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David W. Slayton,
Executive Officer/Clerk of Court,
By Y. Tarasyuk, Deputy Clerk

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11 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**
12 **COUNTY OF LOS ANGELES**

13 GWENDOLYN BANKS, an individual,
14 and other aggrieved employees,

15 Plaintiffs,

16 vs.

17 Olympic Avenue Venture, Inc., a
18 California Corporation and DOES 1
19 through 10, inclusive,

20 Defendants.
21

CASE NO. **24STCV05135**

**COMPLAINT FOR CIVIL PENALTIES
UNDER THE PRIVATE ATTORNEYS
GENERAL ACT OF 2004
(Labor Code §§ 2698, et seq.)**

1 Plaintiff GWENDOLYN BANKS, on behalf of herself and all others similarly situated, files
2 this Complaint against defendant OLYMPIC AVENUE VENTURE, INC., a California corporation
3 and Does 1 to 10 (collectively “Defendants”). Plaintiff is informed and believes and on the basis of
4 that information and belief alleges as follows:

5 **INTRODUCTION**

6 1. This matter arises out of Defendants’ illegal scheme requiring dancers at their exotic
7 club to share tips with management as well as the establishment of a piece rate payment scheme that
8 was not recorded or reflected on wage statements. Additionally, Defendants knowingly failed to fully
9 compensate Plaintiff and other aggrieved employees for all hours worked.

10 **PARTIES**

11 ***Plaintiff***

12 2. Plaintiff GWENDOLYN BANKS is an individual over the age of eighteen (18) and is
13 a resident of Los Angeles County, State of California. Throughout the Relevant Time Period, Ms.
14 Banks worked for Defendant as a non-exempt employee in Defendant’s business located in Los
15 Angeles, Los Angeles County, California.

16 ***Defendant Olympic Avenue Venture, Inc.***

17 3. Plaintiff is informed and believes and based thereon alleges that Defendant Olympic
18 Avenue Venture, Inc. is now and/or at all times mentioned in this Complaint, headquartered in
19 California, and qualified and registered to do business in the State of California, with a corporate office
20 located at in Los Angeles County and performs substantial business in California.

21 ***Defendant Does 1 through 10, Inclusive***

22 4. DOES 1 through 10 inclusive are now and/or at all times mentioned in this Complaint
23 were, licensed to do business and/or actually doing business in the State of California. Plaintiff does
24 not know the true names or capacities, whether individual, partner, or corporate, of DOES 1 through
25 10, inclusive and for that reason, DOES 1 through 10 are sued under such fictitious names pursuant to
26 California Code of Civil Procedure, section 474. Plaintiff will seek leave of court to amend this
27 Complaint to allege such names and capacities as soon as they are ascertained. DOES 1 through 10
28 are believed to be business entities who were also co-employers of the Plaintiff and the other aggrieved

1 employees herein.

2 ***All Defendants***

3 5. Plaintiff is informed and believes and based thereon alleges that at all times herein
4 mentioned, all Defendants, and each of them, were and are the agents, servants, employees, joint
5 venturers, and/or partners of each of the other Defendants, and were, at all such times, acting within
6 the course and scope of said employment and/or agency; furthermore, that each and every Defendant
7 herein, while acting as a high corporate officer, director and/or managing agent, principal and/or
8 employer, expressly directed, consented to, approved, affirmed and ratified each and every action
9 taken by the other co-Defendant, as herein alleged and was responsible in whole or in part for the
10 matters referred to herein.

11 6. Plaintiff is informed and believes and based thereon alleges that at all times herein
12 mentioned, Defendants, and each of them, proximately caused Plaintiff, all others similarly situated
13 and the general public to be subjected to the unlawful practices, wrongs, complaints, injuries and/or
14 damages alleged in this Complaint.

15 7. Plaintiff is informed and believes and based thereon alleges that Defendants, and each
16 of them, are now and/or at all times mentioned in this Complaint were members of and/or engaged in
17 a joint venture, partnership and common enterprise, and were acting within the course and scope of,
18 and in pursuit of said joint venture, partnership and common enterprise and, as such were co-employers
19 of the Plaintiff and the other aggrieved employees.

20 8. Plaintiff is informed and believes and based thereon alleges that Defendants, and each
21 of them, at all times mentioned in this Complaint, concurred with, contributed to, approved of, aided
22 and abetted, condoned and/or otherwise ratified, the various acts and omissions of each and every one
23 of the other Defendants in proximately causing the injuries and/or damages alleged in this Complaint.

24 **JURISDICTION AND VENUE**

25 9. The California Superior Court has jurisdiction in the matter because the claims exceed
26 the jurisdictional minimum of this court and Defendant performs substantial business in the State of
27 California. Further, the issues herein are based on California statutes and law including the California
28 Labor Code.

10. Venue is proper in the County of Los Angeles because Defendants transact substantial business in this County, Plaintiff's claims arose in this County, and because Defendants maintain locations in the County of Los Angeles.

FACTUAL ALLEGATIONS

11. Defendants operate an adult entertainment club known as Spearmint Rhino Gentlemen's Club in Los Angeles, California.

12. From 2021 to 2023, Plaintiff worked for Defendants as an Entertainer.

13. During this time period, Defendants knowingly and intentionally allowed management to take tips from Plaintiff and other aggrieved employees.

14. Defendants even instituted a scheduling system which punished employees who paid no tips or less in tips to management than other employees because managers made the decisions on when Plaintiff and other aggrieved employees would be scheduled. Thus, Plaintiff and other aggrieved employees were forced to participate in the illegal tipping scheme in order to obtain favorable scheduling. This system allowed Defendants' management to perceivably retaliate against any employees who refused to participate in the management tipping scheme.

15. Defendant additionally failed to provide accurate itemized wage statements that complied with the California Labor Code and applicable wage orders. Specifically, Plaintiff and other aggrieved employees did not receive wage statements that showed the total number of piece rate units earned while working at the club.

16. Defendants set the pricing for private dances at the club and required Plaintiff and other aggrieved employees to earn a certain amount of money per night working these private dances. After they met this minimum threshold, Plaintiff and other aggrieved employee would then earn 50% of what the club charged on each private dance thereafter. This system of pay is a piece-rate payment system under California law because Plaintiff and other aggrieved employees are being paid a set amount for each action completed.

17. Defendants failed to record the number of piece rate units earned by Plaintiff and other aggrieved employees.

18. Defendants further failed to provide wage statements showing the piece rate units

1 earned by Plaintiff and other aggrieved employees as required by the California Labor Code.

2 19. Additionally, Defendants have an employment policy in place where they require
3 Plaintiff and other aggrieved employees to arrive at work 15 minutes early in order to dress and prepare
4 for work. However, Defendants do not compensate Plaintiff and other Aggrieved Employees for this
5 time. As such, Plaintiff and other aggrieved employees were not paid minimum wage for this time,
6 and any overtime owed was incorrectly calculated for all hours worked for Defendants.

7 20. Plaintiff has complied with all procedures for bringing suit specified in California
8 Labor Code Section 2699.3. By letter dated July 27, 2023, Plaintiff, on behalf of herself and the other
9 aggrieved employees, gave written notice by certified mail to the Labor and Workforce Development
10 Agency (“LWDA”) and Defendants of the specific provisions of the California Labor Code alleges to
11 have been violated, including the facts and theories to support the alleges violations. More than sixty-
12 five (65) days have passed since that letter was sent and the LWDA has not responded to Plaintiff’s
13 allegations.

14 **FIRST CAUSE OF ACTION**

15 **CIVIL PENALTIES UNDER THE PRIVATE ATTORNEYS GENERAL ACT**

16 **(Labor Code §§ 2698 *et seq.*)**

17 21. Plaintiff incorporates by reference the allegations set forth above.

18 22. This action arises out of the unlawful labor practices of Defendants in California.
19 Through this action, Plaintiff represents herself and other aggrieved employees of Defendants that
20 were based out of California, against whom Defendants have committed labor law violations,
21 including, but not limited to, taking employee gratuities and failing to provide accurate paystubs. As
22 a result of the alleged unlawful conduct described herein, Plaintiff now seeks to recover civil penalties,
23 attorneys’ fees and costs, pursuant to the Private Attorneys General Act of 2004, Labor Code §§ 2698,
24 *et seq.* (“PAGA”).

25 23. PAGA provides that for any provision of law under the Labor Code that provides for a
26 civil penalty to be assessed and collected by the Labor and Workforce Development Agency for
27 violation of the Labor Code, may, as an alternative, be recovered through a civil action brought by an
28 aggrieved employee pursuant to procedures outlines in California Labor Code § 2699.3.

1 24. Plaintiffs are aggrieved employees as defined in Labor Code § 2699, subdivision (a).
2 Plaintiffs bring this action on behalf of herself and other current or former aggrieved employees
3 affected by the labor law violations alleges in this complaint. At all relevant times, Plaintiffs and the
4 other aggrieved employees have been entitled to the benefits and protections of the California Labor
5 Code and Wage Order Number Five.

6 25. Pursuant to Labor Code § 2699.3, an aggrieved employee, may commence a civil action
7 arising under Labor Code § 2699 after the following requirements have been met:

8 a. The aggrieved employee shall give written notice (hereinafter “Notice”) by
9 certified mail to the Labor and Workforce Development Agency (hereinafter
10 “Agency”) and the employer of the specific provisions of the Labor Code alleges
11 to have been violated, including the facts and theories to support the alleges
12 violation.

13 b. The agency shall notify the employer and the aggrieved employee or representative
14 by certified mail that it does not intend to investigate the alleged violation within
15 sixty-five (65) calendar days of the postmark date of the notice received. Upon
16 receipt of that notice or if no notice is provided within sixty-five (65) calendar days
17 of the postmark date of the notice, the aggrieved employee may commence a civil
18 action pursuant to Section 2699.

19 26. Plaintiff has satisfied the jurisdictional prerequisites to the maintenance of this Cause
20 of Action as more fully set out in Labor Code § 2699.3 in that on or about July 27, 2023, Plaintiff gave
21 notice to the Labor and Workforce Development Agency of Defendants’ Labor Code violations,
22 including the facts and theories to support the alleged violations, and Plaintiff’s intent to recover
23 penalties based on the violation set forth herein. This same notice was served upon the Defendants in
24 this Action by certified mail on or about July 27, 2023.

25 **Failure to Pay Minimum Wage for All Hours Worked**

26 27. Plaintiff and other aggrieved employees were regularly shorted hours on their
27 paychecks. As such, Defendants failed to pay minimum wages for all hours worked.

28 28. Pursuant to Labor Code § 1197, payment of less than the minimum wage fixed by the

1 Labor Commission is unlawful. IWC Wage Order, No. 5-2001 and 10-2001 both require employers
2 to pay minimum wage set by that Order for all time worked by an employee. The Wage Order further
3 states, “(B) Every employer shall pay to each employee, on the established payday for the period
4 involved, not less than the applicable minimum wage for all hours worked in the payroll period,
5 whether the remuneration is measured by time, piece, commission, or otherwise.”

6 29. Labor Code § 1182.12, IWC Wage Order, No. 5-2001, § 4, and IWC Wage Order, No.
7 10-2001, § 4, all provide minimum wage rates that must be paid to all employees. Defendants have
8 violated the California Labor Code and Wage Orders by requiring employees to arrive at work 15
9 minutes early in order to “prepare” to work, but not paying employees for that time.

10 30. Plaintiff and other aggrieved employees and other aggrieved employees request
11 payment of penalties under the Private Attorney’s General Act, CA Labor Code § 2699 *et seq.*, to be
12 determined at trial, plus interest, attorneys’ fees, and costs, against Defendants in a sum as provided
13 by the Labor Code and/or other statutes.

14 **Failure to Pay Wages at the Agreed Upon Rate**

15 31. Labor Code § 223 provides, “Where any statute or contract requires an employer to
16 maintain the designated wage scale, it shall be unlawful to secretly pay a lower wage while purporting
17 to pay the wage designated by statute or contract.”

18 32. Throughout the Relevant Time Period, Defendants’ compensation scheme purported to
19 compensate Plaintiff and other aggrieved employees for all hours worked. In reality, Defendants
20 suffered or permitted Plaintiff and aggrieved employees to work portions of their day without
21 compensation, while subject to Defendants’ control by requiring Plaintiff and other aggrieved
22 employees to arrive 15 minutes early to prepare for work. This resulted in Plaintiff and other aggrieved
23 employees earning less than the designated rate.

24 33. Also, throughout the Relevant Time Period, Defendants paid less than the agreed upon
25 compensation owed to Plaintiff and other aggrieved employees, while purporting to pay the designated
26 wage scale. As a result, Defendants’ conduct violates Labor Code § 223.

27 34. Employer owed and still owes Plaintiffs and other aggrieved employees wages at the
28 designated rate pursuant to the Labor Code in amounts to be determined at trial for the hours worked

1 during the time period in question.

2 35. Plaintiff and other aggrieved employees request payment of penalties under the Private
3 Attorney's General Act, CA Labor Code § 2699 *et seq.*, to be determined at trial, plus interest,
4 attorneys' fees, and costs, against Defendants in a sum as provided by the Labor Code and/or other
5 statutes.

6 **Taking of Employee Gratuities**

7 36. CA Labor Code § 351 provides, "[n]o employer or agent shall collect, take or receive
8 any gratuity or a part thereof that is paid, given to, or left for an employee by a patron...[e]very gratuity
9 is hereby declared to be the sole property of the employee or employees to whom it was paid, given
10 or left for."

11 37. Throughout the entire time period that Plaintiff and other aggrieved employees were
12 employed, Defendants required Plaintiff and other aggrieved employees to tip out management level
13 employees at the end of every single shift that they worked. If employees refused to tip out or shared
14 what was perceived by management as less than what they thought was reasonable, Defendants would
15 schedule Plaintiffs and other aggrieved employees on less desirable shifts and would shift them farther
16 down in a retaliatory system that was put in place to ensure management was being illegally tipped by
17 every employee.

18 38. As a result of the actions of Defendants in illegally taking gratuities, Plaintiff and other
19 aggrieved employees request payment of penalties under the Private Attorney's General Act, CA
20 Labor Code § 2699 *et seq.*, to be determined at trial, plus interest, attorneys' fees, and costs, against
21 Defendants in a sum as provided by the Labor Code and/or other statutes.

22 **Failure to Pay Overtime**

23 39. Labor Code § 1194 provides that an employee receiving less than the legal minimum
24 overtime compensation is entitled to recover in a civil action the unpaid balance of the full amount of
25 this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees,
26 and costs of suit.

27 40. Pursuant to Labor Code § 510(a): "Any work in excess of eight hours in one workday
28 and any work in excess of 40 hours in any one workweek and the first eight hours worked on the

1 seventh day of work in any one workweek shall be compensated at the rate of no less than one and
2 one-half times the regular rate of pay for an employee.” At all times relevant hereto, California Labor
3 Code § 510(a) further stated: “Any work in excess of 12 hours in one day shall be compensated at the
4 rate of no less than twice the regular rate of pay for an employee.”

5 41. Wage Orders, No. 5-2001 and 10-2001 require payment of overtime wages equal to
6 one and one-half (1 1/2) times an employee’s regular rate of pay for all hours worked over eight (8)
7 hours per day and/or forty (40) hours in a workweek, and/or for payment of overtime wages equal to
8 double the employee’s regular rate of pay for all hours worked in excess of eight (8) hours on the
9 seventh (7th) day of work in any one workweek.

10 42. Defendants classified Plaintiff and other aggrieved employees as non-exempt, therefore
11 they were entitled to overtime compensation for all hours worked in excess of the hours and time
12 specified in the Wage Order, statutes and regulations identified, herein. As a matter of policy and/or
13 practice, Employer routinely suffered or permitted Claimant and other aggrieved employees to work
14 in excess of forty (40) hours in a workweek and/or twelve (12) hours in a workday, and/or in excess
15 of eight (8) hours on the seventh (7th) day of work in a workweek, and then failed to pay overtime
16 wages and/or premium wages.

17 43. Defendants additionally shorted the actual hours worked by Plaintiff and aggrieved
18 employees. Accordingly, Defendants failed to properly record the actual hours worked by Plaintiff
19 and aggrieved employees, and thus failed to pay overtime wages for the actual amount of overtime
20 hours worked.

21 44. Plaintiff and other aggrieved employees request payment of penalties under the Private
22 Attorney’s General Act, CA Labor Code § 2699 *et seq.*, to be determined at trial, plus interest,
23 attorneys’ fees, and costs, against Defendants in a sum as provided by the Labor Code and/or other
24 statutes.

25 **Failure to Provide Compensation at Time of Termination**

26 45. Labor Code § 203 provides that if an employer willfully fails to pay compensation
27 promptly upon discharge, as required by Labor Code §§ 201 or 202, then the employer is liable for
28 waiting time penalties in the form of continued compensation of up to thirty (30) work days.

1 46. At all times relevant hereto, Defendants failed to timely pay former employees, in
2 violation of Labor Code § 203, with all wages due and owing upon termination of employment as
3 required by California law, including failing to pay minimum wages and overtime pay as set forth
4 above.

5 47. Plaintiff and other aggrieved employees request payment of penalties under the Private
6 Attorney's General Act, CA Labor Code § 2699 *et seq.*, to be determined at trial, plus interest,
7 attorneys' fees, and costs, against Defendants in a sum as provided by the Labor Code and/or other
8 statutes.

9 **Failure to Provide Accurate Itemized Wage Statements**

10 48. Labor Code § 226(a) and IWC Wage Order No. 5 and 10, § 7(B) require employers to
11 furnish each employee with a statement itemizing, among other things, the total hours worked by the
12 employee and the rates at which the employee was paid, on a semi-monthly basis or at the time of each
13 payment of wages.

14 49. Specifically, CA Labor Code §226(a) states in pertinent part: "(a) An employer,
15 semimonthly or at the time of each payment of wages, shall furnish to his or her employee, either as a
16 detachable part of the check, draft, or voucher paying the employee's wages, or separately if wages
17 are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages
18 earned, (2) total hours worked by the employee, except as provided in subdivision (j), (3) the number
19 of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis,
20 (4) all deductions, provided that all deductions made on written orders of the employee may be
21 aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which
22 the employee is paid, (7) the name of the employee and only the last four digits of his or her social
23 security number or an employee identification number other than a social security number, (8) the
24 name and address of the legal entity that is the employer... and (9) all applicable hourly rates in effect
25 during the pay period and the corresponding number of hours worked at each hourly rate by the
26 employee."

27 50. CA Labor Code § 226.3 sets forth an additional civil penalty on the employer of \$250
28 per employee, per violation of CA Labor Code § 226(a) for an initial violation and \$1,000 per

1 subsequent violation.

2 51. CA Labor Code §226(e) imposes a penalty of the greater of all actual damages or \$50
3 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a
4 subsequent pay period, not exceeding an aggregate penalty of \$4,000. Plaintiff and other aggrieved
5 employees are also entitled to an award of costs and reasonable attorney's fees under CA Labor Code
6 § 226(h).

7 52. Here, Defendants failed to provide Plaintiff and other aggrieved employees with
8 accurate itemized wage statements complying with the requirements of the Labor Code and applicable
9 IWC Wage Orders. Plaintiff and other aggrieved employees did not receive wage statements that noted
10 the correct number of hours worked, wages earned, or the number of piece-rate units earned.

11 53. Plaintiff and other aggrieved employees request payment of penalties under the Private
12 Attorney's General Act, CA Labor Code § 2699 *et seq.*, to be determined at trial, plus interest,
13 attorneys' fees, and costs, against Defendants in a sum as provided by the Labor Code and/or other
14 statutes.

15 **Failure to Maintain Accurate Records**

16 54. CA Labor Code § 1174 requires employers to maintain at a central location or
17 establishment where an employee is employed, payroll records showing the hours worked daily by
18 and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid
19 to, employees employed at the respective establishment.

20 55. Defendants violated this section by failing to accurately record employee piece-rate
21 units earned by Plaintiff and other aggrieved employees for private dances performed for customers.

22 56. Defendants further violated this section by failing to accurately record all time Plaintiff
23 and other aggrieved employees worked for Defendants.

24 57. CA Labor Code § 1174.5 imposes a civil penalty of \$500 for an employer's failure to
25 maintain accurate and complete records.

26 58. Additionally, Labor Code § 2699 provides a civil penalty of \$100 per initial pay period,
27 per aggrieved employee and \$200 per violation, per aggrieved employee for subsequent violations.

28 59. Plaintiff and other aggrieved employees request payment of penalties under the Private

1 Attorney's General Act, CA Labor Code § 2699 *et seq.*, to be determined at trial, plus interest,
2 attorneys' fees, and costs, against Defendants in a sum as provided by the Labor Code and/or other
3 statutes.

4 **Penalties Authorized by PAGA**

5 60. Pursuant to California Labor Code Sections 2699(a) and (f), Plaintiff and the other
6 aggrieved employees of Defendants are entitled to, and seek to, recover civil penalties for Defendants'
7 violations of the California Labor Code.

8 61. California Labor Code 2699(a) states, "[n]otwithstanding any other provision of law,
9 any provision of this code that provides for a civil penalty to be assessed and collected by the Labor
10 and Workforce Development Agency or any of its departments, divisions, commissions, boards,
11 agencies, or employees, for a violation of this code, may, as an alternative, be recovered through a
12 civil action brought by an aggrieved employee on behalf of himself or herself and other current or
13 former employees pursuant to the procedures specified in Section 2699.3."

14 62. California Labor Code 2699(f) states in part, provisions of this code except those for
15 which a civil penalty is specifically provided, there is established a civil penalty for a violation of these
16 provisions, as follows ...[i]f, at the time of the alleged violation, the person employs one or more
17 employees, the civil penalty is one hundred dollars (\$100) for each aggrieved employee per pay period
18 for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period
19 for each subsequent violation.

20 63. Pursuant to California Labor Code § 2699(g), Plaintiff, on behalf of herself and the
21 other aggrieved employees, is entitled to an award of reasonable attorneys' fees and costs in bringing
22 this action.

23 **PRAYER FOR RELIEF**

24 WHEREFORE, Plaintiffs pray for judgment against Defendants as follows:

- 25 a. Civil penalties;
26 b. Other penalties and fines permitted by law;
27 c. Costs of suit;
28 d. Reasonable attorneys' fees; and

1 e. Such other relief as the Court deems just and proper.

2 DATED: February 29, 2024

RIST LAW OFFICE

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5 By: _____
6 Thomas A. Rist
7 Attorneys for Plaintiff
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