HAINES LAW GROUP
EMPLOYMENT ATTORNEYS

March 26, 2025

VIA LWDA WEBSITE

Labor and Workforce Development Agency
Attn. PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612

Re: *Cameron Smith vs. Regal III, LLC, et al.*

To Whom It May Concern:

Please be advised that this law firm represents Mr. Cameron Smith ("Mr. Smith") in claims arising from his employment with Regal III, LLC, a California Limited Liability Company, Jackson Family Enterprises, Inc., a Delaware Corporation, and DOES 1 through 100, inclusive ("Defendants"). Mr. Smith is an "aggrieved employee" within the meaning of Labor Code section 2699.3 as to all of the violations alleged herein. For purposes of this letter, "aggrieved employees" includes all of Defendants' employees who worked for Defendants in California during the one year immediately preceding the date of this letter through the present.

Defendants operate a wine distribution company. Defendants employed Mr. Smith as a non-exempt Account Sales Executive beginning on or about January 18, 2024. Mr. Smith's primary job responsibilities included assisting grocery stores, drug stores, and large retailers with placing wine orders and building wine displays. Mr. Smith typically traveled to approximately 8 to 12 stores per day to perform these duties. Unless otherwise specified, all allegations set forth herein occurred during Mr. Smith's employment with Defendants.

Defendants utilized a timekeeping system that resulted in Mr. Smith and other aggrieved employees not being compensated for all hours worked, whether due to rounding, time-shaving, or otherwise. Mr. Smith and other aggrieved employees were required to download an app to their personal cell phones to clock in and out of shifts, including meal periods. Upon information and belief, this time was captured to the minute. However, Defendants rounded employee hours in a manner that, over time, deprived employees of all wages. *See* Camp v. Home Depot U.S.A., Inc. (2022) 84 Cal.App.5th 638, 654 ("[I]f an employer, as in this case, can capture and has captured the exact amount of time an employee has worked during a shift, the employer must pay the employee for "all the time" worked."). On occasions when Mr. Smith and other aggrieved employees worked in excess of eight hours per day or forty hours per week, this rounding and time-shaving also resulted in unpaid overtime.

Defendants paid Mr. Smith and other aggrieved employees non-discretionary bonuses, commissions, incentive pay, and other forms of compensation not excludable from the "regular rate" of pay, including amounts labeled as "BONUS" on wage statements (collectively, "Incentive Pay"). However, Defendants failed to include the value of this Incentive Pay when calculating the overtime rate of pay for Mr. Smith and other aggrieved employees, resulting in underpaid overtime wages.

Defendants failed to provide Mr. Smith and other aggrieved employees with legally compliant meal periods due to unlawful policies and practices that resulted in late (commencing after the fifth hour), short (less than 30 minutes), and missed meal periods. Upon information and belief during at least a portion of the relevant time period, Defendants automatically deducted 30 minutes from employees hours worked to account for a meal period, regardless of whether a compliant meal was provided. Mr. Smith and other aggrieved employees were frequently interrupted during meal periods by calls from supervisors regarding account status or scheduling, and were often required to delay meal periods until well after the fifth hour due to strict schedules imposed by Defendants. To maintain the schedule, Mr. Smith was often forced to eat lunch while driving to the next location. Defendants also failed to provide second meal periods, despite Mr. Smith and other aggrieved employees regularly working shifts in excess of 10 hours. Despite these violations, Defendants failed to pay an additional hour of premium pay at the regular rate for each instance, as required by Labor Code § 226.7.

Defendants failed to authorize and permit Smith and other aggrieved employees to take all required rest periods due to unlawful policies and practices that did not provide a net 10-minute duty-free rest period for every four hours worked or major fraction thereof. Rest periods were not scheduled throughout the workday, and as a result, Mr. Smith and other aggrieved employees rarely had time to stop work and take an uninterrupted 10-minute break. As with meal periods, Mr. Smith and other aggrieved employees were regularly interrupted during rest periods, to the extent any were authorized. Despite these violations, Defendants failed to pay an additional hour of premium pay at the regular rate for each instance, as required by Labor Code § 226.7.

Defendants failed to pay Mr. Smith and other aggrieved employees all sick pay wages owed. Upon information and belief, Defendants paid sick pay at the employees' base rate of pay rather than their regular rate of pay. Because Mr. Smith and other aggrieved employees received non-discretionary Incentive Pay, they were underpaid sick pay in each instance that Incentive Pay was earned during the same pay period. Under California law, sick pay must be paid at the regular rate of pay, which includes all non-discretionary compensation. *See* Labor Code § 246(l)(1) ("Paid sick time for nonexempt employees shall be calculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek.")

Defendants failed to reimburse Mr. Smith and other aggrieved employees for the use of their personal cellular phones for necessary work-related activities. As described above, Defendants required Mr. Smith and other aggrieved employees to communicate with supervisors regarding work matters using their personal phones throughout the workday. *See Cochran v. Schwan's Home Service, Inc.* (2014) 228 Cal.App.4th 1137, 1144-1145 ("[I]f an employee is required to make work-related calls on a personal cell phone, then he or she is incurring expenses for purposes of Labor Code § 2802. It does not matter whether the phone bill is paid by a third person, or at all… To show liability under Section 2802, an employee need only show that he or she was required to use a personal cell phone to make work-related calls, and he or she was not reimbursed."). However, Defendants failed to reimburse Mr. Smith and other aggrieved employees for a reasonable portion of their monthly phone bills despite mandating such business use.

As a result of Defendants' failure to pay all minimum wages, overtime wages, sick pay wages, and meal and rest period premium wages owed, Defendants maintained inaccurate payroll records and issued inaccurate wage statements to Mr. Smith and other aggrieved employees.

As described above, Defendants committed the following violations of the Labor Code and Industrial Welfare Commission Wage Order No. 7 ("Wage Order 7"):

<u>Minimum Wage Violations</u>

Wage Order 7, § 4 and California Labor Code §§ 1197 and 1182.12 establish the right of employees to be paid minimum wages for all hours worked, in amounts set by state law. Labor Code §§ 1194(a) and 1194.2(a) provide that an employee who has not been paid the legal minimum wage as required by Labor Code § 1197 may recover the unpaid balance together with attorneys' fees and costs of suit, as well as liquidated damages in an amount equal to the unpaid wages and interest accrued thereon. Defendants failed to conform their pay practices to the requirements of the law by failing to pay Mr. Smith and other aggrieved employees for all hours worked including, but not limited to, all hours they were subject to the control of Defendants and/or suffered or permitted to work under the California Labor Code and Wage Order 7.

<u>Overtime Wage Violations</u>

Defendants were required to properly pay Mr. Smith and other aggrieved employees for all overtime hours worked pursuant to California Labor Code § 1194 and Wage Order 7. Wage Order 7, § 3 requires an employer to pay an employee "one and one-half (1½) times the employee's regular rate of pay for all hours worked in excess of eight (8) hours" per workday and/or in excess of 40 hours of work in the workweek. Wage Order 7, § 3 also requires an employer to pay an employee double the employee's regular rate of pay for work in excess of twelve hours each workday and/or for work in excess of eight hours on the seventh consecutive day of work in the workweek. Defendants caused Mr. Smith and other aggrieved employees to work overtime hours but did not compensate Mr.

Smith or other aggrieved employees at one and one-half times their regular rate of pay for all such hours.

Meal Period Violations

As alleged above, Defendants failed to provide Mr. Smith and other aggrieved employees with all required and compliant meal periods. *See* Labor Code §§ 226.7 and 512; Wage Order 7, § 11. As a result, Mr. Smith and other aggrieved employees are owed an additional hour of wages at their regular rate of compensation for each workday they experienced a meal period violation. *See* Labor Code § 226.7 ("If an employer fails to provide an employee a meal or rest or recovery period in accordance with … [an] order of the Industrial Welfare Commission … the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided.").

Rest Period Violations

As described above, Defendants also failed to authorize and permit Mr. Smith and other aggrieved employees to take all required and compliant rest periods. *See* Labor Code §§ 226.7, 516, and 558; Wage Order 7, § 12. As a result, Mr. Smith and other aggrieved employees are owed an additional hour of wages at their regular rate of compensation for each workday that all rest periods were not authorized and permitted. See Labor Code § 226.7.

Failure to Reimburse Necessary Business Expenses

Defendants failed to indemnify Mr. Smith and other aggrieved employees for all necessary business expenses incurred, including, among other things, for the use of their personal cellular phones. As a proximate result of Defendants' policies and/or practices in violation of Labor Code §§ 2802 and 2804, Mr. Smith and other aggrieved employees are entitled to damages, attorneys' fees and costs of suit, and interest thereon, in sums to be shown according to proof at trial, pursuant to Labor Code § 2802.

Sick Time Pay Violations

Defendants were required to properly pay Mr. Smith and other aggrieved employees for all vested sick time at their regular rate of compensation pursuant to Labor Code § 246. Defendants compensated Mr. Smith other aggrieved employees at their base rate of pay but did not compensate Mr. Smith or other aggrieved employees at their regular rate of pay for all such hours.

Wage Statement Penalties

Defendants knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Mr. Smith and other aggrieved employees with complete and accurate wage statements with respect to gross wages earned, total hours worked, net wages earned, all applicable hourly rates in effect during the pay period, the corresponding number of hours worked at each hourly rate by the employee, and the correct name of the employer, in violation of Labor Code § 226 *et seq*. Defendants' failures in furnishing Mr. Smith and other aggrieved employees with complete and accurate itemized wage statements resulted in actual injury, as said failures led to, among other things, the non-payment of all overtime and minimum wages as well as meal and rest period premium wages and deprived them of the information necessary to identify the discrepancies in Defendants' reported data and whether they have been paid all wages earned.

As an "aggrieved employee", Mr. Smith will initiate a civil action on behalf of himself and other aggrieved employees to recover damages, statutory penalties, and civil penalties resulting from the wage and hour violations alleged herein. Based on Mr. Smith' own investigation, and on information and belief, Defendants committed and continue to commit the following Labor Code violations:

a. Failing to pay Mr. Smith and other aggrieved employees the statutory minimum wage for all hours worked in violation of Labor Code §§ 558, 1182.12, 1194, 1194.2, and 1197;

b. Failing to pay Mr. Smith and other aggrieved employees all earned overtime compensation in violation of Labor Code §§ 204, 510, 558, 1194, and 1198;

c. Failing to provide Mr. Smith and other aggrieved employees all legally required meal periods, and failure to pay meal period premium wages to Mr. Smith and other aggrieved employees at their regular rate of pay, in violation of Labor Code §§ 226.7, 512, and 558;

d. Failing to authorize and permit Mr. Smith and other aggrieved employees to take all lawful rest periods to which they are entitled, and failing to pay rest period premium wages to Mr. Smith and other aggrieved employees at their regular rate of pay, in violation of Labor Code §§ 226.7, 516, and 558;

e. Failing to reimburse Mr. Smith and other aggrieved employees for all work-related expenses incurred in violation of Labor Code §§ 2802 and 2804;

f. Defendants violated Labor Code § 246 by failing to pay Mr. Smith and other aggrieved employees sick time pay at their regular rate of compensation;

g. Failing to furnish Mr. Smith and other aggrieved employees with complete, accurate, itemized wage statements, in violation of Labor Code § 226;

h. Failing to maintain accurate records on behalf of Mr. Smith and other aggrieved employees, in violation of Labor Code §§ 558 and 1174.

i. Failing to pay Mr. Smith and other aggrieved employees all earned wages at least twice during each calendar month, in violation of Labor Code § 204; and

Pursuant to Labor Code § 2699.3, please notify us and Defendants if the LWDA intends to investigate these alleged violations of the Labor Code. Please contact me should you require additional information.

Very truly yours,
HAINES LAW GROUP, APC

Andrew J. Rowbotham, Esq.

cc: Regal III, LLC, c/o CSC – Lawyers Incorporating Service, Agent for Service of Process, 2710 Gateway Oaks Dr., Ste. 150N, Sacramento, CA 95833 (via certified mail)
Jackson Family Enterprises, Inc., c/o CSC – Lawyers Incorporating Service, Agent for Service of Process, 2710 Gateway Oaks Dr., Ste. 150N, Sacramento, CA 95833 (via certified mail)