PAGA WAGE LOSS & REVENUE DIVERSION AUDIT

Evidence Summary for Representative Action under Labor Code § 2698 et seq.

1. The "Living Wage" Revenue Diversion

The employer collects a 4% surcharge marketed as a "Living Wage" or "Minimum Wage Supplement." Mathematical audit reveals a 98.3% corporate retention rate of these funds.

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HOURLY REVENUE AUDIT (Tipped Server):
Average Hourly Sales: $750.00
Surcharge Rate (4%): $30.00/hour generated
Employee "Supplement" Paid: $0.50/hour
Corporate Skim/Diversion: $29.50/hour
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Statutes: Labor Code § 351 (Gratuities), § 226 (Wage Statements), Bus. & Prof. Code § 17200 (Unfair Competition).

2. Opportunity Cost: Complimentary Coffee Labor

Tipped staff are forced to perform uncompensated Barista/Front Desk duties. This prevents "Revenue-Generating Labor" and cannibalizes potential gratuity.

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SUNDAY MORNING COFFEE LOSS:
Volume: 30 Gallons = 3,840 oz
Servings (10 oz): 384 cups
Retail Value (@$7.00/cup): $2,688.00
Implied Gratuity Loss (15%): $403.20 per shift
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Statutes: Labor Code § 2802 (Indemnification for Business Loss/Expenses).

3. Side-Work Misclassification (The 30-Minute Rule)

Evening servers and opening staff perform janitorial/conference setup duties misclassified as tipped labor. In Santa Cruz, the "Living Wage" is ~$31/hr, yet staff are paid ~$16/hr for non-tipped work.

Task Type	Duration	Pay Disparity
Janitorial/Post-Close Cleaning	1-4 Hours	Paid at Tipped Min vs. Janitorial Rate
Conference/Holiday Setup	Hours Varied	~$10.00/hr below Conference Service Rate

Statutes: Labor Code § 1194 (Minimum Wage), IWC Wage Order 5-2001 (80/20 & 30-Minute Rules).

4. The "Tip Trap" Meal Break Coercion

Management (including C. Van Cleef) intentionally times breaks during high-volume "Revenue Windows" (10am-12pm / 7pm-9pm) without providing coverage.

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BREAK FINANCIAL PENALTY:
Earnings if working: $100.00 (tips) + $8.45 (base)
Earnings if taking break: $8.45 (base)
Net Loss to Employee for Legally Mandated Break: ($91.55)
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Statutes: Labor Code § 512, § 226.7 (Premium Pay for Interrupted/Coerced Breaks).

5. Fiduciary & Safety Breach Summary

Failure of internal controls (lack of cash banks) and security (hiring unvetted felons with PII access) dropped effective wages below minimum due to unreimbursed expenses and safety hazards.

Statutes: Labor Code § 6300 (OSHA), § 6400 (Safety), § 1102.5 (Whistleblower Retaliation).