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By _____, Deputy
23CV003675

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO**

ROBERT ROUGEUX, on behalf of himself and
all others similarly situated,

Plaintiff,

v.

WILLAMETTE VALLEY VINEYARDS,
INC., an Oregon Corporation; and DOES 1-50,
inclusive.

Defendants.

CASE NO.:23CV003675

**FIRST AMENDED CLASS AND PAGA
ACTION COMPLAINT:**

- (1) FAILURE TO PAY ALL OVERTIME WAGES;
- (2) FAILURE TO PAY ALL SICK PAY WAGES;
- (3) MEAL PERIOD VIOLATIONS;
- (4) REST PERIOD VIOLATIONS;
- (5) WAGE STATEMENT VIOLATIONS;
- (6) WAITING TIME PENALTIES;
- (7) UNFAIR COMPETITION; and
- (8) PAGA PENALTIES

DEMAND FOR JURY TRIAL

1 Plaintiff Robert Rougeux ("Plaintiff") on behalf of himself, and all other similarly situated
2 non-exempt employees, alleges, and complains of Defendant Willamette Valley Vineyards, Inc.
3 ("Defendant") and DOES 1 to 50 (collectively, "Defendants") and each of them, as follows:

4 INTRODUCTION

5 1. Defendants are an American winery named after Oregon's Willamette Valley, the
6 winery is the leading producer of Pinot Noir Chardonnay and Pinot Gris. Defendants have a location
7 in Folsom California, called Winworks, located at 824 Sutter St. Suite 200 Folsom, California 95630.

8 2. Plaintiff brings this class and PAGA representative action against Defendants for
9 alleged violations of the California Labor Code and Business and Professions Code.

10 3. As set forth below, Plaintiff alleges that Defendants deprived Plaintiff and other non-
11 exempt employees of all overtime wages and sick pay wages. Moreover, Plaintiff alleges that
12 Defendants' meal and rest period policies and practices failed to provide him and all other similarly
13 situated employees with compliant meal and rest periods or pay premium pay at the "regular rate of
14 pay" in lieu thereof. Finally, Plaintiff alleges that Defendants failed to provide non-exempt employees
15 with accurate written itemized wage statements and failed to timely pay all final wages upon
16 separation of employment.

17 4. Based on these alleged Labor Code violations, Plaintiff now brings this class action to
18 recover unpaid wages, restitution, penalties, and other related relief on behalf of himself and all others
19 similarly situated.

20 JURISDICTION AND VENUE

21 5. This class action is brought pursuant to California Code of Civil Procedure § 382.

22 6. Plaintiff, on behalf of himself and all others similarly situated employees hereby
23 brings this class action for recovery of unpaid wages and penalties under California Labor Code §§
24 200, 201-203, 204, 210, 226(a), 226(e), 226.3, 226.7, 246, 510, 512, 1174, 1174.4, 1194, 1197.1,
25 1199, 2698 *et seq.*, among other, and applicable Industrial Welfare Commission Wage Orders ("Wage
26 Orders"), in addition to seeking declaratory relief and restitution pursuant to California Business and
27 Professions Code § 17200, *et. seq.*

7. This Court has jurisdiction over Defendants' violations of the California Labor Code and applicable Wage Orders because the amount in controversy exceeds this Court's jurisdictional minimum.

8. Venue is proper in this judicial district pursuant to California Code of Civil Procedure §§ 395(a) and 395.5. Defendants own, maintain offices, transact business, have an agent or agents within the County of Sacramento and/or otherwise are found within the County of Sacramento, and Defendants are within the jurisdiction of this Court for purposes of service of process.

PARTIES

9. At all relevant times herein, Plaintiff, who is over the age of 18, was and currently is a California resident residing in the State of California. Defendants employed Plaintiff and other similarly situated employees as non-exempt employees in California in the County of Sacramento.

10. Plaintiff is informed and believes and thereon alleges that Defendant is a California corporation authorized and doing business in Sacramento County, California; and is and/or was the legal employer of Plaintiff and the Class Members during the applicable statutory periods.

11. Defendants' policies and/or practices outlined herein have deprived Plaintiff and other similarly situated non-exempt employees of the rights afforded to them by California Labor Code §§ 201-203, 204, 210, 226, 226a, 226(e), 226.3, 226.7, 246, 510, 512, 1194, 1197.1, 1199, 2698 *et seq.*, among others, and California Business and Professions Code § 17200 *et seq.*, and applicable Wage Order(s).

12. Plaintiff is informed and believes, and based thereon alleges, that during the four years preceding the filing of the Complaint and continuing to the present, Defendants did (and continue to do) business in the State of California, County of Sacramento. Defendants, each of them, own and/or operate within Folsom, California.

13. Plaintiff does not know the true names or capacities, whether individual, partner, or corporate, of the Defendants sued herein as DOES 1 to 50, inclusive, and for that reason, said Defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to amend this Complaint when such true names and capacities are discovered. Plaintiff is informed, and believes, and thereon alleges, that each of said fictitious Defendants, whether individual, partners, or

1 corporate, were responsible in some manner for the acts and omissions alleged herein, and
2 proximately caused Plaintiff and the Classes to be subject to the unlawful employment practices
3 alleged herein.

4 14. Plaintiff is informed, and believes, and thereon allege, that at all times mentioned
5 herein, Defendants were and are the employers of Plaintiff and all members of the Classes. At all
6 times herein mentioned, each of said Defendants participated in the doing of the acts hereinafter
7 alleged to have been done by the named Defendants; and furthermore, the Defendants, and each of
8 them, were the agents, servants, and employees of each and every one of the other Defendants, as
9 well as the agents of all Defendants, and at all times herein mentioned were acting within the course
10 and scope of said agency and employment. Defendants, and each of them, approved of, condoned,
11 and/or otherwise ratified each and every one of the acts or omissions complained of herein.

12 15. At all times mentioned herein, Defendants, and each of them, were members of and
13 engaged in a joint venture, partnership, and common enterprise, and acting within the course and
14 scope of and in pursuance of said joint venture, partnership, and common enterprise. Further, Plaintiff
15 alleges that all Defendants were joint employers for all purposes of Plaintiff and all members of the
16 Classes.

17 **COMMON FACTUAL ALLEGATIONS**

18 16. Defendants are an American winery named after Oregon's Willamette Valley, and are
19 one of the leading producers of Pinot Noir Chardonnay and Pinot Gris. Defendants have a location in
20 Folsom California, called "Winworks," located at 824 Sutter St. Suite 200 Folsom, California 95630.

21 17. Plaintiff was employed by Defendants as a non-exempt employee with the title of
22 Tasting Room Associate. Plaintiff began working with Defendants from November 2019 until his
23 separation from employment in June 2022. Plaintiff and other non-exempt employees (including, but
24 not limited to tasting room associates, prep cook, kitchen prep, and all other non-exempt positions)
25 were responsible for all aspects of Defendants' business in the State of California.

26 18. First, at all relevant times, Plaintiff and other non-exempt employees worked regular
27 shifts that lasted longer than 8.0 hours in a workday and resulted in Plaintiff and other aggrieved
28 employees regularly working more than 40 hours in a workweek. However, upon information and

1 belief, Plaintiff and other non-exempt employees were not properly paid at the correct overtime rate
2 for all overtime hours worked due to Defendants' uniform failure to include all forms of
3 compensation/renumeration, including, but not limited to, non-discretionary bonus payments, shift
4 differential payments, commissions, incentives, and all other forms of renumeration in calculating
5 the "regular rate of pay" for purposes of overtime compensation.

6 19. Under the California Labor Code (as well as the FLSA), courts have consistently held
7 that regularly paid non-discretionary bonuses (and other forms of pay) must be included in
8 determining an employee's "regular rate of pay" for purposes of calculating overtime. (See *Haber v.*
9 *The Americana Corp.* 378 F. 2d 854, 855-856 (9th Cir. 1967) [holding that regularly paid efficiency
10 bonuses must be included in calculating the "regular rate"]; *Wang v. Chinese Daily News, Inc.* 435 F.
11 Supp. 2d 1042, 1055-1057 (C.D. Cal. 2006) [granting summary judgement to Plaintiff under
12 California and federal law on the grounds, that Defendant improperly calculated overtime by
13 excluding annual bonuses paid to employees from the "regular rate of compensation"].) see *Walling*
14 *v. Youngerman-Reynolds Hardwood Co.* (1945) 65 S.Ct. 1242, 1245. ("The regular rate by its very
15 nature must reflect all payments which the parties have agreed shall be received regularly during the
16 workweek, exclusive of overtime payments. It is not an arbitrary label chosen by the parties; it is an
17 actual fact. Once the parties have decided upon the amount of wages and the mode of payment the
18 determination of the regular rate becomes a matter of mathematical computation, the result of which
19 is unaffected by any designation of a contrary 'regular rate' in the contracts."); see also 29 CFR §§
20 778.110 ("production bonus") and 778.111 ("piece-rate").)

21 20. By their policy of requiring Plaintiff and the other non-exempt employees to work in
22 excess of eight (8) hours in a workday and/or forty (40) hours in a workweek without compensating
23 them at the lawful rate of one-half (1 1/2) their "regular rate of pay," Defendants willfully violated
24 the provisions of Labor Code § 510 and the applicable Wage Orders.

25 21. Accordingly, to the extent permitted by law, Plaintiff and other non-exempt employees
26 are entitled to recover unpaid wages and penalties for violations of Labor Code §§ 204, 210, 510,
27 1197.1.

28 ///

1 22. Similarly, at all relevant times, Defendants also failed in its obligation to provide
2 Plaintiff and other non-exempt employees the legally required paid sick days at the legal rate pursuant
3 to Labor Code § 246(a),(b), which requires that “[a]n employee who, on or after July 1, 2015, works
4 in California for the same employer for 30 or more days within a year from the commencement of
5 employment is entitled to paid sick days. . . at the rate of not less than one hour per every 30 hours
6 worked, beginning at the commencement of employment.” Labor Code § 246(l)(1) provides that paid
7 sick time for non-exempt employees must be “calculated in the same manner as the regular rate of
8 pay for the workweek in which the employee uses paid sick time, whether or not the employee
9 actually works overtime in that workweek.”

10 23. Additionally, Labor Code § 246(l)(2) states that the paid sick time must be “calculated
11 by dividing the employee’s total wages, not including overtime premium pay, by the employee’s total
12 hours worked in the full pay periods of the prior 90 days of employment.” Finally, Labor Code §
13 246(i) requires employers to “provide an employee with written notice that sets forth the amount of
14 paid sick leave available, or paid time off leave an employer provides in lieu of sick leave, for use on
15 either the employee’s itemized wage statement described in Section 226 or in a separate writing
16 provided on the designated pay date with the employee’s payment of wages.”

17 24. Here, at all relevant times, Defendants failed in its obligation to provide Plaintiff and
18 other non-exempt employees the legally required paid sick days at the legal rate, including all forms
19 of compensation, pursuant to Labor Code § 246(a),(b). As such, Defendants paid sick time below his
20 base rate of pay, rather than the “regular rate of pay” as required by Labor Code § 246(l)(1-2).

21 25. Next, at all relevant times, Plaintiff and other non-exempt employees were denied
22 compliant and timely 30-minute off-duty meal periods as mandated by California law. Due to
23 Defendants’ uniform meal period policies/practices operational requirements, and work demands,
24 Plaintiff and other non-exempt employees were often unable to take timely and uninterrupted 30-
25 minute first meal periods before the end of the fifth hour of work. Further, when Plaintiff and other
26 non-exempt employees worked more than 10.0 hours in a shift, they were not always allowed and
27 permitted to take a mandated second meal period before the end of the tenth hour of work in violation
28 of the Labor Code and applicable Wage Orders.

1 26. Additionally, for each missed or non-compliant meal period, Defendants failed to
2 maintain a mechanism by which non-exempt employees were paid meal period premiums at the
3 “regular rate of pay” pursuant to *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 5th 858 and Labor
4 Code § 226.7. Accordingly, due to Defendants’ uniform meal period practices, Plaintiff and other
5 non-exempt employees were also regularly denied legally compliant meal periods in violation of
6 Labor Code 226.7, 510, 516, and applicable IWC Wage Orders.

7 27. Moreover, at all relevant times, Plaintiff and other non-exempt employees were not
8 provided with all 10-minute rest periods for every four hours worked, or major fraction thereof due
9 to Defendants’ uniform rest period policies/practices, operational requirements and work demands.
10 As a result, Plaintiff and other non-exempt employees were and are often unable to take a net 10-
11 minute duty free rest periods for every major fraction of four hours worked. This includes a second
12 rest period for shifts in excess of six hours, and a third rest period for shifts in excess of 10.0 hours
13 in a workday. To the extent non-exempt were permitted allowed and permitted to take rest periods,
14 the rest periods were often cut short or interrupted for work reasons.

15 28. By not relieving all non-exempt employees of all duties during rest periods,
16 Defendants failed to provide legally compliant rest periods. See *Augustus v. ABM Security Services,*
17 *Inc.* (2016) 2 Cal. 5th 257, 269 [concluding that “during rest periods employers must relieve
18 employees of all duties and relinquish control over how employees spend their time.”]. In *Augustus*,
19 the California Supreme Court expressly rejected the employers’ assertion that it could provide an on-
20 duty rest period to employees who worked as security guards and further explained “that employers
21 [must] relinquish any control over how employees spend their break time and relieve their employees
22 of all duties.” *Id.* at 273.

23 29. Each time Plaintiff and other non-exempt employees were unable to take a compliant
24 rest period, Defendants failed and continue to fail to adequately pay rest period premium payments
25 at the “regular rate of pay” as required by Labor Code § 226.7.

26 30. Accordingly, due to Defendants’ uniform rest period policies/practices and work
27 demands, Plaintiff and other non-exempt employees were also regularly denied legally compliant rest
28 breaks in violation of Labor Code §§ 226.7, 512, and applicable Wage Orders.

31. As a result of Defendants' failure to pay Plaintiff and other non-exempt employees for all minimum wages, overtime wages, sick pay wages at the appropriate legal rate, and Defendants' failure to pay for meal and rest period premiums at the "regular rate of pay," Defendants issued wage statements which failed to accurately identify the gross wages earned, the total hours worked, the net wages earned, and the correct corresponding number of hours worked at each hourly rate, in violation of Labor Code § 226(a)(1, 2, 5, and 9).

32. Labor Code § 226.3 provides that “[a]ny employer who violates subdivision (a) of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial violation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage deduction statement or fails to keep the required in subdivision (a) of Section 226.”

33. Thus, for the violations of Labor Code § 226 described above, Plaintiff and other non-exempt employees may also recover Labor Code § 226.3 penalties for Defendants' violations of Labor Code § 226(a).

34. As a further result of Defendants' failure to pay all minimum, sick pay and overtime wages, and meal and rest period premiums at the "regular rate of pay," Defendants also failed and continues to fail to pay Plaintiff and other non-exempt employees all wages owed at their time of separation from employment in violation of Labor Code §§ 201-203.

CLASS ACTION ALLEGATIONS

35. Plaintiff brings this action on behalf of himself and the following Classes pursuant to § 382 of the Code of Civil Procedure:

All non-exempt employees who work or worked for Defendants in California, during the four years immediately preceding the filing of the Complaint through the date of trial. (“Class”);

All non-exempt employees who worked for Defendants in California and who worked overtime hours during at least one shift, during the four years immediately preceding the filing of the Complaint through the date of trial. (“Overtime Subclass”);

All non-exempt employees who work or worked for Defendants in California during the one year immediately preceding the filing of the

1 Complaint through the date of trial. ("Wage Statement Subclass")

2 All non-exempt delivery driver employees who work or worked for
3 Defendants in California, and who left their employ during the three
4 years immediately preceding the filing of the Complaint through the
date of trial. ("Waiting Time Penalty Subclass")

5 (collectively "the Classes")

6 36. **Numerosity/Ascertainability:** The members of the Classes are so numerous that
7 joinder of all members would be unfeasible and not practicable. The membership of the Classes is
8 unknown to Plaintiff at this time; however, it is estimated that the Classes consist of at least one
9 hundred (100) individuals. The identity of such membership is readily ascertainable via inspection of
10 Defendants' employment and payroll records.

11 37. **Common Questions of Law and Fact Predominate/Well Defined Community of**
12 **Interest:** There are common questions of law and fact as to Plaintiff and all other similarly situated
13 employees, which predominate over questions affecting only individual members including, without
14 limitation to:

15 1. Whether Defendants failed to pay overtime pay at the appropriate legal rate to
16 members of the Classes;

17 2. Whether Defendants failed to pay sick pay at the appropriate legal rate to members of
18 the Classes;

19 3. Whether Defendants provided legally compliant meal and rest periods or proper
20 compensation at the "regular rate of pay" in lieu thereof to members of the Classes;

21 4. Whether Defendants furnished legally compliant wage statements to members of the
22 Classes pursuant to Labor Code § 226(a); and

23 5. Whether the timing and amount of payment of final wages to members of the Class at
24 the time of separation from employment were unlawful.

25 38. **Predominance of Common Questions:** Common questions of law and fact
26 predominate over questions that affect only individual members of the Classes. The common
27 questions of law set forth above are numerous and substantial and stem from Defendants' policies
28 and/or practices applicable to each individual class member, such as, Defendants' policy/practice of

1 failing to pay overtime and sick pay at the appropriate premium rate, Defendants' uniform policy of
2 failing to provide compliant meal and rest periods or adequate compensation in lieu thereof, and
3 Defendants' resulting failure to provide accurate itemized wage statements, and to pay for all wages
4 due upon separation of employment. As such, the common questions predominate over individual
5 questions concerning each individual class member's showing as to his or her eligibility for recovery
6 or as to the amount of his or her damages.

7 39. **Typicality:** The claims of Plaintiff are typical of the claims of the Classes because
8 Plaintiff was employed by Defendants as a non-exempt employee in California during the statute(s)
9 of limitation applicable to each cause of action pled in the Complaint in this action. As alleged herein,
10 Plaintiff, like the members of the Classes, was deprived of all overtime wages and sick pay wages,
11 was deprived of meal and rest period premium wages at the "regular rate of pay," was subject to
12 Defendants' uniform policies/practices, was not provided accurate itemized wage statements, and
13 was not paid all wages owed at the time of his separation of employment.

14 40. **Adequacy of Representation:** Plaintiff is fully prepared to take all necessary steps to
15 represent fairly and adequately the interests of the members of the Classes. Moreover, Plaintiff's
16 attorneys are ready, willing and able to fully and adequately represent the members of the Classes.
17 Plaintiff's attorneys have prosecuted and are actively litigating several wage-and-hour class actions
18 in state and federal courts and are committed to vigorously prosecuting this action on behalf of the
19 members of the Classes.

20 41. **Superiority:** The California Labor Code is broadly remedial in nature and serves an
21 important public interest in establishing minimum working conditions and standards in California.
22 These laws and labor standards protect the average working employee from exploitation by
23 employers who have the responsibility to follow the laws and who may seek to take advantage of
24 superior economic and bargaining power in setting onerous terms and conditions of employment. The
25 nature of this action and the format of laws available to Plaintiff and members of the Classes make
26 the class action format a particularly efficient and appropriate procedure to redress the violations
27 alleged herein. If each employee were required to file an individual lawsuit, Defendants would
28 necessarily gain an unconscionable advantage since they would be able to exploit and overwhelm the

1 limited resources of each individual plaintiff with their vastly superior financial and legal resources.

2
3 42. Moreover, requiring each member of the Classes to pursue an individual remedy
4 would also discourage the assertion of lawful claims by employees who would be disinclined to file
5 an action against their former and/or current employer for real and justifiable fear of retaliation and
6 permanent damages to their careers at subsequent employment. Further, the prosecution of separate
7 actions by the individual class members, even if possible, would create a substantial risk of
8 inconsistent or varying verdicts or adjudications with respect to the individual class members against
9 Defendants herein; and which would establish potentially incompatible standards of conduct for
10 Defendants; and/or legal determinations with respect to individual class members which would, as a
11 practical matter, be dispositive of the interest of the other class members not parties to adjudications
12 or which would substantially impair or impede the ability of the class members to protect their
13 interests. Further, the claims of the individual members of the class are not sufficiently large to
14 warrant vigorous individual prosecution considering all of the concomitant costs and expenses
15 attending thereto. As such, the Classes identified in Paragraph 34 are maintainable as Classes under
16 § 382 of the Code of Civil Procedure.

17 **FIRST CAUSE OF ACTION**

18 **FAILURE TO PAY ALL OVERTIME WAGES**

19 **(AGAINST ALL DEFENDANTS)**

20 43. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

21 44. This cause of action is brought pursuant to Labor Code §§ 204, 510, 558, 1194, and
22 1198, which provide that non-exempt employees are entitled to overtime wages for all overtime hours
23 worked and provide a private right of action for the failure to pay all overtime compensation for
24 overtime work performed.

25 45. At all times relevant herein, Defendants were required to properly pay Plaintiff and
26 members of the Overtime Subclass for all overtime hours worked pursuant to California Labor Code
27 § 1194 and the applicable Wage Orders.

28 46. Section 3 of the applicable Wage Order requires an employer to pay an employee “one

1 and one-half (1 1/2) times the employee's regular rate of pay" for work in excess of 8 hours per
2 workday and/or in excess of 40 hours of work in the workweek. The same section also requires an
3 employer to pay an employee double the employee's regular rate of pay for work in excess of twelve
4 hours each workday and/or for work in excess of 8 hours on the seventh consecutive day of work in
5 the workweek.

6 47. Defendants failed to conform their pay practices to the requirements of the law. This
7 unlawful conduct includes, but is not limited to, Defendants' uniform and unlawful policy/practice
8 of failing to include all forms of compensation in calculating the "regular rate of pay", which resulted
9 in the Classes not being paid all overtime wages owed.

10 48. The foregoing policies and practices are unlawful and create entitlement to recovery
11 by Plaintiff and the members of the Overtime Subclass in a civil action for the unpaid amount of
12 overtime wages, including interest thereon, statutory penalties, attorney's fees, and costs of suit
13 according to Labor Code §§ 204, 210, 510, 1194, and 1198, the applicable Wage Orders, and Code
14 of Civil Procedure § 1021.5.

15 **SECOND CAUSE OF ACTION**

16 **FAILURE TO PAY ALL SICK TIME**

17 **(AGAINST ALL DEFENDANTS)**

18 49. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

19 50. This cause of action is brought pursuant to Labor Code §§ 246, 558, 1194.2, 1197.1,
20 1198, and 1199 which provide that non-exempt employees are entitled to have their sick time paid at
21 the "regular rate of pay", including all forms of compensation/remuneration.

22 51. At all times relevant herein, Defendants were required to properly pay Plaintiff and
23 members of the Class for all accrued sick leave taken, pursuant to California Labor Code § 246.

24 52. Defendants failed to conform their pay practices to the requirements of the law. This
25 unlawful conduct includes but is not limited to Defendants' uniform and unlawful policy/practice of
26 failing to include all forms of compensation, including but not limited to shift differentials, non-
27 discretionary bonuses, and other forms of remuneration into the calculation of the "regular rate of
28 pay," which resulted in Plaintiff and the Classes not being paid all sick time wages owed.

1 53. The foregoing policies and practices are unlawful and create entitlement to recovery
2 by Plaintiff and the members of the Classes in a civil action for the unpaid amount of sick time wages,
3 including interest thereon, statutory penalties, attorney's fees, and costs of suit according to Labor
4 Code §§ 246, 558, 1194.2, 1197.1, 1198, the applicable Wage Orders, and Code of Civil Procedure
5 § 1021.5.

6 **THIRD CAUSE OF ACTION**

7 **MEAL PERIOD VIOLATIONS**

8 **(AGAINST ALL DEFENDANTS)**

9 54. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

10 55. Plaintiff is informed and believes, and based thereon alleges, that Defendants failed in
11 their affirmative obligation to provide all of their hourly non-exempt employees, including Plaintiff
12 and members of the Class, with all required meal periods in accordance with the mandates of the
13 California Labor Code and applicable Wage Orders, for the reasons set forth in the Common
14 Allegations section of this Complaint. Despite Defendants' violations, Defendants have not paid an
15 additional hour of pay at the "regular rate of pay" to Plaintiff and members of the Class at their
16 respective regular rates of pay for each violation, in accordance with California Labor Code § 226.7.

17 56. As a result, Defendants are responsible for paying premium compensation for meal
18 period violations, including interest thereon, statutory penalties, and costs of suit pursuant to the
19 applicable Wage Orders, Labor Code §§ 226.7, 512, and Civil Code §§ 3287(b) and 3289.

20 **FOURTH CAUSE OF ACTION**

21 **REST PERIOD VIOLATIONS**

22 **(AGAINST ALL DEFENDANTS)**

23 57. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

24 58. Section 12 of the applicable Wage Orders and Labor Code §§ 226.7 and 516 establish
25 the right of non-exempt employees to be provided with a rest period of at least ten (10) minutes for
26 each four (4) hour period worked, or major fraction thereof.

27 59. Due to their unlawful rest period policy and practices, Defendants did not authorize
28 and permit Plaintiff and members of the Class to take code-compliant rest periods to which they were

1 legally entitled, including, but not limited to, failing to relieve employees of all duties and
2 relinquishing all control over employees during their rest periods. Despite Defendants' violations,
3 Defendants have not paid an additional hour of pay at the "regular rate of pay" to Plaintiff and
4 members of the Class at their respective regular rates of pay for each violation, in accordance with
5 California Labor Code § 226.7.

6 60. The foregoing violations create an entitlement to recovery by Plaintiff and members
7 of the Class in a civil action for the unpaid amount of rest period premiums owing, including interest
8 thereon, statutory penalties, and costs of suit pursuant to the applicable Wage Orders, Labor Code §§
9 226.7 and 516, and Civil Code §§ 3287(b) and 3289.

10 **FIFTH CAUSE OF ACTION**

11 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

12 **(AGAINST ALL DEFENDANTS)**

13 61. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

14 62. Labor Code 226(a) states in pertinent part the following:

15 "(a) An employer, semimonthly or at the time of each payment of wages, shall
16 furnish to his or her employee, either as a detachable part of the check, draft, or
17 voucher paying the employee's wages, or separately if wages are paid by personal
18 check or cash, an accurate itemized statement in writing showing (1) gross wages
19 earned, (2) total hours worked by the employee, except as provided in subdivision
20 (j), (3) the number of piece-rate units earned and any applicable piece rate if the
21 employee is paid on a piece-rate basis, (4) all deductions, provided that all
22 deductions made on written orders of the employee may be aggregated and shown
23 as one item, (5) net wages earned, (6) the inclusive dates of the period for which the
24 employee is paid, (7) the name of the employee and only the last four digits of his
25 or her social security number or an employee identification number other than a
26 social security number, (8) the name and address of the legal entity that is the
27 employer and, if the employer is a farm labor contractor, as defined in subdivision
28 (b) of Section 1682, the name and address of the legal entity that secured the services
of 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."

63. As set forth above, during the Class Period, Defendants issued and continue to issue
wage statements to its employees including Plaintiff and members of the Wage Statement Subclass,

1 which are inadequate under Labor Code Section 226(a).

2 64. As a result of Defendants' failure to pay Plaintiff and the Wage Statement Subclass
3 for all overtime and sick pay wages at the appropriate legal rate, and missed meal and rest period
4 premiums at the "regular rate of pay," Defendants failed to include required information on Plaintiff
5 and the Classes' wage statements, including, but not limited to, the gross wages earned, the net wages
6 earned in violation of Labor Code § 226(a)(1, 2, 5, 9).

7 65. Defendants' failure to comply with § 226(a) of the Labor Code was knowing and
8 intentional.

9 66. As a result of Defendants' issuance of inaccurate itemized wage statements to Plaintiff
10 and members of the Wage Statement Subclass in violation of section 226(a) of the California Labor
11 Code, Plaintiff and members of the Wage Statement Subclass are each entitled to recover an initial
12 penalty of \$50, and subsequent penalties of \$100, up to an amount not exceeding an aggregate penalty
13 of \$4,000 per Plaintiff and per every member of the Wage Statement Subclass from Defendants
14 pursuant to section 226(e) of the Labor Code, costs and reasonable attorneys' fees.

15 **SIXTH CAUSE OF ACTION**

16 **WAITING TIME PENALTIES**

17 **(AGAINST ALL DEFENDANTS)**

18 67. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

19 68. The actionable period for this cause of action is three years prior to the filing of this
20 Complaint through the present, and on-going until the violations are corrected, or the class is certified.

21 69. Labor Code §§ 201 and 202 require Defendants to pay all compensation due and owing
22 to Plaintiff and the Waiting Time Penalty Subclass during the actionable period for this cause of
23 action at or around the time that their employment is or was terminated or ended.

24 70. Labor Code § 203 provides that if an employer willfully fails to pay compensation
25 promptly upon discharge or resignation, as required by Labor Code sections 201 and 202, then the
26 employer is liable for penalties in the form of continued compensation up to thirty (30) workdays.

27 71. Defendants willfully failed to pay Plaintiff and the members of the Waiting Time
28 Penalty Subclass for all overtime and sick pay wages, and their meal and rest period premiums at the

1 “regular rate of pay”, prior to or upon termination or separation from employment with Defendants
2 as required by Labor Code §§ 201 and 202.

3 72. As a result, Defendants are liable to Plaintiff and the Waiting Time Penalty Subclass
4 for waiting time penalties amounting to thirty (30) days wages for Plaintiff and the Classes pursuant
5 to Labor Code § 203. *See, e.g.,* DLSE Manual, 4.3.4 (Failure to pay any sort of wages due upon
6 termination entitles an employee to recover waiting time penalties).

7 **SEVENTH CAUSE OF ACTION**

8 **UNFAIR COMPETITION**

9 **(AGAINST ALL DEFENDANTS)**

10 73. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

11 74. Defendants have engaged and continue to engage in unfair and/or unlawful business
12 practices in California in violation of California Business and Professions Code § 17200 *et seq.*, by
13 failing to pay all overtime and sick pay wages at the appropriate legal rate, by failing to provide all
14 legally required meal and rest periods or pay premium payments at the “regular rate of pay” in lieu
15 thereof, by failing to provide accurate itemized wage statements, and by failing to pay all earned
16 wages at the time of separation from employment.

17 75. Defendants’ utilization of these unfair and/or unlawful business practices deprived
18 Plaintiff and continues to deprive members of the Classes of compensation to which they are legally
19 entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage over
20 Defendants’ competitors who have been and/or are currently employing workers and attempting to
21 do so in honest compliance with applicable wage and hour laws.

22 76. Because Plaintiff is a victim of Defendants’ unfair and/or unlawful conduct alleged
23 herein, Plaintiff for himself and on behalf of the members of the Classes, seeks full restitution of
24 monies, as necessary and according to proof, to restore any and all monies withheld, acquired and/or
25 converted by Defendants pursuant to Business and Professions Code §§ 17203 and 17208.

26 77. The acts complained of herein occurred within the last four years immediately
27 preceding the filing of the Complaint in this action.

28 78. Plaintiff was compelled to retain the services of counsel to file this court action to

1 protect him interests and those of the Classes, to obtain restitution and injunctive relief on behalf of
2 Defendants' current hourly non-exempt employees and to enforce important rights affecting the
3 public interest. Plaintiff has thereby incurred the financial burden of attorneys' fees and costs, which
4 he is entitled to recover under Code of Civil Procedure § 1021.5.

5 **EIGHT CAUSE OF ACTION**

6 **PRIVATE ATTORNEYS GENERAL ACT**

7 **(Labor Code § 2698 *et seq.*)**

8 **(AGAINST ALL DEFENDANTS)**

9 79. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

10 80. Defendants have committed several Labor Code violations against Plaintiff and other
11 non-exempt employees. Plaintiff, an "aggrieved employee" within the meaning of Labor Code § 2698
12 et seq., acting on behalf of himself and other non-exempt employees, bring this representative action
13 against Defendants to recover the civil penalties due to Plaintiff, other similarly non-exempt
14 employees, and the State of California according to proof pursuant to Labor Code § 2699 (a) and (f)
15 including, but not limited to (1) \$100 for each initial violation and (2) \$200 for each subsequent
16 violation per employee per pay period for those violations of the Labor Code for which no civil
17 penalty is specifically provided based on the following Labor Code violations:

18 a. Failing to pay all sick pay at the "regular rate of pay" in violation of Labor Code §§
19 246, 558, 1194.2, 1197.1, 1198, and 1199;

20 b. Failing to provide legally compliant meal and rest periods or proper compensation at
21 the "regular rate of pay" in lieu thereof;

22 c. Failing to timely pay wages during employment in violation of Labor Code §§ 204
23 and 210;

24 d. Failing to timely compensate Plaintiff and other non-exempt employees with all
25 earnings at their separation of employment in violation of Labor Code §§ 201-203; and

26 e. Failing to furnish Plaintiff and other non-exempt employees with complete, accurate,
27 itemized wage statements in violations of Labor Code § 226(a).

28 f. In sum, Defendant (1) failed to provide paid sick leave, failed to pay sick leave at the

1 regular rate, failed to properly report paid sick leave accruals and payments in wage statements, and
2 failed at related recordkeeping;; (3) failed to provide accurate itemized wage statements in violation
3 of Labor Code sections 226(a)(1)-(9); (4) failed to provide timely payment of final wages in violation
4 of Labor Code sections 201-203, or pay the related penalties; and (5) failed to provide timely wage
5 payments to current employees in violation of Section 204 of the Labor Code.

6 81. On or about June 16, 2023, Plaintiff notified Willamette Valley Vineyards, Inc., via
7 certified mail, and the California Labor and Workforce Development Agency (“LWDA”) via its
8 website of Defendant’s violations of the California Labor Code § 2698 *et seq.*, with respect to
9 violations of the California Labor Code identified in Paragraph 80 (a)-(e). Now that sixty-five days
10 have passed from Plaintiff notifying Defendant and the LWDA of these violations, Plaintiff will have
11 exhausted his administrative requirements for bringing a claim under the Private Attorneys General
12 Act with respect to these violations.

13 82. Plaintiff was compelled to retain the services of counsel to file this court action to
14 protect their interests and the interests of other non-exempt employees, and to assess and collect the
15 civil penalties owed by Defendants. Plaintiff has hereby incurred attorneys’ fees and costs, which he
16 is entitled to receive under California Labor Code § 2699.

17 **PRAYER FOR RELIEF**

18 **WHEREFORE**, Plaintiff prays for judgment for himself and for all others on whose behalf
19 this suit is brought against Defendants, as follows:

- 20 1. For an order certifying the proposed Classes;
- 21 2. For an order-appointing Plaintiff as representative of the Classes;
- 22 3. For an order appointing Counsel for Plaintiff as Counsel for the Classes;
- 23 4. Upon the First Cause of Action, for compensatory, consequential, general and
24 special damages according to proof pursuant to Labor Code §§ 204, 210, 510, 1197, and 1198;
- 25 5. Upon the Second Cause of Action, payment of all unpaid sick pay wages and
26 penalties according to proof pursuant to Labor Code § 246 *et seq.*, and for reasonable attorneys’ fees
27 and costs;
- 28 6. Upon the Third Cause of Action, for compensatory, consequential, general and

1 special damages according to proof pursuant to Labor Code §§ 226.7 and 512;

2 7. Upon the Fourth Cause of Action, for compensatory, consequential, general and
3 special damages according to proof pursuant to Labor Code §§ 226.7 and 516;

4 8. Upon the Fifth Cause of Action, penalties pursuant to Labor Code § 226(a), and
5 reasonable costs and attorneys' fees;

6 9. Upon the Sixth Cause of Action, for statutory waiting time penalties pursuant to
7 Labor Code §§ 201-203;

8 10. Upon the Seventh Cause of Action, for restitution to Plaintiff and members of the
9 Classes of all money and/or property unlawfully acquired by Defendants by means of any acts or
10 practices declared by this Court to be in violation of Business and Professions Code § 17200 *et seq*;

11 11. Upon the Eight Cause of Action, for civil penalties due to Plaintiff, other non-exempt
12 aggrieved employees, and the State of California according to proof pursuant to Labor Code § 2699
13 (a) and (f) including, but not limited to: (1) \$100 for each initial violation and \$200 for each
14 subsequent violation per employee per pay period for those violations of the Labor Code for which
15 no civil penalty is specifically provided under the Labor Code;

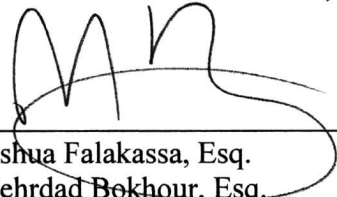
16 12. Prejudgment interest on all due and unpaid wages pursuant to California Labor Code
17 § 218.6 and Civil Code §§ 3287 and 3289;

18 13. On all causes of action, for attorneys' fees and costs as provided by Labor Code §§
19 218.5, 226, and Code of Civil Procedure § 1021.5; and

20 14. For such other relief that the Court may deem just and proper.

21
22 Dated: August 24, 2023

FALAKASSA LAW, P.C.
BOKHOUR LAW GROUP, P.C.

23
24
25 By: 

Joshua Falakassa, Esq.

Mehrdad Bokhour, Esq.

Attorneys for Plaintiff and the Putative Classes