GRAHAM**HOLLIS** APC
Hali M. Anderson (SBN 261816)
handerson@grahamhollis.com
Allison E. Schubert (SBN 339991)
aschubert@grahamhollis.com
3555 Fifth Avenue, Suite 200
San Diego, California 92103
Telephone: 619.692.0800
Facsimile: 619.692.0822

Attorneys for Plaintiff Tanya Blackmon

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ORANGE

TANYA BLACKMON, as an individual on behalf of herself and all other similarly situated and/or aggrieved employees of Defendants,

Plaintiff,

v.

FRANSON FAMILY WINERY LLC, a California limited liability company; and DOES 1 through 50, inclusive,

Defendants.

Case No.: 30-2025-01484972-CU-OE-CXC

<u>CLASS AND PAGA ACTION</u>

FIRST AMENDED COMPLAINT FOR DAMAGES, PENALTIES, RESTITUTION AND INJUNCTIVE RELIEF:

1. Failure to Provide Compliant Meal Periods and/or Pay Premium Wages (Labor Code §§ 226.7, 512, and 1198);

2. Failure to Authorize or Permit Compliant Rest Periods and/or Pay Premium Wages (Labor Code §§ 226.7 and 1198);

3. Failure to Pay All Minimum and/or Regular Wages (Labor Code §§ 1194, 1194.2, 1197, 1197.1, and 1198);

4. Failure to Pay All Overtime Wages (Labor Code §§ 510, 1194, and 1198);

5. Failure to Pay Reporting Time Pay (Labor Code §§ 1194, 1194.2, 1197, 1197.1, and 1198);

6. Conversion;

/ / /

7. Failure to Timely Pay All Wages Due and Owing Upon Separation of Employment and/or the Required Waiting Time Penalties (Labor Code §§ 201-203);

8. Failure to Furnish Accurate Itemized Wage Statements (Labor Code § 226);

9. Failure to Reimburse for Necessary Business Expenses (Labor Code § 2802);

10. Failure to Provide Employment and Personnel Records Upon Request (Labor Code §§ 226(c), 226(f), and 1198.5);

11. Violation of California's Unfair Competition Law (Business & Professions Code §§ 17200, *et seq.*); and

12. Claims for Civil Penalties Under the Private Attorneys General Act ("PAGA") (Labor Code §§ 2698, *et seq.*)

DEMAND FOR JURY TRIAL

GRAHAMHOLLIS APC
3555 FIFTH AVENUE SUITE 200
SAN DIEGO, CALIFORNIA 92103

Plaintiff Tanya Blackmon ("Plaintiff") brings this class and representative action on behalf of herself and all persons similarly situated against Defendant Franson Family Winery LLC, and DOES 1 through 50, inclusive (collectively, "Defendants"), on the following grounds:

INTRODUCTION

1. This class action is brought by Plaintiff on behalf of herself and all other current and former non-exempt employees of Defendants in California during the relevant period ("similarly situated employees").

2. Plaintiff brings this representative enforcement action under the Private Attorneys General Act of 2004 (codified in California Labor Code §§ 2698 *et seq.*, "PAGA") on behalf of herself and all other current and former non-exempt employees of Defendants who performed work in California and who have suffered at least one of the Labor Code violations alleged herein during the relevant time period (referred to herein as "Aggrieved Employees").

3. Plaintiff asserts that during the relevant time period, Defendants engaged in a common pattern and practice of wage and hour violations under the California Labor Code ("Labor Code") and the applicable California Industrial Welfare Commission's ("IWC") Wage Order to decrease their employment-related costs and increase their profits by, among other things:

a. Failing to provide the opportunity to take legally compliant meal periods and/or pay premium wages;

b. Failing to authorize and permit legally compliant rest periods and/or pay premium wages;

c. Failing to compensate for all hours actually worked, including minimum, regular, overtime, and/or reporting time wages;

d. Failing to pay all earned gratuities;

e. Failing to provide a written commission plan;

f. Failing to timely pay all wages due and owing upon separation of employment and/or the required waiting time penalties;

g. Failing to furnish accurate itemized wage statements;

h. Failing to maintain accurate employment records;

i. Failing to reimburse for necessary business expenses;

j. Failing to provide employment and personnel records upon request; and

k. Engaging in unlawful, unfair and/or fraudulent business practices.

4. By and through this class and representative action, Plaintiff seeks to recover all available remedies, including, but not limited to, damages, penalties, restitution, and injunctive relief, as well as reasonable attorneys' fees and litigation costs, as provided under California law.

5. All allegations in this First Amended Complaint are based upon information and belief except those allegations that pertain to Plaintiff named herein, which are based upon personal knowledge. Each allegation in this First Amended Complaint has evidentiary support or is likely to have evidentiary support after reasonable opportunity for further investigation and formal discovery.

GRAHAMHOLLIS APC
3555 FIFTH AVENUE SUITE 200
SAN DIEGO, CALIFORNIA 92103

JURISDICTION AND VENUE

6. This Court has jurisdiction over this action pursuant to California Code of Civil Procedure ("Code of Civil Procedure") § 410.10. Pursuant to Code of Civil Procedure § 382 and California Business and Professions Code ("Business & Professions Code") § 17203, Plaintiff brings this action on behalf of herself and all other current and former similarly situated employees.

7. This Court has personal jurisdiction over Defendants because Defendants conduct business in the state of California and have caused injuries in the county of Orange through their acts, omissions, and violations of the Labor Code and Business & Professions Code.

8. Venue as to Defendants is proper in this judicial district pursuant to Code of Civil Procedure § 395(a). Defendants transact business in Orange County and are otherwise in this Court's jurisdiction for purposes of service of process. The unlawful acts alleged herein have a direct effect on Plaintiff and all other similarly situated employees within the county of Orange and throughout the state of California.

9. Pursuant to rule 3.400 of the California Rules of Court, this case shall be deemed a complex action because it is filed as a class action that involves specialized case management, extensive discovery and evidence, difficult and/or novel issues, and is likely to require extensive post-judgment supervision.

THE PARTIES

I. PLAINTIFF

10. Plaintiff Tanya Blackmon at all material times mentioned herein:

a. Was and is a resident of Orange County in the state of California;

b. Was employed by Defendants from approximately October 2022 to December 21, 2024 as a server and lead server;

c. Performed work at Defendants' Rancho Capistrano Winery in Ladera Ranch;

d. Was classified as a non-exempt employee;

e. Earned an hourly wage plus tips;

f. Was to be paid on a bi-weekly basis;

GRAHAMHOLLIS APC
3555 FIFTH AVENUE SUITE 200
SAN DIEGO, CALIFORNIA 92103

GRAHAMHOLLIS APC
3555 FIFTH AVENUE SUITE 200
SAN DIEGO, CALIFORNIA 92103

g. Typically worked three days a week during shifts that were five or more hours in length, and occasionally worked overtime hours;

h. Was scheduled to work split shifts;

i. Was not provided with the opportunity to take legally compliant meal periods and/or paid all meal period premium wages owed to her;

j. Was not authorized and permitted to take legally compliant rest periods and/or paid any rest period premium wages owed to her;

k. Was not compensated all minimum, regular, overtime, and/or reporting time wages for all time worked or spent under the control of Defendants;

l. Was not paid all gratuities owed to her;

m. Was not provided a written commission plan;

n. Was not timely paid all wages due and owing upon separation of employment;

o. Was not paid the required waiting time penalties for late payment of final wages;

p. Was not furnished with accurate itemized wage statements;

q. Contends her employment records, including her time and payroll records, were not accurate;

r. Was required by Defendants to use her personal cell phone to communicate with her supervisor and co-workers regarding scheduling changes and other work issues;

s. Was not reimbursed for all necessary business expenses;

t. Was not provided her personnel file, payroll records, and other employment records upon written request to Defendants;

u. Was subject to Defendants' unlawful, unfair, and fraudulent business practices;

v. Is a member of the class and sub-class defined herein;

w. Is an "aggrieved employee" as defined by the Labor Code § 2699(c); and

x. Has complied with all requirements outlined in Labor Code §§ 2698, *et seq.*

II. DEFENDANTS

11. Defendant Franson Family Winery LLC is a California limited liability company with its principal place of business located in Laguna Niguel, California. Defendant Franson Family Winery LLC owns and operates Rancho Capistrano Winery, a winery and restaurant with three locations in San Juan Capistrano, San Clemente, and Ladera Ranch.

12. The true names and capacities, whether individual, corporate, subsidiary, partnership, associate, or otherwise of defendant Does 1 through 50, inclusive, are unknown to Plaintiff, who therefore sues these defendants by such fictitious names pursuant to Code of Civil Procedure § 474. Plaintiff will amend this First Amended Complaint, setting forth the true names and capacities of these fictitiously named defendants when their true names are ascertained. Plaintiff is informed and believes, and on that basis alleges, that each of the fictitious defendants has participated in the acts and/or omissions alleged in this First Amended Complaint.

13. At all times mentioned herein, the acts alleged to have been done and/or caused by the named defendant are also alleged to have been done and/or caused by the fictitiously named defendants, and by each of their agents and/or employees who acted within the scope of their agency and/or employment.

14. At all times mentioned herein, each named defendant, including each fictitiously named defendant, is believed to have acted individually or as an officer, agent, or employee of the other defendants, including each fictitiously named defendant.

15. At all times mentioned herein, each named defendant, including each fictitiously named defendant, acted as an agent, servant, employee, co-conspirator, alter-ego and/or joint venture of the other defendants, and in doing the things alleged herein, acted within the course and scope of such agency, employment, alter-ego and/or in furtherance of the joint venture.

16. At all times mentioned herein, the acts and/or omissions of each of the named defendants, including each fictitiously named defendant, concurrently contributed to the various acts and/or omissions of each and every one of the other defendants, including each fictitiously named defendant, in proximately causing the wrongful conduct, harm, and/or damages alleged

GRAHAMHOLLIS APC
3555 FIFTH AVENUE SUITE 200
SAN DIEGO, CALIFORNIA 92103

herein. Each of the named defendants, including each fictitiously named defendant, approved of, condoned, and/or otherwise ratified each and every one of the acts and/or omissions complained herein. Each named defendant, including each fictitiously named defendant, was and is acting with authority of each and every other defendant and/or are acting as agents of each and every other defendant or Doe defendant.

17. At all times mentioned herein there was a unity of interest and ownership between each named defendant, including each fictitiously named defendant, such that all defendants, including each fictitiously named defendant, acted as a single employer of Plaintiff and all other similarly situated employees.

18. At all times mentioned herein, each named defendant, including each fictitiously named defendant, exercised supervision and control over the wages, hours, and/or working conditions of Plaintiff and all other similarly situated employees, including, but not limited to, implementing standard policies and procedures.

19. At all times mentioned herein, each named defendant, including each fictitiously named defendant, caused and/or prevented Plaintiff and other similarly situated employees from working.

20. At all times mentioned herein, each named defendant, including each fictitiously named defendant, had control over Plaintiff and other similarly situated employees.

21. Each named defendant, including each fictitiously named defendant, is alleged to have caused each of the violations alleged herein.

22. Each named defendant, including each fictitiously named defendant, is jointly and severally liable for each of the violations alleged herein.

FACTUAL ALLEGATIONS

23. Plaintiff realleges and incorporates by reference, as though fully set forth herein, all paragraphs of this First Amended Complaint.

24. Plaintiff worked for Defendants from approximately October 2022 to December 21, 2024 at Defendants' Rancho Capistrano Winery located in Ladera Ranch, California. From October 2022 to January 2024, Plaintiff worked as a server and was responsible

GRAHAMHOLLIS APC
3555 FIFTH AVENUE SUITE 200
SAN DIEGO, CALIFORNIA 92103

for opening and closing the bar, setting up tables, cleaning, taking orders, closing out checks, selling monthly wine club memberships, and providing customer service. As a server, Plaintiff typically worked the mid-to-closing shift three (3) days per week from about 4:00 p.m. to 9:00 or 10:00 p.m. She was compensated $16.00 per hour as a server.

25. In or around January 2024, Plaintiff began working as a lead server for many of her shifts. Plaintiff's job duties remained the same as the duties she performed as server, except that she also coordinated with Kelly, the winery's General Manager, about upcoming events; called employees to let them know that Kelly had taken them off the schedule; authorized discounts; distributed tips at the end of the shift; and ordered wine. As a lead server, Plaintiff typically worked the opening shift until one (1) to two (2) hours after closing, three days per week. She was compensated $18.00 per hour as a lead server.

26. At all relevant times, Plaintiff and other similarly situated employees were classified as non-exempt employees, earned an hourly wage plus tips, and were paid on a bi-weekly basis.

27. Throughout the relevant time period, Plaintiff and similarly situated employees regularly worked more than five (5) hours per day and occasionally worked overtime hours.

28. Plaintiff and all other similarly situated employees were subject to, and those currently employed continue to be subject to, the same and/or similar policies, practices, procedures, guidelines, and/or culture described herein.

29. Plaintiff and all other similarly situated employees have suffered, and those currently employed will continue to suffer, the same and/or similar violations of law described herein.

30. During the relevant time period, Defendants had a policy, practice, procedure, guideline, and/or culture of failing to provide Plaintiff and similarly situated employees with the opportunity to take thirty (30) minute, off-duty, uninterrupted meal periods before the end of their fifth (5^{th}) hour of work when they worked five (5) or more hours in a day. Plaintiff and other similarly situated employees were not provided with relief to take their meal periods due to insufficient staffing and coverage. Specifically, Defendants did not maintain a practice of scheduling non-exempt employees such that they would be relieved of their work duties to take

GRAHAMHOLLIS APC
3555 FIFTH AVENUE SUITE 200
SAN DIEGO, CALIFORNIA 92103

GRAHAMHOLLIS APC
3555 FIFTH AVENUE SUITE 200
SAN DIEGO, CALIFORNIA 92103

compliant meal periods. As a result, Plaintiff and other similarly situated employees frequently worked through their meal periods, took late meal periods, or received meal periods interrupted by work duties in order to perform their job duties with a skeleton crew. When Plaintiff complained to her General Manager, Kelly, about the inability to take her meal periods, Plaintiff was told “to find the right time to take a step away,” yet this time was never available to her due to the lack of staff available to meet the needs of the winery and its customers.

31. Defendants knew or should have known that Plaintiff and other similarly situated employees were not provided with the opportunity to take legally compliant meal periods because Defendants did not schedule Plaintiff and other similarly situated employees so that they could be relieved from their work duties to take their meal periods. Defendants further understaffed their wineries and required Plaintiff and other similarly situated employees to prioritize customers' needs over taking lawful meal periods.

32. Moreover, Plaintiff and other similarly situated employees complained to their supervisors that they were forced to take untimely, short, or interrupted meal periods or to miss their meal periods altogether. Rather than addressing these complaints, Defendants maintained a policy and practice of adding meal period times to shifts where no meal period was recorded to conceal meal period violations and avoid paying meal period premiums. Specifically, Plaintiff's time records reflect that her time entries were falsified by the General Manager to reflect a meal period was taken on shifts where she was forced to work through her meal periods.

33. Plaintiff and, on information and belief, other similarly situated employees did not sign a valid on-duty meal period agreement at any point during their employment, nor did they properly waive any of their meal periods.

34. At all material times, Defendants did not have a policy, practice, procedure, guideline, and/or culture of paying meal period premiums to Plaintiff and other similarly situated employees at their regular rate of pay for each workday a lawful meal period was not provided. For instance, Plaintiff was not paid a meal period premium for every shift in which she received a non-compliant meal period. Any meal period premiums paid by Defendants were not paid at the proper regular rate of pay because Defendants did not factor in non-discretionary wages, including

commissions paid for selling monthly wine memberships, into the regular rate of pay when calculating meal period premiums.

35. During the applicable time period, Defendants had a policy, practice, procedure, guideline, and/or culture of failing to authorize and permit Plaintiff and other similarly situated employees to take uninterrupted, off-duty rest periods of at least ten (10) minutes for every four (4) hours worked or major fraction thereof. Plaintiff and other similarly situated employees were rarely, if ever, permitted to take a 10-minute rest period because there was no coverage or relief available and they were required to prioritize customer needs over taking rest periods. Defendants did not maintain a practice of scheduling non-exempt employees such that they would be relieved of their work duties to take rest periods. Moreover, Defendants did not inform Plaintiff and other similarly situated employees of their right to take 10-minute, off-duty, uninterrupted rest periods for every four hours worked or major fraction thereof.

36. Defendants knew or should have known that Plaintiff and other similarly situated employees were not authorized and permitted to take lawful rest periods because Defendants did not schedule Plaintiff and other similarly situated employees so that they could be relieved from their work duties to take their rest periods. Defendants further understaffed their wineries and required Plaintiff and other similarly situated employees to prioritize customers' needs over taking lawful rest periods.

37. Throughout the relevant time period, Defendants had a policy, practice, procedure, guideline, and/or culture of not paying Plaintiff and other similarly situated employees one additional hour of pay at their regular rate of compensation for each workday a lawful rest period was not provided. Plaintiff asserts that she was not paid a single rest period premium during her employment with Defendants.

38. During the relevant time period, Defendants had a policy, practice, procedure, guideline, and/or culture of failing to pay Plaintiff and similarly situated employees all minimum, regular, and/or overtime wages for all hours worked or spent under the control of Defendants.

39. Plaintiff and, on information and belief, other similarly situated employees were not paid all minimum and/or regular wages earned for all hours worked as a result of Defendants'

GRAHAMHOLLIS APC
3555 FIFTH AVENUE SUITE 200
SAN DIEGO, CALIFORNIA 92103

policy and practice of falsifying employees' time records to add in meal period time entries for shifts in which they were not able to take their meal periods, resulting in the deduction of hours worked.

40. Plaintiff and other similarly situated employees were not paid split shift premiums in the amount of one hour at state or local minimum wage, whichever is higher, for every workday in which the employees were scheduled to work two (2) shifts interrupted by non-paid and non-working time periods established by Defendants. For instance, on several workdays, Plaintiff worked a shift early in the morning and returned to work that same day for a shift in the evening; the break between shifts exceeded that of a meal period and was for Defendants' benefit. Nonetheless, Plaintiff was not paid a split shift premium for those workdays.

41. Further, Plaintiff and other similarly situated employees were not compensated at least minimum wages for work performed outside of their scheduled work hours at the behest of Defendants. For instance, as a lead server, Plaintiff was required to review the schedule and call employees to inform them that they had been taken off the schedule by the General Manager. Plaintiff was forced to perform these duties prior to the start of her scheduled shift because there simply was not enough time to make these calls and complete her other job duties in the time allotted, yet she was not compensated for this off-the-clock work. Defendants' common practice of understaffing its wineries resulted in other similarly situated employees performing work while off-the-clock without being paid at least minimum wages.

42. Plaintiff and other similarly situated employees were not paid all overtime wages earned for hours worked in excess of eight (8) in a workday and/or forty (40) in a workweek. For instance, Plaintiff and other similarly situated employees were not paid overtime wages as a consequence of Defendants' illegal policy and practice of manipulating time records to add meal period entries to shifts where they had worked through their meal periods. Plaintiff and other similarly situated employees were also not paid overtime wages for off-the-clock work on shifts greater than eight (8) hours.

43. Additionally, Defendants failed to include non-discretionary compensation earned by Plaintiff and other similarly situated employees, including but not limited to, commissions for

GRAHAMHOLLIS APC
3555 FIFTH AVENUE SUITE 200
SAN DIEGO, CALIFORNIA 92103

selling wine club memberships, in the regular rate of pay for purposes of calculating and paying overtime wages. As a result, Plaintiff and other similarly situated employees were underpaid their overtime wages.

44. During the relevant time period, Defendants had a policy, practice, procedure, guideline, and/or culture of failing to pay Plaintiff and similarly situated employees reporting time pay. Specifically, Plaintiff and other similarly situated employees frequently reported for work at the winery only to be sent home within one (1) to two (2) hours of starting their shifts, which were scheduled to be four (4) or more hours in length, due to lack of work. However, Defendants did not pay Plaintiff and other similarly situated employees for half their usual or scheduled day's work, and in no event for less than two (2) hours nor more than four (4) hours, at their regular rate of pay.

45. During the relevant time period, Defendants had a policy, practice, procedure, guideline, and/or culture of not paying Plaintiff and other similarly situated employees all gratuities owed to them because they improperly included General Managers in the group of employees eligible to collect tips from the tip pool. Defendants' General Managers are authorized to make decisions as to the hiring and discharge of employees and to supervise, direct, and control the acts of employees, such that they serve as the agents of Defendants. Defendants' practice of sharing tips with its agents is unlawful and deprived Plaintiff and other similarly situated employees of gratuities—a form of property belonging *solely* to the employee under Labor Code § 351.

46. During the relevant time period, Defendants had a policy, practice, procedure, guideline, and/or culture of failing to provide Plaintiff and other similarly situated employees with the terms of their commission plan in writing. Specifically, Plaintiff and other similarly situated employees sold monthly wine club memberships as part of their job duties and were paid $10 in commission per membership sale. However, Defendants did not reduce the terms of this commission agreement to writing, nor did Defendants set forth the method by which the commissions shall be computed and paid.

47. Defendants had, and continue to have, a policy, practice, procedure, guideline,

GRAHAMHOLLIS APC
3555 FIFTH AVENUE SUITE 200
SAN DIEGO, CALIFORNIA 92103

and/or culture of failing to pay Plaintiff and other similarly situated employees all wages due and owing upon separation of employment and/or the required waiting time penalties. For instance, Plaintiff's final paycheck did not include all earned wages, including all minimum, regular, and/or overtime wages, reporting time pay, split shift premiums, or meal and rest period premiums; nor did the final paycheck provide the required waiting time penalties. To date, Plaintiff has not received all wages due and owing or the required waiting time penalties. Plaintiff further alleges that other similarly situated former employees were not timely paid all wages due and owing upon separation of employment and/or the required waiting time penalties.

48. During the relevant time period, Defendants had a policy, practice, procedure, guideline, and/or culture of furnishing wage statements to Plaintiff and other similarly situated employees that do not reflect the items required by Labor Code § 226(a), including but not limited to, all applicable hourly rates in effect during the pay period, the corresponding number of hours worked at each hourly rate by the employee, the actual gross wages earned, the actual net wages earned, and the proper pay period information. For example, the wage statements furnished to Plaintiff did not properly reflect the total hours of compensable time she worked, split shift premiums, reporting time pay, or premium wages earned by Plaintiff.

49. Due to the incorrect and/or lack of information included on the wage statements furnished by Defendants, Plaintiff and other similarly situated employees were unable to promptly and easily determine, for instance, the total number of hours they actually worked, whether they were properly paid all earned wages, the appropriate rate of pay during the pay period, and/or the corresponding number of hours worked at each hourly rate, among other things.

50. During the relevant time period, Defendants had a practice of failing to maintain accurate employment records. Defendants failed to accurately record employee hours actually worked including, but not limited to, failing to record the proper beginning and end of each work period, the meal periods, the total hours worked during the pay period, the applicable rates of pay, and the wages earned and paid, among other things.

51. As a policy, practice, procedure, guideline, and/or culture, Defendants failed to reimburse Plaintiff and other similarly situated employees for all necessary expenses that were

GRAHAMHOLLIS APC
3555 FIFTH AVENUE SUITE 200
SAN DIEGO, CALIFORNIA 92103

incurred in the discharge of their job duties. For example, Defendants required Plaintiff and other similarly situated employees to communicate with management and co-workers, including in group chats, to discuss schedule changes, policy changes, and other work issues. Despite the requirement that employees use their personal cell phones for work purposes, Plaintiff and other similarly situated employees did not receive any reimbursement for the use of their personal cell phones in connection with the work performed on behalf of Defendants.

52. During the relevant time period, Defendants had a policy, practice, procedure, guideline, and/or culture of failing to provide Plaintiff and other similarly situated employees their payroll records, personnel records, and other employment records upon written request, as required by California law. For instance, Plaintiff sent a written request to Defendants to obtain and/or inspect her personnel file and employment records on February 26, 2025. On April 2, 2025, Defendants responded to Plaintiff's request, stating that they would not be producing copies of Plaintiff's records because said records are purportedly accessible to her on Defendants' online payroll platforms. Plaintiff no longer has access to documents on these platforms since her separation of employment; regardless, Defendants are not absolved of their responsibility to provide copies of the requested documents within the time frames set forth in the Labor Code.

53. As a result of Defendants' policies, practices, procedures, guidelines and/or culture described herein including, but not limited to, their failure to provide meal and rest periods and pay all earned wages, Defendants engaged in unlawful, unfair, and fraudulent business practices.

54. On April 14, 2025, Plaintiff submitted written notice to the California Labor and Workforce Development Agency ("LWDA") and Defendant Franson Family Winery, LLC, as required by the Private Attorneys General Act of 2004 ("PAGA") informing them of Franson Family Winery LLC's alleged violations of the Labor Code. Attached as **Exhibit 1** is a true and correct copy of Plaintiff's LWDA notice dated April 14, 2025.

55. According to Labor Code § 2699.3, the LWDA had sixty-five (65) days from the date of submission to notify the parties of whether it intends to investigate the alleged violations. To date, the LWDA has not informed Plaintiff that it intends to investigate Plaintiff's allegations. Moreover, pursuant to Labor Code § 2699.3(c), Defendants had 33 calendar days of the postmark

GRAHAMHOLLIS APC
3555 FIFTH AVENUE SUITE 200
SAN DIEGO, CALIFORNIA 92103

date of the LWDA notice sent by Plaintiff to cure the alleged violations not listed in Labor Code § 2699.5. To date, Defendants have not provided any written notice to Plaintiff that the alleged violations have been cured. Thus, pursuant to the PAGA, Plaintiff has the right to pursue, and does so pursue, the asserted claims in a law enforcement action in her representative capacity on behalf of herself, all other Aggrieved Employees, the general public, and the State of California, as permitted by Labor Code § 2699.3.

56. Plaintiff believes that additional violations may be discovered and therefore reserves her right to allege additional violations of law as investigation and discovery warrants. In the event Plaintiff discovers additional violations, Plaintiff will seek to amend the operative complaint as necessary.

CLASS DEFINITIONS

57. Plaintiff seeks to represent the following class and sub-class, which are defined as follows:

> **Non-Exempt Class:**
> All current and former non-exempt employees of Defendants in California during the period of four (4) years preceding the filing of the Complaint through and including the last date of trial. To the extent equitable tolling operates to toll the claims by the Non-Exempt Class against Defendants, the time period should be adjusted accordingly.
>
> **Waiting Time Penalties Sub-Class:**
> All members of the Non-Exempt Class who separated employment at least once at any time during the period of three (3) years preceding the filing of the First Amended Complaint through and including the last date of trial.

58. Members of the Non-Exempt Class and Waiting Time Penalties Sub-Class are all "employees" as the term is used in the Labor Code and the relevant IWC Wage Order regulating wages, hours, and working conditions in the state of California.

59. A more precise definition of the Non-Exempt Class and Waiting Time Penalties Sub-Class may be determined after further investigation and discovery. Plaintiff reserves her right to redefine the class and/or sub-class and/or create additional classes and/or sub-classes at any

GRAHAMHOLLIS APC
3555 FIFTH AVENUE SUITE 200
SAN DIEGO, CALIFORNIA 92103

time prior to the court's order on Plaintiff's class certification motion as provided by law.

CLASS ACTION DESIGNATION

60. Plaintiff realleges and incorporates by reference, as though fully set forth herein, all paragraphs of this First Amended Complaint.

61. Plaintiff brings this action on behalf of herself and on behalf of all persons within the Non-Exempt Class and Waiting Time Penalties Sub-Class defined herein.

62. This action is appropriately suited for a class action pursuant to Code of Civil Procedure § 382 and California Civil Code ("Civil Code") § 1781, because the following statutory requirements are met:

1. Numerosity

63. The members of the Non-Exempt Class and the Waiting Time Penalties Sub-Class are sufficiently numerous to render the joinder of all their members impracticable. While Plaintiff has not yet determined the precise number of members of the Non-Exempt Class and the Waiting Time Penalties Sub-Class, Plaintiff is informed and believes that the Class and Sub-Class likely consist of approximately 150 individuals.

64. Although the exact number is currently unknown to Plaintiff, this information is easily ascertainable from Defendants' time and payroll records and other records of Defendants.

2. Commonality

65. Common questions of law and fact exist as to all putative class members and predominate over any questions affecting only individual members of the Non-Exempt Class or the Waiting Time Penalties Sub-Class. The common questions of law and fact that predominate include, but are not limited to:

a. Whether Defendants failed to provide members of the Non-Exempt Class with off-duty, thirty-minute meal periods before the commencement of the sixth hour of work;

b. Whether Defendants had a policy properly informing Non-Exempt Class members of their right to take compliant meal periods;

c. Whether Defendants failed to permit Non-Exempt Class members to take

GRAHAMHOLLIS APC
3555 FIFTH AVENUE SUITE 200
SAN DIEGO, CALIFORNIA 92103

off-duty rest periods of at least ten minutes for every four (4) hours worked, or major fraction thereof;

d. Whether Defendants had a policy properly informing Non-Exempt Class members of their right to take compliant rest periods;

e. Whether Defendants failed to pay one additional hour of pay at the regular rate of compensation to Non-Exempt Class Members when they were not provided with compliant meal periods and/or rest periods;

f. Whether Defendants failed to pay Non-Exempt Class members at least minimum wages and/or all regular wages owed for all hours or fractions of an hour worked and under the control of Defendants;

g. Whether Defendants failed to pay Non-Exempt Class members all overtime wages for all hours, or fraction of hours, worked and under the control of Defendants;

h. Whether Defendants failed to pay Non-Exempt Class members all reporting time pay for shifts in which they were sent home early due to lack of work;

i. Whether Defendants' practice of sharing Non-Exempt Class members' gratuities with Defendants' agents is unlawful;

j. Whether Defendants failed to provide Non-Exempt Class members with accurate itemized wage statements showing, among other things, the number of hours worked and the correct amount of gross and net wages earned;

k. Whether Defendants failed to reimburse Non-Exempt Class members for necessary business expenses incurred in connection with their work duties;

l. Whether Defendants failed to provide Non-Exempt Class members with their personnel files and employment records upon written request; and

m. Whether Defendants failed to pay Waiting Time Penalties Sub-Class members all of their wages owed within the required time frames upon separation of employment.

/ / /

GRAHAMHOLLIS APC
3555 FIFTH AVENUE SUITE 200
SAN DIEGO, CALIFORNIA 92103

3. Typicality

66. Plaintiff's claims are typical of the claims of all putative class members because Plaintiff's and all putative class members' claims arise from the same events, practices and/or courses of conduct of Defendants. Plaintiff and all putative class members sustained injuries and damages as a result of Defendants' illegal policies, practices and/or common courses of conduct in violation of California wage and hour laws and/or illegal, unfair, or fraudulent business practices.

67. Furthermore, Plaintiff's claims under the Labor Code and the applicable IWC Wage Order are typical of the Non-Exempt Class and the Waiting Time Penalties Sub-Class because Defendants' failure to comply with the provisions of California's wage and hour laws entitles Plaintiff and each putative class member to similar pay, benefits, and other relief. Accordingly, the legal theories underlying each cause of action are the same and the remedies sought by Plaintiff and all putative class members are the same.

4. Adequacy of Representation

68. Plaintiff is a member of the Non-Exempt Class and the Waiting Time Penalties Sub-Class and she has no fundamental conflict of interest with the putative class members she seeks to represent.

69. Plaintiff will vigorously protect the interests of all putative class members because it is in Plaintiff's best interest to prosecute the claims alleged herein to obtain full compensation and penalties due to her and the putative class members.

70. Plaintiff retained attorneys who are experienced employment law litigators with significant wage and hour and class action experience.

5. Superiority of Class Action

71. Plaintiff believes a class action is a superior method of litigation for the fair and efficient adjudication of this controversy. Individual joinder of all putative class members is not practicable. Class action treatment will allow similarly situated employees to litigate their claims in the manner that is most efficient and economical for the parties and the judicial system.

72. Nearly all factual, legal, statutory, declaratory and injunctive relief issues that are

GRAHAMHOLLIS APC
3555 FIFTH AVENUE SUITE 200
SAN DIEGO, CALIFORNIA 92103

raised in this First Amended Complaint are common to the class and/or sub-class and will apply uniformly to every member of the Non-Exempt Class and Waiting Time Penalties Sub-Class, and as a practical matter, be dispositive of the interests of the other members not party to the adjudication.

73. Plaintiff knows of no difficulty that might be encountered in the management of this suit, which would preclude maintenance as a class action, in that:

a. The persons who comprise the Non-Exempt Class and Waiting Time Penalties Sub-Class are so numerous that the joinder of all such persons is impracticable and the disposition of their claims as a class will benefit the parties and the Court;

b. The parties opposing the Non-Exempt Class and Waiting Time Penalties Sub-Class have acted or have refused to act on grounds generally applicable to the class and/or sub-class, thereby making final injunctive relief or declaratory relief appropriate with respect to the class and/or sub-class as a whole; and

c. Common questions of law and fact exist as to the members of the Non-Exempt Class and/or Waiting Time Penalties Sub-Class and predominate over any question affecting only individual members, and a class action is superior to other available methods for the fair and efficient adjudication of the controversy, including consideration of:

i. The interests of class members and/or sub-class members in individually controlling the prosecution or defense of separate actions;

ii. The extent and nature of any litigation concerning the controversy already commenced by or against members of the Non-Exempt Class and/or Waiting Time Penalties Sub-Class;

iii. The desirability or undesirability of concentrating the litigation of the claims in this particular forum; and

iv. The likely difficulties in the managing of a class action.

74. In sum, the Court should permit this action to be maintained as a class action pursuant to Code of Civil Procedure § 382 and Civil Code § 1781 because:

GRAHAMHOLLIS APC
3555 FIFTH AVENUE SUITE 200
SAN DIEGO, CALIFORNIA 92103

a. Questions of law and fact common to the Non-Exempt Class and Waiting Time Penalties Sub-Class are substantially similar and predominate over any questions affecting only individual members;

b. A class action is superior to any other available method for the fair and efficient adjudication of class members' and/or sub-class members' claims;

c. The members of the Non-Exempt Class and Waiting Time Penalties Sub-Class are so numerous that it is impractical to bring all class members before the Court;

d. Plaintiff's claims are typical of the claims of the Non-Exempt Class and/or Waiting Time Penalties Sub-Class;

e. Class members and/or sub-class members will not be able to obtain effective and economic legal redress unless the action is maintained as a class action;

f. There is a community of interest in obtaining appropriate legal and equitable relief for the common law and statutory violations and other improprieties alleged, and in obtaining adequate compensation for the damages that Defendants' actions have inflicted upon the Classes;

g. Plaintiff can fairly and adequately protect the interests of the Non-Exempt Class and Waiting Time Penalties Sub-Class;

h. There is a community of interest in ensuring that the combined assets and available insurance of Defendants are sufficient to adequately compensate the members of the Non-Exempt Class and Waiting Time Penalties Sub-Class for the injuries sustained; and

i. Defendants have acted or refused to act on grounds generally applicable to the Non-Exempt Class and Waiting Time Penalties Sub-Class, thereby making final injunctive relief appropriate with respect to the Class and/or Sub-Class as a whole.

/ / /

/ / /

GRAHAMHOLLIS APC
3555 FIFTH AVENUE SUITE 200
SAN DIEGO, CALIFORNIA 92103

GRAHAMHOLLIS APC
3555 FIFTH AVENUE SUITE 200
SAN DIEGO, CALIFORNIA 92103

CAUSES OF ACTION

FIRST CAUSE OF ACTION

FAILURE TO PROVIDE COMPLIANT MEAL PERIODS AND/OR PAY PREMIUM WAGES

(Labor Code §§ 226.7, 512, 1198, and the "Meal Periods" section of the Applicable IWC Wage Order)

(Alleged By Plaintiff, Individually and On Behalf of the Non-Exempt Class, Against All Defendants)

75. Plaintiff realleges and incorporates by reference, as though fully set forth herein, all paragraphs of this First Amended Complaint.

76. Plaintiff and the Non-Exempt Class members are non-exempt employees who typically worked shifts over six (6) consecutive hours in a workday.

77. Labor Code § 512(a) mandates:

> An employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes, except that if the total work period per day of the employee is no more than six hours, the meal period may be waived by mutual consent of both the employer and employee. An employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

78. The "Meal Periods" section of the applicable IWC Wage Order provides, in pertinent part:

> (A) No employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, except that when a work period of not more than six (6) hours will complete the day's work the meal period may be waived by mutual consent of the employer and the employee. …
>
> (B) If an employer fails to provide an employee a meal period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular

> rate of compensation for each workday that the meal period is not provided.

79. The "Meal Periods" section of the IWC Wage Order also states:

> Unless the employee is relieved of all duty during a 30-minute meal period, the meal period shall be considered an "on duty" meal period and counted as time worked. An "on duty" meal period shall be permitted only when the nature of the work prevents an employee from being relieved of all duty and when by written agreement between the parties an on-the-job paid meal is agreed to. The written agreement shall state that the employee may, in writing, revoke the agreement at any time.

80. A meal period generally complies with the requirements of California law if the employee has at least 30-minutes uninterrupted, is relieved of any and all work duties, and is free to leave the premises during such time. *Brinker Restaurant Corp. v. Superior Court*, 53 Cal. 4th 1004, 1036 (2012). California law further prohibits employers from "...undermining [its] formal policy of providing meal breaks by pressuring employees to perform their duties in ways that omit breaks." *Id*. at 1040 (internal citations omitted).

81. Labor Code § 226.7(b) states, "[a]n employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission…" Labor Code § 226.7(c) further provides:

> If an employer fails to provide an employee a meal or rest or recovery period in accordance with a state law… 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.

82. At all relevant times, Defendants had a policy, practice, procedure, guideline, and/or culture of failing to provide Plaintiff and the Non-Exempt Class with the opportunity to take a thirty minute, uninterrupted, off-duty meal period before the end of their fifth (5th) hour of work when they worked five (5) or more hours in a day.

83. Plaintiff and the Non-Exempt Class members did not receive lawful meal periods due to Defendants' policy, practice, procedure, guideline, and/or culture of failing to provide

GRAHAMHOLLIS APC
3555 FIFTH AVENUE SUITE 200
SAN DIEGO, CALIFORNIA 92103

adequate relief to Non-Exempt Class members so that they could take their meal periods; assigning workloads that could not be reasonably completed within their scheduled hours while also taking meal periods; understaffing their wineries; and requiring Non-Exempt Class Members to prioritize customer needs over taking lawful meal periods. As a result, Plaintiff and the Non-Exempt Class members were regularly required to take late, shortened, and/or interrupted meal periods, and/or were not provided with any meal periods at all.

84. Defendants knew or should have known that Plaintiff and the Non-Exempt Class members were not provided with the opportunity to take legally compliant meal periods, as Defendants' management received complaints from Plaintiff and other Non-Exempt Class members about meal period violations. Defendants further maintained a practice of falsifying time records to correct meal period violations; did not have a policy or practice of scheduling Plaintiff and other Non-Exempt Class members such that they would be relieved of their work duties to take their meal periods; and required them to prioritize work duties over taking their meal periods.

85. Plaintiff and, on information and belief, other Non-Exempt Class members did not sign an on-duty meal period agreement at any point during their employment, nor did they properly waive any of their meal periods.

86. At all relevant times, Defendants had a policy, practice, procedure, guideline, and/or culture of not paying the required meal period premiums at the Non-Exempt Class members' regular rate of pay for each workday a lawful meal period was not provided. Defendants did not factor in non-discretionary pay, including commissions for selling wine memberships, into the regular rate of pay for purposes of calculating and paying meal period premiums.

87. Defendants' unlawful conduct caused Plaintiff and the Non-Exempt Class members to suffer, and current Non-Exempt Class members will continue to suffer, damages in an amount which is presently unknown, but which exceeds the jurisdictional limits of this Court and which will be ascertained according to proof at trial.

88. Pursuant to Labor Code § 226.7(c) and the applicable IWC Order, Plaintiff and the Non-Exempt Class members are entitled to, and seek to recover the full amount of unpaid premium wages for unlawful meal periods.

GRAHAMHOLLIS APC
3555 FIFTH AVENUE SUITE 200
SAN DIEGO, CALIFORNIA 92103

89. Pursuant to Labor Code § 218.6, Plaintiff and the Non-Exempt Class members are entitled to, and now seek to recover, prejudgment interest on the amount of premium wages owed.

90. Plaintiff, on behalf of herself and the Non-Exempt Class members, is entitled to and seeks recovery of reasonable attorneys' fees and costs as permitted by Labor Code § 218.5 and Code of Civil Procedure § 1021.5.

91. Plaintiff, on behalf of herself and the Non-Exempt Class, requests further relief as described in the below prayer.

SECOND CAUSE OF ACTION

FAILURE TO AUTHORIZE OR PERMIT COMPLIANT REST PERIODS AND/OR PAY PREMIUM WAGES

[Labor Code §§ 226.7, 1198, and the "Rest Periods" Section of the Applicable IWC Wage Order]

(Alleged By Plaintiff, Individually and On Behalf of the Non-Exempt Class, Against All Defendants)

92. Plaintiff realleges and incorporates by reference, as though fully set forth herein, all paragraphs of this First Amended Complaint.

93. The "Rest Periods" section of the applicable IWC Wage Order provides:

> (A) Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes of net rest time per four (4) hours or major fraction thereof. However, a rest period need not be authorized for employees whose total daily work time is less than three and one-half (3 ½) hours. Authorized rest period time shall be counted as hours worked for which there shall be no deduction from wages.
>
> (B) If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the rest period is not provided.

94. During rest periods, California law requires employers to relinquish all control over

GRAHAMHOLLIS APC
3555 FIFTH AVENUE SUITE 200
SAN DIEGO, CALIFORNIA 92103

their employees and relieve their employees of all duties. *Augustus v. ABM Security Services, Inc*., 2 Cal. 5th 267, 269 (2016).

95. In pertinent part, Labor Code § 226.7 states:

> (b) An employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and health.
>
> (c) If an employer fails to provide an employee a meal or rest or recovery period in accordance with a state law … the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for workday that the meal or rest or recovery period is not provided.

96. Defendants had a policy, practice, procedure, guideline, and/or culture of failing to authorize and permit Plaintiff and other Non-Exempt Class members to take a ten minute, uninterrupted, off-duty rest period for every four (4) hours worked or major fraction thereof. Plaintiff and members of the Non-Exempt Class were not relieved of their work duties to take their rest periods. Specifically, Plaintiff and members of the Non-Exempt Class were consistently not authorized or permitted to take any rest periods during their shifts.

97. Plaintiff contends that Defendants knew or should have known that she and other Non-Exempt Class members were not authorized and permitted to take legally compliant rest periods because Defendants did not implement a scheduling policy to provide Non-Exempt Class members with adequate relief to take rest periods, required Non-Exempt Class members to prioritize customer needs over taking rest periods, and further assigned workloads that precluded them from taking lawful rest periods.

98. At all relevant times, Defendants had a policy, practice, procedure, guideline, and/or culture of not paying the required rest period premiums for each workday a lawful rest period was not provided. Defendants did not factor in non-discretionary pay, including commissions for selling wine memberships, into the regular rate of pay for purposes of calculating and paying rest period premiums.

GRAHAMHOLLIS APC
3555 FIFTH AVENUE SUITE 200
SAN DIEGO, CALIFORNIA 92103

99. Due to Defendants' unlawful conduct, Plaintiff and the Non-Exempt Class members have suffered, and will continue to suffer, damages in an amount which is presently unknown, but which exceeds the jurisdictional limits of this Court and which will be ascertained according to proof at trial.

100. According to Labor Code § 226.7(c) and the applicable IWC Wage Order, Plaintiff and the Non-Exempt Class members are entitled to, and now seek to recover, the full amount of unpaid premium wages for unlawful rest periods.

101. Pursuant to Labor Code § 218.6, Plaintiff and the Non-Exempt Class members are entitled to, and now seek to recover, prejudgment interest on the amount of premium wages owed.

102. Plaintiff, on behalf of herself and the Non-Exempt Class members, is entitled to and seeks recovery of reasonable attorneys' fees and costs as permitted by Labor Code § 218.5 and Code of Civil Procedure § 1021.5.

103. Plaintiff, on behalf of herself and the Non-Exempt Class, requests further relief as described in the below prayer.

THIRD CAUSE OF ACTION

FAILURE TO PAY ALL MINIMUM AND/OR REGULAR WAGES

[Labor Code §§ 1194, 1194.2, 1197, 1197.1, 1198, and the "Minimum Wages" section of the Applicable IWC Wage Order]

(Alleged by Plaintiff, Individually and On Behalf of the Non-Exempt Class, Against All Defendants)

104. Plaintiff realleges and incorporates by reference, as though fully set forth herein, all paragraphs of this First Amended Complaint.

105. Labor Code § 1197 states, "[t]he minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a lower wage than the minimum so fixed is unlawful." *See also Gonzalez v. Downtown LA Motors, LP,* 215 Cal. App. 4th 36, 44 (2013) (providing that an employer may not pay "less than the applicable minimum wage for all hours worked in the payroll period, whether the remunerations is measured by time, piece, commission, or otherwise").

GRAHAMHOLLIS APC
3555 FIFTH AVENUE SUITE 200
SAN DIEGO, CALIFORNIA 92103

106. The "Minimum Wages" section of the applicable IWC Wage Order further provides that every employer shall pay to each employee not less than the applicable minimum wage for all hours worked.

107. The applicable IWC Wage Order defines the term "hours worked" as "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so …."

108. Labor Code § 1197.1 provides that,

> Any employer or other person acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or local law or by an order of the commission shall be subject to a civil penalty, restitution of wages, liquidated damages payable to the employee, and any applicable penalties imposed pursuant to § 203…

109. Labor Code § 1194(a) mandates:

> Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees, and costs of suit.

110. For actions brought under Labor Code §§ 1194 or 1197.1, Labor Code § 1194.2 allows for the recovery of liquidated damages in an amount equal to the minimum wages unlawfully unpaid and interest thereon.

111. Labor Code § 1198 further states:

> The maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.

112. At all material times, Plaintiff contends that Defendants had a policy, practice, procedure, guideline, and/or culture of not paying Non-Exempt Class members all minimum and/or regular wages for all time actually worked or spent under the control of Defendants.

GRAHAMHOLLIS APC
3555 FIFTH AVENUE SUITE 200
SAN DIEGO, CALIFORNIA 92103

Defendants' illegal practice of manipulating Non-Exempt Class members' time records to add in meal period times for shifts in which there was no meal period recorded deprived employees of all minimum and/or regular wages for all hours worked. Defendants further failed to pay Plaintiff and other Non-Exempt Class members at least minimum wages for time spent performing job duties while off-the-clock, which Non-Exempt Class members were precluded from doing during their regular shift times due to Defendants' severe understaffing of their wineries.

113. Defendants had a policy, practice, procedure, guideline, and/or culture of not paying Non-Exempt Class members split shift premiums in the amount of one hour at state or local minimum wage, whichever is higher, for every workday in which the employees were scheduled to work two shifts interrupted by non-paid and non-working time periods established by Defendants.

114. As a direct result of Defendants' unlawful failure to compensate Plaintiff and the Non-Exempt Class members minimum and/or regular wages for all of their time worked and/or spent under the control of Defendants, Non-Exempt Class members have suffered, and will continue to suffer, damages in amounts which are presently unknown, but which exceed the jurisdictional limits of this Court and will be ascertained according to proof at trial.

115. Having received less than the legal minimum wage, Plaintiff and the Non-Exempt Class members are entitled to, and now seek to recover, all wages and penalties owed, including penalties and liquidated damages available under Labor Code §§ 1194.2 and 1197.1, as well as interest and reasonable attorneys' fees and costs available under Labor Code §§ 218.5 and 1194, and Code of Civil Procedure § 1021.5.

116. Plaintiff, on behalf of herself and the Non-Exempt Class, requests further relief as described in the below prayer.

/ / /

/ / /

/ / /

/ / /

/ / /

GRAHAMHOLLIS APC
3555 FIFTH AVENUE SUITE 200
SAN DIEGO, CALIFORNIA 92103

FOURTH CAUSE OF ACTION

<u>FAILURE TO PAY ALL OVERTIME WAGES</u>

[Labor Code §§ 510, 1194, 1198, and the "Hours and Days of Work" section of the Applicable IWC Wage Order]

(Alleged by Plaintiff, Individually and On Behalf of the Non-Exempt Class, Against All Defendants)

117. Plaintiff realleges and incorporates by reference, as though fully set forth herein, all paragraphs of this First Amended Complaint.

118. Labor Code § 510(a), which codifies an employee's right to overtime compensation, provides:

> Eight hours of labor constitutes a day's work. Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.

119. The "Hours and Days of Work" section in the applicable IWC Wage order mandate the same requirements as Labor Code § 510.

120. The applicable IWC Wage Order defines the term "hours worked" as "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so…."

121. Under California law, an employee may not waive his or her right to overtime compensation and any agreement by the employee to accept less than the statutorily required rate is unenforceable as a matter of law. *Early v. Superior Court*, 79 Cal. App. 4th 1420, 1430 (2000).

122. Labor Code § 1194(a) mandates:

> Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to

GRAHAMHOLLIS APC
3555 FIFTH AVENUE SUITE 200
SAN DIEGO, CALIFORNIA 92103

> recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees, and costs of suit.

123. Labor Code § 1198 further states:

> The maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.

124. Plaintiff and Non-Exempt Class members occasionally worked more than eight (8) hours per day and/or forty (40) hours per week during the relevant time period.

125. During the relevant time period, Defendants had a policy, practice, procedure, guideline, and/or culture of not paying Non-Exempt Class members all overtime wages for all hours worked in excess of eight (8) hours in a workday and/or forty (40) hours in a workweek. Specifically, Defendants' illegal practice of manipulating Non-Exempt Class members' time records to add in meal period times for shifts in which there was no meal period recorded deprived employees of all overtime wages earned. Defendants further failed to pay Plaintiff and other Non-Exempt Class members overtime wages for time spent performing job duties while off-the-clock, which Non-Exempt Class members were precluded from doing during their regular shift times due to Defendants' severe understaffing of its wineries.

126. Defendants also had a policy, practice, procedure, guideline, and/or culture of failing to include commissions and other non-discretionary compensation in the regular rate of pay for purposes of calculating and paying overtime wages. Consequently, Plaintiff and the Non-Exempt Class members were underpaid their overtime wages.

127. As a direct result of Defendants' unlawful failure to compensate Plaintiff and the Non-Exempt Class members overtime wages for all of their time worked and/or spent under the control of Defendants, Non-Exempt Class members have suffered, and will continue to suffer, damages in amounts which are presently unknown, but which exceed the jurisdictional limits of this Court and will be ascertained according to proof at trial.

128. Having received less than the applicable rate of overtime compensation, Plaintiff

GRAHAMHOLLIS APC
3555 FIFTH AVENUE SUITE 200
SAN DIEGO, CALIFORNIA 92103

and the Non-Exempt Class members are entitled to, and now seek to recover, all wages and penalties owed pursuant to Labor Code § 1194, as well as interest and reasonable attorneys' fees and costs available under Labor Code §§ 218.5 and 1194, and Code of Civil Procedure § 1021.5.

129. Plaintiff, on behalf of herself and the Non-Exempt Class, requests further relief as described in the below prayer.

FIFTH CAUSE OF ACTION

FAILURE TO PAY REPORTING TIME PAY

[Labor Code §§ 1194, 1194.2, 1197, 1197.1, 1198, and the "Reporting Time Pay" section of the Applicable IWC Wage Order]

(Alleged By Plaintiff, Individually and On Behalf of the Non-Exempt Class, Against All Defendants)

GRAHAMHOLLIS APC
3555 FIFTH AVENUE SUITE 200
SAN DIEGO, CALIFORNIA 92103

130. Plaintiff realleges and incorporates by reference, as though fully set forth herein, all paragraphs of this First Amended Complaint.

131. Labor Code § 1198 states,

> The maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.

132. The "Reporting Time Pay" section of the relevant IWC Wage Order states in relevant part,

> (A) Each workday an employee is required to report to work and does report, but is not put to work or is furnished less than half of the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee's regular rate of pay, which shall not be less than the minimum wage. (B) If an employee is required to report for work a second time in any one workday and is furnished less than two hours of work on the second reporting, said employee shall be paid for two hours at the employee's regular rate of pay, which shall not be less than the minimum wage.

133. Labor Code § 1197 states in part, "[t]he minimum wage for employees fixed by the commission or by any applicable state or local law, is the minimum wage to be paid to employees, and the payment of a lower wage and the minimum so fixed is unlawful."

134. Labor Code § 1194(a) states that "… any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees, and costs of suit."

135. Labor Code § 1194.2(a) states in part,

> In any action under Section 98, 1193.6, 1194, or 1197.1 to recover wages because of the payment of a wage less than the minimum wage fixed by the commission or by statute, an employee shall be entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

136. Labor Code § 1197.1 provides that,

> Any employer or other person acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or local law or by an order of the commission shall be subject to a civil penalty, restitution of wages, liquidated damages payable to the employee, and any applicable penalties imposed pursuant to § 203…

137. During the relevant time period, Defendants had a policy, practice, procedure, guideline, and/or culture of not paying Non-Exempt Class members reporting time pay. Specifically, Plaintiff and other Non-Exempt Class members frequently reported for work only to be sent home within one (1) to two (2) hours of starting their shifts, which were scheduled to be four (4) or more hours in length, due to lack of work. Defendants did not pay Non-Exempt Class members for half the usual or scheduled day's work, and in no event for less than two (2) hours nor more than four (4) hours, at the employee's regular rate of pay.

138. Having received no reporting time pay, Plaintiff and the Non-Exempt Class members are entitled to and seek to recover the full amount of unpaid reporting time pay in an

GRAHAMHOLLIS APC
3555 FIFTH AVENUE SUITE 200
SAN DIEGO, CALIFORNIA 92103

amount that is presently unknown, but which exceeds the jurisdictional limits of this Court and will be ascertained according to proof at trial.

139. Pursuant to Labor Code §§ 1194.2 and 1197.1, Plaintiff and the members of the Non-Exempt Class are entitled to, and now seek to recover, liquidated damages.

140. Pursuant to Labor Code § 218.6, Plaintiff and the Non-Exempt Class members, including Plaintiff, are entitled to, and now seek to recover, pre-judgment interest at the rate of ten percent annum on the amount of wages owed.

141. Plaintiff, on behalf of herself and the Non-Exempt Class members, is entitled to and seeks recovery of reasonable attorneys' fees and costs as permitted by Labor Code §§ 218.5, 1194(a), and Code of Civil Procedure § 1021.5.

142. Plaintiff, on behalf of herself and the Non-Exempt Class, requests further relief as described in the below prayer.

SIXTH CAUSE OF ACTION

COMMON LAW CONVERSION

(Alleged By Plaintiff, Individually and On Behalf of the Non-Exempt Class, Against All Defendants)

143. Plaintiff realleges and incorporates by reference, as though fully set forth herein, all paragraphs of this First Amended Complaint.

144. Conversion is defined under California law as "the wrongful exercise over the property of another." *Lee v. Hanley*, 61 Cal. 4th 1225, 1240 (2015). In order to establish a claim of conversion, the following three elements must be met: "(1) the plaintiff's ownership or right to possession of the property; (2) the defendant's conversion by a wrongful act or disposition of property rights; and (3) damages." *Id*. Moreover, the plaintiff must not consent, either expressly or impliedly, to the taking, use, or disposition of his or her property by the defendant. *See Farrington v. A. Teichert & Son, Inc*., 59 Cal. App. 2d 468, 474 (1943).

145. To demonstrate a conversion claim, "[i]t is not necessary that there be a manual taking of the property; it is only necessary to show an assumption of control or ownership over the property, or that the alleged converted has applied the property to his own use." *Shopoff &*

GRAHAMHOLLIS APC
3555 FIFTH AVENUE SUITE 200
SAN DIEGO, CALIFORNIA 92103

Cavallo LLP v. Hyon, 167 Cal. App. 4th 1489, 1507 (2008). Thus, "any act of dominion wrongfully exerted over the personal property of another inconsistent with the owner's rights thereto constitutes conversion." *Plummer v. Day/Eisenberg, LLP*, 184 Cal. App. 4th 38, 50 (2010).

146. A plaintiff's generalized claim for money is not a cognizable conversion claim, as "[m]oney cannot be the subject of a cause of action for conversion unless there is a specific, identifiable sum involved, such as where an agent accepts a sum of money to be paid to another and fails to make the payment." *PCO, Inc. v. Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro, LLP*, 150 Cal. App. 4th 384, 395 (2007) (internal citations omitted). Accordingly, the California Supreme Court has consistently held employees may bring a conversion claim for the misappropriation of gratuities by their employers. *Voris v. Lampert*, 7 Cal. 5th 1141, 1155 (2019) ("[w]hen a patron leaves a gratuity for an employee (or employees), it arguably qualifies as a specific sum of money, belonging to the employee, that is capable of identification and separate from the employer's own funds; indeed, the employee (or employees) for whom it was left has ownership of the gratuity by statute."); *see also Lu v. Hawaiian Gardens Casino*, 50 Cal. 4th 592, 603-04 (2010) ("[t]o the extent that an employee may be entitled to certain misappropriated gratuities, we see no apparent reason why other remedies, such as a common law action for conversion, may not be available under appropriate circumstances.").

147. Defendants wrongfully exercised control over gratuities paid to Plaintiff and other Non-Exempt Employees by patrons at Defendants' wineries.

148. Plaintiff and other Non-Exempt Employees owned, possessed, and/or had a right to possess all gratuities given to them by patrons pursuant to Labor Code section 351, which provides that "[e]very gratuity is hereby declared to be the sole property of the employee or employees to whom it was paid, given, or left for."

149. Defendants intentionally and substantially interfered with the gratuities owned, possessed, and/or entitled to Plaintiff and other Non-Exempt Employees by taking possession of the gratuities and/or preventing Non-Exempt Employees from having access to their gratuities. As part of Defendants' unlawful and improper tip pool policy and practice, Defendants took

GRAHAMHOLLIS APC
3555 FIFTH AVENUE SUITE 200
SAN DIEGO, CALIFORNIA 92103

possession, assumed control over, and/or applied the gratuities for its own use by sharing tips earned by Non-Exempt Employees with Defendants' managers.

150. Plaintiff and other Non-Exempt Employees did not consent to Defendants' intentional and substantial interference with their gratuities.

151. Plaintiff and other Non-Exempt Employees were harmed, and continue to be harmed, as a result of Defendants' intentional and substantial interference with their gratuities, as Defendants deprived Non-Exempt Employees of payment of all gratuities owed to them under California law.

152. Defendants' conduct was a substantial factor in causing Plaintiff's and other Non-Exempt Employees' harm. But for Defendants' unlawful and improper tip pool policy and practice, Plaintiff and other Non-Exempt Employees would not have been deprived of all gratuities paid to them by patrons.

153. Due to Defendants' unlawful conduct described herein, Plaintiff and other Non-Exempt Employees have suffered, and will continue to suffer, damages in an amount which is presently unknown, but which exceeds the jurisdictional limits of this Court and will be ascertained according to proof at trial.

154. Plaintiff, on behalf of herself and other Non-Exempt Employees, is entitled to, and seeks to recover reasonable attorneys' fees and costs as provided by Code of Civil Procedure § 1021.5.

155. Plaintiff, on behalf of herself and other Non-Exempt Employees, requests further relief as described in the below prayer.

/ / /

/ / /

/ / /

/ / /

/ / /

/ / /

/ / /

GRAHAMHOLLIS APC
3555 FIFTH AVENUE SUITE 200
SAN DIEGO, CALIFORNIA 92103

SEVENTH CAUSE OF ACTION

FAILURE TO TIMELY PAY ALL WAGES DUE AND OWING UPON SEPARATION OF EMPLOYMENT AND/OR THE REQUIRED WAITING TIME PENALTIES

[Labor Code §§ 201, 202, and 203]

(Alleged By Plaintiff, Individually and On Behalf of the Waiting Time Penalties Sub-Class, Against All Defendants)

156. Plaintiff realleges and incorporates by reference, as though fully set forth herein, all paragraphs of this First Amended Complaint.

157. Pursuant to Labor Code § 201(a), when an employer discharges an employee, all earned wages that remain unpaid at the time of discharge are due and payable immediately.

158. Labor Code § 202(a) provides, in pertinent part:

> If an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

159. Labor Code § 203(a) further states:

> If an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, … 202 …, 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 thereof is commenced; but the wages shall not continue for more than 30 days.

160. At all relevant times, Defendants had a policy, practice, procedure, guideline, and/or culture of failing to timely pay Waiting Time Penalties Sub-Class members, including Plaintiff, all wages due and owing upon separation of employment. For instance, Plaintiff's final paycheck did not include all of her earned wages, including all minimum, regular, and/or overtime wages for all hours worked, reporting time wages, split shift premiums, and meal and rest period premiums. To date, Defendants have not paid Plaintiff these owed wages. Plaintiff alleges, based on information and belief, that other Waiting Time Penalties Sub-Class members were also not

GRAHAMHOLLIS APC
3555 FIFTH AVENUE SUITE 200
SAN DIEGO, CALIFORNIA 92103

timely paid all wages due and owing upon their separation of employment within the time frames prescribed by California law.

161. Plaintiff also alleges that, at all relevant times, Defendants had a policy, practice, procedure, guideline, and/or culture of failing to pay the appropriate waiting time penalties to Waiting Time Penalties Sub-Class members. For instance, Plaintiff has not yet received the required waiting time penalties for Defendants' late payment of her final wages.

162. Defendants knowingly failed to timely and appropriately compensate Waiting Time Penalties Sub-Class members, including Plaintiff, for all minimum, regular, overtime, and/or premium wages, as described herein. Defendants knew or should have known that Waiting Time Penalties Sub-Class members were not paid for all wages owed and recorded on Defendants' timekeeping system, and/or knew or should have known that the meal periods provided were late, short, or interrupted. Defendants took no steps to remedy the illegal record falsification practice or the illegal practice of not paying for a meal premium for a meal period that was late, short, or interrupted.

163. As a consequence of Defendants' willful and deliberate refusal to render such wages, Plaintiff and the Waiting Time Penalties Sub-Class members are entitled to, and thus seek a maximum of thirty (30) days' wages at their daily rate of pay as a waiting time penalty, pursuant to Labor Code § 203.

164. As a direct result of Defendants' violations alleged herein, Plaintiff and the Waiting Time Penalties Sub-Class members suffered and continue to suffer losses related to the use and enjoyment of wages due and owing to them, all to their respective detriment in an amount to be shown according to proof at trial and within the jurisdictional limitations of this Court.

165. Plaintiff, on behalf of herself and the Waiting Time Penalties Sub-Class members, is also entitled to and seeks recovery of reasonable attorneys' fees and costs as permitted by Labor Code § 218.5 and Code of Civil Procedure § 1021.5.

166. Plaintiff, on behalf of herself and the Waiting Time Penalties Sub-Class, requests further relief as described in the below prayer.

GRAHAMHOLLIS APC
3555 FIFTH AVENUE SUITE 200
SAN DIEGO, CALIFORNIA 92103

EIGHTH CAUSE OF ACTION

FAILURE TO FURNISH ACCURATE ITEMIZED WAGE STATEMENTS

[Labor Code § 226 and the "Records" Section of the Applicable IWC Wage Order]

(Alleged By Plaintiff, Individually and On Behalf of the Non-Exempt Class, Against All Defendants)

167. Plaintiff realleges and incorporates by reference, as though fully set forth herein, all paragraphs of this First Amended Complaint.

168. Labor Code § 226(a) states, in pertinent part:

> An employer, semimonthly or at the time of each payment of wages, shall furnish to his or her employee, either as detachable part of the check, draft, or voucher paying the employee's wages, or separately if wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee… (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number, (8) the name and address of the legal entity that is the employer, … and (9) all applicable hourly rates in effect during each period and the corresponding number of hours worked at each hourly rate by the employee…

169. The "Records" section of the applicable IWC Wage Order further provides, in pertinent part:

> Every employer shall semimonthly or at the time of each payment of wages furnish to each employee an itemized wage statement in writing showing: (1) all deductions; (2) the inclusive dates of the period for which the employee is paid; (3) the name of the employee and the employee's social security number; and (4) the name of the employer, provided all deductions made on written orders of the employee may be aggregate and shown as one item.

170. Labor Code § 226(e)(1) further mandates:

> An employee suffering injury as a result of knowing and intentional failure by an employer to comply with subdivision (a) is entitled to

GRAHAMHOLLIS APC
3555 FIFTH AVENUE SUITE 200
SAN DIEGO, CALIFORNIA 92103

> recover the greater of all actual damages or fifty dollars ($50) for the initial pay period in which a violation occurs and one hundred dollars ($100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand ($4,000), and is entitled to an award of costs and reasonable attorneys' fees.

171. An employee suffers injury where the employer fails to provide accurate information and the employee cannot "promptly and easily determine" the total number of hours worked or the "applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate." Lab. Code § 226(a)(9)-(e)(2)(B)(i).

172. Labor Code § 226(e)(2)(c) explains that the phrase "promptly and easily determine" means that "a reasonable person would be able to readily ascertain the information without reference to documents or information."

173. According to Labor Code § 226(h), "an employee may also bring an action for injunctive relief to ensure compliance with this section and is entitled to an award of costs and reasonable attorneys' fees."

174. Plaintiff asserts that, during the applicable time period, Defendants had a policy, practice, procedure, guideline, and/or culture of furnishing the Non-Exempt Class, including Plaintiff, with wage statements that do not comply with California law. Plaintiff contends that the wage statements furnished to her and the Non-Exempt Class members did not include, for instance, the total hours actually worked by the employee, 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 actual gross and net wages earned. These wage statement inaccuracies were due to, among other things, Defendants' failure to pay meal and rest period premiums, failure to pay reporting time pay, failure to pay split shift premiums, failure to correctly calculate the regular rate of pay for purposes of paying overtime and premium wages, and their practice of concealing meal period violations.

175. Due to the incorrect information on the furnished wage statements, Plaintiff and Non-Exempt Class members were unable to promptly and easily determine, from their wage statements alone, the total number of hours worked, the applicable hourly rates in effect during

GRAHAMHOLLIS APC
3555 FIFTH AVENUE SUITE 200
SAN DIEGO, CALIFORNIA 92103

the pay period, and/or the corresponding number of hours worked at each hourly rate, among other things.

176. Plaintiff and the Non-Exempt Class are entitled to and seek recovery of statutory penalties as provided by Labor Code § 226(e).

177. Furthermore, pursuant to Labor Code § 226(h), Plaintiff and members of the Non-Exempt Class are entitled to and therefore seek injunctive relief in order to ensure that Defendants comply with Labor Code § 226.

178. Plaintiff and the Non-Exempt Class are further entitled to, and seek to recover reasonable attorneys' fees and costs as provided under Labor Code §§ 226(e)(1) and (h) and Code of Civil Procedure § 1021.5.

179. Plaintiff, on behalf of herself and the Non-Exempt Class, requests further relief as described in the below prayer.

NINTH CAUSE OF ACTION

FAILURE TO REIMBURSE FOR NECESSARY BUSINESS EXPENSES

[Labor Code § 2802]

(Alleged By Plaintiff, Individually and On Behalf of the Non-Exempt Class, Against All Defendants)

180. Plaintiff realleges and incorporates by reference, as though fully set forth herein, all paragraphs of this First Amended Complaint.

181. Labor Code § 2802(a) provides, in pertinent part, "[a]n employer shall indemnify his or her employee 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."

182. Labor Code § 2802(b) further provides, "[a]ll awards made by a court … for reimbursement of necessary expenditures under this section shall carry interest at the same rate as judgments in civil actions. Interest shall accrue from the date on which the employee incurred the necessary expenditure or loss."

183. Furthermore, Labor Code § 2802(c) states, "[f]or the purposes of this section, the

GRAHAMHOLLIS APC
3555 FIFTH AVENUE SUITE 200
SAN DIEGO, CALIFORNIA 92103

term 'necessary expenditures or losses' shall include all reasonable costs, including, but not limited to, attorney's fees incurred by the employee enforcing the rights granted by this section."

184. During the relevant time period, Defendants had a policy, practice, procedure, guideline, and/or culture of requiring Non-Exempt Class members, including Plaintiff, to use their personal cell phones in the discharge of their job duties. These job duties included, but were not limited to, communicating with managers and co-workers about scheduling changes, policy changes, and other work issues, including in mandatory group chats. Defendants failed to reimburse Plaintiff and the Non-Exempt Class members a reasonable percentage of their personal cellular bill as required by California law.

185. Plaintiff and the Non-Exempt Class members are entitled to, and now seek to recover, reimbursement of their necessary expenditures, plus interest on the applicable amount, pursuant to Labor Code § 2802(b).

186. Plaintiff and the Non-Exempt Class members are also entitled to and therefore seek recovery of reasonable attorneys' fees and costs pursuant to Labor Code §§ 218.5 and 2802(c), and Code of Civil Procedure § 1021.5.

187. Plaintiff, on behalf of herself and the Non-Exempt Class, requests further relief as described in the below prayer.

TENTH CAUSE OF ACTION

FAILURE TO PROVIDE EMPLOYMENT AND PERSONNEL RECORDS UPON REQUEST

[Labor Code §§ 226(c), 226(f), and 1198.5]

(Alleged By Plaintiff, Individually and On Behalf of the Non-Exempt Class, Against All Defendants)

188. Plaintiff realleges and incorporates by reference, as though fully set forth herein, all paragraphs of this First Amended Complaint.

189. Labor Code § 226(c) mandates the following: "An employer who receives a written or oral request to inspect or receive a copy of records pursuant to subdivision (b) pertaining to a

GRAHAMHOLLIS APC
3555 FIFTH AVENUE SUITE 200
SAN DIEGO, CALIFORNIA 92103

current or former employee shall comply with the request as soon as practicable, but no later than 21 calendar days from the date of the request."

190. Labor Code § 1198.5(a) grants every current and former employee "the right to inspect and receive a copy of the personnel records that the employer maintains relating to the employee's performance or to any grievance concerning the employee."

191. Labor Code § 1198.5(b) further mandates that the contents of the personnel records be available for inspection within, but no later than, thirty (30) days from the date the employer receives the written request.

192. An employer who fails to permit a current or former employee to inspect or copy personnel records within thirty (30) days is subject to a penalty of $750 as outlined in Labor Code §§ 226(f) and 1198.5(k).

193. Defendants have a common policy and practice of failing to provide to Plaintiff and other Non-Exempt Employees their payroll records and personnel files upon written request, as required by California law. For instance, Plaintiff sent a written request to Defendants to obtain and/or inspect her personnel file and employment records on February 26, 2025. Defendants responded to Plaintiff's written request on April 2, 2025, refusing to provide her personnel file and employment records on the improper grounds that said records are purportedly available to Plaintiff on Defendants' online payroll platforms. Plaintiff no longer has access to these documents on these platforms, and even if she did, Defendants are not absolved of the responsibility to provide copies of the requested documents within the time frames set forth in the Labor Code.

194. To date, Plaintiff has not received a copy of her personnel file and employment records, despite requesting a copy of these records from Defendants, in writing, more than thirty (30) days ago. Accordingly, Defendants have violated Labor Code §§ 226(c) and 1198.5.

195. Plaintiff and the Non-Exempt Class have suffered injuries and damages as a consequence of Defendants' deliberate failure to provide employment and personnel records upon request within the time frame required by the Labor Code. Specifically, Plaintiff was denied her

GRAHAMHOLLIS APC
3555 FIFTH AVENUE SUITE 200
SAN DIEGO, CALIFORNIA 92103

legal right and protected interest in obtaining and/or inspecting her personnel and employment records.

196. Plaintiff is entitled to and therefore seeks to recover, on behalf of herself and the Non-Exempt Class, the penalty provided under Labor Code §§ 226(f) and 1198.5(k), as well as reasonable attorneys' fees and costs as provided by Labor Code §§ 226(h) and 1198.5(l).

197. Plaintiff, on behalf of herself and the Non-Exempt Class, requests further relief as described in the below prayer.

ELEVENTH CAUSE OF ACTION

VIOLATION OF CALIFORNIA'S UNFAIR COMPETITION LAW

[Business & Professions Code §§ 17200, *et seq*.]

(Alleged By Plaintiff, Individually and On Behalf of the Non-Exempt Class, Against All Defendants)

198. Plaintiff realleges and incorporates by reference, as though fully set forth herein, all paragraphs of this First Amended Complaint.

199. As codified in Business & Professions Code §§ 17200, *et seq*., California's Unfair Competition Law ("UCL") broadly prohibits "any unlawful, unfair or fraudulent business act or practice."

200. A cause of action may be brought under the UCL if a practice violates some other law. The "unlawful" prong of the UCL effectively deems a violation of the underlying law a per se violation of Business & Professions Code §§ 17200, *et seq*. *Cel-Tech Commc'ns, Inc. v. Los Angeles Cellular Tel. Co*., 20 Cal. 4th 163, 180 (1999). Virtually any law or regulation – federal or state, statutory, or common law – can serve as a predicate for a section 17200 "unlawful" violation. *Farmers Ins. Exch. v. Superior Court*, 2 Cal. 4th 377, 383 (1992).

201. The "unfair" prong of the UCL does not require a practice to be specifically proscribed by any law. *Korea Supply Co. v. Lockheed Martin Corp*., 20 Cal.4th 1134, 1143 (2003). Pursuant to the California Supreme Court, the "unfair standard" is intentionally broad to give maximum discretion to courts in prohibiting new schemes to defraud. *Cel-Tech Commc'ns, Inc.,* 20 Cal. 4th at 180-81.

GRAHAMHOLLIS APC
3555 FIFTH AVENUE SUITE 200
SAN DIEGO, CALIFORNIA 92103

202. Under the UCL, a "fraudulent" business act or practice is one where "members of the public are likely to be deceived." *Blakemore v. Superior Court*, 129 Cal. App. 4th 36, 49 (2005). A showing of actual deception, reasonable reliance, or damages is not required. *Id*. The fraudulent prong may be used to attack the deceptive manner in which otherwise lawful contract terms are presented to an individual. *Boschma v. Home Loan Ctr., Inc*., 198 Cal. App. 4th 230, 253 (2011). As such, even a true statement may be unlawful under section 17200 if it is "couched in such a manner that is likely to mislead or deceive..., such as by failing to disclose other relevant information." *Id*.

203. As discussed herein, Defendants' business practices violate all three prongs of California's UCL.

Unlawful

204. As described herein, Defendants violated the Labor Code by, among other things, refusing to properly compensate Plaintiff and the Non-Exempt Class members for all time worked because of their time record falsification practice. Failing to compensate employees for all time worked is a clear violation of California law, and thus a per se violation of the UCL. *Cel-Tech Commc'ns, Inc.,* 20 Cal. 4th at 180. Defendants further violated California law by failing to provide legally compliant meal and/or rest periods and/or pay premium wages in lieu thereof; failing to pay reporting time wages; failing to pay earned gratuities; failing to timely pay all wages due and owing upon separation of employment and/or the required waiting time penalties; failing to furnish accurate itemized wage statements; and failing to reimburse for necessary business expenses. Therefore, Defendants have clearly engaged in unlawful business practices pursuant to Business & Professions Code §§ 17200 *et seq*.

Unfair

205. Defendants' policy, practice, procedure, guideline, and/or culture of instituting a practice of adding meal period time entries to Non-Exempt Class members' time records is inherently unfair because Defendants knowingly prevent the Non-Exempt Class members from receiving compensation for all time actually worked, in violation of California's policy of prompt payment of wages.

GRAHAMHOLLIS APC
3555 FIFTH AVENUE SUITE 200
SAN DIEGO, CALIFORNIA 92103

206. Defendants' policy, practice, procedure, guideline, and/or culture of failing to provide Non-Exempt Class members, including Plaintiff, with legally compliant meal and rest periods constitutes an unfair practice because Defendants knowingly strip the Non-Exempt Class members of their rights under the Labor Code.

207. Defendants also violate the unfair prong of the UCL by failing to pay premium wages to Non-Exempt Class members for unlawful meal and rest periods because Defendants knowingly deny Non-Exempt Class members, including Plaintiff, their legal right to one additional hour of pay at their regular rate of pay for each workday a meal and/or rest period was not provided.

208. Defendants' policy, practice, procedure, guideline, and/or culture of sharing gratuities earned by Non-Exempt Class members with Defendants' agents is inherently unfair because it deprives Non-Exempt Class members of gratuities given to them by patrons—a form of property belonging solely to the employees.

209. Defendants' policy, practice, procedure, guideline, and/or culture of failing to provide Plaintiff and the Non-Exempt Class members with accurate itemized wage statements is a violation of the unfair prong of the UCL because Defendants knowingly deny Non-Exempt Class members their legal right and protected interest in readily ascertaining their total number of hours worked and the applicable hourly rates in effect during the pay period.

210. Defendants' policy, practice, procedure, guideline, and/or culture of failing to reimburse Plaintiff and other Non-Exempt Class members for use of their personal cell phones is inherently unfair because it forces employees to bear the cost and expenses of Defendants' business.

211. Additionally, Defendants' failure to timely pay Plaintiff and the Non-Exempt Class members all minimum, regular, overtime, and/or premium wages upon separation of employment violates the unfair prong of the UCL because Defendants knowingly deprive Non-Exempt Class members of timely compensation of their earned wages, in violation of California law.

/ / /

/ / /

GRAHAMHOLLIS APC
3555 FIFTH AVENUE SUITE 200
SAN DIEGO, CALIFORNIA 92103

GRAHAMHOLLIS APC
3555 FIFTH AVENUE SUITE 200
SAN DIEGO, CALIFORNIA 92103

Fraudulent

212. Defendants' policy, practice, procedure, guideline, and/or culture of altering timesheets to reflect unpaid, off-duty meal periods of 30 minutes that Non-Exempt Class members could not actually take is a fraudulent business practice because it knowingly and intentionally caused Non-Exempt Class members to be deprived of earned wages and deceived them as to their time worked and wages earned.

213. Defendants' policy, practice, procedure, guideline, and/or culture of not factoring in non-discretionary pay into the regular rate of pay for purposes of calculating overtime and meal and rest period premium wages is fraudulent because Plaintiff and the Non-Exempt Class members were underpaid their overtime and meal and rest period premium wages in amounts that are not readily ascertainable to Plaintiff and the Non-Exempt Class members.

214. Defendants' policy, practice, procedure, guideline, and/or culture of furnishing Plaintiff and the Non-Exempt Class members with inaccurate itemized wage statements constitutes a fraudulent business practice because Plaintiff and the Non-Exempt Class members are likely to be, and were actually deceived, as to whether they were paid for all time worked.

215. As a direct and proximate result of Defendants' unlawful, unfair and fraudulent business practices described herein, Plaintiff and the Non-Exempt Class have suffered injury-in-fact and have lost wages rightfully owed to them.

216. Defendants acquired money and property owed to Plaintiff and the Non-Exempt Class by means of an unlawful practice that constitutes unfair competition as defined by Business and Professions Code §§ 17200, *et seq*.

217. Plaintiff and the Non-Exempt Class are persons in interest under Business and Professions Code § 17203 to whom money and property should be restored. Business and Professions Code § 17203 states, in relevant part, that "any person may pursue representative claims or relief on behalf of others only if the claimant meets the standing requirements of § 17204."

218. Plaintiff is a person who suffered injury in fact and lost money, wages, compensation, and benefits, as a result of Defendants' unfair competition. Thus, pursuant to

Business and Professions Code §§ 17203 and 17204, Plaintiff may pursue representative claims and relief on behalf of herself and the putative classes.

219. Pursuant to Business and Professions Code § 17203, "[t]he court may make such orders or judgments, as may be necessary to restore to any person in interest any money or property, real or personal, which may have been acquired by means of such unfair competition."

220. Defendants reaped unfair benefits and illegal profits at the expense of Plaintiff and the Non-Exempt Class by committing the unlawful acts alleged herein. Thus, Defendants must make restitution and/or be subject to other equitable relief pursuant to Business & Professions Code § 17203, and restore all unpaid wages to Plaintiff and the Non-Exempt Class.

221. Through their unlawful, unfair and fraudulent conduct, Defendants have been unjustly enriched by receiving and continuing to receive benefits and profits at the expense of Plaintiff and the Non-Exempt Class. Therefore, pursuant to Business & Professions Code §§ 17200, *et seq*., Defendants should be enjoined from this activity and made to disgorge all ill-gotten gains and restore Plaintiff and other Non-Exempt Class Members the wages wrongfully withheld from them.

222. Moreover, the unlawful, unfair and fraudulent conduct alleged herein has continued, and there is no indication that Defendants will refrain from such activity in the future. Plaintiff believes and alleges that if Defendants are not enjoined from the conduct described herein, Defendants will continue to violate California law at the expense of Non-Exempt Class Members. Accordingly, Plaintiff requests that the Court issue a preliminary and permanent injunction against Defendants.

223. Plaintiff and the Non-Exempt Class suffered and continue to suffer loss of wages and monies, all in an amount to be shown according to proof at trial and within the jurisdiction of this Court.

224. Plaintiff seeks all available remedies on behalf of herself and on behalf of the Non-Exempt Class members including, but not limited to, restitution of all wages and all monies owed, all in an amount to be shown according to proof at trial. All such remedies are cumulative of relief available under other laws, pursuant to Business & Professions Code § 17205.

GRAHAMHOLLIS APC
3555 FIFTH AVENUE SUITE 200
SAN DIEGO, CALIFORNIA 92103

225. Plaintiff, on behalf of herself and the Non-Exempt Class, requests further relief as described in the below prayer.

TWELFTH CAUSE OF ACTION

PRIVATE ATTORNEY GENERAL ACT OF 2004

[Labor Code §§ 2698 *et seq.*]

(Alleged By Plaintiff, on Behalf of All Aggrieved Employees, Against All Defendants)

226. Plaintiff realleges and incorporates by reference, as though fully set forth herein, all paragraphs of this First Amended Complaint.

227. By and through this representative action, Plaintiff intends to represent the following Aggrieved Employees:

> All current and former non-exempt employees who performed work for Defendants in California during the period commencing one year and sixty-five days prior to the filing of this First Amended Complaint through and including the last date of trial (hereinafter the "PAGA Period") and who have suffered at least one of the violations alleged herein.

228. Plaintiff and all Aggrieved Employees are all "employees" as the term is used in the Labor Code and the IWC Wage Orders regulating wages, hours, and working conditions in the state of California.

229. A more precise definition of the aggrieved employees may be determined after further investigation and discovery. Plaintiff reserves her right to redefine the group of Aggrieved Employees as permitted by California law.

230. Pursuant to 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 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 against whom a violation of the same provision was committed pursuant to the procedures specified in Labor Code § 2699.3. Such civil penalties are in addition to any other relief provided for under the Labor Code and must be allocated sixty-five

GRAHAMHOLLIS APC
3555 FIFTH AVENUE SUITE 200
SAN DIEGO, CALIFORNIA 92103

percent (65%) to the LWDA and thirty-five percent (35%) to the aggrieved employees, pursuant to Labor Code § 2699(m).

231. This cause of action involves allegations of violations of Labor Code sections 201, 202, 203, 351, 353, 1174 and 1198. As such, Labor Code § 2699.5 provides for a civil penalty to be assessed and collected by the LWDA or 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.

232. This cause of action involves allegations of violations of Labor Code sections 226, 226.7, 432, 510, 512, 1194, 1197, 1198.5, 2751, and 2802. Pursuant to Labor Code § 2699.3(c), Defendants had 33 calendar days of the postmark date of the LWDA notice sent by Plaintiff to cure the alleged violations. To date, Defendants have not provided any written notice to Plaintiff that the alleged violations have been cured. Thus, Plaintiff may commence with this representative action to recover civil penalties for the alleged violations of Labor Code sections 226, 226.7, 432, 510, 512, 1194, 1197, 1198.5, 2751, and 2802 pursuant to Labor Code § 2699 because the alleged violations have not been cured within the 33-day period.

233. Plaintiff is an "aggrieved employee" under the PAGA because she was employed by the alleged violator, Franson Family Winery LLC, and personally suffered each of the alleged violations. (Labor Code § 2699 (c)(1).) Thus, Plaintiff is properly suited to represent the interests of the other aggrieved employees who suffered a violation of the same Labor Code provisions alleged herein in a PAGA representative claim.

234. Plaintiff alleges that all other non-exempt employees are also "aggrieved employees" under the PAGA because Franson Family Winery, LLC employed them and they experienced one or more of the alleged violations outlined herein.

235. Plaintiff exhausted her obligation to provide administrative notice pursuant to Labor Code § 2699.3 and now seeks the recovery of all available civil penalties under Labor Code § 2699(a), as well as attorneys' fees and costs pursuant to Labor Code § 2699(k)(1).

236. Plaintiff, in her representative capacity, on behalf of herself and all other Aggrieved Employees, is entitled to and thus seeks to recover civil penalties and injunctive relief through a

GRAHAMHOLLIS APC
3555 FIFTH AVENUE SUITE 200
SAN DIEGO, CALIFORNIA 92103

representative enforcement action based on Defendants' violations of the following Labor Code and/or IWC Wage Order provisions:

a. Failure to provide legally compliant meal periods and/or pay premium wages for non-compliant meal periods in violation of Labor Code §§ 226.7, 512, 558, 1198, and the "Meal Periods" section of the applicable IWC Wage Order;

b. Failure to provide legally compliant rest periods and/or pay premium wages for non-compliant rest periods in violation of Labor Code §§ 226.7, 1198, and the "Rest Periods" section of the applicable IWC Wage Order;

c. Failure to pay all minimum and regular wages in violation of Labor Code §§ 1194, 1194.2, 1197, 1197.1, 1198, and the "Minimum Wage" and "Hours and Days of Work" sections of the applicable IWC Wage Order;

d. Failure to pay all overtime wages in violation of Labor Code §§ 510, 558, 1194, 1198, and the "Hours and Days of Work" section of the applicable IWC Wage Order;

e. Failure to pay reporting time play in violation of Labor Code §§ 1194, 1198, and the "Reporting Time Pay" section of the Applicable IWC Wage Order;

f. Failure to pay all earned gratuities in violation of Labor Code §§ 351 and 353;

g. Failure to provide a written commission plan in violation of Labor Code § 2751;

h. Failure to pay all wages due and owing upon separation of employment and/or the required waiting time penalties in violation of Labor Code §§ 201, 202, and 203;

i. Failure to furnish accurate itemized wage statements in violation of Labor Code § 226, and the "Records" section of the applicable IWC Wage Order;

j. Failure to maintain accurate employment records in violation of Labor Code §§ 1174, 1174.5, and the "Records" section of the applicable IWC Wage Order;

k. Failure to reimburse for necessary business expenses in violation of Labor Code § 2802; and

l. Failure to provide employment and personnel records upon request in violation of Labor Code §§ 226(b), (c), and (f), 432, 1198.5, and 1198.5(k).

GRAHAMHOLLIS APC
3555 FIFTH AVENUE SUITE 200
SAN DIEGO, CALIFORNIA 92103

237. Labor Code § 226(f) imposes a civil penalty of $750 on an employer who fails to permit a current or former employee to inspect or receive a copy of their employment records no later than 21 calendar days from the date of the employee's request, in violation of Labor Code § 226(c). Plaintiff, in her representative capacity, seeks the civil penalty imposed by Labor Code § 226(f) on behalf of herself and all other Aggrieved Employees.

238. Labor Code § 558(a) subjects an employer or any person acting on behalf of an employer who violates, or causes to be violated Labor Code §§ 500-558, or any provision regulating the hours and days of work in any IWC Wage Order, to a civil penalty of $50 for each underpaid employee for each pay period for which the employee was underpaid for any initial violation, and $100 for each underpaid employee for each pay period for which the employee was underpaid for each subsequent violation. Plaintiff, in her representative capacity, seeks the civil penalty imposed by Labor Code § 558(a) on behalf of herself and all other Aggrieved Employees.

239. Labor Code § 1174.5 imposes a civil penalty of $500 for an employer's failure to maintain accurate and complete records. This civil penalty is in addition to the civil penalty of $100 per pay period, per aggrieved employee that would be imposed pursuant to Labor Code § 2699(f)(2) for a violation of Labor Code § 1174(d). Plaintiff, in her representative capacity, seeks the civil penalty imposed by Labor Code § 1174.5 on behalf of herself and all other Aggrieved Employees.

240. Labor Code § 1197.1 subjects any employer or other person acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or local law, or by an order of the commission to a civil penalty, restitution of wages, liquidated damages payable to the employee, and any applicable penalties imposed pursuant to § 203 as follows:

> (1) For any initial violation that is intentionally committed, one hundred dollars ($100) for each underpaid employee for each pay period for which the employee is underpaid. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section 203. (2) For each subsequent violation for the same specific offense, two hundred fifty dollars ($250) for each underpaid employee for each pay period for which the

GRAHAMHOLLIS APC
3555 FIFTH AVENUE SUITE 200
SAN DIEGO, CALIFORNIA 92103

> employee is underpaid regardless of whether the initial violation is intentionally committed. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section 203. (3) Wages, liquidated damages, and any applicable penalties imposed pursuant to Section 203, recovered pursuant to this section shall be paid to the affected employee.

Plaintiff, in her representative capacity, seeks the civil penalty imposed by Labor Code § 1197.1 on behalf of herself and all other Aggrieved Employees.

241. Labor Code § 1198.5(k) imposes a penalty of $750 on an employer who fails to permit a current or former employee, or their representative, to inspect or copy their personnel records within 30 days of the employee's written request, in violation of Labor Code § 1198.5. Plaintiff, in her representative capacity, seeks the civil penalty imposed by Labor Code § 1198.5 on behalf of herself and all other Aggrieved Employees.

242. Labor Code § 2699(f)(2)(A)(i) provides that for violations of Labor Code § 226, if the violation is a violation of paragraphs (1) to (7) or (9) of subdivision (a) of § 226 then the civil penalty is $25 per pay period per employee if the employee could promptly and easily determine the information specified in subdivision (a) of § 226. If the alleged violation is a violation of paragraph (8) of subdivision (a) of § 226, the civil penalty is $25 for each aggrieved employee per pay period if the employee would not be confused or misled about the correct identity of their employer. Plaintiff, in her representative capacity, seeks the civil penalty imposed by Labor Code § 2699(f)(2)(A)(i) on behalf of herself and all other Aggrieved Employees.

243. For violations of certain Labor Code provisions for which a civil penalty is not specifically provided, including but not limited to, Labor Code §§ 201-203, 226.7, 351, 353, 432, 1194, 1198, 2751, and 2802, and relevant IWC Wage Orders, Labor Code § 2699(f)(2) imposes upon Defendants a penalty of $100 for each aggrieved employee per pay period for the initial violation. If the alleged violation results from an isolated, nonrecurring event that did not extend beyond the lesser of 30 consecutive days or four consecutive pay periods, the civil penalty is $50 for each aggrieved employee per pay period. Labor Code § 2699(f)(2)(A)(ii). Plaintiff, in her

GRAHAMHOLLIS APC
3555 FIFTH AVENUE SUITE 200
SAN DIEGO, CALIFORNIA 92103

representative capacity, seeks the civil penalty imposed by Labor Code § 2699(f)(2)(A) on behalf of herself and all other Aggrieved Employees.

244. For violations of certain Labor Code provisions for which a civil penalty is not specifically provided, including but not limited to, Labor Code §§ 201-203, 226.7, 351, 353, 432, 1194, 1198, 2751, and 2802, and relevant IWC Wage Orders, Labor Code § 2699(f)(2)(B) imposes a civil penalty of $200 per pay period, per employee if either of the following are met: (a) within five (5) years preceding the alleged violation, the agency or any court issued a finding or determination to the employer that its policy or practice giving rise to the violation was unlawful; or (b) the court determines that the employer's conduct giving rise to the violation was malicious, fraudulent, or oppressive. Plaintiff, in her representative capacity, seeks the civil penalty imposed by Labor Code § 2699(f)(2)(B) on behalf of herself and all other Aggrieved Employees.

245. Labor Code § 2699(k)(1) provides that an aggrieved employee may be awarded injunctive relief in a civil action. Plaintiff, in her representative capacity, seeks injunctive relief as provided by Labor Code § 2699(k)(1) on behalf of herself and all other Aggrieved Employees.

246. Labor Code § 2699(k)(1) provides that an employee who prevails in a civil action brought pursuant to the PAGA shall be entitled to an award of reasonable attorneys' fees and costs. Plaintiff, in her representative capacity, seeks attorneys' fees and costs as provided by Labor Code section 2699(k)(1) on behalf of herself and all other Aggrieved Employees.

247. Labor Code § 218.5 and Code of Civil Procedure § 1021.5 also permit the recovery of attorneys' fees and costs. Plaintiff, in her representative capacity, seeks attorneys' fees and costs as permitted by Labor Code § 218.5and Code of Civil Procedure § 1021.5 on behalf of herself and other Aggrieved Employees.

248. Plaintiff, in her representative capacity on behalf of herself and all other Aggrieved Employees, requests further relief as described in the below prayer for relief.

PRAYER FOR RELIEF

Plaintiff prays for judgment against Defendants in favor of the class and representative action as follows:

/ / /

GRAHAMHOLLIS APC
3555 FIFTH AVENUE SUITE 200
SAN DIEGO, CALIFORNIA 92103

a. For an order determining that this action may be maintained as a class action with the named Plaintiff as the class representative;

b. For the attorneys appearing on the above caption to be named class counsel;

c. For all wages, benefits, and damages due to Plaintiff and the Non-Exempt Class members pursuant to California law;

d. For all minimum, regular, overtime, and/or reporting time wages owed pursuant to Labor Code §§ 510, 1194, 1197.1, and/or other applicable law;

e. For premium wages pursuant to Labor Code § 226.7 and/or other applicable law;

f. For unreimbursed business expenses pursuant to Labor Code § 2802 and/or other applicable law;

g. For waiting time penalties pursuant to Labor Code § 203 and/or other applicable law;

h. For damages, pursuant to Labor Code § 226(e)(1), Civil Code § 3281, and/or other applicable law;

i. For all liquidated damages, pursuant to Labor Code §§ 1194.2, 1197.1, and/or other applicable law;

j. For any and all penalties available for the violations alleged herein, including penalties under Labor Code §§ 203, 226(e)(1), 1197.1, 1198.5(k) and/or other applicable law;

k. For any and all civil penalties available for the Labor Code violations alleged herein including, but not limited to civil penalties under Labor Code §§ 226(f), 558(a), 1174.5, 1197.1, 1198.5(k), 2699(f)(2), and/or other applicable law;

l. For injunctive relief, pursuant to Labor Code §§ 226(h), 2699(k)(1) and Business & Professions Code § 17203, and/or other applicable law;

GRAHAMHOLLIS APC
3555 FIFTH AVENUE SUITE 200
SAN DIEGO, CALIFORNIA 92103

GRAHAM**HOLLIS** APC
3555 FIFTH AVENUE SUITE 200
SAN DIEGO, CALIFORNIA 92103

m. For restitution for Defendants' unfair, unlawful, and fraudulent business practices as provided by Labor Code § 1197.1, Business & Professions Code § 17203 and/or other applicable law;

n. For reasonable attorneys' fees and costs of suit pursuant to Labor Code §§ 218.5, 226(e)(1), 226(h), 1194(a), 1198.5(l), 2802, and 2699(k)(1), Code of Civil Procedure § 1021.5, the "common fund" theory, the "substantial benefit" theory, and/or other applicable law, theory or doctrine;

o. For a declaratory judgment that Defendants violated Labor Code §§ 201-203, 226, 226.7, 351, 353, 432, 510, 512, 1194, 1197, 1198, 1198.5, 2751, and 2802; the "Meal Periods," "Rest Periods," "Hours and Days of Work," "Minimum Wages," "Records," and "Reporting Time Pay" sections of the applicable IWC Wage Order; and Business & Professions Code §§ 17200 *et seq.*;

p. For pre- and post- judgment interest as provided by California law;

q. For appropriate equitable relief pursuant to California law; and

r. For any other relief the Court may deem as just and proper.

JURY TRIAL DEMAND

Plaintiff demands a trial by jury on all issues triable to a jury.

Dated: June 20, 2025

GRAHAM**HOLLIS** APC

By: Allison E Schubert

Hali M. Anderson
Allison E. Schubert
Attorneys for Plaintiff Tanya Blackmon

EXHIBIT 1

GRAHAMHOLLIS
APC

Attorneys at Law

3555 Fifth Avenue Suite 200
San Diego, California 92103
619.692.0800 voice
619.692.0822 fax

www.grahamhollis.com

Allison E. Schubert
aschubert@grahamhollis.com
619.436.5592 direct

April 14, 2025

VIA ONLINE ELECTRONIC FILING

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

CERTIFIED MAIL (RETURN RECEIPT)

FRANSON FAMILY WINERY LLC
27711 Manor Hill Road
Laguna Niguel, CA 92677

FRANSON FAMILY WINERY LLC
c/o Santon General Counsel,
Agent for Service of Process
555 Anton Blvd,
Costa Mesa, CA 92626

Re: Tanya Blackmon's Wage and Hour Claims Against Franson Family Winery LLC

Dear California Labor and Workforce Development Agency and Franson Family Winery LLC:

Please be advised that Tanya Blackmon ("Claimant") has retained our firm to represent her for various claims against her former employer, Franson Family Winery LLC ("the Company").

This letter shall serve as Claimant's written notice to the California Labor and Workforce Development Agency ("LWDA") and to the Company of the alleged violations of the California Labor Code ("Labor Code") and applicable Industrial Welfare Commission ("IWC") Wage Orders that Claimant claims the Company committed against her and all other current and former non-exempt employees of the Company who performed work in California during the relevant period. Claimant provides this written notice, which includes the facts and theories to support the violations alleged herein, in accordance with the Private Attorneys General Act of 2004 ("PAGA"), Labor Code section 2699.3.

Claimant intends to file a civil action against the Company to enforce her rights under the Labor Code and to seek civil penalties and injunctive relief pursuant to the PAGA for the alleged violations. Pursuant to Labor Code section 2699(a), and by way of this notice, Claimant intends to represent herself and all Aggrieved Employees on behalf of the State of California.

BACKGROUND

Franson Family Winery LLC is a California limited liability company with its principal place of business in Laguna Niguel, California. Franson Family Winery LLC owns and operates Rancho Capistrano Winery, a winery and restaurant with three locations in San Juan Capistrano, San Clemente, and Ladera Ranch.

Claimant Tanya Blackmon was employed by the Company from approximately October 2022 to December 21, 2024. From October 2022 to January 2024, Claimant was employed as a server. She was responsible for opening and closing the bar, setting up tables, cleaning, taking orders, closing out checks, and providing customer service. She was also required to sell monthly wine club memberships to customers. As a server, Claimant typically worked the mid to closing shift from about 4:00 p.m. to 9:00 or 10:00 p.m.

In or around January 2024, Claimant began working as a lead server for many of her shifts. As a lead server, Claimant's job responsibilities remained the same as a server, except that she also coordinated with Kelly, the General Manager, about upcoming events at the winery; called employees to let them know that Kelly had taken them off the schedule; authorized discounts; distributed tips; and ordered wine. As a lead server, she typically worked the opening shift until one to two hours after closing.

At all times during her employment, Claimant was classified as a non-exempt employee, earned an hourly wage plus tips, and was paid on a bi-weekly basis. She typically worked three days a week and occasionally worked overtime hours. Claimant was also sometimes scheduled to work split shifts, i.e., she worked in the morning and returned several hours later to work the closing shift in the same day.

Claimant alleges that the Company denied her and other Aggrieved Employees the specific rights afforded to them under the Labor Code and the applicable IWC Wage Order. Specifically, the Company failed to provide legally compliant meal periods and/or pay premium wages for non-compliant meal periods; failed to provide legally compliant rest periods and/or pay premium wages for non-compliant rest periods; failed to pay all minimum and/or regular wages; failed to pay all overtime wages; failed to pay reporting time pay; failed to pay earned gratuity; failed to provide a written commission plan; failed to timely pay all wages due and owing at the time of separation of employment and/or the required waiting time penalties; failed to furnish accurate itemized wage statements; failed to maintain accurate employment records; failed to reimburse for necessary business expenses; and failed to provide employment and personnel records upon request.

All facts, allegations, and/or legal theories contained within this written notice are asserted on behalf of Claimant, all other Aggrieved Employees, and the State of California. The facts, allegations, and/or legal theories contained in this written notice are based on the information available at the time of this writing. Since Claimant's investigation is ongoing, Claimant reserves her right to assert any and all related facts, allegations, and/or theories of liability discovered after the sending of this written notice on behalf of herself, all other Aggrieved Employees, and the State of California against the Company and/or other persons that may be discovered after the sending of this written notice. Such other persons may include, but are not limited to, those persons who have acted as an agent, subsidiary, servant, employee, co-conspirator, alter-ego, and/or joint venture of the Company, as well as those persons who caused and/or concurrently contributed to the various acts and/or admissions of each and every one of the others, including the Company, in proximately causing the wrongful conduct, harm, and/or damages alleged herein or otherwise participated in or ratified any or all of the acts and/or omissions complained herein, and those who were acting within the authority and/or scope of the Company. Claimant reserves the right to revise these facts and/or add any new allegations, or legal theories by amending this written notice and/or by adding facts, allegations, and/or legal theories to the civil complaint.

VIOLATIONS OF THE LABOR CODE AND APPLICABLE IWC WAGE ORDER

FAILURE TO PROVIDE LEGALLY COMPLIANT MEAL PERIODS AND/OR PAY PREMIUM WAGES FOR NON-COMPLIANT MEAL PERIODS

(Labor Code §§ 226.7, 512, 558, 1198, and the "Meal Periods" section of the Applicable IWC Wage Order)

The Company has a common practice of failing to provide legally compliant meal periods and/or pay premium wages for non-compliant meal periods during employment. For instance, Claimant and other Aggrieved Employees were not relieved to take their meal periods due to insufficient staffing and coverage. In fact, the Company did not maintain a practice of scheduling employees such that they would be relieved of their work duties to take compliant meal periods. As a result, Claimant and other Aggrieved Employees frequently worked through their meal periods, took late meal periods, or received meal periods interrupted by work duties in order to perform their job duties with a skeleton crew. When Claimant complained to the General Manager, Kelly, about her inability to take meal periods, she was told "to find the right time to take a step away," yet this time was never available to her.

Further, the Company has a common practice of adding meal period times to shifts where no meal period is recorded to avoid paying meal period premiums to Claimant and other Aggrieved Employees. Specifically, Claimant's time records reflect that her time entries were falsified by her manager to reflect a meal period was taken on shifts where she was forced to work through her meal periods.

The Company knew or should have known that Claimant and other Aggrieved Employees were not provided with compliant meal periods, but nonetheless did not pay Claimant or other Aggrieved Employees with one-hour of premium wages at their regular rate of pay for each workday that a compliant meal period was not provided.

Claimant intends to pursue all available remedies against the Company for its violations of the Labor Code and applicable IWC Wage Order on behalf of herself, all other Aggrieved Employees, and the State of California.

FAILURE TO PROVIDE LEGALLY COMPLIANT REST PERIODS AND/OR PAY PREMIUM WAGES FOR NON-COMPLIANT REST PERIODS
(Labor Code §§ 226.7, 1198, and the "Rest Periods" section of the Applicable IWC Wage Order)

The Company has a common practice of not authorizing or permitting Claimant and other Aggrieved Employees to take 10-minute rest periods per every four-hour work period, or major fraction thereof. For instance, Claimant and other Aggrieved Employees were rarely, if ever, permitted to take a 10-minute rest period because there was no coverage or relief and they were forced to prioritize customer needs over taking their rest periods. The Company did not maintain a practice of scheduling employees such that they would be relieved of their work duties to take compliant rest periods. Additionally, Claimant and other Aggrieved Employees were not informed of their right to take rest periods by the Company.

The Company knew or should have known that Claimant and other Aggrieved Employees were not provided with compliant rest periods, but nonetheless did not pay Claimant or other Aggrieved Employees with one-hour of premium wages at their regular rate of pay for each workday that a compliant rest period was not provided.

Claimant intends to pursue all available remedies against the Company for its violations of the Labor Code and applicable IWC Wage Order on behalf of herself, all other Aggrieved Employees, and the State of California.

FAILURE TO PAY ALL MINIMUM AND REGULAR WAGES
(Labor Code §§ 1194, 1194.2, 1197, 1197.1, 1198, and the "Minimum Wages" and "Hours and Days of Work" sections of the Applicable IWC Wage Order)

The Company has a common practice of failing to pay Claimant and other Aggrieved Employees all minimum and/or regular wages owed for all time actually worked on behalf of the

Company. For instance, Claimant and other Aggrieved Employees often worked during their meal periods due to insufficient staffing. Even when lunches were missed, Claimant and other Aggrieved Employees' managers would falsify their time records to reflect a compliant meal period despite not actually taking one. Consequently, Claimant and other Aggrieved Employees were not properly compensated for all minimum and/or regular wages earned because they were not compensated for the time spent working during meal periods.

Further, Claimant and other Aggrieved Employees were not paid split shift premiums in the amount of one hour at state or local minimum wage, whichever is higher, for every workday in which the employees were scheduled to work two shifts interrupted by non-paid and non-working time periods established by the employer. For instance, on at least one occasion, Claimant worked a shift early in the morning and returned to work that same day for a shift in the evening; the break between shifts exceeded that of a meal period and was for the Company's benefit. Nonetheless, Claimant was not paid a split shift premium for those workdays.

Finally, as lead server, Claimant was required to review the schedule and call employees to inform them that they had been taken off the schedule by the General Manager. Claimant was forced to perform these duties prior to the start of her scheduled shift because there simply was not enough time to make these calls and complete her other job duties in the time allotted. Claimant was not compensated for this off-the-clock work. Based on the Company's common policy of understaffing its wineries, Claimant is informed and believes that other Aggrieved Employees similarly were required to perform work while off-the-clock without being paid at least minimum wages.

Claimant intends to pursue all available remedies against the Company for its violations of the Labor Code and applicable IWC Wage Order on behalf of herself, all other Aggrieved Employees, and the State of California.

FAILURE TO PAY ALL OVERTIME WAGES DURING EMPLOYMENT
(Labor Code §§ 510, 558, 1194, 1198, and the "Hours and Days of Work" section of the Applicable IWC Wage Order)

The Company has a common practice of failing to pay Claimant and other Aggrieved Employees all overtime and/or double time wages for all time worked in excess of eight hours per workday and/or 40 hours per workweek. For instance, Claimant and other Aggrieved Employees often worked through their meal periods but their time records were falsified by their managers to reflect compliant meal periods. In doing so, the Company improperly deducted Claimant's and Aggrieved Employees' hours worked and did not compensate them for that time, including overtime worked on the days they missed a meal period.

Moreover, Claimant and other Aggrieved Employees earned commissions for selling wine club memberships. The Company failed to include commissions and other non-discretionary compensation in the regular rate of pay for purposes of calculating and paying overtime wages.

Claimant intends to pursue all available remedies against the Company for its violations of the Labor Code and applicable IWC Wage Order on behalf of herself, all other Aggrieved Employees, and the State of California.

FAILURE TO PAY REPORTING TIME PAY
(Labor Code §§ 1194, 1198, and the "Reporting Time Pay" section of the applicable IWC Wage Order)

The Company has a common practice of failing to pay Claimant and other Aggrieved Employees reporting time pay. Specifically, Claimant and other Aggrieved Employees frequently reported for work at the winery only to be sent home within one to two hours of starting their shifts, which were scheduled to be four or more hours in length, due to lack of work. However, the Company did not pay Claimant or other Aggrieved Employees for half the usual or scheduled day's work, and in no event for less than two (2) hours nor more than four (4) hours, at the employee's regular rate of pay. Claimant intends to pursue all available remedies against the Company for its violations of the Labor Code and applicable IWC Wage Order on behalf of herself, all other Aggrieved Employees, and the State of California.

FAILURE TO PAY EARNED GRATUITY
(Labor Code §§ 351 and 353)

The Company has a common practice of including General Managers in the group of employees eligible to collect tips from the tip pool. However, the General Managers are authorized by the Company to make decisions as to the hiring and discharge of employees and to supervise, direct, and control the acts of employees, such that they serve as agents of the Company. Thus, the Company permitted General Managers to collect tips from the tip pool in violation of Labor Code section 351. As a result of this, Claimant and other Aggrieved Employees did not receive all gratuities earned during their employment with the Company. Claimant intends to pursue all available remedies against the Company for its violations of the Labor Code on behalf of herself, all other Aggrieved Employees, and the State of California.

FAILURE TO PROVIDE WRITTEN COMMISSION PLAN
(Labor Code § 2751)

The Company has a common practice of failing to provide Claimant and other Aggrieved Employees with the terms of their commission plan in writing. Specifically, Claimant and other Aggrieved Employees sold monthly wine club memberships as part of their job duties and were paid $10 in commissions per membership sale. However, the Company did not reduce the terms of this commission agreement to writing, nor did the Company set forth the method by which the commissions shall be computed and paid. Claimant intends to pursue all available remedies against the Company for its violations of the Labor Code on behalf of herself, all other Aggrieved Employees, and the State of California.

FAILURE TO TIMELY PAY ALL WAGES DUE AND OWING UPON SEPARATION OF EMPLOYMENT AND/OR THE REQUIRED WAITING TIME PENALTIES
(Labor Code §§ 201, 202, and 203)

The Company has a common practice of failing to timely pay all wages due and owing at the time of separation and/or the required waiting time penalties. The Company failed to pay Claimant and other Aggrieved Employees for all time worked and all premium wages for non-compliant meal and rest periods upon separation of employment. For instance, the Company did not immediately pay Claimant her owed minimum wages, overtime wages, reporting time pay, split shift premiums, and meal and rest period premium wages at separation of employment. Claimant has yet to be paid, and she has not received any waiting time penalties for the late payment of her wages.

The Company knew or should have known that Claimant and other Aggrieved Employees were not paid for all wages owed and/or knew or should have known that the meal and rest breaks provided were short, late, or interrupted as discussed herein. Claimant intends to pursue all available remedies against the Company for its violations of the Labor Code on behalf of herself, all other Aggrieved Employees, and the State of California.

FAILURE TO FURNISH ACCURATE ITEMIZED WAGE STATEMENTS
(Labor Code § 226 and the "Records" section of the Applicable IWC Wage Order)

The Company has a common practice of failing to furnish accurate itemized wage statements. The Company knowingly and/or intentionally failed to provide Claimant and other Aggrieved Employees with accurate itemized wage statements that comply with the requirements of the Labor Code because the wage statements did not, among other things, include the correct total regular and/or overtime hours worked, the correct amount of gross and/or net wages earned, and/or all applicable hourly rates and the corresponding number of hours worked at each hourly rate. The wage statements issued by the Company further failed to reflect split shift premiums, reporting time pay, and meal and rest period premiums owed to Claimant and other Aggrieved Employees. Claimant intends to pursue all available remedies against the Company for its violations of the Labor Code and applicable IWC Wage Order on behalf of herself, all other Aggrieved Employees, and the State of California.

/ / /
/ / /

FAILURE TO MAINTAIN ACCURATE EMPLOYMENT RECORDS
(Labor Code §§ 1174, 1174.5, and the "Records" section of the Applicable IWC Wage Order)

The Company has a common practice of failing to maintain accurate employment records. As set forth above, the Company violated its recordkeeping requirements by failing to accurately record employee hours actually worked including, but not limited to, the Company's failure to record the proper beginning and end of each work period, the meal periods, the total hours worked during the pay period, the applicable rates of pay, and the wages earned and paid, among other things. Claimant intends to pursue all available remedies against the Company for its violations of the Labor Code and applicable IWC Wage Order on behalf of herself, all other Aggrieved Employees, and the State of California.

FAILURE TO REIMBURSE FOR NECESSARY BUSINESS EXPENSES
(Labor Code § 2802)

The Company has a common practice of requiring Claimant and other Aggrieved Employees to use their personal cell phones in the discharge of their job duties without reimbursement. Specifically, Claimant was required to use her personal cell phone to communicate with her manager and inform employees that they had been taken off the schedule. Claimant was not provided reimbursement. Claimant intends to pursue all available remedies against the Company for its violations of the Labor Code on behalf of herself, all other Aggrieved Employees, and the State of California.

FAILURE TO PROVIDE EMPLOYMENT AND PERSONNEL RECORDS UPON REQUEST
(Labor Code §§ 226(b), (c), (f), 432, 1198.5, and 1198.5(k))

The Company has a common practice of failing to provide to Claimant and other Aggrieved Employees their payroll records, personnel records, and signed agreements relating to their employment upon request, as required by California law. Claimant sent a written request to the Company to obtain and/or inspect her personnel file and employment records on February 26, 2025. On April 2, 2025, the Company responded to Claimant's request, stating that it would not be producing copies of Claimant's records because said records are purportedly accessible to her via the Company's online payroll platforms. Claimant no longer has access to documents on the Company's payroll platforms since her separation of employment. More importantly, even if Claimant did have access, the Company is not absolved of its responsibility to provide copies of the requested documents within the time frames set forth in the Labor Code. Claimant intends to pursue all available remedies against the Company for its violations of the Labor Code on behalf of herself, all other Aggrieved Employees, and the State of California.

CIVIL PENALTIES AND INJUNCTIVE RELIEF FOR VIOLATIONS OF THE LABOR CODE AND THE APPLICABLE IWC WAGE ORDER

(Labor Code §§ 226(f), 558(a), 1174.5, 1197.1, 1198.5(k), 2699(f)(2), and 2699(k)(1))

Labor Code section 226(f) imposes a civil penalty of $750 on an employer who fails to permit a current or former employee to inspect or receive a copy of their employment records no later than 21 calendar days from the date of the employee's request, in violation of Labor Code section 226(c).

Labor Code section 558(a) subjects an employer or any person acting on behalf of an employer who violates, or causes to be violated Labor Code sections 500-558, or any provision regulating the hours and days of work in any IWC Wage Order, to a civil penalty of $50 for each underpaid employee for each pay period for which the employee was underpaid for any initial violation, and $100 for each underpaid employee for each pay period for which the employee was underpaid for each subsequent violation.

For violations of Labor Code section 1174 subdivisions (c) and (d), Labor Code section 1174.5 imposes a civil penalty of $500 for any willful violation.

Labor Code section 1197.1 subjects any employer or other person acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or local law, or by an order of the commission to a civil penalty, restitution of wages, liquidated damages payable to the employee, and any applicable penalties imposed pursuant to sections 203 as follows:

> (1) For any initial violation that is intentionally committed, one hundred dollars ($100) for each underpaid employee for each pay period for which the employee is underpaid. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section 203. (2) For each subsequent violation for the same specific offense, two hundred fifty dollars ($250) for each underpaid employee for each pay period for which the employee is underpaid regardless of whether the initial violation is intentionally committed. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section 203. (3) Wages, liquidated damages, and any applicable penalties imposed pursuant to Section 203, recovered pursuant to this section shall be paid to the affected employee.

Labor Code section 1198.5(k) imposes a penalty of $750 on an employer who fails to permit a current or former employee, or their representative, to inspect or copy their personnel records within 30 days of the employee's written request, in violation of Labor Code section 1198.5.

For all provisions of the Labor Code except those for which a civil penalty is specifically provided, Labor Code section 2699(f)(2) imposes a civil penalty of $100 per pay period, per employee, except for violations of Labor Code section 226(a), and $200 per pay period, per employee if either of the following are met: (a) an agency or court issued a finding or determination to the employer that its policy or practice giving rise to the violation was unlawful within the five years preceding the alleged violation, or (b) the court determines that the employer's conduct giving rise to the violation was malicious, fraudulent, or oppressive.

The civil penalty is $50 for each aggrieved employee per pay period if the alleged violation resulted from an isolated, nonrecurring event that did not extend beyond the lesser of 30 consecutive days or four consecutive pay periods.

Labor Code section 2699(f)(2)(A) provides that for violations of Labor Code section 226, if the violation is a violation of paragraphs (1) to (7) or (9) of subdivision (a) of Section 226 then the civil penalty is $25 per pay period per employee if the employee could promptly and easily determine the information specified in subdivision (a) of Section 226. If the alleged violation is a violation of paragraph (8) of subdivision (a) of Section 226, the civil penalty is $25 for each aggrieved employees per pay period if the employee would not be confused or misled about the correct identity of their employer.

Labor Code section 2699(k)(1) provides that an aggrieved employee may be awarded injunctive relief in a civil action.

As set forth above, the Company violated the Labor Code and the applicable IWC Wage Order by failing to: provide legally compliant meal periods and/or pay premium wages for non-compliant meal periods; provide legally compliant rest periods and/or pay premium wages for non-compliant rest periods; pay all minimum and/or regular wages; pay all overtime wages; pay reporting time pay; pay earned gratuity; provide a written commission plan; timely pay all wages due and owing at the time of separation of employment and/or the required waiting time penalties; furnish accurate itemized wage statements; maintain accurate employment records; reimburse for necessary business expenses; and provide employment and personnel records upon request. The Company must also be enjoined from engaging in the violations of law described herein. Claimant intends to pursue all available remedies against the Company for its violations of the Labor Code and applicable IWC Wage Order on behalf of herself, all other Aggrieved Employees, and the State of California.

<u>ATTORNEYS' FEES AND COSTS FOR VIOLATIONS OF THE LABOR CODE AND THE APPLICABLE IWC WAGE ORDER</u>

(Labor Code §§ 218.5, 226(e)(1), 226(h), 1194, 1198.5(l), 2802, and 2699(k)(1))

Labor Code sections 218.5, 226(e)(1), 226(h), 1194, 1198.5(l), 2802, and 2699(k)(1) among others, give employees, such as Claimant, the right to recover in a civil action reasonable attorneys' fees and costs.

Under Labor Code section 2699(k)(1), an aggrieved employee, such as Claimant, is entitled to an award of reasonable attorney's fees and costs. Moreover, pursuant to Labor Code section 2699(m), any civil penalties recovered by aggrieved employees shall be distributed as follows: 65% to the LWDA and 35% to the aggrieved employees.

Accordingly, the Company is liable for attorneys' fees and costs. Claimant has already incurred actual damages, costs, and attorney's fees, and she will continue to incur such costs as a result of the Company's unlawful actions. Claimant will pursue all available remedies against the Company, including those provided under the PAGA, on behalf of herself, all other Aggrieved Employees, and the State of California to the extent permitted by California law for the violations described herein and those that may be later discovered.

<u>CONCLUSION</u>

Based on the foregoing, the Company has violated, and will continue to violate, the Labor Code and the applicable IWC Wage Order, thereby depriving Claimant and other Aggrieved Employees of the rights and protections afforded to them. By submitting this written notice, Claimant has satisfied the prerequisites of the PAGA to serve as a representative of all Aggrieved Employees, the general public, and the State of California. Accordingly, if the LWDA declines to intervene or act within the time prescribed by the PAGA, Claimant may elect to initiate and/or amend a civil action, on behalf of herself, all other Aggrieved Employees, and the State of California, as permitted by the PAGA.

Sincerely,

Allison E Schubert

Allison E. Schubert