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individually and on behalf of all others similarly
situated and aggrieved

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

ANDRES SERVIN VACA, individually and on
behalf of all others similarly situated and aggrieved,

Plaintiff,

vs.

BRONCO WINE COMPANY, a California
corporation; and DOES 1 through 50, inclusive,

Defendants.

Case No. CV-24-003108

*[Assigned for all purposes to Hon. Stacy Speiller,
Dept. 22]*

**FIRST AMENDED CLASS AND PAGA
REPRESENTATIVE ACTION
COMPLAINT FOR DAMAGES FOR:**

- (1) VIOLATION OF LABOR CODE § 226**
- (2) PENALTIES UNDER CAL. LABOR
CODE §§ 2698, *ET SEQ.*, PRIVATE
ATTORNEYS GENERAL ACT
("PAGA")**

DEMAND OVER \$25,000

1 Plaintiff Andres Servin Vaca (“Plaintiff”) hereby submits this First Amended Class and PAGA
2 Representative Action Complaint against Defendant Bronco Wine Company, a California corporation
3 (“Defendant” or “Company”), and Does 1-50 (hereinafter collectively referred to as “Defendants”),
4 individually and on behalf of a class of all other similarly situated current and former employees of
5 Defendant for penalties and/or damages for failure to provide accurate and complete wage statements
6 as follows:

7 **INTRODUCTION**

8 1. This class and representative action is within the Court’s jurisdiction under California
9 Labor Code section 226, the applicable Wage Orders of the Industrial and Welfare Commission (the
10 “IWC”), and the California Labor Code Private Attorneys General Act of 2004 (“PAGA”).

11 2. This Complaint challenges systemic illegal employment practices resulting in
12 violations of the California Labor Code against Defendant’s employees.

13 3. Plaintiff is informed and believes and based thereon alleges that Defendants jointly and
14 severally have acted intentionally and with deliberate indifference and conscious disregard to the
15 rights of all employees by failing to provide accurate and complete wage statements to these
16 employees.

17 **JURISDICTION AND VENUE**

18 4. The Court has jurisdiction over the violations of California Labor Code sections 226
19 and 2698, *et seq.*

20 5. Venue is proper in Stanislaus County because Plaintiff worked for Defendant in the
21 City of Ceres, California.

22 **PARTIES**

23 6. In or around 2013, Plaintiff was hired by Defendant as an agricultural dispatcher.
24 Plaintiff stopped working for Defendant in November 2023. Throughout Plaintiff’s employment, he
25 was an hourly, non-exempt employee.

26 7. Plaintiff is informed and believes and based thereon alleges that Defendant was and is a
27 corporation that produces wine.

28 8. Plaintiff is informed and believes and based thereon alleges that at all times herein

1 mentioned Defendant and DOES 1 through 50 are and were business entities, individuals, and
2 partnerships, licensed to do business and actually doing business in the State of California.

3 9. As such, and based upon all the facts and circumstances incident to Defendants'
4 business in California, Defendants are subject to Labor Code section 226 and the applicable Wage
5 Orders, and the PAGA.

6 10. Plaintiff does not know the true names or capacities, whether individual, partner or
7 corporate, of the Defendants sued herein as DOES 1 through 50, inclusive, and for that reason, said
8 Defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this complaint
9 when the true names and capacities are known. Plaintiff is informed and believes and based thereon
10 alleges that each of said fictitious Defendants was responsible in some way for the matters alleged
11 herein and proximately caused Plaintiff and class members to be subject to the illegal employment
12 practices, wrongs and injuries complained of herein.

13 11. At all times herein mentioned, each of said Defendants participated in the doing of the
14 acts hereinafter alleged to have been done by the named Defendants; and furthermore, the Defendants,
15 and each of them, were the agents, servants, and employees of each of the other Defendants, as well as
16 the agents of all Defendants, and at all times herein mentioned, were acting within the course and
17 scope of said agency and employment.

18 12. Plaintiff is informed and believes and based thereon alleges that at all times material
19 hereto, each of the Defendants named herein was the agent, employee, alter ego and/or joint venturer
20 of, or working in concert with each of the other co-Defendants and was acting within the course and
21 scope of such agency, employment, joint venture, or concerted activity. To the extent said acts,
22 conduct, and omissions were perpetrated by certain Defendants, each of the remaining Defendants
23 confirmed and ratified said acts, conduct, and omissions of the acting Defendants.

24 13. At all times herein mentioned, Defendants, and each of them, were members of, and
25 engaged in, a joint venture, partnership, and common enterprise, and acting within the course and
26 scope of, and in pursuance of, said joint venture, partnership, and common enterprise.

27 14. At all times herein mentioned, the acts and omissions of various Defendants, and each
28 of them, concurred and contributed to the various acts and omissions of each and all of the other

1 Defendants in proximately causing the injuries and damages as herein alleged. At all times herein
2 mentioned, Defendants, and each of them, ratified each and every act or omission complained of
3 herein. At all times herein mentioned, the Defendants, and each of them, aided and abetted the acts
4 and omissions of each and all of the other Defendants in proximately causing the damages as herein
5 alleged.

6 **CLASS ACTION ALLEGATIONS**

7 15. **Definition:** The named individual Plaintiff seeks class certification, pursuant to
8 California Code of Civil Procedure section 382, of the following class:

9 All current and former non-exempt employees of Defendant in the State of California
10 who were paid overtime wages at any time from April 19, 2023, through the present
11 (the "Class" or "Class Members").

12 16. **Numerosity and Ascertainability:** The members of the Class are so numerous that
13 joinder of all members would be impractical, if not impossible. The identity of the members of the
14 Class is readily ascertainable by review of Defendant's records, including payroll records. Plaintiff is
15 informed and believes and based thereon alleges that Defendant failed to provide accurate and
16 complete wage statements in violation of Labor Code section 226.

17 17. **Adequacy of Representation:** The named Plaintiff is fully prepared to take all
18 necessary steps to represent fairly and adequately the interests of the class defined above. Plaintiff's
19 attorneys are ready, willing, and able to fully and adequately represent the class and individual
20 Plaintiff. Plaintiff's attorneys have prosecuted and settled wage-and-hour class actions in the past and
21 currently have a number of wage-and-hour class actions pending in California courts.

22 18. Defendant uniformly administered a corporate policy, practice of failing to provide
23 accurate and complete wage statements in violation of Labor Code section 226.

24 19. **Common Question of Law and Fact:** There are predominant common questions of
25 law and fact and a community of interest amongst Plaintiff and the claims of the Class concerning
26 Defendant failing to provide accurate and complete wage statements in violation of Labor Code
27 section 226.

28 20. **Typicality:** The claims of Plaintiff are typical of the claims of all members of the

1 Class in that Plaintiff has suffered the harm alleged in this Complaint in a similar and typical manner
2 as the Class Members. As with other exempt and non-exempt employees, Plaintiff received itemized
3 wage statements concurrent with the payment of wages. The wage statements provided to Plaintiff and
4 other employees failed to identify the correct rate and/or hours when overtime wages were paid.
5 Specifically, when the listed overtime rate is multiplied by the listed overtime hours, it does not equal
6 the amount listed as being paid for overtime wages. As such, Plaintiff is a member of the Class and
7 has suffered the alleged violations of California Labor Code section 226 and the applicable Wage
8 Orders.

9 21. The California Labor Code and upon which Plaintiff bases these claims is broadly
10 remedial in nature. These laws and labor standards serve an important public interest in establishing
11 minimum working conditions and standards in California. These laws and labor standards protect the
12 average working employee from exploitation by employers who may seek to take advantage of
13 superior economic and bargaining power in setting onerous terms and conditions of employment.

14 22. The nature of this action and the format of laws available to Plaintiff and members of
15 the Class identified herein make the class action format a particularly efficient and appropriate
16 procedure to redress the wrongs alleged herein. If each employee were required to file an individual
17 lawsuit, the corporate Defendants would necessarily gain an unconscionable advantage since it would
18 be able to exploit and overwhelm the limited resources of each individual plaintiff with their vastly
19 superior financial and legal resources. Requiring each Class member to pursue an individual remedy
20 would also discourage the assertion of lawful claims by employees who would be disinclined to file an
21 action against their former and/or current employer for real and justifiable fear of retaliation and
22 permanent damage to their careers at subsequent employment.

23 23. The prosecution of separate actions by the individual class members, even if possible,
24 would create a substantial risk of (a) inconsistent or varying adjudications with respect to individual
25 Class members against the Defendant and which would establish potentially incompatible standards of
26 conduct for the Defendant, and/or (b) adjudications with respect to individual Class members which
27 would, as a practical matter, be dispositive of the interest of the other Class members not parties to the
28 adjudications or which would substantially impair or impede the ability of the Class members to

1 protect their interests. Further, the claims of the individual members of the Class are not sufficiently
2 large to warrant vigorous individual prosecution considering all of the concomitant costs and
3 expenses.

4 24. Such a pattern, practice, and uniform administration of corporate policy regarding
5 illegal employee compensation described herein is unlawful and creates an entitlement to recovery by
6 the Plaintiff and the Class identified herein of a common fund, including interest thereon, applicable
7 penalties, reasonable attorneys' fees, and costs of suit according to the mandate of California Labor
8 Code section 226 and Code of Civil Procedure section 1021.5.

9 25. Proof of a common business practice or factual pattern, which the named Plaintiff
10 experienced and are representative of, will establish the right of each of the members of the Class to
11 recovery on the causes of action alleged herein.

12 **FIRST CAUSE OF ACTION**

13 **VIOLATION OF LABOR CODE § 226**

14 **(BY PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS)**

15 26. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as though
16 fully set forth herein.

17 27. Defendant, as a matter of policy and practice, did not provide accurate wage statements
18 to Class Members, in violation of Labor Code section 226(a).

19 28. Labor Code section 226(a)(9) requires that employers provide accurate itemized
20 statements showing "all applicable hourly rates in effect during the pay period and the corresponding
21 number of hours worked at each hourly rate by the employee." The wage statements provided to Class
22 Members failed to include such information when overtime wages were paid. Specifically, when the
23 listed overtime rate is multiplied by the listed overtime hours, they do not equal the listed overtime
24 pay.

25 29. Such a pattern, practice and uniform administration of corporate policy as described
26 herein is unlawful and creates an entitlement to recovery by the Plaintiff and the Class identified
27 herein, in a civil action, for all damages or penalties pursuant to Labor Code section 226, including
28 interest thereon, attorneys' fees, and costs of suit according to the mandate of California Labor Code

section 226.

SECOND CAUSE OF ACTION

**REPRESENTATIVE ACTION FOR CIVIL PENALTIES UNDER PAGA, LABOR
CODE §§ 2698, ET SEQ.**

(BY PLAINTIFF AND AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS)

30. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as though fully set forth herein.

31. Plaintiff is an “aggrieved employee” within the meaning of California Labor Code § 2699(c), and a proper representative to bring a civil action on behalf of herself and other current and former employees of Defendants pursuant to the procedures specified in California Labor Code § 2699.3, because Plaintiff and Aggrieved Employees were employed by Defendants and the alleged violations of the California Labor Code were committed against Plaintiff and Aggrieved Employees.¹

32. Pursuant to the California Private Attorneys General Act of 2004 (“PAGA”), Labor Code §§ 2698–2699.5, Plaintiff and Aggrieved Employees will seek to recover civil penalties, including but not limited to penalties under California Labor Code §§ 2699, 226.3, 1174, 1174.5, and applicable IWC Wage Orders, from Defendants in a representative action for the violations set forth above, including but not limited to violations of California Labor Code §§ 201-203, 204, 221-223, 226, 226.3, 1174, 1174.5, and 2802. Plaintiff and Aggrieved Employees will also be entitled to an award of reasonable attorneys’ fees and costs pursuant to California Labor Code § 2699(g)(1).

33. These penalties are in addition to any other relief available under the Labor Code.

34. Pursuant to California Labor Code §§ 2699.3, Plaintiff gave written notice on April 15, 2024, by online filing to the California Labor and Workforce Development Agency (“LWDA”) and by certified mail to Defendants of the specific provisions of the California Labor Code and IWC Wage Orders alleged to have been violated, including the facts and theories to support the alleged violations. As more than sixty-five (65) days have passed and the LWDA has not provided notice to Plaintiff that it intends to investigate the alleged violations, Plaintiff has complied with all of the requirements set

¹ For purposes of Plaintiff’s claim under PAGA, the term “Aggrieved Employees” refers to all current and former non-exempt employees of Defendant in the State of California who were paid overtime wages at any time from April 15, 2023, through the present.

1 forth in California Labor Code § 2699.3 to commence a representative action under PAGA against
2 Defendants on behalf of the State of California, herself and other Aggrieved Employees of
3 Defendants.

4 **PRAYER FOR RELIEF**

5 WHEREFORE, Plaintiff prays for judgment individually and all others on whose behalf this
6 suit is brought against Defendants, jointly and severally, as follows:

- 7 1. For an order certifying the proposed Class;
- 8 2. For an order appointing Plaintiff as the representative of the Class as described herein;
- 9 3. For an order appointing counsel for Plaintiff as Class counsel;
- 10 4. Upon the First Cause of Action, for damages and/or penalties pursuant to statute as set
11 forth in California Labor Code section 226, and for costs and attorneys' fees;
- 12 5. On all causes of action, for attorneys' fees and costs as provided by California Labor
13 Code section 226 and Code of Civil Procedure section 1021.5;
- 14 6. Upon the Second Cause of Action, for all PAGA civil penalties and other recoveries
15 according to proof including, but not limited to, the amount of any and all civil penalties or other
16 amounts authorized by California Labor Code §§ 226, 226.3, 1174, 1174.5, and 2699, and IWC Wage
17 Order No. 13-2001, § 7 and/or other applicable IWC Wage Orders or any other applicable civil
18 penalty provisions authorized under California law; and
- 19 7. For such other and further relief as the Court may deem just and proper.

20
21 DATED: June 19, 2024

THE KICK LAW FIRM, APC

22
23 By: 

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Greg Taylor

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