply with Labor Code § 226. Indeed, although  
22 Plaintiffs received written reports allegedly showing the commissions they earned, the reports were  
23 typically provided a week or two after the commissions were paid. As such, Plaintiffs were unable  
24 to determine whether they had been paid all of the wages they were owed. In addition, the reports  
25 failed to include most of the information required under Labor Code § 226(a), including the gross  
26 and net wages earned, the dates of the pay period, and the name and address of the legal entity that  
27 is the employer. Notably, while Plaintiffs' commission agreements identify their employer as  
28 "ROKiT Launch," no such entity is registered with the California Secretary of State.

1           32.     Plaintiffs allege that Defendants required them and other employees to necessarily  
2 incur expenses in the discharge of their duties. This includes expenses incurred in using their  
3 personal vehicles and cellphones for business purposes. Although Defendants know that their  
4 employees have incurred such expenses, as a matter of policy and practice, Defendants do not  
5 reimburse employees for any portion of the expenses they incur.

6           33.     Labor Code § 246 requires an employer to provide each employee with at least 24  
7 hours or three days of paid sick leave that is available for use by the completion of the employee's  
8 120th calendar day of employment. Despite the clear statutory language in the Labor Code, Plaintiffs  
9 and other sales representatives were not provided paid sick leave during their employment with  
10 Defendants. Rather, Plaintiffs allege that Defendants avoid their obligation under Labor Code § 246,  
11 and profit at the expense of their employees' health and safety, by willfully misclassifying  
12 employees as independent contractors.

13           34.     Defendants' written commission agreement states, "commissions will be paid  
14 approximately seven (7) calendar days from end of each of the two following periods: 1) the period  
15 beginning on the first of the month and ending on the 15th of that month and, 2) the 16th of the  
16 month and ending on the last day of that month for all of Sales Representative's invoices which have  
17 been paid by the customer as of the end of each corresponding period." Plaintiffs allege that  
18 Defendants routinely failed to pay them and the other sales representatives commissions owed to  
19 them within the time periods specified in their written commission agreement or as required under  
20 Labor Code § 204. On multiple occasions, Plaintiffs advised Defendants that they had not been paid  
21 the commissions they were entitled to on certain sales.

22           35.     Defendants' written commission agreement also states, "Any dispute or claim with  
23 respect to the entitlement and/or amount of commissions will be made in writing to company within  
24 45 days from the end of the month for which commissions are claimed as to entitlement and/or  
25 amount. Failure to timely raise in writing any claim or dispute with respect to entitlement or amount  
26 will constitute total waiver by Contractor of any such commissions." This provision is patently  
27 unlawful because under California law, the right to the timely payment of wages owed cannot be  
28 contravened or set aside by a private agreement. *See* Labor Code § 219.

1           36. Plaintiff Guffey alleges that his employment with Defendants ended on or about  
2 January 24, 2022. As of the date of this complaint, however, he has not been paid the wages he is  
3 entitled to. On information and belief, Plaintiff Guffey alleges that Defendants have also failed to  
4 pay other sales representatives all wages owed to them at the time their employment was terminated.

5                                   **PAGA ALLEGATIONS**

6           37. Plaintiffs incorporate by reference all preceding paragraphs as though fully set forth  
7 herein.

8           38. Plaintiffs are aggrieved employees as defined in Labor Code § 2699(c). They bring  
9 this action, in part, on behalf of themselves, other current and former employees affected by the  
10 wage and hour violations alleged in this complaint, and the state of California.

11           39. Defendants, at all relevant times to this complaint, were employers or persons acting  
12 on behalf of an employer, who violated Plaintiff's and other aggrieved employees' rights by  
13 violating the Labor Code, and as such, are subject to civil penalties provided for under the Private  
14 Attorneys General Act of 2004, Labor Code § 2698 et seq. ("PAGA").

15           40. Defendants committed the following violations of the Labor Code against Plaintiffs,  
16 and on that information and belief, against other current and former employees while they were  
17 employed by Defendants:

18                   a. Defendants violated Labor Code §§ 226.8 and 2775 by willfully  
19 misclassifying their employees as independent contractors in order to avoid  
20 having to comply with state labor laws.

21                   b. Defendants violated Labor Code §§ 221 and 223 by failing to timely pay  
22 employees earned commissions and bonuses in accordance with their written  
23 agreements.

24                   c. Defendants violated Labor Code § 226(a) by failing to provide Plaintiffs and  
25 other employees with accurate, itemized wage statements that reflect the  
26 gross and net wages earned, the dates of the pay period, and the name and  
27 address of the legal entity that is the employer.

28                   d. Defendants violated Labor Code § 2802 by failing to reimburse employees

1 for expenditures necessarily incurred in the discharge of their duties,  
2 including, but not limited to, expenses incurred in using their personal  
3 vehicles and cellphones for business purposes.

4 e. Defendants violated Labor Code § 246 by misclassifying their employees as  
5 independent contractors and not providing paid sick leave as required under  
6 California law.

7 f. Defendants violated Labor Code § 204 by failing to timely pay Plaintiffs and  
8 other aggrieved employees all commissions and bonuses owed to them within  
9 the time periods specified in their written commission agreements.

10 g. Defendants violated Labor Code §§ 201-203 by failing to timely pay all  
11 wages owed to employees who resigned or who were terminated from their  
12 employment.

13 41. On March 3, 2022, Plaintiffs notified the California Labor and Workforce  
14 Development Agency (“LWDA”) of their intent to assert the rights granted to them the Private  
15 Attorneys General Act of 2004 (“PAGA”). The notice, which was submitted electronically through  
16 the LWDA’s website, also set forth the specific violations alleged and the facts and theories  
17 supporting those violations. A copy was simultaneously sent by certified mail to Defendants through  
18 their agent for service of process. A true and correct copy of the notice is attached as **Exhibit 1** and  
19 is hereby incorporated by reference.

20 42. The LWDA had until May 7, 2022 to provide notice of whether it intended to  
21 investigate the violations Plaintiffs allege. As of the date of this complaint, the LWDA has not  
22 provided such notice. Accordingly, Plaintiffs file this action in their representative capacity as  
23 permitted under Labor Code § 2699.3(a)(2)(A).

24 **CAUSES OF ACTION**

25 **FIRST CAUSE OF ACTION**

26 **Violations of the Private Attorneys General Act of 2004 (Lab. Code § 2698 et seq.)**

27 **(By Plaintiffs Against All Defendants)**

28 43. Plaintiffs incorporate by reference all preceding paragraphs as though fully set forth

herein.

44. Under Labor Code § 2699(a), any provision of the Labor Code that provides for a civil penalty to be assessed and collected by the LWDA or any of its departments, divisions, commissions, boards, agencies or employees for violation of the Labor Code may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees, pursuant to the procedures specified in Labor Code § 2699.3.

45. For all provisions of the Labor Code except those for which a civil penalty is specifically provided, Labor Code § 2699(f) imposes upon an employer a penalty of \$100 for each aggrieved employee per pay period for the initial violation and \$200 for each aggrieved employee per pay period for each subsequent pay period in which the employer violated those provisions of the Labor Code.

46. Plaintiffs are aggrieved employees as defined by Labor Code § 2699(c) as they were employed by Defendants during the applicable statutory period and suffered injury as a result of the Labor Code violations set forth below. Accordingly, Plaintiffs seek to recover on behalf of themselves, the other aggrieved employees of Defendants who worked in California, and the State of California, the civil penalties provided under PAGA, as well as their reasonable attorneys' fees and costs.

**Willful Misclassification**

47. In *Dynamex Operations W. v. Superior Court* (2018) 4 Cal.5th 903, the California Supreme Court held that a hiring entity asserting independent contractor status must establish each of the three factors of the ABC test. The ABC test, which is now codified in Labor Code § 2775, states that "a person providing labor or services for remuneration shall be considered an employee rather than an independent contractor unless the hiring entity demonstrates that all of the following conditions are satisfied:

- (A) The person is free from the control and direction of the hiring entity in connection with the performance of the work, both under the contract for the performance of the work and in fact.
- (B) The person performs work that is outside the usual course of the hiring entity's business.
- (C) The person is customarily engaged in an independently established trade,

1 occupation, or business of the same nature as that involved in the work  
2 performed.”

3 (Emphasis added.)

4 48. In response to reports showing that 10 to 30-percent of employers in the state  
5 misclassified employees as independent contractors, in 2011, the California Legislature enacted  
6 Senate Bill 459, thereby adding section 226.8 to the Labor Code. Under Labor Code § 226.8, it is  
7 unlawful for any employer to willfully misclassify an individual as an independent contractor.

8 49. Plaintiffs allege that Defendants violate Labor Code §§ 226.8 and 2775 by willfully  
9 misclassifying their sales representatives as independent contractors in order to avoid having to  
10 comply with California law. Defendants not only exert substantial control over their sales  
11 representatives’ work performance, but by providing them with company business cards and email  
12 addresses, Defendants hold these individuals out as being employees. In addition, sales  
13 representatives do not perform work that is outside the usual course of Defendants’ business because  
14 product sales and marketing *are* Defendants’ primary business. Finally, because sales  
15 representatives are prohibited from working for any company that markets and sells products similar  
16 to Defendants’ products, they are not “customarily engaged in an independently established trade,  
17 occupation, or business of the same nature as that involved in the work performed.” (*See* Lab. Code  
18 § 2775, subd. (b)(1)(C).)

19 50. Pursuant to Labor Code § 226.8, Plaintiffs are entitled to seek, and do seek to recover,  
20 civil penalties for Defendants willful misclassification of their employees in an amount as provided  
21 by the Labor Code.

22 **Unpaid Wages and Earned Bonuses**

23 51. During the course of their employment, Plaintiffs and other sales representatives  
24 entered into written commission agreements with Defendants. These agreements provided that  
25 Defendants would pay commissions based on sales credited to sales representatives in accordance  
26 with the commission rates and payment schedule set forth in their commission agreements.

27 52. Plaintiffs and other sales representatives have performed all of the duties and  
28 obligations required of them by Defendants that would entitle them to receive commissions and have  
met all lawful conditions precedent to the earning of commissions.

1           53. Labor Code § 223 states: “Where any statute or contract requires an employer to  
2 maintain the designated wage scale, it shall be unlawful to secretly pay a lower wage while  
3 purporting to pay the wage designated by statute or by contract.” The California Supreme Court has  
4 explained that Labor Code § 223 is “declarative of an underlying policy in the law which is opposed  
5 to fraud and deceit.” *See Sublett v. Henry’s Turk & Taylor Lunch* (1942) 21 Cal.2d 273, 274.

6           54. Under Labor Code § 225.5, any person who unlawfully withholds wages due to an  
7 employee in violation of Labor Code § 223 shall be subject to a civil penalty as follows:

8                   (a) For any initial violation, one hundred dollars (\$100) for each failure to pay each  
9 employee.

10                   (b) For each subsequent violation, or any willful or intentional violation, two hundred  
11 dollars (\$200) for each failure to pay each employee, plus 25 percent of the  
12 amount unlawfully withheld.

13           55. Labor Code § 2751 states, in pertinent part: “Whenever an employer enters into a  
14 contract of employment with an employee for services to be rendered within this state and the  
15 contemplated method of payment of the employee involves commissions, the contract shall be in  
16 writing and shall set forth the method by which the commissions shall be computed and paid.”

17           56. Plaintiffs allege that as a matter of policy and practice, Defendants secretly underpay  
18 sales representatives’ commissions while purporting to follow the commission rates designated by  
19 contract. This violates Labor Code §§ 223 and 2751 and entitles Plaintiffs to recover civil penalties  
20 on behalf of themselves, all other aggrieved employees, and the State of California.

21           **Failure to Provide Accurate, Itemized Wage Statements**

22           57. Under Labor Code § 226(a), an employer must provide an accurate, itemized  
23 statement in writing showing, among other things, the gross wages and net wages earned, the  
24 inclusive dates of the period for which the employee is paid, and the name and address of the legal  
25 entity that is the employer.

26           58. Labor Code § 226.3 provides, in part, that any employer who violates subdivision (a)  
27 of Section 226 shall be subject to a civil penalty in the amount of \$250 per employee for each initial  
28 violation and \$1,000 per employee for each subsequent violation in which the employer fails to

1 provide the employee a wage deduction statement or fails to keep the records required in subdivision  
2 (a) of Section 226.

3 59. Plaintiffs allege that Defendants knowingly and intentionally failed to provide their  
4 employees with wage statements each pay period. Although Defendants provide written commission  
5 reports to employees, they were typically provided a week or two after the commissions were paid.  
6 Moreover, even if the commission reports could be said to constitute wage statements, they do not  
7 comply with California law because they fail to include the gross and net wages earned, the inclusive  
8 dates for the pay period, or the name of the legal entity that is the employer.

9 60. Plaintiffs are entitled to seek, and do seek to recover, civil penalties pursuant to Labor  
10 Code § 226.3, as well as an award of reasonable attorneys' fees and costs.

11 **Unreimbursed Business Expenses**

12 61. Labor Code § 2802 provides that "an employer shall indemnify his or her employees  
13 for all necessary expenditures or losses incurred by the employee in direct consequence of the  
14 discharge of his or her duties, or of his or obedience to the directions of the employer."

15 62. Section 2802 is subject to an anti-waiver provision. Specifically, Labor Code § 2804  
16 states in relevant part, that "[a]ny contract or agreement, express or implied, made by any employee  
17 to waive the benefits of this article or any part thereof, is null and void."

18 63. Under California law, employers have a duty of due diligence to determine whether  
19 or not employees have incurred expenses in the discharge of their duties, and to reimburse them for  
20 any necessary expenses. *See Stuart v. RadioShack* (N.D. Cal. 2009) 641 F.Supp.2d 901. The  
21 California Supreme Court has made it clear that the purpose of Labor Code § 2802 is "to prevent  
22 employers from passing their operating expenses on to their employees." *Gattuso v. Harte-Hanks*  
23 *Shoppers, Inc.* (2007) 42 Cal.4th 554, 562.

24 64. Despite the clear language of Labor Code § 2802, and despite knowing that Plaintiffs  
25 and other sales representatives have incurred substantial expenses associated with using their  
26 personal vehicles and cellphones for business purposes, as a matter of policy and practice,  
27 Defendants do not reimburse their employees for such expenses. Over the course of their  
28 employment with Defendants, Plaintiffs have put thousands of miles on their vehicles and were

1 never reimbursed for fuel, let alone maintenance, insurance, or depreciation. Defendants  
2 undoubtedly violate Labor Code § 2802 by forcing Plaintiffs and the other aggrieved employees to  
3 bear the company's operating costs. *See Gattuso v. Harte-Hanks Shoppers, Inc., supra*, 42 Cal. 4th  
4 at 562.

5 65. The Labor Code does not set forth a specific civil penalty for violations of Labor  
6 Code § 2802. As such, Plaintiffs are entitled to recover civil penalties under Labor Code § 2699(f)  
7 in the amount of \$100 for each aggrieved employee per pay period for the initial violation and \$200  
8 for each aggrieved employee per pay period for each subsequent pay period in which Defendants  
9 failed to reimburse employees for expenses necessarily incurred in the discharge of their duties.

10 **Failure to Provide Paid Sick Leave**

11 66. California law requires that an employer provide paid sick leave to all employees  
12 who have worked 30 or more calendar days within a year of their date of hire.

13 67. Labor Code § 246 (b)(1) states, in part, that “an employee shall accrue sick days at a  
14 rate of not less than one hour per every thirty (30) hours worked, beginning at the commencement  
15 of employment or operative date of this article, whichever is later.” Subdivision (b)(4) further  
16 provides that an employer may satisfy the accrual requirements “by providing not less than 24 hours  
17 or three days of paid sick leave that is available to the employee to use by the completion of the  
18 employee's 120th calendar day of employment.” Employers must provide employees with “written  
19 notice that sets forth the amount of paid sick leave available . . . on either the employee's itemized  
20 wage statement described in [Labor Code §] 226 or in a separate writing provided on the designated  
21 pay date with the employee's payment of wages.” (Lab. Code § 246, subd. (i).)

22 68. With respect to employees paid on a commission basis, the Department of Labor  
23 Standards Enforcement has opined that an employer may meet its obligation to provide paid sick  
24 leave by paying either the regular rate of pay in the pay period the paid sick leave is taken or the  
25 average pay for the prior 90 days. *See DLSE Opn. Letter No. 2016.10.11 (2016)*.

26 69. Under Labor Code § 233(c), employers are prohibited from denying an employee the  
27 right to use paid sick leave for the “[d]iagnosis, care, or treatment of an existing health condition of,  
28 or preventive care for, an employee or an employee's family member.”

1           70.     At all times relevant to this complaint, Defendants have had a policy and practice of  
2 failing to notify employees of their right to paid sick leave – much less actually providing them with  
3 such. Plaintiffs allege that in misclassifying their employees as independent contractors and not  
4 providing paid sick leave as required under Labor Code § 246, Defendants profit at the expense of  
5 their employees’ health and the general public.

6           71.     Pursuant to Labor Code § 2699(f), Plaintiffs are entitled to recover civil penalties in  
7 the amount of \$100 for each aggrieved employee per pay period for the initial violation and \$200  
8 for each aggrieved employee per pay period for each subsequent pay period in which Defendants  
9 failed to provide paid sick leave in accordance with California law.

10           **Failure to Timely Pay Wages**

11           72.     Labor Code § 204, “[a]ll wages . . . earned by any person in any employment are due  
12 and payable twice during each calendar month, on days designated in advance by the employer as  
13 the regular paydays.” The term “wages” is defined to include “all amounts for labor performed by  
14 employees of every description, whether the amount is fixed or ascertained by the standard of time,  
15 task, piece, commission basis.” (Lab. Code § 200, subd. (a).)

16           73.     Labor Code § 210(a) provides:

17                   In addition to, and entirely independent and apart from, any other  
18 penalty provided in this article, every person who fails to pay the  
19 wages of each employee as provided in Sections 201.3, 204, 204b,  
20 204.1, 204.2, 204.11, 205, 205.5, and 1197.5, shall be subject to a  
21 penalty as follows:

- 22                   (1)     For any initial violation, one hundred dollars (\$100) for each  
23 failure to pay each employee.  
24                   (2)     For each subsequent violation, or any willful or intentional  
25 violation, two hundred dollars (\$200) for each failure to pay  
26 each employee, plus 25 percent of the amount unlawfully  
27 withheld.

28           74.     Defendants’ written commission agreement states, “commissions will be paid  
approximately seven (7) calendar days from end of each of the two following periods: 1) the period  
beginning on the first of the month and ending on the 15th of that month and, 2) the 16th of the  
month and ending on the last day of that month for all of Sales Representative’s invoices which have

1 been paid by the customer as of the end of each corresponding period.”

2 75. Plaintiffs allege that despite the clear language of Labor Code § 204, as well as their  
3 own commission agreements, Defendants routinely fail to pay sales representatives all commissions  
4 owed to them within the time periods specified. When employees inquire about missing payments,  
5 they are generally either told that the company is waiting on payments from third-parties or are  
6 passed around from one member of the sales support team to the next until inquiring further becomes  
7 a fruitless endeavor.

8 76. Pursuant to Labor Code § 210, Plaintiffs are entitled to recover civil penalties on  
9 behalf of themselves, all other aggrieved employees, and the State of California, as well as  
10 reasonable attorneys’ fees and costs.

11 **Failure to All Wages Owed Upon Termination**

12 77. Labor Code § 201(a) states: “If an employer discharges an employee, the wages  
13 earned and unpaid at the time of discharge are due and payable immediately.”

14 78. Under Labor Code § 202(a):

15 If an employee not having a written contract for a definite period quits  
16 his or her employment, his or her wages shall become due and payable  
17 not later than 72 hours thereafter, unless the employee has given 72  
18 hours previous notice of his or her intention to quit, in which case the  
19 employee is entitled to his or her wages at the time of quitting.  
20 Notwithstanding any other provision of law, an employee who quits  
21 without providing a 72-hour notice shall be entitled to receive  
22 payment by mail if he or she so requests and designates a mailing  
23 address. The date of the mailing shall constitute the date of payment  
24 for purposes of the requirement to provide payment within 72 hours  
25 of the notice of quitting.

26 79. Labor Code § 203 further provides:

27 If an employer willfully fails to pay, without abatement or reduction,  
28 in accordance with Sections 201, 201.3, 201.5, 202, and 205.5, any  
wages of an employee who is discharged or who quits, the wages of  
the employee shall continue as a penalty from the due date thereof at  
the same rate until paid or until an action therefor is commenced; but  
the wages shall not continue for more than 30 days.

80. Plaintiff Guffey and a number of other aggrieved employees are no longer  
employed by Defendants. However, Plaintiffs are informed and believe, and thereon allege, that as

1 of the date of the filing of this complaint, Defendants have not paid the wages these individuals are  
2 owed, as required under California law.

3 81. As a result of Defendants failure to pay all wages owed upon termination, Plaintiffs  
4 are entitled to seek, and do seek to recover, civil penalties in an amount as provided by the Labor  
5 Code, as well as attorneys' fees and costs.

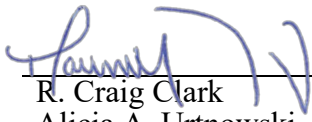
6 **PRAYER FOR RELIEF**

7 Plaintiffs request entry of judgment on behalf of themselves, all other aggrieved employees,  
8 and the State of California, against each Defendant, jointly and severally, as follows:

- 9 1. For civil penalties according to proof;  
10 2. For reasonable attorneys' fees and litigation costs; and  
11 3. For such other and further relief as the Court may deem proper.

12 Dated: May 9, 2022

**CLARK LAW GROUP**

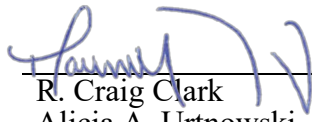
13  
14   
15 R. Craig Clark  
16 Alicja A. Urtnowski  
17 Dawn M. Berry  
18 Attorneys for Plaintiffs

18 **DEMAND FOR JURY TRIAL**

19 Plaintiffs demand a jury trial on all issues triable to a jury.

20 Dated: May 9, 2022

**CLARK LAW GROUP**

21  
22   
23 R. Craig Clark  
24 Alicja A. Urtnowski  
25 Dawn M. Berry  
26 Attorneys for Plaintiffs  
27  
28

# **Exhibit 1**



# Clark Law Group

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Via Electronic Submission

March 3, 2022

Labor and Workforce Development Agency  
Attn: PAGA Administrator  
455 Golden Gate Avenue, 9th Floor  
San Francisco, CA 94102

Re: Guffey, et al. v. ROKiT, Inc., et al.  
Notice of Labor Code Violations Pursuant to Labor Code § 2699.3

Dear Administrator,

Clark Law Group represents Jack Guffey and Jeffrey Moore (collectively, "Plaintiffs") in the above-captioned matter. The purpose of this letter is to inform you that Plaintiffs, on behalf of themselves and all other aggrieved employees, intends to assert the legal rights granted to them under the California Labor Code's Private Attorneys General Act of 2004, as set forth in Labor Code § 2698 et seq. (hereinafter, "the Act"). This letter serves to satisfy the notice requirements of the Act and will also be sent to Plaintiffs' employers, ROKiT, Inc., ROKiT Drinks LLC, ROKiT Imports Inc., ROKiT Drinks Imports Inc., ROKiT Drinks Resources Inc. and ROKiT Distillery Inc., through their agents for service of process, as well their chief executive officer, Jonathan Kendrick, chief financial officer, Daniel Lewis, and global vice chairman, Dean Becker (collectively, "Defendants").

Plaintiff Guffey was employed by Defendants as a sales representative from January 2021 until February 2022. Plaintiff Moore has been employed by Defendants as a sales representative since October 2020. As sales representatives, Plaintiffs primary job duties include marketing, promoting and selling Defendants' products, specifically, beer and spirits, to retail customers. At all times, they have been paid purely on a commission basis, earning a set commission for each case of product sold. As set forth below, Plaintiffs contend that Defendants willfully misclassified them and other employees as independent contractors, thereby engaging in a systematic pattern of California Labor Code violations.<sup>1</sup> As a result, Plaintiffs and other employees were

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<sup>1</sup> Because Plaintiffs spent most of their time away from Defendants' workplace and were engaged primarily in sales and sales related activities, they do not dispute that they would likely qualify as exempt under California's outside sales exemption.

deprived of wages owed and protections afforded to them under California law. Pursuant to Labor Code § 2699, Plaintiffs are entitled to seek, and do seek to recover, civil penalties on behalf of themselves, all other aggrieved employees, and the State of California.

A. Willful Misclassification of Employees as Independent Contractors

Labor Code § 226.8 provides that it is unlawful for any employer to willfully misclassify an individual as an independent contractor. The civil penalty for willfully misclassifying an employee as an independent contractor shall be “not less than five thousand dollars (\$5,000) and not more than fifteen thousand dollars (\$15,000) for each violation, in addition to any other penalties or fines permitted by law.” (Lab. Code § 226.8.) Under Labor Code § 2775, “a person providing labor or services for remuneration shall be considered an employee rather than an independent contractor unless the hiring entity demonstrates that all of the following conditions are satisfied:

- (A) The person is free from the control and direction of the hiring entity in connection with the performance of the work, both under the contract for the performance of the work and in fact.
- (B) The person performs work that is outside the usual course of the hiring entity's business.
- (C) The person is customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the work performed.”

(Emphasis added). Plaintiffs contend that Defendants willfully misclassified them and other employees as independent contractors in violation of Labor Code § 226.8 in order to avoid having to comply with the various sections of the Labor Code outlined in this correspondence. Not only do Defendants exert substantial control over their sales representatives' work performance, but product sales and marketing are Defendants' primary business. Moreover, because sales representatives are prohibited from working for any company that markets and sells products similar to Defendants' products, Plaintiffs and other employees are not “customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the work performed.” Rather, Defendants unilaterally assign them the label “independent contractor.” Finally, in order to enable them to sell their products, Defendants provided sales representatives with copies of the company's distilled spirits wholesaler permit, which was issued through the California Department of Alcoholic Beverage Control.

Throughout the course of Plaintiffs' employment with Defendants, they and other sales representatives have been classified as independent contractors, but treated as employees. They are provided company email addresses and business cards, and are encouraged to wear clothing bearing the company logo during product

demonstrations. Pursuant to Labor Code § 2699 et seq., Plaintiffs will seek to recover civil penalties on behalf of themselves, all other aggrieved employees, and the State of California for Defendants' willful and unlawful misclassification of their employees as independent contractors.

B. Failure to Pay All Commissions Owed

Labor Code § 221 provides, "It shall be unlawful for any employer to collect or receive from an employee any part of wages theretofore paid by said employer to said employee." Similarly, under Labor Code § 223, "[w]here any statute or contract requires an employer to maintain the designated wage scale, it shall be unlawful to secretly pay a lower wage while purporting to pay the wage designated by statute or by contract." The California Supreme Court has explained that Labor Code §§ 221 and 223 are "declarative of an underlying policy in the law which is opposed to fraud and deceit." *Sublett v. Henry's Turk & Taylor Lunch* (1942) 21 Cal.2d 273, 274.

Plaintiffs contend that although Defendants provided them and other employees with written bonus and commission agreements at various times throughout their employment, Defendants consistently fail to pay earned such wages in accordance with the agreements. As of the date of this letter, Plaintiffs have not been paid thousands of dollars in earned commissions. This is true despite the fact that they have both made numerous written and verbal requests for payment.

Defendants' fraudulent and deceitful conduct undoubtedly violates Labor Code §§ 221 and 223. Pursuant to Labor Code § 225.5, Plaintiffs will seek to recover civil penalties in the amount of \$100 per employee for each initial violation and \$200 per employee for each subsequent violation.

C. Failure to Provide Accurate, Itemized Wage Statements

Under Labor Code § 226(a), at the time of each payment of wages, an employer must provide its employees with accurate, itemized wage statements showing, among other things, the gross and net wages earned, the inclusive dates of the period for which the employee is paid, and the name and address of the legal entity that is the employer. Labor Code § 226.3 further states, "Any employer who violates subdivision (a) of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage deduction statement or fails to keep the records required in subdivision (a) of Section 226."

Here, Defendants do not provide their employees with wage statements that comply with Labor Code § 226. Indeed, although Plaintiffs received written reports allegedly showing the commissions they earned, the reports were typically provided a week or two after the commissions were paid. As such, Plaintiffs were unable to determine

whether they had been paid all of the wages they were owed. In addition, the reports failed to include, and Defendants failed to maintain, most of the information required under Labor Code § 226(a), including the gross and net wages earned, the dates of the pay period, and the name and address of the legal entity that is the employer.

Because Defendants knowingly and intentionally fail to provide accurate, itemized wage statements to their employees, Plaintiffs are entitled to seek, and will seek, civil penalties in the amount of \$250 per employee for the initial violation, and \$1,000 per employee for each subsequent violation pursuant to Labor Code § 226.3.

D. Failure to Reimburse Necessary Business Expenses

Section 2802 of the Labor Code provides that “an employer shall indemnify his or her employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer.” Under California law, employers have a duty of due diligence to determine whether or not employees have incurred expenses in the discharge of their duties, and to reimburse them for any necessary expenses. See *Stuart v. RadioShack* (N.D. Cal. 2009) 641 F.Supp.2d 901. The California Supreme Court has made it clear that the purpose of Labor Code § 2802 is “to prevent employers from passing their operating expenses on to their employees.” *Gattuso v. Harte-Hanks Shoppers, Inc.* (2007) 42 Cal.4th 554, 562.

Plaintiffs allege that Defendants routinely require employees to necessarily incur expenses in the discharge of their duties, but fail to reimburse them for such expenses. This includes expenses incurred in using their personal vehicles and cellphones for business purposes. Despite having full knowledge employees incur such expenses, as a matter of policy and practice, Defendants do not reimburse employees for any portion of the expenses they incur. See *Cochran v. Schwan's Home Service, Inc.* (2014) 228 Cal.App.4th 1137, 1140 (employees who are required to use their personal cell phones for work-related calls are entitled to be reimbursed for a reasonable percentage of their cell phone bills). This violates Labor Code § 2802.

If the Labor and Workforce Development Agency declines to investigate the violations alleged herein, Plaintiffs will seek civil penalties under Labor Code § 2699 et seq. on behalf of themselves, all other aggrieved employees, and the State of California.

E. Failure to Provide Paid Sick Leave

California law requires that an employer provide paid sick leave to all employees who have worked 30 or more calendar days within a year of their date of hire. More specifically, Labor Code § 246 (b)(1) states, in part, that “an employee shall accrue sick days at a rate of not less than one hour per every thirty (30) hours worked, beginning at the commencement of employment or operative date of this article,

whichever is later." An employer may satisfy the accrual requirements "by providing not less than 24 hours or three days of paid sick leave that is available to the employee to use by the completion of the employee's 120th calendar day of employment." *Id.*, subd. (b)(4). Employers are required to provide employees with "written notice that sets forth the amount of paid sick leave available . . . on either the employee's itemized wage statement described in [Labor Code §] 226 or in a separate writing provided on the designated pay date with the employee's payment of wages." Labor Code § 246, subd. (i). The Department of Labor Standards Enforcement has opined that an employer may meet its obligation to provide paid sick leave to employees compensated on a commission basis by paying either the regular rate of pay in the pay period the paid sick leave is taken or the average pay for the prior 90 days. See DLSE Opn. Letter No. 2016.10.11 (2016). Finally, Labor Code § 233(c) prohibits an employer from denying an employee the right to use paid sick leave for the "[d]iagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee's family member."

Here, in misclassifying their employees as independent contractors and not providing paid sick leave as required under Labor Code § 246, Defendants profit at the expense of their employees' health and the general public. Accordingly, Plaintiffs are entitled to seek, and will seek, civil penalties under Labor Code § 2699.5 for Defendants' unlawful conduct.

F. Failure to Timely Pay Wages

Labor Code § 204, "[a]ll wages . . . earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays." The term "wages" is defined to include "all amounts for labor performed by employees of every description, whether the amount is fixed or ascertained by the standard of time, task, piece, commission basis." Labor Code § 200, subd. (a).

Defendants' written commission agreement states, "commissions will be paid approximately seven (7) calendar days from end of each of the two following periods: 1) the period beginning on the first of the month and ending on the 15th of that month and, 2) the 16th of the month and ending on the last day of that month for all of Sales Representative's invoices which have been paid by the customer as of the end of each corresponding period." However, as explained above, Defendants routinely failed to pay Plaintiffs and other aggrieved employees all commissions owed to them within the time periods specified in the written commission agreement.<sup>2</sup> This violates Labor Code § 204 and entitles Plaintiffs to collect civil penalties under Labor Code § 210.

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<sup>2</sup> Defendants' commission agreement also states, "Any dispute or claim with respect to the entitlement and/or amount of commissions will be made in writing to company within 45 days from the end of the month for which commissions are claimed as to

F. Failure to Pay All Wages Owed Upon Termination

Under Labor Code § 201, "If an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately." Labor Code § 202 provides that where an employee quits, his or her wages are due within 72 hours, unless the employee has given at least 72 hours' notice, in which case wages are due at the time of quitting. Finally, pursuant to Labor Code § 203, "If an employer willfully fails to pay, without abatement or reduction . . . any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days."

In February 2022, Plaintiff Guffey terminated his employment with Defendants. However, as of the date of this correspondence, he has not been paid all of the wages owed to him, and on information and belief, alleges that Defendants willfully failed to pay him and other former employees all wages owed to them when their employment was terminated. As such, Defendants violated, and continue to violate, Labor Code §§ 201-203, and Plaintiffs are entitled to seek civil penalties on behalf of themselves, all other aggrieved employees, and the State of California.

G. Attorneys' Fees and Costs

In addition to civil penalties, the Act provides that "any employee who prevails in any action shall be entitled to an award of reasonable attorney's fees and costs." See Lab. Code § 2699(g)(1). Therefore, in the event that Plaintiffs are successful in a civil action against Defendants, they will seek an award of attorneys' fees and costs incurred in prosecuting this matter. See *id.*; see also Lab. Code §§ 218.5, 1194, 1193.6; Code Civ. Proc. § 1021.5.

I. Conclusion

Defendants deprived, and continue to deprive, Plaintiffs and other employees of their statutorily protected rights under the California Labor Code. Accordingly, Plaintiffs seeks to stop Defendants from engaging in such unlawful conduct and to provide a remedy for any and all Labor Code violations, including but not limited to violations of Labor Code §§ 201, 202, 203, 204, 221, 223, 226, 226.3, 226.8, 233, 246, 2699, 2775 and 2802.

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entitlement and/or amount. Failure to timely raise in writing any claim or dispute with respect to entitlement or amount will constitute total waiver by Contractor of any such commissions." This provision is patently unlawful. See Labor Code § 219, subd. (a) ("[N]o provision of this article can in any way be contravened or set aside by a private agreement, whether written, oral, or implied.").

In order to comply with the Act, Plaintiffs have placed Defendants ROKiT, Inc., ROKiT Drinks LLC, ROKiT Imports Inc., ROKiT Drinks Imports Inc., ROKiT Drinks Resources Inc. and ROKiT Distillery Inc. on notice by mailing a copy of this letter via certified mail to their agents for service of process. In addition, chief executive officer, Defendant Jonathan Kendrick, chief financial officer, Defendant Daniel Lewis, and global vice chairman, Defendant Dean Becker, who are managing agents and may be personally liable for the violations alleged herein under Labor Code § 558.1, will be provided a copy of this letter via certified mail.

We invite Defendants and their attorneys to contact our office to discuss this matter, including whether the parties can reach an early resolution of Plaintiffs claims.

Sincerely,

**CLARK LAW GROUP**

A handwritten signature in blue ink, appearing to read "R. Craig Clark", followed by a large checkmark or stylized flourish.

R. Craig Clark  
Alicja A. Urtnowski  
Dawn M. Berry

cc: ROKiT, Inc.  
Attn: Northwest Registered Agent, Inc.  
2108 N Street, Suite N  
Sacramento, CA 95816

ROKiT Drinks LLC  
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Sacramento, CA 95816

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