

February 10, 2025

VIA ONLINE SUBMISSION

Stewart Knox, Secretary
California Labor & Workforce
Development Agency
800 Capitol Mall, Suite 5000 (MIC-55)
Sacramento, CA 95814

VIA CERTIFIED MAIL

Personal Touch Dining, Inc.
Attn: Legal Department
9605 Kearny Villa Road
San Diego, CA 92126

**NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO CALIFORNIA LABOR CODE
SECTION 2698, ET SEQ.**

To: The California Labor and Workforce Development Agency; Personal Touch Dining, Inc.

From: Daniel Buitrago, on behalf of himself and all other current and former hourly nonexempt employees for violations of the California Labor Code

To Whom It May Concern:

Abramson Labor Group has been retained by former employee Daniel Buitrago (“Mr. Buitrago”) to seek compensation and all other available relief, including civil penalties on his behalf and on the behalf of all those similarly aggrieved (collectively with Mr. Buitrago, “Claimants”) who have been injured by Personal Touch Dining, Inc.’s (“Personal Touch Dining”) violations of the California Labor Code. Mr. Buitrago, on behalf of himself and all other similarly aggrieved current and former hourly nonexempt employees of Personal Touch Dining, intend to seek civil penalties, attorneys’ fees, costs, and other available relief for violations of the California Labor Code, which are recoverable under sections 2698, *et seq.* of the Labor Code Private Attorneys General Act of 2004 (“PAGA”).

Factual Statement:

Personal Touch Dining operates a full-service catering business that also offers a few event spaces in California. Personal Touch Dining caters weddings, corporate events, and private events and includes the provision of waitstaff and bartenders.

Claimant Mr. Buitrago worked for Personal Touch Dining from approximately March 22, 2024 to November 21, 2024 as an hourly, nonexempt employee in the positions of Bartender and Bar Operations Supervisor (earning \$23.00 per hour). Mr. Buitrago, on behalf of himself and all other similarly aggrieved current and former employees in California in various positions, are or were generally engaged in serving catered food and drinks, including alcoholic beverages, to attendees at customers' special events. As part of his employment with Personal Touch Dining, Mr. Buitrago and Claimant and other hourly, nonexempt employees, collectively, "hourly nonexempt employees," are or were assigned to and required to suffer and permitted to work without pay, while performing tasks collectively including, but not limited to, inventorying beverages; ordering needed items; running errands to stores to purchase items; unloading trucks with items for events; replacing equipment; separating products needed for events and setting up pallets; setting up and breaking down items for events at different venues; taking, sending, and reviewing photos of setups for events; making and serving guests drinks and food at events; and providing general assistance in the warehouse and kitchen.

Claimant Mr. Buitrago regularly worked 5-6 days per week for eight hours or more hours per day. During the entire course of his employment, Personal Touch Dining failed to provide Mr. Buitrago and continues to fail to provide those similarly aggrieved with some overtime pay and compliant meal periods and rest breaks. Personal Touch Dining has also failed to pay minimum wages to Mr. Buitrago and other hourly, nonexempt employees in violation of Labor Code sections 510, 1194, 1197, and 1182.12, and section 4 of IWC Wage Order No. 5-2001. As a consequence of failing to pay minimum wages, Personal Touch Dining has failed to comply with Labor Code sections 226.7, 510, and 512, and sections 3, 11, and 12 of all applicable Industrial Welfare Commission ("IWC") Wage Orders, including but not limited to, IWC Wage Order No. 5-2001. In violation of Labor Code sections 510, 1194, 1197, and 1182.12, Personal Touch Dining has failed to compensate Claimants at a rate of one and one-half (1.5) times their regular rate for all hours worked over eight (8) hours per workday and the first eight (8) hours worked on the seventh day of a workweek and at two (2) times their regular rate for hours worked over twelve (12) hours per workday and eight (8) hours on the seventh day of a workweek.

Personal Touch Dining has also failed and continues to fail to pay all wages owed every pay period in violation of Labor Code section 204. Likewise, Personal Touch Dining has failed and continues to fail to provide timely, accurate wage statements to Mr. Buitrago and other aggrieved persons in violation of Labor Code section 226(a). With regard to those no longer employed by Personal Touch Dining, including Mr. Buitrago, Personal Touch Dining violated Labor Code section 203 by failing to timely pay all wages due upon separation. Personal Touch Dining has failed and continues to fail to fully reimburse Claimants for all necessary, business-related expenses and losses they incurred, including, but not limited to, all costs incurred for the use of their personal bartending tools and cell phones, which were required to carry out their duties such as clocking in using the Nowsta smart phone application and for communicating during shifts, in violation of Labor Code section 2802. Mr. Buitrago is informed and believes that such violations are ongoing, systematic, and continuous. Mr. Buitrago intend to bring an action against Personal Touch Dining under the Private Attorneys General Act ("PAGA") to recover wages and penalties as provided by California law.¹

¹ Without limitation, Mr. Buitrago, if permitted, will seek any and all penalties otherwise capable of being collected by the Commission. This includes each provision as set forth in Labor Code section 2699.5 as follows:

The provisions of subdivision (a) of Section 2699.3 apply to any alleged violation of the following provisions: subdivision (k) of Section 96, Sections 98.6, 201, 201.3, 201.5, 201.7, 202, 203, 203.1, 203.5, 204, 204a, 204b, 204.1, 204.2, 205, 205.5, 206, 206.5, 208, 209, and 212, subdivision (d) of Section 213, Sections 221, 222, 222.5, 223, and 224, subdivision (a) of Section 226, Sections 226.7, 227, 227.3, 230, 230.1, 230.2, 230.3, 230A, 230.7, 230.8, and 231, subdivision (c) of Section 232, subdivision (c) of Section 232.5, Sections 233, 234, 351, 353,

Theories of Labor Code Violations and Remedies:

Claimant Mr. Buitrago was employed by Personal Touch Dining from approximately March 22, 2024 to November 21, 2024 as an hourly, nonexempt employee holding the positions of Bartender and Bar Operations Supervisor. For a period of at least four (4) years prior to February 2025, but for our purposes here, one (1) year prior, Personal Touch Dining has violated and continues to violate the California Labor Code sections as detailed below.

Claimants also were at all times entitled to payment of **minimum wages**. Personal Touch Dining has failed and continues to fail to pay Claimants minimum wages for all hours worked as required by Labor Code sections 510, 1194, and 1194.2 and sections 4 and 5 of IWC Wage Order No. 5-2001. First, Claimants worked while off-the-clock—meaning they were not punched in for work—and therefore, those working hours were not recorded and then compensated. This off-the-clock time primarily occurred (1) for training and onboarding; (2) responding to communications via text and phone calls not during shifts; and (3) time spent responding to interruptions during meal periods. Accordingly, Claimants were not paid for that time spent working off the clock. That is, Defendant implemented policies and enforced practices requiring Claimants to perform compensable work while clocked out, the effects of which Defendant could have mitigated by adjusting expectations and/or by adding more staff to reduce the expected daily workload. Personal Touch Dining instructed Claimants to continue working while clocked out during their meal periods, and as explained in the two paragraphs to follow, to skip meal periods late and rest breaks, even though Personal Touch Dining auto-deducted 30 minutes for meal periods. In effect, these policies and practices cause Claimants to have noncompliant meal periods and to remain on-duty during rest breaks, and therefore, constitute a failure on Personal Touch Dining's part to provide compliant rest breaks. With that, Personal Touch Dining's corresponding failure to provide premium pay at the correct regular rate, if any premiums were paid at all, in lieu of compliant meal periods and rest breaks constitutes Personal Touch Dining's failure to pay minimum wages and all hours worked every pay period and upon separation in violation of Labor Code sections 201, 202, 203, 204, 226(a), 510, 1182.12, 1194, and 1197. Second, Personal Touch Dining's failure to pay Claimants their meal period and rest break premiums for noncompliant meal periods and rest breaks, as explained in further detail below, also constitutes a failure to pay minimum wages to Claimants. For all of the foregoing reasons, Claimants are entitled to recover wages and/or penalties as provided by Labor Code section 1197.1 and section 20 of IWC Wage Order No. 5-2001.

Claimants were at all times entitled to unpaid off-duty, uninterrupted **meal periods**. As explained in the preceding paragraph, Personal Touch Dining failed to authorize and permit timely, full-length meal periods for Mr. Buitrago and all other similarly aggrieved employees as required by Labor Code sections 226.7 and 512 and section 11 of IWC Wage Order No. 5-2001. Mr. Buitrago and all similarly aggrieved persons were regularly unable to take their 30-minute meal periods or else were interrupted while off the clock, meaning they did not receive a full 30 minutes of off-duty meal periods. Nonetheless, Personal Touch Dining enforced a policy that auto-deducted 30 minutes for meal periods, ignoring the fact that Claimants did not clock out for a meal period nor the need that those meal periods need to be timely—taken

and 403, subdivision (b) of Section 404, Sections 432.2, 432.5, 432.7, 435, 450, 510, 511, 512, 513, 551, 552, 601, 602, 603, 604, 750, 751.8, 800, 850, 851, 851.5, 852, 921, 922, 923, 970, 973, 976, 1021, 1021.5, 1025, 1026, 1101, 1102, 1102.5, and 1153, subdivisions (c) and (d) of Section 1174, Sections 1194, 1197, 1197.1, 1197.5, and 1198, subdivision (b) of Section 1198.3, Sections 1199, 1199.5, 1290, 1292, 1293, 1293.1, 1294, 1294.1, 1294.5, 1296, 1297, 1298, 1301, 1308, 1308.1, 1308.7, 1309, 1309.5, 1391, 1391.1, 1391.2, 1392, 1683, and 1695, subdivision (a) of Section 1695.5, Sections 1695.55, 1695.6, 1695.7, 1695.8, 1695.9, 1696, 1696.5, 1696.6, 1697.1, 1700.25, 1700.26, 1700.31, 1700.32, 1700.40, and 1700.47, paragraphs (1), (2), and (3) of subdivision (a) of, and subdivision (e) of, Section 1701.4, subdivision (a) of Section 1701.5, Sections 1701.8, 1701.10, 1701.12, 1735, 1771, 1774, 1776, 1777.5, 1811, 1815, 2651., and 2673, subdivision (a) of Section 2673.1, Sections 2695.2, 2800, 2801, 2802, 2806, and 2810, subdivision (b) of Section 2929, and Sections 3095, 6310, 6311, and 6399.7.

before the end of the fifth hour. Despite that, Personal Touch Dining did not compensate Claimants with an extra hour of pay at the regular rate for noncompliant meal periods for each workday on which they occurred. In fact, Mr. Buitrago's final paycheck issued December 6, 2024 reveals that Personal Touch Dining failed to pay him a single meal period premium the entire year. Accordingly, since Personal Touch Dining required Mr. Buitrago and others similarly situated to forgo their meal periods or to be on duty during meal periods in violation of Labor Code sections 226.7(a) and 512, Claimants seek all available penalties as set forth in Labor Code sections 558, section 20 of IWC Wage Order No. 5-2001, and 2699(f).

Claimants were at all times entitled to take paid, off duty 10-minute **rest breaks**. Personal Touch Dining failed to authorize and permit Mr. Buitrago and all other similarly aggrieved employees to take full-length, off-duty rest breaks as required by Labor Code sections 226.7 and section 12 of IWC Wage Order No. 5-2001. Personal Touch Dining enforced a policy that did not permit Claimants to take any of their rest breaks because the event staff was staffed too thinly to permit bartenders and wait staff to was very take rest breaks. As such, Claimants were not able to take their requisite number of 10-minute rest breaks based on their shift duration; Claimants regularly worked through their rest breaks. Personal Touch Dining did not compensate Claimants with an extra hour of pay at the regular rate for noncompliant rest breaks for each workday on which they occurred. In fact, Mr. Buitrago's final paycheck issued December 6, 2024 reveals that Personal Touch Dining failed to pay him a single rest break premium the entire year. Therefore, Claimants are entitled to recover wages and/or penalties as provided by Labor Code section 558 and section 20 of IWC Wage Order No. 5-2001. Furthermore, since Personal Touch Dining required their hourly nonexempt employees to perform work during rest periods in violation of Labor Code section 226.7(b), Claimants seek all available penalties set forth in Labor Code sections 558 and 2699.

At all times relevant herein, Claimants were entitled to the payment of **overtime**. That is, pursuant to Labor Code sections 510, 1194, 1197, and 1182.12, Personal Touch Dining was required to compensate Claimants at a rate of one-and-one-half (1.5) times their regular rate for all hours worked over eight (8) hours per workday and the first eight (8) hours worked on the seventh day of a workweek and at two (2) times their regular rate for hours worked over 12 hours per workday and eight hours on the seventh day of a workweek. Mr. Buitrago occasionally worked and Claimants regularly worked overtime hours. Personal Touch Dining has failed to and continues to fail to pay Claimants overtime wages owed for off-the-clock time worked that should have been compensated as overtime, yet regularly required them to work these overtime hours without premium pay under Labor Code section 1194. In short, during the entire course of their employment, Personal Touch Dining failed to provide Mr. Buitrago and continues to fail to provide all others similarly situated with all overtime pay in violation of 226.7, 510, and 512 and all applicable IWC Wage Orders, including but not limited to IWC Wage Order 5-2001, section 3.

Pursuant to Labor Code sections 201–203, Claimants who have since separated from Personal Touch Dining, including Mr. Buitrago, were entitled to be paid all **wages owed upon separation** within the statutorily allotted time—immediately (resignation with notice and termination) or within 72 hours (resignation without notice). Claimants, including Mr. Buitrago, did not receive his final pay of all wages within the requisite time based Personal Touch Dining's prior failings to pay all wages owed every pay period, including but not limited to minimum and overtime wages, all meal and rest premiums owed, and all gratuities customers paid, as explained above.

Claimants were at all times entitled to be provided timely and accurate **wage statements** from Personal Touch Dining pursuant to Labor Code section 226. First, Mr. Buitrago's wage statements read "Personal Touch Dining Inc" and, as such, do not reflect the correct legal name of the employer—Personal Touch Dining, Inc.—because his paystubs are missing the comma. Second, because Personal Touch Dining failed to pay Claimants all of their meal period and rest break premiums for noncompliant meal periods and rest breaks and failed to pay Claimants minimum wages for all hours worked before, during, and after their shifts and for all overtime wages due, Claimants' wage statements were inaccurate in reflecting meal period and rest break premiums owed, overtime and minimum wages, and all hours worked every pay period. As

a consequence, Claimants' wage statements also do not reflect the accurate amount of net and gross wages owed. Accordingly, Claimants seek all available penalties as set forth in Labor Code sections 226(e) and 2699.

Finally, Claimants were entitled to be reimbursed by Personal Touch Dining for all necessary, **business-related expenses** they incurred in executing their duties for Personal Touch Dining. California Labor Code section 2802 provides that "An employer shall indemnify his or his employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or his duties, or of his or his obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful." Personal Touch Dining, however, has failed to fully reimburse Mr. Buitrago and Claimants for all necessary, business-related expenses and losses they incurred, including, but not limited to, all costs incurred for the use of Claimants' (1) personal cell phones, which were required to carry out their duties such as clocking in using the Nowsta smart phone application, taking and sending pictures of setups, and for communicating during shifts and (2) bartending tools (jiggers, shakers, strainers, and peelers, knives, and wine openers). Accordingly, Claimants are entitled to recover their unreimbursed expenditures and losses pursuant to Labor Code section 2802.

Personal Touch Dining's uniform failure to pay overtime and minimum wages, failure to authorize and permit full-length, off-duty rest breaks and meal periods or pay Claimants adequate premium compensation in lieu thereof, failure to reimburse all necessary, business-related expenses, failure to furnish timely and accurate wage statements, and failure to timely pay all wages upon separation violate Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512, 1182.12, 1194, 1197, and 2802, and as such, penalties are recoverable as set forth in Labor Code sections 210, 1194, *et seq.*, and 2699.

Claimants are entitled to recover unpaid wages, with interest, and are entitled to an award of attorneys' fees as permitted by Labor Code section 1194, other penalties as permitted by Labor Code sections 210 and 2699, and waiting time penalties for former employees pursuant to Labor Code section 203.

Accordingly, Claimants seek the remedies set forth in the above-referenced Labor Code sections for themselves, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 2699(a), 2699.3(a), 2699.3(c), and 2699.5, Mr. Buitrago, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for themselves, all other aggrieved employees, and the State of California against Personal Touch Dining for violations of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, and 2802.

Should you require any additional information, please feel free to contact me.

Sincerely,

ABRAMSON LABOR GROUP

A handwritten signature in black ink that reads "Cheryl Kenner". The signature is written in a cursive, flowing style.

Cheryl A. Kenner