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8 VICKIE WILLIAMS, and all others similarly situated

9 (Additional attorneys for Plaintiff(s) on next page)

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 FOR THE COUNTY OF SOLANO
12 (UNLIMITED JURISDICTION)

13 VICKIE WILLIAMS, on behalf of herself and all
14 others similarly situated, and the general public,
15 and as an "aggrieved employee" on behalf of
16 other "aggrieved employees" and the State of
California under the Labor Code Private
Attorneys General Act of 2004,

17 *Plaintiff(s),*

18 vs.

19 VALLEJO HOSPITALITY LLC, a California
20 limited liability company; THREE65
21 HOSPITALITY LLC, a California limited
22 liability company; and DOES 1-50, inclusive,

23 *Defendant(s).*

Case No. FCS059352

FIRST AMENDED CLASS ACTION

COMPLAINT FOR:

1. Failure to Provide Rest Breaks (Lab. Code §§ 226.7 and 1198);
2. Failure to Provide Meal Periods (Lab. Code §§ 226.7, 512 and 1198);
3. Failure to Indemnify (Lab. Code §§ 1198 and 2802);
4. Wage Statement Penalties (Lab. Code § 226);
5. Waiting Time Penalties (Lab. Code § 203);
6. Unfair Competition (Bus. & Prof. Code §§ 17200, et seq.; and
7. Civil Penalties (Lab. Code §§ 2898, et seq.)

JURY TRIAL DEMANDED



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Plaintiff, Vickie Williams (hereafter “Plaintiff” or “Williams”), on behalf of herself and all others similarly situated, the general public, and as an “aggrieved employee” on behalf of other “aggrieved employees” and the State of California under the Labor Code Private Attorneys General Act of 2004, complains and alleges as follows:

I. INTRODUCTION

1. Plaintiff brings this class and representative action for alleged violations of the California Labor Code, Industrial Welfare Commission Order No. 5-2001 (hereafter “the Wage Order”), and the California Business and Professions Code against Defendants Vallejo Hospitality LLC, a California limited liability company, Three65 Hospitality LLC, a California limited liability company, and Does 1 through 50, inclusive (collectively “Defendants”).

2. As set forth in more detail below, Plaintiff alleges that Defendants are liable to her and other similarly situated workers for unpaid wages, statutory penalties, interest, and related relief. These claims are based on Defendants’ failures to:

- (A) Provide all meal periods;
- (B) Authorize and permit all rest breaks;
- (C) Pay premium wages for unprovided meal periods;
- (D) Pay premium wages for unprovided rest breaks;
- (E) Indemnify for necessary work-related expenditures;
- (F) Issue only accurate and complete itemized wage statements; and
- (G) Timely pay wages upon termination of employment;

Accordingly, Plaintiff now seeks to recover unpaid wages, interest, liquidated damages, restitution, statutory and civil penalties, attorneys’ fees, costs, and related relief through this class action.

II. THE PARTIES

3. Plaintiff Vickie Williams is a resident of California. At all relevant times, Plaintiff was an “employee” within the meaning of Title 8 California Code of Regulations § 11050 and an “aggrieved employee” within the meaning of Labor Code § 2699(c).

4. Defendant Vallejo Hospitality LLC is a limited liability company organized and existing under the laws of California and a citizen of California based on Plaintiff’s information and belief.

5. Defendant Three65 Hospitality LLC is a limited liability company organized and



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existing under the laws of California and a citizen of California based on Plaintiff's information and belief.

6. Plaintiff is ignorant of the true names, capacities, relationships, and extents of participation in the conduct alleged herein of the Defendants sued as DOES 1-50, inclusive, but is informed and believes and thereon alleges that said Defendants are legally responsible for the wrongful conduct alleged herein and therefore sues these Defendants by such fictitious names. Plaintiff will amend the Complaint to allege the true names and capacities of the DOE Defendants when ascertained.

7. Plaintiff is informed and believes and thereon alleges that, at all relevant times herein, all Defendants were the agents, employees and/or servants, masters, or employers of the remaining defendants, and in doing the things hereinafter alleged, were acting or failing to act within the course and scope of such agency, employment, direction and control, and with the approval and ratification of each of the other Defendants.

8. At all relevant times, in perpetrating the acts and omissions alleged herein, Defendants, and each of them, acted pursuant to and in furtherance of a policy, practice, or a lack of a practice which resulted in Defendants not compensating Plaintiff and the other Class Members or otherwise complying with their rights in accordance with applicable California labor laws as alleged herein.

9. At all relevant times, in perpetrating the acts and omissions alleged herein, Defendants and each of them acted pursuant to and in furtherance of a policy and/or practice, or lack thereof, which resulted in Defendants not paying Plaintiff and other members of the below-described class in accordance with applicable laws as alleged herein.

III. CLASS ALLEGATIONS

10. This action has been brought and may be maintained as a class action pursuant to California Code of Civil Procedure section 382 because there is a well-defined community of interest among the persons who comprise the readily ascertainable class defined below and because Plaintiff is unaware of any difficulties likely to be encountered in managing this case as a class action.

11. **Class Definition:** The Class is defined as follows: All persons Defendants employed in California as hourly non-exempt workers, including hotel food attendants and front desk workers, individuals performing work comparable to the aforementioned, compensated



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comparably to the aforementioned, individuals in similar positions, at any time during the period beginning four years prior to the filing of this action and ending on the date that final judgment is entered in this action (“Class” or “Class Members”).

12. **Reservation of Rights:** Pursuant to Rule of Court 3.765(b), Plaintiff reserves the right to amend or modify the class definition with greater specificity, by further division into subclasses and/or by limitation to particular issues.

13. **Numerosity:** The Class Members are so numerous that the individual joinder of each individual Class Member is impractical. While Plaintiff does not currently know the exact number of Class Members, Plaintiff is informed and believes that the actual number exceeds the minimum required for numerosity under California laws.

14. **Commonality and Predominance:** Common questions of law and fact exist as to all Class Members and predominate over any questions which affect only individual Class Members. These questions include, but are not limited to:

A. Whether Defendants failed to pay all wages earned to Class Members for all hours worked at the correct rates of pay, including meal period premium and rest period premium wages;

B. Whether Defendants failed to provide the Class Members with all meal periods in compliance with California law;

C. Whether Defendants failed to authorize and permit the Class Members to take all rest periods in compliance with California law;

D. Whether Defendants failed to indemnify the Class Members for the reasonable expenses they incurred during the course of performing their duties;

E. Whether Defendants knowingly and intentionally failed to provide the class with accurate and complete itemized wage statements;

F. Whether Defendants willfully failed to provide the class with timely final wages;

G. Whether Defendants engaged in unfair competition within the meaning of Business and Professions Code sections 17200, et seq., with respect to the Class; and

H. Whether Class Members are entitled to restitution of money or property that Defendants may have acquired from them through alleged Labor Code violations.

15. **Typicality:** Plaintiff’s claims are typical of the other Class Members’ claims.



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1 Plaintiff is informed and believes and thereon alleges that Defendants have a policy and/or
2 practice, or lack thereof, which resulted in Defendants failing to comply with the California Labor
3 Code, the Wage Order, and the Business and Professions Code.

4 16. **Adequacy of Class Representative:** Plaintiff is an adequate class representative
5 in that she has no interests that are adverse to, or otherwise in conflict with, the interests of absent
6 Class Members. Plaintiff is dedicated to vigorously prosecuting this action on behalf of Class
7 Members. Plaintiff will fairly and adequately represent and protect the interests of Class
8 Members.

9 17. **Adequacy of Class Counsel:** Plaintiff's counsel are adequate class counsel in that
10 they have no known conflicts of interest with Plaintiff or absent Class Members, are experienced
11 in class action litigation, and are dedicated to vigorously prosecuting this action on behalf of
12 Plaintiff and absent Class Members.

13 18. **Superiority:** A class action is vastly superior to other available means for fair and
14 efficient adjudication of Class Members' claims and would be beneficial to the parties and the
15 Court. Class action treatment will allow a number of similarly situated persons to simultaneously
16 and efficiently prosecute their common claims in a single forum without the unnecessary
17 duplication of effort and expense that numerous individual actions would entail. In addition, the
18 monetary amounts due to many individual Class Members are likely to be relatively small and
19 would thus make it difficult, if not impossible, for individual Class Members to both seek and
20 obtain relief. Moreover, a class action will serve an important public interest by permitting Class
21 Members to effectively pursue the recovery of monies owed to them. Further, a class action will
22 prevent the potential for inconsistent or contradictory judgments inherent in individual litigation.

23 **IV. STATEMENT OF FACTS**

24 19. The Wage Order applies to "all persons employed in the public housekeeping
25 industry whether paid on a time, piece rate, commission, or other basis." Wage Order, § 1. The
26 Wage Order defines "Public Housekeeping Industry" to mean

27 any industry, business, or establishment which provides meals, housing, or
28 maintenance services whether operated as a primary business or when
incidental to other operations in an establishment not covered by an industry
order of the Commission, and includes, but is not limited to the following:

(1) Restaurants, night clubs, taverns, bars, cocktail lounges, lunch



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counters, cafeterias, boarding houses, clubs, and all similar establishments where food in either solid or liquid form is prepared and served to be consumed on the premises;

(2) Catering, banquet, box lunch service, and similar establishments which prepare food for consumption on or off the premises;

(3) Hotels, motels, apartment houses, rooming houses, camps, clubs, trailer parks, office or loft buildings, and similar establishments offering rental of living, business, or commercial quarters;

(4) Hospitals, sanitariums, rest homes, child nurseries, child care institutions, homes for the aged, and similar establishments offering board or lodging in addition to medical, surgical, nursing, convalescent, aged, or child care;

(5) Private schools, colleges, or universities, and similar establishments which provide board or lodging in addition to educational facilities;

(6) Establishments contracting for development, maintenance or cleaning of grounds; maintenance or cleaning of facilities and/or quarters of commercial units and living units; and

(7) Establishments providing veterinary or other animal care services.

Wage Order, § 2(P). At all relevant times during the applicable limitations period, the Defendants, Williams, and all Class Members were covered by the Wage Order because the Defendants operated, and Williams, and all Class Members, worked for, one or more hotels. Accordingly, Williams and all other Class Members are entitled to the protections the Wage Order provides.

20. On approximately May 8, 2022, the Defendants began to employ Williams in Vallejo in the position of hourly, non-exempt food attendant and then as a front desk worker. The Defendants continuously employed her in that capacity until on or about June 10, 2022, when her employment ended.

21. At all relevant times, the Defendants issued wages to Williams and all other Class Members on a biweekly (26 paychecks/year) basis and paid them by the hour. At all relevant times, the Defendants classified Williams and all other Class Members as non-exempt employees entitled to the protections of the Labor Code and the Wage Order.

22. At all relevant times, the Defendants failed to provide Williams and all other Class Members with all timely 30-minute, off-duty meal periods. The Defendants required Plaintiff and



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1 all other Class Members to remain at their assigned work areas or stations at all times.
2 Additionally, the Defendants understaffed their hotel causing Plaintiff and all other Class
3 Members to regularly work 12-hour shifts. The Defendants required Plaintiff and all other Class
4 Members to work during their rest and meal periods to cover multiple positions. The Defendants
5 compelled Plaintiff and all other Class Members to work and forgo duty-free meal and rest periods
6 to cover positions that the Defendants failed to staff. Consequently, the Defendants did not afford
7 Williams and all other Class Members a 30-minute meal period. The Defendants also failed to
8 pay premium wages for days on which they failed to provide Williams and all other Class
Members with meal periods as required by law.

9 23. At all relevant times, the Defendants failed to authorize and permit Williams and
10 all other Class Members to take 10-minute, off-duty, paid rest breaks every four hours worked or
11 major portion thereof. The Defendants required Plaintiff and all other Class Members to remain
12 at their assigned work areas or stations at all times. Additionally, the Defendants understaffed
13 their hotel causing Plaintiff and all other Class Members to regularly work 12-hour shifts. The
14 Defendants required Plaintiff and all other Class Members to work during their rest and meal
15 periods to cover multiple positions. The Defendants compelled Plaintiff and all other Class
16 Members to work and forgo duty-free meal and rest periods to cover positions that the Defendants
17 failed to staff. Due to their understaffing, the Defendants prohibited Williams and all other Class
18 Members from taking all 10-minute rest breaks. The Defendants also failed to pay premium wages
19 for days on which they failed to authorize and permit Williams and all other Class Members to
take rest breaks as required by law.

20 24. At all relevant times, the Defendants required Williams and all other Class
21 Members to incur certain business expenses in the course of performing their duties. The
22 Defendants required Williams and all other Class Members to supply mobile phones and uniforms
23 to perform their job duties. However, the Defendants did not provide these items and did not
24 reimburse Williams and the other Class Members for these items. The Defendants required
25 Williams and all other Class Members to use their personal mobile phones to remain in contact
26 with management. The Defendants also relied on group chats with Williams and all other Class
27 Members to conduct company business. The Defendants did not reimburse Williams and all other
28 Class Members for their personal electronic devices nor their telecom expenses. Additionally,
the Defendants required Williams and all other Class Members classified as food attendants to



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1 wear "scrub" type uniforms that cost over \$70.00 per set. The Defendants forced Williams and all
2 other Class Members to pay for the required uniforms but did not reimburse them.

3 25. At all relevant times, the Defendants failed to issue to Williams and all other Class
4 Members complete and accurate wage statements that state all hours worked at the correct rates
5 of pay and all wages earned. The Defendants knowingly and intentionally failed to state on the
6 wage statements they issued to Williams and all of the other Class Members the unpaid wages
7 discussed above. The wage statements fail to state all meal period premium wages earned, all rest
8 break premium wages earned, and related information.

9 26. At all relevant times, the Defendants also failed to timely pay Williams and all
10 other Class Members all earned wages as described above during and at the conclusion of
11 employment.

12 27. At all relevant times, the Defendants failed to maintain accurate employee records
13 of Williams and all other Class Members.

14 28. For the reasons stated herein, Plaintiff alleges that as a result of Defendants'
15 unlawful practices and policies, Plaintiff and the Class Members were:

- 16 A. Not provided with all off duty meal periods;
- 17 B. Not authorized and permitted to take all rest break periods;
- 18 C. Not paid one hour's pay for each workday in which Defendants failed to
19 authorize and permit them to take one or more timely rest periods;
- 20 D. Not paid one hour's pay for each workday in which Defendants failed to
21 provide them with one or more timely meal periods;
- 22 E. Not paid all wages earned, including, but not limited to, minimum, regular,
23 overtime, and doubletime wages for work performed while clocked out;
- 24 F. Not indemnified for all necessary business expenditures incurred during
25 the discharge of their duties;
- 26 G. Not provided with accurate and complete wage statements; and
- 27 H. Not timely paid all earned and unpaid wages at the time their employment
28 ended.

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FIRST CAUSE OF ACTION
FAILURE TO PROVIDE MEAL PERIODS
Lab. Code §§ 226.7 and 512

(By Plaintiff, on behalf of herself and the Class, against all Defendants)

29. Plaintiff incorporates all paragraphs of this complaint as if fully alleged herein.

30. At all relevant times during the applicable limitations period, Plaintiff and the Class Members have been employees of Defendants and entitled to the benefits and protections of California Labor Code §§ 226.7, 512 and 1198, and the Wage Order.

31. In relevant part, California 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.

32. In relevant part, In relevant part, California Labor Code § 512 states:

An employer shall 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 shall 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.

33. In relevant part, Section 11 of the Wage Order states:

Meal Periods

(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 employee and the employee. 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



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1 worked. An 'on duty' meal period shall be permitted only when the
2 nature of the work prevents an employee from being relieved of all
3 duty and when by written agreement between the parties an on-the-
4 job paid meal period is agreed to. The written agreement shall state
5 that the employee may, in writing, revoke the agreement at any time.

6 (B) If an employer fails to provide an employee a meal period in
7 accordance with the applicable provisions of this Order, the
8 employer shall pay the employee one (1) hour of pay at the
9 employee's regular rate of compensation for each work day that the
10 meal period is not provided

11 34. In relevant part, California Labor Code § 226.7 states:

12 (b) An employer shall not require an employee to work during a meal
13 or rest period mandated pursuant to an applicable statute, or
14 applicable regulation, standard, or order of the Industrial Welfare
15 Commission, the Occupational Safety and Health Standards Board,
16 or the Division of Occupational Safety and Health.

17 (c) If an employer fails to provide an employee a meal period or rest
18 period in accordance with a state law, including, but not limited to,
19 an applicable statute or applicable regulation, standard, or order of
20 the Industrial Welfare Commission, the Occupational Safety and
21 Health Standards Board, or the Division of Occupational Safety and
22 Health, the employer shall pay the employee one additional hour of
23 pay at the employee's regular rate of compensation for each work
24 day that the meal or rest period is not provided.

25 35. Pursuant to California Labor Code § 512 and the Wage Order, Plaintiff and the
26 Class Members were entitled to uninterrupted meal periods of at least 30 minutes for each day
27 they worked five or more hours. Pursuant to California Labor Code § 512, they were also entitled
28 to a second 30-minute meal period when they worked more than 10 hours in a workday.

36. Defendants intentionally failed to provide Plaintiff and the Class Members with
all required 30-minute duty free meal periods in accordance with the Wage Order. The Defendants
required Williams and all other Class Members to remain at their assigned work areas or stations
at all times. Additionally, the Defendants understaffed their hotel causing Williams and all other
Class Members to regularly work 12-hour shifts. The Defendants required Plaintiff and all other
Class Members to remain at their assigned work areas or stations at all times. Additionally, the
Defendants understaffed their hotel causing Plaintiff and all other Class Members to regularly



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1 work 12-hour shifts. The Defendants required Plaintiff and all other Class Members to work
2 during their rest and meal periods to cover multiple positions. The Defendants compelled Plaintiff
3 and all other Class Members to work and forgo duty-free meal and rest periods to cover positions
4 that the Defendants failed to staff. Consequently, Defendants did not afford Williams and all other
5 Class Members their off-duty, 30-minute meal periods.

6 37. At all relevant times, Defendants failed to provide Plaintiff and the Class Members
7 with all timely rest and meal periods. Defendants denied Plaintiff and the other Class Members
8 their 30-minute off-duty meal period within the first five hours of work. Furthermore, Defendants
9 failed to pay premium wages for days on which they failed to provide Plaintiff and the other Class
10 Members with timely meal periods.

11 38. Plaintiff is informed and believes and thereon alleges that, at all relevant times
12 within the applicable limitations period, Defendants had a policy, practice, or a lack of a policy
13 which resulted in Defendants not providing the and the Class Members with all off-duty meal
14 periods required by California law.

15 39. As a result of Defendants' unlawful conduct, Plaintiff and the Class Members have
16 suffered damages in amounts subject to proof to the extent they were not paid additional wages
17 owed for all meal periods not provided to them.

18 40. By reason of the above, Plaintiff and the Class Members are entitled to premium
19 wages for workdays in which one or more meal periods were not provided to them pursuant to
20 California Labor Code § 226.7.

21 **SECOND CAUSE OF ACTION**

22 **FAILURE TO AUTHORIZE AND PERMIT REST BREAKS**

23 **Lab. Code § 226.7**

24 **(By Plaintiff, on behalf of herself and the Class, against all Defendants)**

25 41. Plaintiff incorporates all paragraphs of this complaint as if fully alleged herein.

26 42. At all relevant times during the applicable limitations period, Plaintiff and the
27 Class Members have been employees of Defendants and entitled to the benefits and protections
28 of California Labor Code §§ 226.7 and 1198, and the Wage Order.

43. In relevant part, California 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



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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.

44. In relevant part, Section 12 of the Wage Order states:

Rest Periods

(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 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 1/2) 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 work day that the rest period is not provided.

45. In relevant part, California Labor Code § 226.7 states:

(b) An employer shall not require an employee to work during a meal or rest 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 period or rest period in accordance with a state law, including, but not limited 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, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each work day that the meal or rest period is not provided.

46. Pursuant to the Wage Order, Plaintiff and the Class Members were entitled to be authorized and permitted to take net rest breaks of at least ten minutes for each four-hour period of work, or major fraction thereof.



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1 47. Defendants intentionally failed to authorize and permit Plaintiff and the Class
2 Members to take all 10-minute rest periods free from any work duties in accordance with the
3 Wage Order.

4 48. At all relevant times, Defendants failed to authorize and permit Plaintiff and the
5 Class Members to take all timely rest periods. Furthermore, Defendants failed to pay premium
6 wages to Plaintiff and the Class Members for days on which they failed to authorize and permit
7 Plaintiff and the other Class Members to take timely rest periods.

8 49. At all relevant times, Defendants failed to authorize and permit Plaintiff and the
9 Class Members to take ten-minute, paid, duty-free rest breaks every four hours worked or major
10 fraction thereof. Defendants did not seek an exemption from the rest period protections of the
11 Wage Order from the California Division of Labor Standards Enforcement. Moreover,
12 Defendants failed to pay Plaintiff and the Class Members premium wages on workdays they failed
13 to authorize and permit them to take 10-minute rest periods every four hours worked or major
14 fraction thereof.

15 50. Plaintiff is informed and believes and thereon alleges that, at all relevant times
16 within the applicable limitations period, Defendants had a policy, practice, or a lack of a policy
17 which resulted in Defendants not authorizing and permitting Plaintiff and the Class Members to
18 take all rest breaks required by California law.

19 51. Defendants failed to provide Plaintiff with all required rest breaks in accordance
20 with the Wage Order. Plaintiff is informed and believes and thereon alleges that, at relevant times
21 within the applicable limitations period, Defendants had a policy, practice, or a lack of a policy
22 which resulted in Defendants not providing the Class Members with all rest breaks required by
23 California law.

24 52. The Defendants required Plaintiff and all other Class Members to remain at their
25 assigned work areas or stations at all times. Additionally, the Defendants understaffed their hotel
26 causing Plaintiff and all other Class Members to regularly work 12-hour shifts. The Defendants
27 required Plaintiff and all other Class Members to work during their rest and meal periods to cover
28 multiple positions. The Defendants compelled Plaintiff and all other Class Members to work and
forgo duty-free meal and rest periods to cover positions that the Defendants failed to staff. Due
to their understaffing, the Defendants prohibited Williams and all other Class Members from
taking all 10-minute rest breaks.



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1 53. Defendants failed to pay Plaintiff the additional wages required by California
2 Labor Code § 226.7 for all rest breaks not provided to her. Plaintiff is informed and believes and
3 thereon alleges that, at relevant times within the applicable limitations period, Defendants have
4 maintained a policy, practice, or a lack of a policy which resulted in Defendants not providing the
5 Class Members with additional wages for all rest breaks not provided to them as required by
6 California Labor Code § 226.7.

7 54. As a result of Defendants' unlawful conduct, Plaintiff and the Class Members have
8 suffered damages in amounts subject to proof to the extent they were not paid additional wages
9 owed for all rest breaks not provided to them.

10 55. By reason of the above, Plaintiff and the Class Members are entitled to premium
11 wages for workdays in which one or more rest breaks were not provided to them pursuant to
12 California Labor Code § 226.7.

13 **THIRD CAUSE OF ACTION**

14 **FAILURE TO INDEMNIFY**

15 **Lab. Code § 2802**

16 **(By Plaintiff, on behalf of herself and the Class, against all Defendants)**

17 56. Plaintiff incorporates all paragraphs of this complaint as if fully alleged herein.

18 57. In pertinent part, California Labor Code § 2802(a) states: "An employer shall
19 indemnify his or her employee[s] for all necessary expenditures incurred by the employee in direct
20 consequence of the discharge of his or her duties."

21 58. California Labor Code § 1198 prohibits employers from employing their
22 employees under conditions prohibited by the Wage Order.

23 59. At all relevant times, Defendants required Plaintiff and the Class Members to incur
24 certain business expenses in the course of performing their duties.

25 60. As described above, the Defendants required Williams and all other Class
26 Members to incur certain business expenses in the course of performing their duties. The
27 Defendants required Williams and all other Class Members to supply mobile phones and uniforms
28 to perform their job duties. However, the Defendants did not provide these items and did not
reimburse Williams and the other Class members for these items. The Defendants required
Williams and all other Class Members to use their personal mobile phones to remain in contact
with management. The Defendants also relied on group chats with Williams and all other Class



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Members to conduct company business. The Defendants did not reimburse Williams and all other Class Members for their personal electronic devices nor their telecom expenses. Additionally, the Defendants required Williams and all other Class Members classified as food attendants to wear "scrub" type uniforms that cost over \$70.00 per set. The Defendants forced Williams and all other Class Members to pay for the required uniforms and cleaning of same but did not reimburse them.

61. Plaintiff is informed and believes and thereon alleges that, at all relevant times, Defendants maintained a policy and/or practice, or lack thereof, which resulted in Defendants' failure to indemnify Plaintiff and the Class Members for the reasonable expenses they incurred during the course of performing their duties.

FOURTH CAUSE OF ACTION

FAILURE TO ISSUE ACCURATE AND COMPLETE WAGE STATEMENTS

Lab. Code § 226

(By Plaintiff, on behalf of herself and the Class, against all Defendants)

62. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

63. Pursuant to California Labor Code § 226(a), Plaintiff and the Class Members were entitled to receive, semi-monthly or at the time of each payment of wages, an accurate itemized statement showing:

A. Gross wages earned;

B. Total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission;

C. The number of piece rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis;

D. All deductions, provided that all deductions made on written orders of the Employee may be aggregated and shown as one item;

E. Net wages earned;

F. The inclusive dates of the period for which the employee is paid;

G. The name of the employee and his or her social security number, except that by January 1, 2008, only the last four digits of his or her social security number or an employee identification number other than a social security number may be shown on the itemized statement;



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1 H. The name and address of the legal entity that is the employer; and

2 I. All applicable hourly rates in effect during the pay period and the
3 corresponding number of hours worked at each hourly rate by the employee.

4 64. Pursuant to California Labor Code § 226, an employee is deemed to suffer injury
5 if the employer fails to provide a wage statement. Also, an employee is deemed to suffer injury if
6 the employer fails to provide accurate and complete information as required by California Labor
7 Code § 226(a) and the employee cannot “promptly and easily determine” from the wage statement
8 alone one or more of the following:

9 A. The amount of the gross wages or net wages paid to the employee during
10 the pay period or any of the other information required to be provided on the itemized wage
11 statement pursuant to California Labor Code § 226(a);

12 B. Which deductions the employer made from gross wages to determine the
13 net wages paid to the employee during the pay period;

14 C. The name and address of the employer and, if the employer is a farm labor
15 contractor, as defined in subdivision (b) of Section 1682 of the California Labor Code, the name
16 and address of the legal entity that secured the services of the employer during the pay period;

17 D. The name of the employee and only the last four digits of his or her social
18 security number or an employee identification number other than a social security number; and

19 E. The number of piece-rate units earned and the piece rate.

20 65. “Promptly and easily determine,” as stated in California Labor Code § 226(e),
21 means a reasonable person would be able to readily ascertain the information without reference
22 to other documents or information.

23 66. As alleged herein, at all relevant times during the applicable limitations period,
24 Defendants violated California Labor Code section 226 because they did not properly and
25 accurately itemize each employee’s gross wages earned, net wages earned, the total hours worked,
26 the corresponding number of hours worked at each rate by the employee and other requirements
27 of California Labor Code section 226. Defendants failed to state in the wage statements they
28 issued to Plaintiff and the other Class Members all their hours worked and wages earned,
including, but not limited to, regular and overtime wages for work they performed off-the-clock
after clocking-out (as described above). Defendants knowingly and intentionally did not issue
either as a detachable part of the check, draft, or voucher paying the employee’s wages, or



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1 separately if wages are paid by personal check or cash, statements to Plaintiff and the Class
2 Members that state all meal period premium wages earned and all rest break premium wages
3 earned.

4 67. Defendants' failure to provide Plaintiff and the other Class Members with accurate
5 wage statements was knowing and intentional. Defendants had the ability to provide Plaintiff and
6 the other Class Members with accurate wage statements but intentionally provided wage
7 statements that Defendants knew were not accurate.

8 68. As a result of being provided with inaccurate wage statements by Defendants,
9 Plaintiff and the other Class Members have suffered injury. Their legal rights to receive accurate
10 wage statements were violated and they were misled about the amount of wages they had actually
11 earned and were owed. In addition, the absence of accurate information on their wage statements
12 prevented immediate challenges to Defendants' unlawful pay practices, has required discovery
13 and mathematical computations to determine the amounts of wages owed, has caused difficulty
14 and expense in attempting to reconstruct time and pay records and/or has led to the submission of
15 inaccurate information about wages to state and federal government agencies. Further, Plaintiff
16 and the other Class Members were not able to ascertain from the wage statements whether
17 Defendants complied with their obligations under California Labor Code section 226(a).

18 **FIFTH CAUSE OF ACTION**

19 **WILLFUL FAILURE TO TIMELY PAY FINAL WAGES**

20 **Lab. Code §§ 201, 202, and 203**

21 **(By Plaintiff, on behalf of herself and the Class, against all Defendants)**

22 69. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

23 70. At all relevant times during the applicable limitations period, Plaintiffs and the
24 Class have been non-exempt employees of Defendants and entitled to the benefits and protections
25 of California Labor Code §§ 201, 202, and 203, and the Wage Order.

26 71. Labor Code § 201 provides that all earned and unpaid wages of an employee who
27 is discharged are due and payable immediately at the time of discharge.

28 72. Labor Code § 202 provides that all earned and unpaid wages of an employee who
quits after providing at least 72-hours notice before quitting are due and payable at the time of
quitting and that all earned and unpaid wages of an employee who quits without providing at least
72-hours notice before quitting are due and payable within 72 hours.



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1 Class Members have suffered injuries in fact and lost money or property. Plaintiff and the Class
2 Members were deprived of missed meal period premium wages, missed rest period premium
3 wages, uniform expenses, phone expenses, and comparable money and property.

4 81. Pursuant to California Business & Professions Code § 17203, Plaintiff and the
5 Class Members are entitled to restitution of all monies rightfully belonging to them that
6 Defendants did not pay them or otherwise retained by means of their unlawful and unfair business
7 practices.

8 82. Plaintiff and the Class Members are entitled to reasonable attorneys' fees in
9 connection with their unfair competition claims pursuant to California Code of Civil Procedure §
10 1021.5, the substantial benefit doctrine and/or the common fund doctrine.

11 **EIGHTH CAUSE OF ACTION**

12 **CIVIL PENALTIES**

13 **Lab.Code §§ 2698, et seq.**

14 **(By Plaintiff, on behalf of himself, the Aggrieved Employees, and the State of California,**
15 **against all Defendants)**

16 83. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

17 84. The "Aggrieved Employees" are all members of the Class defined above who
18 Defendants employed during the period beginning November 28, 2021, and ending on the date
19 that final judgment is entered in this action.

20 85. Labor Code § 204 states:

21 (a) All wages, other than those mentioned in Section 201, 201.3, 202,
22 204.1, or 204.2, earned by any person in any employment are due
23 and payable twice during each calendar month, on days designated
24 in advance by the employer as the regular paydays. Labor performed
25 between the 1st and 15th days, inclusive, of any calendar month
26 shall be paid for between the 16th and the 26th day of the month
27 during which the labor was performed, and labor performed between
28 the 16th and the last day, inclusive, of any calendar month, shall be
paid for between the 1st and 10th day of the following month. ...

(b) (1) Notwithstanding any other provision of this section, all
wages earned for labor in excess of the normal work period shall be
paid no later than the payday for the next regular payroll period.

(2) An employer is in compliance with the requirements of
subdivision (a) of Section 226 relating to total hours worked by the



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employee, if hours worked in excess of the normal work period during the current pay period are itemized as corrections on the paystub for the next regular pay period. Any corrections set out in a subsequently issued paystub shall state the inclusive dates of the pay period for which the employer is correcting its initial report of hours worked.

(c) However, when employees are covered by a collective bargaining agreement that provides different pay arrangements, those arrangements shall apply to the covered employees.

(d) The requirements of this section shall be deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven calendar days following the close of the payroll period.

86. Defendants paid wages to employees on regular intervals. Defendants, however, failed to pay Plaintiff on such intervals for all wages earned and all hours worked. On information and belief, Plaintiff alleges that Defendants also failed to pay the Aggrieved Employees on such intervals for all wages earned and all hours worked.

87. During the applicable time period, Defendants violated California Labor Code §§ 201, 202, 203, 204, 226, 226.7, 512, 1198, and 2802.

88. California Labor Code §§ 2699(a) and (g) authorize an aggrieved employee, on behalf of themselves and other current or former employees, to bring a civil action to recover civil penalties pursuant to the procedures specified in California Labor Code § 2699.3.

89. Pursuant to California Labor Code §§ 2699(a) and (f), Plaintiff, the State, and the Aggrieved Employees, are entitled to recover civil penalties for each of the Defendants' violations of California Labor Code §§ 201, 202, 203, 204, 226, 226.7, 512, 1198, and 2802 during the applicable limitations period in the following amounts:

1. For violations of California Labor Code § 204, one hundred dollars (\$100.00) for each Aggrieved Employee for each initial violation and two hundred dollars (\$200.00) for each Aggrieved Employee for each subsequent willful or intentional violation (penalty amounts established by California Labor Code § 210).

2. For violations of California Labor Code § 226(a), two hundred fifty dollars (\$250.00) for each Aggrieved Employee for initial violation and one thousand dollars (\$1,000.00) for each Aggrieved Employee for each subsequent violation (penalty amounts established by



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California Labor Code § 226.3).

3. For violations of California Labor Code § 512, fifty dollars (\$50.00) for each Aggrieved Employee for initial violation and one hundred dollars (\$100.00) for each Aggrieved Employee for each subsequent violation, per pay period (penalty amounts established by California Labor Code § 558).

4. For violations of California Labor Code §§ 201, 202, 203, 226.7, 1198, and 2802, one hundred dollars (\$100.00) for each Aggrieved Employee per pay period for each initial violation and two hundred dollars (\$200.00) for each Aggrieved Employee per pay period for each subsequent violation (penalty amounts established by California Labor Code § 2699(f)(2)).

90. Plaintiff has complied with the procedures for bringing suit specified in California Labor Code § 2699.3. By letter dated November 28, 2022, Plaintiff filed written notice online with the Labor and Workforce Development Agency (“LWDA”) and gave written notice by certified mail to Defendants of the specific provisions of the California Labor Code alleged to have been violated, including the facts and theories to support the alleged violations. A true and correct copy of the notice to the LWDA dated November 28, 2022 is attached as Exhibit A. Plaintiff submitted his LWDA notice with a fee in the amount of \$75.00. The LWDA has failed to take action in response within 65 calendar days of the date of Plaintiff’s notice, but Plaintiff anticipates that the LWDA will provide written notice to Plaintiff informing him that it does not intend to investigate these allegations.

91. Pursuant to California Labor Code § 2699(g), Plaintiff and the Aggrieved Employees are entitled to an award of civil penalties, reasonable attorney’s fees, and costs in connection with their claims for civil penalties.

V. PRAYER FOR RELIEF

92. WHEREFORE, Plaintiff, on behalf of herself and the Class Members, prays for relief and judgment against Defendants as follows:

A. An order that the action be certified as a class action with respect to Plaintiff’s claims for violations of California law;

B. An order that Plaintiff be appointed class representative;

C. An order that counsel for Plaintiff be appointed class counsel;

D. Statutory penalties, including waiting time penalties;

E. Civil penalties;



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- 1 F. Restitution;
2 G. Declaratory relief;
3 H. Actual damages;
4 I. Pre-judgment interest;
5 J. Costs of suit;
6 K. Reasonable attorneys' fees; and
7 L. Such other relief as the Court deems just and proper.

8 **VI. DEMAND FOR JURY TRIAL**

9 Plaintiff, on behalf of herself and all other Class Members, hereby demands a jury trial on
10 all issues so triable.

11 Respectfully submitted,

12 THE SPIVAK LAW FIRM

13 Dated: February 10, 2023

14 By:



15 DAVID G. SPIVAK,
16 JENICA P. LEONARD, Attorneys for
17 Plaintiff(s), VICKIE WILLIAMS, and
18 all others similarly situated
19
20
21
22
23
24



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EXHIBIT A



THE SPIVAK LAW FIRM

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SENT BY ELECTRONIC SUBMISSION, CERTIFIED MAIL, AND EMAIL

November 28, 2022

Attn: PAGA Administrator
Labor and Workforce Development Agency
<http://dir.tflaforms.net>
Via Electronic Submission

Re: Vickie Williams / Vallejo Hospitality Group LLC, *et al*
LWDA Number: 918176-22

To Whom It May Concern:

Pursuant to the Labor Code Private Attorneys General Act of 2004, Labor Code sections 2698, *et seq.*, Vickie Williams (hereafter “Williams” or “Complainant”) provides notice that Vallejo Hospitality Group LLC, a California limited liability company, Three65 Hospitality LLC, a California limited liability company, and related entities (collectively “the Vallejo Hospitality Group Employers” or “the Employers”) violated her rights and those of all other individuals the Vallejo Hospitality Group Employers have employed or otherwise contracted with in California as hourly, non-exempt employees, including hotel food attendants and front desk workers, individuals performing work comparable to the aforementioned, and individuals in similar positions (hereafter the “Aggrieved Employees”) under Labor Code sections 201, 202, 203, 204, 226, 226.7, 512, 1198, 2802, and related Labor Code statutes. On behalf of herself and all other Aggrieved Employees, Williams hereby provides this notice to the Labor & Workforce Development Agency and the Vallejo Hospitality Group Employers and their agents and representatives.

At all relevant times, the Vallejo Hospitality Group Employers have employed persons, conducted business, and engaged in illegal payroll practices and policies, throughout California. Williams and all other Aggrieved Employees are “employees” within the meaning of Industrial Welfare Commission Order No. 5-2001 (hereafter “the Wage Order”) section 2, subdivision (F) and “Aggrieved Employees” within the meaning of Labor Code section 2699(c).

Statement of Facts

On approximately May 8, 2022, the Vallejo Hospitality Group Employers began to employ Williams in Vallejo in the position of hourly, non-exempt food attendant and then as a front desk worker. The Vallejo Hospitality Group Employers continuously employed her in that capacity until on or about June 10, 2022, when her employment ended.

At all relevant times, the Vallejo Hospitality Group Employers issued wages to Williams and all other Aggrieved Employees on a biweekly (26 paychecks/year) basis and paid them by the hour. At all relevant times, the Vallejo Hospitality Group Employers classified Williams and all other Aggrieved Employees as non-exempt employees entitled to the protections of the Labor Code and the Wage Order.

The Vallejo Hospitality Group Employers failed to compensate Williams and all other Aggrieved Employees at the correct rates of pay for all hours worked over eight in a day, over 40 in a week, and for the first eight hours of the seventh day of the workweek.

At all relevant times, the Vallejo Hospitality Group Employers failed to provide Williams and all other Aggrieved Employees with all timely 30-minute, off-duty meal periods. The Vallejo Hospitality Group Employers required Williams and all other Aggrieved Employees to remain at their assigned workstations or work areas at all times. Additionally, the Vallejo Hospitality Group Employers understaffed their hotel and required Williams and all other Aggrieved Employees to regularly work 12-hour shifts. The Vallejo Hospitality Group Employers required Williams and all other Aggrieved Employees to work during their rest and meal periods to cover multiple positions. The Vallejo Hospitality Group Employers compelled Williams and all other Aggrieved Employees to work and forgo meal and rest periods to cover positions that the Vallejo Hospitality Group Employers failed to staff. Consequently, the Vallejo Hospitality Group Employers prevented Williams and other Aggrieved Employees from taking their 30-minute meal period. The Vallejo Hospitality Group Employers also failed to pay premium wages for days on which they failed to provide Williams and all other Aggrieved Employees with meal periods as required by law.

At all relevant times, the Vallejo Hospitality Group Employers failed to authorize and permit Williams and all other Aggrieved Employees to take ten-minute, off-duty, paid rest breaks every four hours worked or major portion thereof. The Vallejo Hospitality Group Employers required Williams and all other Aggrieved Employees to remain at

their assigned workstations or work areas at all times. Additionally, the Vallejo Hospitality Group Employers understaffed their hotel and required Williams and all other Aggrieved Employees to regularly work 12-hour shifts. The Vallejo Hospitality Group Employers required Williams and all other Aggrieved Employees to work during their rest and meal periods to cover multiple positions. The Vallejo Hospitality Group Employers compelled Williams and all other Aggrieved Employees to work and forgo meal and rest periods to cover positions that the Vallejo Hospitality Group Employers failed to staff. Consequently, the Vallejo Hospitality Group Employers prevented Williams and other Aggrieved Employees from taking their 10-minute rest break every four hours or major portion thereof. The Vallejo Hospitality Group Employers also failed to pay premium wages for days on which they failed to authorize and permit Williams and all other Aggrieved Employees to take rest breaks as required by law.

At all relevant times, the Vallejo Hospitality Group Employers required Williams and all other Aggrieved Employees to incur certain business expenses in the course of performing their duties. The Vallejo Hospitality Group Employers required Williams and all other Aggrieved Employees to supply mobile phones, telecom, and uniforms to perform their job duties. However, the Vallejo Hospitality Group Employers did not provide these items and did not reimburse Williams and the other Aggrieved Employees for these items. The Vallejo Hospitality Group required Williams and all other Aggrieved Employees to use their personal mobile phones to remain in contact with management. The Vallejo Hospitality Group also relied on group chats with Williams and all other Aggrieved Employees to conduct company business. The Vallejo Hospitality Group Employers did not reimburse Williams and all other Aggrieved Employees for their personal electronic devices nor their telecom expenses. Additionally, the Vallejo Hospitality Group Employers required Williams and all other Aggrieved Employees classified as food attendants to wear “scrub” type uniforms that cost over \$70.00 per set. The Vallejo Hospitality Group Employers forced Williams and all other Aggrieved Employees to pay for the required uniforms and the cleaning of same but did not reimburse them.

At all relevant times, the Vallejo Hospitality Group Employers failed to issue to Williams and all other Aggrieved Employees complete and accurate wage statements that state all hours worked at the correct rates of pay and all wages earned. The Vallejo Hospitality Group Employers knowingly and intentionally failed to state on the wage statements they issued to Williams and all other Aggrieved Employees the unpaid wages

discussed above. The wage statements fail to state all meal period premium wages earned, all rest break premium wages earned, and other required information.

The Vallejo Hospitality Group Employers also failed to timely pay Williams and all other Aggrieved Employees all earned wages as described above during and at the conclusion of employment.

The Vallejo Hospitality Group Employers failed to maintain accurate employee records of Williams and all other Aggrieved Employees.

For the reasons stated herein, Williams alleges the following violations of the Labor Code and the Wage Order on behalf of herself and all other Aggrieved Employees:

- (a) The Vallejo Hospitality Group Employers failed to provide Williams and all other Aggrieved Employees all meal periods in compliance with California law;
- (b) The Vallejo Hospitality Group Employers failed to authorize and permit Williams and all other Aggrieved Employees to take rest breaks in compliance with California law;
- (c) The Vallejo Hospitality Group Employers failed to compensate Williams and all other Aggrieved Employees at one hour's pay for each day in which the Vallejo Hospitality Group Employers failed to provide them with one or more meal periods as required by law;
- (d) The Vallejo Hospitality Group Employers failed to compensate Williams and all other Aggrieved Employees at one hour's pay for each day in which the Vallejo Hospitality Group Employers failed to authorize and permit them to take one or more rest breaks as required by law;
- (e) The Vallejo Hospitality Group Employers failed to indemnify Williams and all other Aggrieved Employees for all necessary business expenditures incurred during the discharge of their duties;

- (f) The Vallejo Hospitality Group Employers knowingly and intentionally failed to provide Williams and all other Aggrieved Employees with accurate wage statements;
- (g) The Vallejo Hospitality Group Employers willfully failed to timely pay Williams and all other Aggrieved Employees all earned and unpaid wages during their employment with the Vallejo Hospitality Group Employers and when their employment ended; and
- (h) The Vallejo Hospitality Group Employers failed to maintain accurate employment records pertaining to Williams and all other Aggrieved Employees.

Accordingly, Williams now seeks civil penalties on behalf of herself and all other Aggrieved Employees based on the Vallejo Hospitality Group Employers' alleged violations of the Labor Code and the Wage Order.

The Wage Order

The Wage Order applies to "all persons employed in the public housekeeping industry whether paid on a time, piece rate, commission, or other basis." Wage Order, § 1. The Wage Order defines "Public Housekeeping Industry" to mean

any industry, business, or establishment which provides meals, housing, or maintenance services whether operated as a primary business or when incidental to other operations in an establishment not covered by an industry order of the Commission, and includes, but is not limited to the following:

- (1) Restaurants, night clubs, taverns, bars, cocktail lounges, lunch counters, cafeterias, boarding houses, clubs, and all similar establishments where food in either solid or liquid form is prepared and served to be consumed on the premises;
- (2) Catering, banquet, box lunch service, and similar establishments which prepare food for consumption on or off the premises;

- (3) Hotels, motels, apartment houses, rooming houses, camps, clubs, trailer parks, office or loft buildings, and similar establishments offering rental of living, business, or commercial quarters;
- (4) Hospitals, sanitariums, rest homes, child nurseries, child care institutions, homes for the aged, and similar establishments offering board or lodging in addition to medical, surgical, nursing, convalescent, aged, or child care;
- (5) Private schools, colleges, or universities, and similar establishments which provide board or lodging in addition to educational facilities;
- (6) Establishments contracting for development, maintenance or cleaning of grounds; maintenance or cleaning of facilities and/or quarters of commercial units and living units; and
- (7) Establishments providing veterinary or other animal care services.

Wage Order, § 2(P). At all relevant times during the applicable limitations period, the Country Inn & Suites Employers, Williams, and all other Aggrieved Employees were covered by the Wage Order because the Vallejo Hospitality Group Employers operated, and Williams, and all other Aggrieved Employees worked for, one or more hotels. Accordingly, Williams and all other Aggrieved Employees are entitled to the protections the Wage Order provides.

Failure to Provide Meal Periods
(Lab. Code §§ 226.7, 512, and 1198)

In relevant part, section 2(K) of the Wage Order states,

“Hours worked” means 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.

In relevant part, Labor Code section 1198 states, “The employment of any employee ... under conditions of labor prohibited by the [Wage Order] is unlawful.”

In relevant part, Labor Code section 512 states:

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.

In relevant part, section 11 of the Wage Order states:

Meal Periods:

- (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. 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. . . .
- (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.

In addition, Labor Code section 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, including, but not limited 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, 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.

At all relevant times, the Vallejo Hospitality Group Employers failed to provide Williams and all other Aggrieved Employees with all timely meal periods. The Vallejo Hospitality Group Employers denied Williams and all other Aggrieved Employees their 30-minute off-duty meal period within the first five hours of work and all subsequent earned meal periods. The Vallejo Hospitality Group Employers required Williams and all other Aggrieved Employees to remain at their assigned workstations or work areas at all times. Additionally, the Vallejo Hospitality Group Employers understaffed their hotel and required Williams and all other Aggrieved Employees to regularly work 12-hour shifts. The Vallejo Hospitality Group Employers required Williams and all other Aggrieved Employees to work during their rest and meal periods to cover multiple positions. The Vallejo Hospitality Group Employers compelled Williams and all other Aggrieved Employees to work and forgo meal and rest periods to cover positions that the Vallejo Hospitality Group Employers failed to staff. Consequently, the Vallejo Hospitality Group Employers prevented Williams and other Aggrieved Employees from taking their 30-minute meal period. Furthermore, the Vallejo Hospitality Group Employers failed to pay premium wages for days on which they failed to provide Williams and all other Aggrieved Employees with timely meal periods. Accordingly, Williams now seeks civil penalties for these Labor Code violations that the Vallejo Hospitality Group Employers have committed against her and all of the other Aggrieved Employees as follows:

1. \$100 for each aggrieved employee for each initial violation of Labor Code section 226.7, and \$200 for each aggrieved employee for each subsequent violation, per pay period (penalties set by Labor Code section 2699(f)(2));

2. \$50 for each aggrieved employee for each initial violation of Labor Code section 512, and \$100 for each aggrieved employee for each subsequent violation, per pay period in addition to an amount sufficient to recover underpaid wages (penalties set by Labor Code section 558); and
3. \$100 for each aggrieved employee for each initial violation of Labor Code section 1198, and \$200 for each aggrieved employee for each subsequent violation, per pay period (penalties set by Labor Code section 2699(f)(2)).

Failure to Authorize and Permit Rest Periods
(Lab. Code §§ 226.7 & 1198)

Section 2(K) of the Wage Order states,

“Hours worked” means 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.

In relevant part, Labor Code section 1198 states,

The employment of any employee . . . under conditions of labor prohibited by the [Wage Order] is unlawful.

Section 12 of the Wage Order provides, in relevant part:

Rest Periods:

- (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 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.

In addition, Labor Code section 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, including, but not limited 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, 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.

The Vallejo Hospitality Group Employers failed to authorize and permit Williams and all other Aggrieved Employees to take ten-minute, paid, duty-free rest breaks every four hours worked or major fraction thereof. The Vallejo Hospitality Group Employers did not seek an exemption from the rest period protections of the Wage Order from the California Division of Labor Standards Enforcement. The Vallejo Hospitality Group Employers required Williams and all other Aggrieved Employees to remain at their assigned workstations or work areas at all times. Additionally, the Vallejo Hospitality Group Employers understaffed their hotel and required Williams and all other Aggrieved Employees to regularly work 12-hour shifts. The Vallejo Hospitality Group Employers required Williams and all other Aggrieved Employees to work during their rest and meal periods to cover multiple positions. The Vallejo Hospitality Group

Employers compelled Williams and all other Aggrieved Employees to work and forgo meal and rest periods to cover positions that the Vallejo Hospitality Group Employers failed to staff. Consequently, the Vallejo Hospitality Group Employers prevented Williams and other Aggrieved Employees from taking their 10-minute rest breaks every four hours. Moreover, the Vallejo Hospitality Group Employers failed to pay Williams and all other Aggrieved Employees premium wages on workdays the Vallejo Hospitality Group Employers failed to provide Williams and all other Aggrieved Employees with 10-minute rest periods every four hours worked or major fraction thereof. Accordingly, Williams now seeks civil penalties for these Labor Code violations that the Vallejo Hospitality Group Employers have committed against her and all of the other Aggrieved Employees as follows:

1. \$100 for each aggrieved employee for each initial violation of Labor Code section 226.7, and \$200 for each aggrieved employee for each subsequent violation, per pay period (penalties set by Labor Code section 2699(f)(2)); and
2. \$100 for each aggrieved employee for each initial violation of Labor Code section 1198, and \$200 for each aggrieved employee for each subsequent violation, per pay period (penalties set by Labor Code section 2699(f)(2)).

Failure to Reimburse for Expenses
(Lab. Code §§ 1198 and 2802)

In pertinent part, Labor Code § 2802(a) states, “An employer shall indemnify his or her employee[s] for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her duties.”

Additionally, the Wage Order states,

- (A) When uniforms are required by the employer to be worn by the employee as a condition of employment, such uniforms shall be provided and maintained by the employer.
...
- (B) When tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided

and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft.

Wage Order, § 9(B).

Labor Code Section 1198 prohibits an employer from employing any person under conditions that violate the Wage Order.

As described above, the Vallejo Hospitality Group Employers required Williams and all other Aggrieved Employees to incur certain business expenses in the course of performing their duties. The Vallejo Hospitality Group Employers required Williams and all other Aggrieved Employees to supply mobile phones, telecom, and uniforms to perform their job duties. However, the Vallejo Hospitality Group Employers did not provide these items and did not reimburse Williams and the other Aggrieved Employees for these items. The Vallejo Hospitality Group required Williams and all other Aggrieved Employees to communicate with management during their shifts using their personal mobile phones. The Vallejo Hospitality Group also required Williams and all other Aggrieved Employees to conduct company business. The Vallejo Hospitality Group Employers did not reimburse Williams and all other Aggrieved Employees for their personal electronic devices nor their telecom expenses. Additionally, the Vallejo Hospitality Group Employers required Williams and all other Aggrieved Employees classified as food attendants to wear "scrub" type uniforms that cost over \$70.00 per set. The Vallejo Hospitality Group Employers forced Williams and all other Aggrieved Employees to pay for the required uniforms but did not reimburse them. Accordingly, Williams seeks civil penalties for these Labor Code violations that the Vallejo Hospitality Group Employers have committed against her and all of the other Aggrieved Employees as follows:

1. \$100 for each aggrieved employee for each initial violation of Labor Code section 2802, and \$200 for each aggrieved employee for each subsequent violation, per pay period (penalties set by Labor Code section 2699(f)(2)); and

2. \$100 for each aggrieved employee for each initial violation of Labor Code section 1198, and \$200 for each aggrieved employee for each subsequent violation, per pay period (penalties set by Labor Code section 2699(f)(2)).

Failure to Provide Accurate Wage Statements
(Lab. Code § 226)

Labor Code section 226(a) requires an employer to provide an employee, either semi-monthly or at the time of each wage payment, with an accurate and itemized written wage statement that shows:

1. Gross wages earned;
2. Total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission;
3. The number of piece rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis;
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 his or her social security number, except that by January 1, 2008, only the last four digits of his or her social security number or an employee identification number other than a social security number may be shown on the itemized statement;
8. The name and address of the legal entity that is the employer; and

9. All applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

At all relevant times during the applicable limitations period, the Vallejo Hospitality Group Employers violated Labor Code section 226 because they did not properly and accurately itemize each Aggrieved Employee's gross wages earned, net wages earned, the total hours worked, the corresponding number of hours worked at each rate by the Aggrieved Employee and other requirements of Labor Code section 226. The Vallejo Hospitality Group Employers knowingly and intentionally failed to state on the wage statements they issued to Williams and all other Aggrieved Employees the earned, but unpaid wages described above. The wage statements do not state all meal period premium wages earned, all rest break premium wages earned, and other required information.

Accordingly, Williams seeks civil penalties for the Labor Code violations that the Vallejo Hospitality Group Employers have committed against her and all of the other Aggrieved Employees as follows: \$250 for each aggrieved employee for each initial violation of Labor Code section 226(a), and \$1,000 for each aggrieved employee for each subsequent violation (penalties set by Labor Code section 226.3).

Failure to Timely Pay Wages During Employment
(Lab. Code § 204)

Labor Code section 204 states all wages (other than those mentioned in Labor Code sections 201 and 202) earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month. In addition, all wages for work performed in excess of the normal work period must be paid by no later than the following regular payday.

The Vallejo Hospitality Group Employers failed to compensate Williams and all other Aggrieved Employees for wages earned, including unprovided meal period premium wages, unprovided rest break premium wages, and other compensation, at the intervals

stated above. As a result, the Vallejo Hospitality Group Employers failed to timely pay all earned wages due during employment within the time periods set by Labor Code section 204. Accordingly, Williams now seeks civil penalties for the Labor Code violations that the Vallejo Hospitality Group Employers have committed against her and all of the other Aggrieved Employees as follows: \$100 for each aggrieved employee for each initial violation of Labor Code section 204, and \$200 for each aggrieved employee for each subsequent violation, plus 25% of the amount unlawfully withheld from each aggrieved employee (penalties set by Labor Code section 210).

Failure to Timely Pay Wages Upon Termination of Employment
(Lab. Code §§ 201, 202, and 203)

Under Labor Code § 201, if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately. Under § 202, 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. Notwithstanding any other provision of law, an employee who quits without providing a 72-hour notice shall be entitled to receive payment by mail if he or she so requests and designates a mailing address. *Id.* The date of the mailing shall constitute the date of payment for purposes of the requirement to provide payment within 72 hours of the notice of quitting. *Id.*

Under Labor Code § 203, if an employer willfully fails to pay without abatement or reduction, in accordance with §§ 201 and 202, the wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days.

The Vallejo Hospitality Group Employers failed to pay Williams and all other Aggrieved Employees whose employment ended all the earned, but unpaid wages described above by the conclusion of their employment with Williams, including regular wages, overtime wages, unprovided meal period premium wages, unprovided rest break premium wages, and other compensation. Additionally, the Vallejo Hospitality Group Employers failed to issue to Williams and all other Aggrieved Employees whose employment ended their final paychecks for over two weeks following termination. By failing to pay Williams

and all other Aggrieved Employees as set forth above at the end of employment, the Vallejo Hospitality Group Employers are liable for violations of Labor Code §§ 201, 202, and 203. Accordingly, on behalf of herself and all other Aggrieved Employees, Williams seeks civil penalties from the Vallejo Hospitality Group Employers as follows:

1. For violations of Labor Code § 201, \$100 per aggrieved employee for each of the pay periods in which initial violations of § 201 occurred, and \$200 per aggrieved employee per pay period in which subsequent violations of § 201 occurred (penalties set by Labor Code § 2699(f)(2));
2. For violations of Labor Code § 202, \$100 per aggrieved employee for each of the pay periods in which initial violations of § 202 occurred, and \$200 per aggrieved employee per pay period in which subsequent violations of § 202 occurred (penalties set by Labor Code § 2699(f)(2)); and
3. For violations of Labor Code § 203, \$100 per aggrieved employee for each of the pay periods in which initial violations of § 203 occurred, and \$200 for per aggrieved employee per pay period in which subsequent violations of § 203 occurred (penalties set by Labor Code § 2699(f)(2)).

Failure to Maintain Accurate Employment Records
(Lab. Code §§ 1174 & 1198)

Labor Code section 1174, which also pertains to recordkeeping, states:

Every person employing labor in this state shall:

...

(c) Keep a record showing the names and addresses of all employees employed and the ages of all minors

(d) Keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept in accordance with

rules established for this purpose by the commission, but in any case shall be kept on file for not less than three years. An employer shall not prohibit an employee from maintaining a personal record of hours worked, or, if paid on a piece-rate basis, piece-rate units earned.

Labor Code section 1174.5 states:

Any person employing labor who willfully fails to maintain the records required by subdivision(c) of Section 1174 or accurate and complete records required by subdivision (d) of Section 1174, or to allow any member of the commission or employees of the division to inspect records pursuant to subdivision (b) of Section 1174, shall be subject to a civil penalty of five hundred dollars (\$500).

Section 7 of Wage Order stat

(A) Every employer shall keep accurate information with respect to each employee including the following:

- (1) Full name, home address, occupation and social security number.
- (2) Birth date, if under 18 years, and designation as a minor.
- (3) Time records showing when the employee begins and ends each work period. Meal periods, split shift intervals and total daily hours worked shall also be recorded. Meal periods during which operations cease and authorized rest periods need not be recorded.
- (4) Total wages paid each payroll period, including value of board, lodging, or other compensation actually furnished to the Employee.

- (5) Total hours worked in the payroll period and applicable rates of pay. This information shall be made readily available to the employee upon reasonable request.
- (6) When a piece rate or incentive plan is in operation, piece rates or an explanation of the incentive plan formula shall be provided to employees. An accurate production record shall be maintained by the employer.

Labor Code section 1198 prohibits employers from employing their employees under conditions prohibited by the Wage Order.

The Vallejo Hospitality Group Employers failed to compensate Williams and all other Aggrieved Employees for all hours worked at the correct rates of pay, including all meal period premium wages earned, all rest break premium wages earned, and related compensation. As a result, the Vallejo Hospitality Group Employers have failed to accurately maintain all records required by section 1174 and the Wage Order, including but not limited to Williams and all other Aggrieved Employees' total hours worked, total wages paid, and applicable hourly rates during each payroll period. Accordingly, Williams seeks civil penalties on behalf of herself and all of the other Aggrieved Employees as follows:

1. \$500 for each aggrieved employee for each violation of Labor Code section 1174 (penalties set by Labor Code section 1174.5); and
2. \$100 for each aggrieved employee for each initial violation of Labor Code section 1198, and \$200 for each Aggrieved Employee for each subsequent violation, per pay period (penalties set by Labor Code section 2699(f)(2)).

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LWDA / The Vallejo Hospitality Group Employers
Re: Vickie Williams
November 28, 2022
Page 19 of 19

Conclusion

As noted above, this letter constitutes the required notice under the Labor Code Private Attorneys General Act of 2004. Please be advised that Vickie Williams will seek both reasonable attorneys' fees and costs under Labor Code section 2699(g)(1) in a civil action should the LWDA decline to pursue this matter. This letter also serves as a formal notice under the catalyst theory and Code of Civil Procedure section 1021.5 to resolve this matter before litigation.

Sincerely,



David Spivak, Esq.
David@spivaklaw.com
cc: Vickie Williams

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Cupertino, CA 95014

1 **PROOF OF SERVICE**

2
3 State of California,
4 County of Los Angeles

5 1. I am a citizen of the United States and am employed in the County
6 of Los Angeles, State of California. I am over the age of 18 years, and not a
party to the within action. My business address is 1801 Century Park East, 25th
Fl, Los Angeles, CA 90067.

7 2. I am familiar with the practice of The Spivak Law Firm, for
8 collection and processing of correspondence for mailing with the United States
Postal Service. It is the practice that correspondence is deposited with the
United States Postal Service the same day it is submitted for mailing.

9 On Friday, February 10, 2023, I served the foregoing document described
10 as **FIRST AMENDED COMPLAINT** on interested parties by placing a true and correct
11 copy thereof enclosed in a sealed envelope, with postage fully prepaid,
addressed as follows:

12 **Gaurav Bovvy Kalra**
13 **Attorney At Law**
14 **177 East Colorado Blvd., Suite 200**
Pasadena, CA 91105
bobby@outofcontrolboss.com

15 _____ (BY MAIL) I caused such an envelope to be mailed by placing it for
16 collection and mailing, in the course of ordinary business practice, with other
correspondence of The Spivak Law Firm, 1801 Century Park East, 25th Fl, Los
17 Angeles, CA 90067.

18 XXXX (BY EMAIL) I caused the documents to be sent to the persons at the
19 electronic service addresses listed above from my electronic service address
nora@spivaklaw.com.

20 EXECUTED on Friday, February 10, 2023, at Burbank, California.

21 XXXX (State) I declare under penalty of perjury under the laws of the State of
22 California that the above is true and correct.

23 _____ (Federal) I declare that I am employed in the office of a member of the
bar of this court at whose direction the service was made.

24 
25 _____
NORA GREER