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Attorneys for Plaintiff,
GERARD LAWRENCE, and all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA

**FOR THE COUNTY OF LOS ANGELES
(UNLIMITED JURISDICTION)**

GERARD LAWRENCE, as an “aggrieved
employee” on behalf of himself and other
similarly situated “aggrieved employees” under
the Labor Code Private Attorneys General Act of
2004,

Plaintiff,

vs.

THE WASHINGTON GROUP LLC (DBA
SCOPA ITALIAN ROOTS), a California limited
liability company; and DOES 1–50, inclusive,

Defendants.

Case No. **24STCV19317**

**COMPLAINT FOR VIOLATIONS OF
THE LABOR CODE AND CIVIL
PENALTIES UNDER THE LABOR
CODE PRIVATE ATTORNEYS
GENERAL ACT OF 2004, LABOR
CODE §§ 2698, ET SEQ.**

JURY TRIAL DEMANDED



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1 Plaintiff, Gerard Lawrence (hereafter “Plaintiff” or “Lawrence”), on behalf of himself, the
2 State of California, and the other Aggrieved Employees, complains and alleges as follows:

3 **I. INTRODUCTION**

4 1. Plaintiff brings this representative action based on alleged violations of the
5 California Labor Code and Industrial Welfare Commission Order No. 5-2001 (hereafter “the
6 Wage Order”), against Defendants The Washington Group LLC (DBA Scopa Italian Roots), a
7 California limited liability company, and DOES 1-50, inclusive (collectively “Defendants”).

8 2. As set forth in more detail below, Plaintiff alleges that Defendants are liable to
9 him, the State of California, and the Aggrieved Employees (defined below), for civil penalties
10 and other related relief. These claims are based on Defendants’ failures to:

11 (A) Pay all wages, including minimum, regular, and overtime wages, earned
12 for all hours worked at the correct rates of pay;

13 (B) Provide all meal periods;

14 (C) Authorize and permit all rest breaks;

15 (D) Pay premium wages for unprovided meal periods;

16 (E) Pay premium wages for unprovided rest breaks;

17 (F) Indemnify for necessary work-related expenditures;

18 (G) Issue only accurate and complete itemized wage statements;

19 (H) Timely pay wages during employment;

20 (I) Provide proper storage facilities;

21 (J) Provide proper change rooms; and

22 (K) Maintain accurate employment records.

23 Accordingly, Plaintiff now seeks to recover civil penalties and related relief through this
24 representative action.

25 **II. THE PARTIES**

26 3. Plaintiff Gerard Lawrence is a resident of California.

27 4. Defendant The Washington Group LLC (DBA Scopa Italian Roots) is a limited
28 liability company organized and existing under the laws of California and also a citizen of
California based on Plaintiff’s information and belief.

5. 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



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1 is informed and believes and thereon alleges that said Defendants are legally responsible for the
2 wrongful conduct alleged herein and therefore sues these Defendants by such fictitious names.
3 Plaintiff will amend the Complaint to allege the true names and capacities of the DOE Defendants
4 when ascertained.

5 6. The “Aggrieved Employees” are all individuals the Defendants have employed or
6 otherwise contracted with in California as hourly, non-exempt employees, including “back-of-
7 house” and “front-of-house” employees including, but not limited to cashiers, servers, server
8 assistants, bussers, food runners, and line cooks, individuals performing work comparable to the
9 aforementioned, and individuals in similar positions, during the period beginning one year before
10 the Plaintiff’s notice of May 28, 2024 to the California Labor and Workforce Development
11 Agency and ending on the date judgment is entered.

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

17 8. At all relevant times, in perpetrating the acts and omissions alleged herein,
18 Defendants, and each of them, acted pursuant to and in furtherance of a policy, practice, or a lack
19 of a practice which resulted in Defendants not paying Plaintiff and the other Aggrieved
20 Employees in accordance with applicable California labor laws as alleged herein.

21 9. Plaintiff is informed and believes and thereon alleges that each and every one of
22 the acts and omissions alleged herein were performed by, and/or attributable to, all Defendants,
23 each acting as agents and/or employees, and/or under the direction and control of each of the other
24 defendants, and that said acts and failures to act were within the course and scope of said agency,
25 employment, and/or direction and control.

26 **III. FACTUAL ALLEGATIONS**

27 10. IWC Wage Order 5-2001 (“the Wage Order”) applies to “all persons employed in
28 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



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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 sold 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, Lawrence, and all of the Aggrieved Employees were covered by the Wage Order because the Defendants operated, and Lawrence, and all of the Aggrieved Employees, worked for one or more restaurants. Accordingly, Lawrence and all of the other Aggrieved Employees are entitled to the protections the Wage Order provides.

11. On approximately April 14, 2021, the Defendants began to employ Lawrence in Venice in the position of hourly, non-exempt server. The Defendants have continuously employed him in that capacity.

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



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1 13. At all relevant times, the Defendants failed to compensate Lawrence and all of the
2 other Aggrieved Employees for all hours worked at the applicable minimum or regular rates of
3 pay. Due to chronic understaffing and Defendants' customer service requirements, Defendants
4 denied Lawrence and all other Aggrieved Employees their earned duty-free meal periods.
5 Additionally, Defendants frequently required Lawrence and the Aggrieved Employees to take
6 off-the-clock, on-duty, 30-minute meal periods right when their shifts began. During these off-
7 the-clock meal breaks on arrival, Defendants expected Lawrence and the Aggrieved Employees
8 to attend pre-shift meetings and take tests. However, Defendants compelled them to record such
9 meal periods as off-duty and did not pay them for the time. During shifts in which Defendants did
10 not compel Lawrence and the Aggrieved Employees to take off-the-clock meal breaks on arrival,
11 Defendants' managers directed Lawrence and all other Aggrieved Employees to delay, forgo, or
12 shorten 30-minute meal periods when the restaurant was understaffed. Defendants also prohibited
13 Lawrence and all other Aggrieved Employees from taking a meal period if there was no one
14 available to cover for them. Defendants compelled Lawrence and all other Aggrieved Employees
15 to remain in their assigned work areas and available to receive work-related directions during
16 meal periods. In addition to the unpaid, on-duty meal periods described above, Defendants
17 required Lawrence and the Aggrieved Employees to study voluminous written materials off-the-
18 clock and without pay. Defendants sent Lawrence and the Aggrieved Employees detailed menu
19 information, which they encouraged their employees to study from home and informed them they
20 would be tested on. These activities outside of work, which include memorizing ever-changing
21 menus and wine, cocktail, and entrée ingredient lists, consumed significant time for each
22 employee. Lawrence and all other Aggrieved Employees were not paid for such off-the-clock
23 work.

24 14. At all relevant times, the Defendants failed to compensate Lawrence and all of the
25 other Aggrieved Employees at the correct rates of pay for all hours worked over eight in a day.
26 Due to chronic understaffing and Defendants' customer service requirements, Defendants denied
27 Lawrence and all other Aggrieved Employees their earned duty-free meal periods. Additionally,
28 Defendants frequently required Lawrence and the Aggrieved Employees to take off-the-clock,
on-duty, 30-minute meal periods right when their shifts began. During these off-the-clock meal
breaks on arrival, Defendants expected Lawrence and the Aggrieved Employees to attend pre-
shift meetings and take tests. However, Defendants compelled them to record such meal periods



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1 as off-duty and did not pay them for the time. During shifts in which Defendants did not compel
2 Lawrence and the Aggrieved Employees to take off-the-clock meal breaks on arrival, Defendants'
3 managers directed Lawrence and all other Aggrieved Employees to delay, forgo, or shorten 30-
4 minute meal periods when the restaurant was understaffed. Defendants also prohibited Lawrence
5 and all other Aggrieved Employees from taking a meal period if there was no one available to
6 cover for them. Defendants compelled Lawrence and all other Aggrieved Employees to remain
7 in their assigned work areas and available to receive work-related directions during meal periods.
8 In addition to the unpaid, on-duty meal periods described above, Defendants required Lawrence
9 and the Aggrieved Employees to study voluminous written materials off-the-clock and without
10 pay. Defendants sent Lawrence and the Aggrieved Employees detailed menu information, which
11 they encouraged their employees to study from home and informed them they would be tested on.
12 These activities outside of work, which include memorizing ever-changing menus and wine,
13 cocktail, and entrée ingredient lists, consumed significant time for each employee. Lawrence and
14 all other Aggrieved Employees were not paid for such off-the-clock work. In addition, Defendants
15 blended mandatory gratuities earned by Lawrence and all other Aggrieved Employees with the
16 traditional voluntary gratuities under the same earnings code, "Tips." As such, it makes it
17 impossible for Lawrence and all other Aggrieved Employees to understand their pay stubs, and
18 which portions of their pay or non-discretionary income that should factor into the overtime wage
19 calculation.

20 15. At all relevant times, the Defendants failed to provide Lawrence and all of the
21 other Aggrieved Employees with all timely 30-minute, off-duty meal periods. Defendants denied
22 Lawrence and all of the other Aggrieved Employees their 30-minute off-duty meal periods within
23 the first five hours of work. Defendants frequently required Lawrence and the Aggrieved
24 Employees to take off-the-clock, on-duty, 30-minute meal periods right when their shifts began.
25 During these off-the-clock meal breaks on arrival, Defendants expected Lawrence and the
26 Aggrieved Employees to attend pre-shift meetings and take tests. However, Defendants
27 compelled them to record such meal periods as off-duty and did not pay them for the time. During
28 shifts in which Defendants did not compel Lawrence and the Aggrieved Employees to take off-
the-clock meal breaks on arrival, Defendants' managers directed Lawrence and all other
Aggrieved Employees to delay, forgo, or shorten 30-minute meal periods when the restaurant was
understaffed. Defendants also prohibited Lawrence and all other Aggrieved Employees from



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1 taking a meal period if there was no one available to cover for them. Defendants compelled
2 Lawrence and all other Aggrieved Employees to remain in their assigned work areas and available
3 to receive work-related directions during meal periods. The Defendants also failed to pay
4 premium wages for days on which they failed to provide Lawrence and all of the other Aggrieved
Employees with meal periods as required by law.

5 16. At all relevant times, the Defendants failed to authorize and permit Lawrence and
6 all of the other Aggrieved Employees to take ten-minute, off-duty, paid rest breaks every four
7 hours worked or major portion thereof. Defendants did not seek an exemption from the rest period
8 protections of the Wage Order from the California Division of Labor Standards Enforcement.
9 Due to chronic understaffing and Defendants' customer service requirements, Defendants denied
10 Lawrence and all other Aggrieved Employees their earned duty-free rest breaks. Defendants
11 compelled Lawrence and all other Aggrieved Employees to remain in their assigned work areas
12 and available to receive work-related directions during rest breaks. Defendants' managers
13 directed Lawrence and all other Aggrieved Employees to delay, shorten, or forgo 10-minute rest
14 breaks when the restaurant was understaffed. Defendants prohibited Lawrence and all other
15 Aggrieved Employees from taking a rest break if there was no one available to cover for them.
16 The Defendants also failed to pay premium wages for days on which they failed to authorize and
17 permit Lawrence and all of the other Aggrieved Employees to take rest breaks as required by law.

18 17. At all relevant times, the Defendants required Lawrence and all of the other
19 Aggrieved Employees to incur certain business expenses in the course of performing their duties.
20 The Defendants required Lawrence and all of the other Aggrieved Employees to supply mobile
21 phones, telecom, and server books to perform their job duties. Defendants required Lawrence and
22 all of the other Aggrieved Employees to supply mobile phones and pay for mobile phone plans to
23 perform their job duties, including work scheduling. Further, Defendants required Lawrence and
24 all of the other Aggrieved Employees to supply server books to perform their job duties. However,
the Defendants did not provide these items and did not reimburse Lawrence and the other
Aggrieved Employees for these items.

25 18. At all relevant times, the Defendants failed to issue to Lawrence and all of the
26 other Aggrieved Employees complete and accurate wage statements that state all hours worked
27 at the correct rates of pay, and all wages earned. The Defendants knowingly and intentionally
28 failed to state on the wage statements they issued to Lawrence and all of the other Aggrieved



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1 Employees the unpaid wages discussed above. The wage statements fail to state all minimum
2 wages earned, all regular wages earned, all overtime wages earned, all meal period premium
3 wages earned, all rest break premium wages earned, all hours worked at each rate of pay, and
4 related information.

5 19. At all relevant times, the Defendants also failed to timely pay Lawrence and all of
6 the other Aggrieved Employees all earned wages as described above during employment.

7 20. At all relevant times, the Defendants failed to provide Lawrence and all of the
8 other Aggrieved Employees with storage facilities and change rooms.

9 21. At all relevant times, the Defendants failed to maintain accurate employee records
10 of Lawrence and all of the other Aggrieved Employees.

11 22. For the reasons stated herein, Plaintiff alleges that as a result of Defendants'
12 unlawful practices and policies, Plaintiff and the Aggrieved Employees were:

13 A. Not paid all wages earned, including, but not limited to, minimum, regular,
14 and overtime wages for work performed while clocked out;

15 B. Not provided with all off-duty meal periods;

16 C. Not authorized and permitted to take all rest break periods;

17 D. Not paid one hour's pay for each workday in which Defendants failed to
18 authorize and permit them to take one or more timely rest periods;

19 E. Not paid one hour's pay for each workday in which Defendants failed to
20 provide them with one or more timely meal periods;

21 F. Not indemnified for all necessary business expenditures incurred during
22 the discharge of their duties;

23 G. Not provided with accurate and complete wage statements; and

24 H. Not timely paid all earned and unpaid wages during their employment with
25 Defendants and at the time such employment ended.

26 **IV. FIRST (AND ONLY) CAUSE OF ACTION**

27 **CIVIL PENALTIES**

28 **(Lab. Code §§ 2698, et seq.)**

**(By Plaintiff, on behalf of himself and the other Aggrieved Employees, against all
Defendants)**

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



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24. At all relevant times, Plaintiff and the Aggrieved Employees have been non-exempt employees entitled to the protections of both the Labor Code and the Wage Order.

A. FAILURE TO PAY ALL WAGES EARNED FOR ALL HOURS WORKED AT THE CORRECT RATES OF PAY

25. Section 2 of the Wage Order defines “hours worked” as “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.”

26. Section 3 of the Wage Order states:

(A) Daily Overtime - General Provisions

(1) The following overtime provisions are applicable to employees 18 years of age or over and to employees 16 or 17 years of age who are not required by law to attend school and are not otherwise prohibited by law from engaging in the subject work. Such employees shall not be employed more than eight (8) hours in any workday or more than 40 hours in any workweek unless the employee receives one and one-half (1 ½) times such employee’s regular rate of pay for all hours worked over 40 hours in the workweek. Eight (8) hours of labor constitutes a day’s work. Employment beyond eight (8) hours in any workday or more than six (6) days in any workweek is permissible provided the employee is compensated for such overtime at not less than:

(a) One and one-half (1 ½) times the employee’s regular rate of pay for all hours worked in excess of eight (8) hours up to and including 12 hours in any workday, and for the first eight (8) hours worked on the seventh (7th) consecutive day of work in a workweek.

(b) Double the employee’s regular rate of pay for all hours worked in excess of 12 hours in any workday and for all hours worked in excess of eight (8) hours on the seventh (7th) consecutive day of work in a workweek.

(c) The overtime rate of compensation required to be paid to a nonexempt full-time salaried employee shall be computed by using the employee’s regular



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hourly salary as one-fortieth (1/40) of the
employee's weekly salary.

27. Section 4 of the Wage Order requires an employer to pay non-exempt employees at least the minimum wage set forth therein for all hours worked, which consists of all hours that an employer has actual or constructive knowledge that employees are working.

28. Labor Code section 510 states:

Eight hours of labor constitutes a day's work. Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee. Nothing in this section requires an employer to combine more than one rate of overtime compensation in order to calculate the amount to be paid to an employee for any hour of overtime work.

29. Labor Code section 1194 invalidates any agreement between an employer and an employee to work for less than the minimum wage required under the applicable Wage Order.

30. Labor Code section 1197 makes it unlawful for an employer to pay an employee less than the minimum wage required under the applicable Wage Order for all hours worked during a payroll period.

31. Labor Code section 1198 makes it unlawful for an employer to employ an employee under conditions that violate the Wage Order.

32. In conjunction, these provisions of the Labor Code require employers to pay non-exempt employees no less than their agreed-upon or statutorily mandated wage rates for all hours worked, including unrecorded hours when the employer knew or reasonably should have known that employees were working during those hours. (See *Morillion v. Royal Packing Co.* (2000) 22 Cal.4th 575, 585.)

33. At all relevant times during the applicable limitations period, Defendants failed to compensate Plaintiff and the Aggrieved Employees for all hours worked, including, but not limited to overtime wages for all overtime hours they worked at the correct rates of pay.



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34. 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 compensate Plaintiff and the other Aggrieved Employees for all hours worked as required by California law.

B. FAILURE TO PROVIDE MEAL PERIODS

35. 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.

36. 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.

37. 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 worked. An 'on duty' meal period shall be permitted only



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1 when the nature of the work prevents an employee from
2 being relieved of all duty and when by written agreement
3 between the parties an on-the-job paid meal period is agreed
4 to. The written agreement shall state that the employee may,
5 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
10 that the meal period is not provided.

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

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

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

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

40. Pursuant to the Wage Order, Plaintiff and the Aggrieved Employees were entitled
to be provided with net rest breaks of at least ten minutes for each four-hour period of work, or
major fraction thereof.

41. Defendants intentionally failed to provide Plaintiff and the Aggrieved Employees
with all required 30-minute duty-free meal periods and 10-minute rest periods free from any work
duties in accordance with the Wage Order.



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1 42. At all relevant times, Defendants failed to provide Plaintiff and the Aggrieved
2 Employees with all timely meal periods. Due to chronic understaffing and Defendants' customer
3 service requirements, Defendants denied Lawrence and all of the other Aggrieved Employees
4 their 30-minute off-duty meal period within the first five hours of work. Additionally, Defendants
5 frequently required Lawrence and the Aggrieved Employees to take off-the-clock, on-duty, 30-
6 minute meal periods right when their shifts began. During these off-the-clock meal breaks on
7 arrival, Defendants expected Lawrence and the Aggrieved Employees to attend pre-shift meetings
8 and take tests. However, Defendants compelled them to record such meal periods as off-duty and
9 did not pay them for the time. During shifts in which Defendants did not compel Lawrence and
10 the Aggrieved Employees to take off-the-clock meal breaks on arrival, Defendants' managers
11 directed Lawrence and all other Aggrieved Employees to delay, forgo, or shorten 30-minute meal
12 periods when the restaurant was understaffed. Defendants also prohibited Lawrence and all other
13 Aggrieved Employees from taking a meal period if there was no one available to cover for them.
14 Defendants compelled Lawrence and all other Aggrieved Employees to remain in their assigned
15 work areas and available to receive work-related directions during meal periods. Furthermore,
16 Defendants failed to pay premium wages for days on which they failed to provide Plaintiff and
17 the other Aggrieved Employees with timely meal periods.

18 43. At all relevant times, Defendants failed to authorize and permit Plaintiff and the
19 Aggrieved Employees to take ten-minute, paid, duty-free rest breaks every four hours worked or
20 major fraction thereof. Due to chronic understaffing and Defendants' customer service
21 requirements, Defendants denied Lawrence and all other Aggrieved Employees their earned duty-
22 free rest breaks. Defendants compelled Lawrence and all other Aggrieved Employees to remain
23 in their assigned work areas and available to receive work-related directions. Defendants'
24 managers directed Lawrence and all other Aggrieved Employees to delay, shorten, or forgo 10-
25 minute rest breaks when the restaurant was understaffed. Defendants prohibited Lawrence and all
26 other Aggrieved Employees from taking a rest break if there was no one available to cover for
27 them. Defendants did not seek an exemption from the rest period protections of the Wage Order
28 from the California Divisions of Labor Standards Enforcement. Moreover, Defendants failed to
pay Plaintiff and the Aggrieved Employees premium wages on workdays they failed to provide
them with 10-minute rest periods every four hours worked or major fraction thereof.

 44. Plaintiff is informed and believes and thereon alleges that, at all relevant times



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1 within the applicable limitations period, Defendants had a policy, practice, or a lack of a policy
2 which resulted in Defendants not providing Plaintiff and the Aggrieved Employees with all off-
3 duty meal periods and rest breaks required by California law.

4 **C. FAILURE TO AUTHORIZE AND PERMIT REST BREAKS**

5 45. In relevant part, California Labor Code § 1198 states:

6 The maximum hours of work and the standard conditions of labor
7 fixed by the commission shall be the maximum hours of work and
8 the standard conditions of labor for employees. The employment of
9 any employee for longer hours than those fixed by the order or under
10 conditions of labor prohibited by the order is unlawful.

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

12 **Rest Periods**

13 (A) Every employer shall authorize and permit all employees to
14 take rest periods, which insofar as practicable shall be in the middle
15 of each work period. The authorized rest period time shall be based
16 on the total hours worked daily at the rate of ten (10) minutes net
17 rest time per four (4) hours or major fraction thereof. However, a
18 rest period need not be authorized for employees whose total daily
19 work time is less than three and one-half (3 1/2) hours. Authorized
20 rest period time shall be counted as hours worked for which there
21 shall be no deduction from wages.

22 (B) If an employer fails to provide an employee a rest period in
23 accordance with the applicable provisions of this Order, the
24 employer shall pay the employee one (1) hour of pay at the
25 employee's regular rate of compensation for each work day that the
26 rest period is not provided.

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

28 (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



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1 limited to, an applicable statute or applicable regulation,
2 standard, or order of the Industrial Welfare Commission, the
3 Occupational Safety and Health Standards Board, or the
4 Division of Occupational Safety and Health, the employer
5 shall pay the employee one additional hour of pay at the
6 employee's regular rate of compensation for each work day
7 that the meal or rest period is not provided.

8 48. Pursuant to the Wage Order, Plaintiff and the Aggrieved Employees were entitled
9 to be authorized and permitted to take net rest breaks of at least ten minutes for each four-hour
10 period of work, or major fraction thereof.

11 49. Defendants intentionally failed to authorize and permit Plaintiff and the Aggrieved
12 Employees to take all 10-minute rest periods free from any work duties in accordance with the
13 Wage Order.

14 50. At all relevant times, Defendants failed to authorize and permit Plaintiff and the
15 Aggrieved Employees to take all timely rest periods. Furthermore, Defendants failed to pay
16 premium wages to Plaintiff and the Aggrieved Employees for days on which they failed to
17 authorize and permit Plaintiff and the other Aggrieved Employees to take timely rest periods.

18 51. At all relevant times, due to high workload and low staffing levels, Defendants
19 failed to authorize and permit Plaintiff and the Aggrieved Employees to take ten-minute, paid,
20 duty-free rest breaks every four hours worked or major fraction thereof. Defendants did not seek
21 an exemption from the rest period protections of the Wage Order from the California Division of
22 Labor Standards Enforcement. Moreover, Defendants failed to pay Plaintiff and the Aggrieved
23 Employees premium wages on workdays they failed to authorize and permit them to take 10-
24 minute rest periods every four hours worked or major fraction thereof.

25 52. Plaintiff is informed and believes and thereon alleges that, at all relevant times
26 within the applicable limitations period, Defendants had a policy, practice, or a lack of a policy
27 which resulted in Defendants not authorizing and permitting Plaintiff and the Aggrieved
28 Employees to take all rest breaks required by California law.

D. FAILURE TO INDEMNIFY

53. In pertinent part, California 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."

54. California Labor Code § 1198 prohibits employers from employing their



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employees under conditions prohibited by the Wage Order.

55. At all relevant times, Defendants required Plaintiff and the Aggrieved Employees to incur certain business expenses in the course of performing their duties. During the applicable limitations period, Defendants required Plaintiff and the other Aggrieved Employees to use their personal mobile phones to communicate with co-workers and to coordinate their schedules with supervisors. Defendants did not offer mobile phones to Plaintiff and the other Aggrieved Employees for this purpose, nor did they reimburse them for use of their personal mobile phones. Further, Defendants required Lawrence and all of the other Aggrieved Employees to supply server books to perform their job duties during the applicable limitations period. However, Defendants did not provide these items and did not reimburse Lawrence and the other Aggrieved Employees for these items.

56. 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 Aggrieved Employees for the reasonable expenses they incurred during the course of performing their duties.

E. FAILURE TO PROVIDE ACCURATE AND COMPLETE WRITTEN WAGE STATEMENTS

57. Pursuant to California Labor Code § 226(a), Plaintiff and the Aggrieved Employees were entitled to receive, bi-weekly or at the time of each payment of wages, an accurate itemized statement showing: a) gross wages earned; b) net wages earned; c) all applicable hourly rates in effect during the pay period; and d) the corresponding number of hours worked at each hourly rate by the employee.

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

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

B. Which deductions the employer made from gross wages to determine the



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1 net wages paid to the employee during the pay period;

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

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

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

8 59. "Promptly and easily determine," as stated in California Labor Code § 226(e),
9 means a reasonable person would be able to readily ascertain the information without reference
10 to other documents or information.

11 60. As alleged herein, at all relevant times during the applicable limitations period,
12 Defendants violated California Labor Code section 226 because they did not properly and
13 accurately itemize each employee's gross wages earned, net wages earned, the total hours worked,
14 the corresponding number of hours worked at each rate by the employee, and other requirements
15 of California Labor Code section 226. Defendants failed to state in the wage statements they
16 issued to Plaintiff and the other Aggrieved Employees all their hours worked and wages earned,
17 including, but not limited to, regular and overtime wages for work they performed off-the-clock
18 after clocking out (as described above).

19 61. Defendants' failure to provide Plaintiff and the other Aggrieved Employees with
20 accurate wage statements was knowing and intentional. Defendants had the ability to provide
21 Plaintiff and the other Aggrieved Employees with accurate wage statements but intentionally
22 provided wage statements that Defendants knew were not accurate.

23 62. As a result of being provided with inaccurate wage statements by Defendants,
24 Plaintiff and the other Aggrieved Employees have suffered injury. Their legal rights to receive
25 accurate wage statements were violated, and they were misled about the amount of wages they
26 had actually earned and were owed. In addition, the absence of accurate information on their wage
27 statements prevented immediate challenges to Defendants' unlawful pay practices, has required
28 discovery and mathematical computations to determine the amounts of wages owed, has caused
difficulty and expense in attempting to reconstruct time and pay records, and/or has led to the
submission of inaccurate information about wages to state and federal government agencies.
Further, Plaintiff and the other Aggrieved Employees were not able to ascertain from the wage



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statements whether Defendants complied with their obligations under California Labor Code section 226(a).

F. UNTIMELY WAGES DURING EMPLOYMENT

63. Labor Code § 204 states:

(a) All wages, other than those mentioned in Section 201, 201.3, 202, 204.1, or 204.2, 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. ...

(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 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.

64. Defendants failed to compensate Plaintiff and the Aggrieved Employees for all



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hours worked at the correct rates of pay, including overtime. Defendants failed to provide Plaintiff and the Aggrieved Employees with all meal and rest periods in compliance with California laws. Defendants also failed to provide Plaintiff and the Aggrieved Employees with all premium wages on workdays they failed to provide them with one or more meal or rest periods in compliance with California laws. Further, Defendants required Lawrence and the Aggrieved Employees to study voluminous written materials off-the-clock and without pay. In addition, Defendants blended mandatory gratuities earned by Lawrence and all other Aggrieved Employees with the traditional voluntary gratuities under the same earnings code, "Tips." As such, it makes it impossible for Lawrence and all other Aggrieved Employees to understand their pay stubs, and which portions of their pay or non-discretionary income that should factor into the overtime wage calculation. As a result, Defendants failed to timely pay all earned minimum, overtime, and premium wages due during employment within the time periods set by California Labor Code section 204.

G. FAILURE TO PROVIDE STORAGE FACILITIES, LOCKERS, AND CHANGE ROOMS

65. Section 13 of Wage Order states

- (A) Employers shall provide suitable lockers, closets, or equivalent for the safekeeping of employees' outer clothing during working hours, and when required, for their work clothing during non-working hours. When the occupation requires a change of clothing, change rooms or equivalent space shall be provided in order that employees may change their clothing in reasonable privacy and comfort. These rooms or spaces may be adjacent to but shall be separate from toilet rooms and shall be kept clean.

NOTE: This section shall not apply to change rooms and storage facilities regulated by the Occupational Safety and Health Standards Board.

- (B) Suitable resting facilities shall be provided in an area separate from the toilet rooms and shall be available to employees during work hours.

66. Labor Code § 1198 makes it unlawful for an employer to employ an employee under conditions that violate the Wage Order.



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1 67. Throughout the relevant time period, the Defendants failed to provide closets,
2 storage facilities, changing rooms, and a sufficient number of lockers for use by Lawrence and all
3 of the other Aggrieved Employees. Accordingly, on behalf of himself and all of the other
4 Aggrieved Employees, Lawrence seeks an award of civil penalties against the Defendants as
5 follows: (1) \$100 for each aggrieved employee for each initial violation of California Labor Code
6 § 1198, and \$200 for each aggrieved employee for each subsequent violation, per pay period
7 (penalties set by California Labor Code § 2699(f)(2)); and (2) \$100 for each aggrieved employee
8 for each initial violation of California Labor Code § 2350, and \$200 for each aggrieved employee
9 for each subsequent violation, per pay period (penalties set by California Labor Code §
2699(f)(2)).

10 **H. FAILURE TO MAINTAIN ACCURATE EMPLOYMENT RECORDS**

11 68. Labor Code § 1174 states:

12 Every person employing labor in this state shall:

13 ...

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

16 (d) Keep, at a central location in the state or at the plants or
17 establishments at which employees are employed, payroll
18 records showing the hours worked daily by and the wages
19 paid to, and the number of piece-rate units earned by and any
20 applicable piece rate paid to, employees employed at the
21 respective plants or establishments. These records shall be
22 kept in accordance with rules established for this purpose by
23 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.

24 69. Labor Code § 1174.5 states:

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



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1 70. Section 7 of the Wage Order states:

2
3 (a) Every employer shall keep accurate information with
4 respect to each employee including the following:

5 (1) Full name, home address, occupation, and social
6 security number.

7 (2) Birth date, if under 18 years, and designation as a
8 minor.

9 (3) Time records showing when the employee begins
10 and ends each work period. Meal periods, split shift
11 intervals and total daily hours worked shall also be
12 recorded. Meal periods during which operations
13 cease and authorized rest periods need not be
14 recorded.

15 (4) Total wages paid each payroll period, including
16 value of board, lodging, or other compensation
17 actually furnished to the employee.

18 (5) Total hours worked in the payroll period and
19 applicable rates of pay. This information shall be
20 made readily available to the employee upon
21 reasonable request.

22 (6) When a piece rate or incentive plan is in operation,
23 piece rates or an explanation of the incentive plan
24 formula shall be provided to employees. An
25 accurate production record shall be maintained by
26 the employer.

27 71. Labor Code § 1198 prohibits employers from employing their employees under
28 conditions prohibited by the Wage Order.

 72. On information and belief, Defendants have willfully failed to maintain the records
 required by § 1174 and Wage Order, including, but not limited to, the total premium wages earned
 for missed meal and rest periods, and records pertaining to all unpaid hours worked by Plaintiff
 and the Aggrieved Employees.

 73. Accordingly, Lawrence seeks an award of civil penalties against the Defendants
 on behalf of himself and all of the other Aggrieved Employees as follows: (1) \$500 for each



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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)).

I. CIVIL PENALTIES SOUGHT

74. Defendants paid wages to employees on regular intervals. Defendants 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.

75. During the applicable time period, Defendants violated California Labor Code §§ 204, 226, 226.7, 510, 512, 1174, 1194, 1197, 1198, 2802, and related Labor Code statutes.

76. California Labor Code §§ 2699(a) and (g) authorize an aggrieved employee, on behalf of himself 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.

77. Pursuant to California Labor Code §§ 2699(a) and (f), Plaintiff and the Aggrieved Employees are entitled to recover civil penalties for each of the Defendants' violations of California Labor Code §§ 204, 226, 226.7, 510, 512, 1174, 1194, 1197, 1198, 2802, and related Labor Code statutes during the applicable limitations period in the following amounts:

A. 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).

B. For violations of California Labor Code § 226, two hundred fifty dollars (\$250.00) per employee for each initial violation and one thousand dollars (\$1,000.00) per employee for each subsequent violation (penalty amounts established by California Labor Code § 226.3).

C. For violations of California Labor Code §§ 510 and 512, fifty dollars (\$50.00) for each Aggrieved Employee for each initial violation for the initial pay period for which the employee was underpaid and one hundred dollars (\$100.00) for each underpaid employee for each pay period for which the employee was underpaid (penalty amounts established by California Labor Code § 558).

D. For violations of California Labor Code § 1174, five hundred dollars (\$500.00)



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for each Aggrieved Employee for each initial violation (penalty amounts established by Labor Code § 1174.5).

E. For violations of California Labor Code § 1197, one hundred dollars (\$100.00) for each Aggrieved Employee for each initial and intentional violation and two hundred fifty dollars (\$250.00) for each Aggrieved Employee for each subsequent violation, per pay period (regardless of whether the initial violations were intentionally committed) (penalty amounts established by California Labor Code § 1197.1).

F. For violations of California Labor Code §§ 226.7, 1194, 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)).

J. NOTICE TO THE STATE OF CALIFORNIA AND DEFENDANTS

78. Plaintiff has complied with the procedures for bringing suit specified in California Labor Code § 2699.3. By letter dated May 28, 2024, Plaintiff gave written notice by certified mail to the Labor and Workforce Development Agency (“LWDA”) and 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 Plaintiff’s letter to the LWDA dated May 28, 2024, is attached hereto as **Exhibit A**. The LWDA has not responded to Plaintiff’s letter.

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

V. PRAYER FOR RELIEF

80. WHEREFORE, Plaintiff, on behalf of himself and the Aggrieved Employees, prays for relief and judgment against Defendants as follows:

- A. Civil penalties;
- B. Costs of suit;
- C. Reasonable attorneys’ fees; and
- D. Such other relief as the Court deems just and proper.

VI. DEMAND FOR JURY TRIAL

Plaintiff, on behalf of himself and all other Aggrieved Employees, hereby demands a jury



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trial on all issues so triable.

Respectfully submitted,

THE SPIVAK LAW FIRM



Dated: August 2, 2024

By:

DAVID G. SPIVAK
LAUREN R. DAVIS
Attorneys for Plaintiff, GERARD
LAWRENCE, and all others similarly
situated



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EXHIBIT A



THE SPIVAK LAW FIRM

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SENT BY ELECTRONIC SUBMISSION, CERTIFIED MAIL, AND EMAIL

May 28, 2024

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

Re: Gerard Lawrence / Scopa Italian Roots

To Whom It May Concern:

Pursuant to the Labor Code Private Attorneys General Act of 2004, Labor Code sections 2698, *et seq.*, Gerard Lawrence (hereafter “Lawrence” or “Complainant”) provides notice that The Washington Group LLC and related entities (collectively “the Washington Group Employers” or “the Employers”) violated his rights and those of all other individuals the Washington Group Employers have employed or otherwise contracted with in California as hourly, non-exempt employees, including “back-of-house” and “front-of-house” employees such as cashiers, servers, server assistants, bussers, food runners, and line cooks, 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, 510, 512, 1174, 1194, 1197, 1198, 2802, and other Labor Code statutes. On behalf of himself and all other Aggrieved Employees, Lawrence hereby provides this notice to the Labor & Workforce Development Agency and the Washington Group Employers and their agents and representatives.

At all relevant times, the Washington Group Employers have employed persons, conducted business, and engaged in illegal payroll practices and policies, throughout California. Lawrence and all of the 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 April 14, 2021, the Washington Group Employers began to employ Lawrence in Venice at one of its restaurants in the position of hourly, non-exempt server. The Washington Group Employers continuously employed him in that capacity until on or about April 2024 when his employment ended.

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

The Washington Group Employers failed to compensate Lawrence and all of the other Aggrieved Employees for all hours worked at the applicable minimum or regular rates of pay. Due to chronic understaffing and the Washington Group Employers' customer service requirements, the Washington Group Employers denied Lawrence and all other Aggrieved Employees their earned duty-free meal periods. Additionally, the Washington Group Employers frequently required Lawrence and the Aggrieved Employees to take off-the-clock, on-duty, 30-minute meal periods right when their shifts began. During these off-the-clock meal breaks on arrival, the Washington Group Employers expected Lawrence and the Aggrieved Employees to attend pre-shift meetings and take tests. However, the Washington Group Employers compelled them to record such meal periods as off-duty and did not pay them for the time. During shifts in which the Washington Group Employers did not compel Lawrence and the Aggrieved Employees to take off-the-clock meal breaks on arrival, the Washington Group Employers' managers directed Lawrence and all other Aggrieved Employees to delay, forgo, or shorten 30-minute meal periods when the restaurant was understaffed. The Washington Group Employers also prohibited Lawrence and all other Aggrieved Employees from taking a meal period if there was no one available to cover for them. The Washington Group Employers compelled Lawrence and all other Aggrieved Employees to remain in their assigned work areas and available to receive work-related directions during meal periods. In addition to the unpaid, on-duty meal periods described above, the Washington Group Employers required Lawrence and the Aggrieved Employees to study voluminous written materials off-the-clock and without pay. The Washington Group Employers sent Lawrence and the Aggrieved Employees detailed menu information, which they encouraged their employees to study from home

and informed them they would be tested on. These activities outside of work, which include memorizing ever-changing menus and wine, cocktail, and entrée ingredient lists, consumed significant time for each employee. Lawrence and all other Aggrieved Employees were not paid for such off-the-clock work.

The Washington Group Employers at times required Lawrence and all of the other Aggrieved Employees to work over eight hours in a day. The Washington Group Employers failed to compensate Lawrence and all of the other Aggrieved Employees at the correct rates of pay for all hours worked over eight in a day. Due to chronic understaffing and the Washington Group Employers' customer service requirements, the Washington Group Employers denied Lawrence and all other Aggrieved Employees their earned duty-free meal periods. Additionally, the Washington Group Employers frequently required Lawrence and the Aggrieved Employees to take off-the-clock, on-duty, 30-minute meal periods right when their shifts began. During these off-the-clock meal breaks on arrival, the Washington Group Employers expected Lawrence and the Aggrieved Employees to attend pre-shift meetings and take tests. However, the Washington Group Employers compelled them to record such meal periods as off-duty and did not pay them for the time. During shifts in which the Washington Group Employers did not compel Lawrence and the Aggrieved Employees to take off-the-clock meal breaks on arrival, the Washington Group Employers' managers directed Lawrence and all other Aggrieved Employees to delay, forgo, or shorten 30-minute meal periods when the restaurant was understaffed. The Washington Group Employers also prohibited Lawrence and all other Aggrieved Employees from taking a meal period if there was no one available to cover for them. The Washington Group Employers compelled Lawrence and all other Aggrieved Employees to remain in their assigned work areas and available to receive work-related directions during meal periods. In addition to the unpaid, on-duty meal periods described above, the Washington Group Employers required Lawrence and the Aggrieved Employees to study voluminous written materials off-the-clock and without pay. The Washington Group Employers sent Lawrence and the Aggrieved Employees detailed menu information, which they encouraged their employees to study from home and informed them they would be tested on. These activities outside of work, which include memorizing ever-changing menus and wine, cocktail, and entrée ingredient lists, consumed significant time for each employee. Lawrence and all other Aggrieved Employees were not paid for such off-the-clock work. In addition, the Washington Group Employers blended mandatory gratuities earned by Lawrence and all other Aggrieved Employees with the traditional voluntary gratuities under the same earnings code, "Tips." As such, it makes it

impossible for Lawrence and all other Aggrieved Employees to understand their pay stubs, and which portions of their pay or non-discretionary income that should factor into the overtime wage calculation.

At all relevant times, the Washington Group Employers failed to provide Lawrence and all of the other Aggrieved Employees with all timely 30-minute, off-duty meal periods. The Washington Group Employers denied Lawrence and all of the other Aggrieved Employees their 30-minute off-duty meal period within the first five hours of work. The Washington Group Employers frequently required Lawrence and the Aggrieved Employees to take off-the-clock, on-duty, 30-minute meal periods right when their shifts began. During these off-the-clock meal breaks on arrival, the Washington Group Employers expected Lawrence and the Aggrieved Employees to attend pre-shift meetings and take tests. However, the Washington Group Employers compelled them to record such meal periods as off-duty and did not pay them for the time. During shifts in which the Washington Group Employers did not compel Lawrence and the Aggrieved Employees to take off-the-clock meal breaks on arrival, the Washington Group Employers' managers directed Lawrence and all other Aggrieved Employees to delay, forgo, or shorten 30-minute meal periods when the restaurant was understaffed. The Washington Group Employers also prohibited Lawrence and all other Aggrieved Employees from taking a meal period if there was no one available to cover for them. The Washington Group Employers compelled Lawrence and all other Aggrieved Employees to remain in their assigned work areas and available to receive work-related directions during meal periods. Further, the Washington Group Employers failed to pay premium wages for days on which they failed to provide Lawrence and all of the other Aggrieved Employees with meal periods as required by law.

At all relevant times, the Washington Group Employers failed to authorize and permit Lawrence and all of the other Aggrieved Employees to take ten-minute, off-duty, paid rest breaks every four hours worked or major portion thereof. At all relevant times, the Washington Group Employers failed to authorize and permit Lawrence and all of the other Aggrieved Employees to take ten-minute, off-duty, paid rest breaks every four hours worked or major portion thereof. The Washington Group Employers did not seek an exemption from the rest period protections of the Wage Order from the California Division of Labor Standards Enforcement. Due to chronic understaffing and The Washington Group Employers' customer service requirements, the Washington Group Employers denied Lawrence and all other Aggrieved Employees their earned duty-free rest breaks. The Washington Group Employers compelled Lawrence and all

other Aggrieved Employees to remain in their assigned work areas and available to receive work-related directions during rest breaks. The Washington Group Employers' managers directed Lawrence and all other Aggrieved Employees to delay, shorten, or forgo 10-minute rest breaks when the restaurant was understaffed. The Washington Group Employers prohibited Lawrence and all other Aggrieved Employees from taking a rest break if there was no one available to cover for them. Moreover, the Washington Group Employers failed to pay Lawrence and all of the other Aggrieved Employees premium wages on workdays the Washington Group Employers failed to provide Lawrence and all of the other Aggrieved Employees with 10-minute rest periods every four hours worked or major fraction thereof as required by law.

At all relevant times, the Washington Group Employers required Lawrence and all of the other Aggrieved Employees to incur certain business expenses in the course of performing their duties. The Washington Group Employers required Lawrence and all of the other Aggrieved Employees to supply mobile phones, telecom, and server books to perform their job duties. However, the Washington Group Employers did not provide these items and did not reimburse Lawrence and the other Aggrieved Employees for these items. The Washington Group Employers required Lawrence and all of the other Aggrieved Employees to supply mobile phones and pay for mobile phone plans to perform their job duties, including work scheduling. Further, the Washington Group Employers required Lawrence and all of the other Aggrieved Employees to supply server books to perform their job duties. However, the Washington Group Employers did not provide these items and did not reimburse Lawrence and the other Aggrieved Employees for these items.

At all relevant times, the Washington Group Employers failed to issue to Lawrence and all of the other Aggrieved Employees complete and accurate wage statements that state all hours worked at the correct rates of pay, and all wages earned. The Washington Group Employers knowingly and intentionally failed to state on the wage statements they issued to Lawrence and all of the other Aggrieved Employees the unpaid wages discussed above. The wage statements fail to state all minimum wages earned, all regular wages earned, all overtime wages earned, all meal period premium wages earned, all rest break premium wages earned, all hours worked at each rate of pay, and other required information. In addition, the Washington Group Employers blended mandatory gratuities earned by Lawrence and all other Aggrieved Employees with the traditional voluntary gratuities under the same earnings code, "Tips." As such, it makes it impossible for Lawrence and all other Aggrieved Employees to understand their pay

stubs, and which portions of their pay or non-discretionary income that should factor into the overtime wage calculation.

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

The Washington Group Employers failed to provide Lawrence and all of the other Aggrieved Employees with change rooms and compliant storage facilities.

The Washington Group Employers failed to maintain accurate employee records of Lawrence and all of the other Aggrieved Employees.

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

- (a) The Washington Group Employers failed to pay Lawrence and all of the other Aggrieved Employees all wages earned for all hours worked at the correct rates of pay, including minimum, regular, and overtime wages;
- (b) The Washington Group Employers failed to provide Lawrence and all of the other Aggrieved Employees all meal periods in compliance with California law;
- (c) The Washington Group Employers failed to authorize and permit Lawrence and all of the other Aggrieved Employees to take rest breaks in compliance with California law;
- (d) The Washington Group Employers failed to compensate Lawrence and all of the other Aggrieved Employees at one hour's pay for each day in which the Washington Group Employers failed to provide them with one or more meal periods as required by law;
- (e) The Washington Group Employers failed to compensate Lawrence and all of the other Aggrieved Employees at one hour's pay for each day in

which the Washington Group Employers failed to authorize and permit them to take one or more rest breaks as required by law;

- (f) The Washington Group Employers failed to indemnify Lawrence and all of the other Aggrieved Employees for all necessary business expenditures incurred during the discharge of their duties;

The Washington Group Employers knowingly and intentionally failed to provide Lawrence and all of the other Aggrieved Employees with accurate wage statements;

- (g) The Washington Group Employers willfully failed to timely pay Lawrence and all of the other Aggrieved Employees all earned and unpaid wages during their employment with the Washington Group Employers and when their employment ended;
- (h) The Washington Group Employers failed to provide Lawrence and all of the other Aggrieved Employees with change rooms and compliant storage facilities; and
- (i) The Washington Group Employers failed to maintain accurate employment records pertaining to Lawrence and all of the other Aggrieved Employees.

Accordingly, Lawrence now seeks civil penalties on behalf of himself and all of the other Aggrieved Employees based on the Washington 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 Washington Group Employers, Lawrence, and all of the Aggrieved Employees were covered by the Wage Order because the Washington Group Employers operated, and Lawrence, and all of the Aggrieved Employees, worked for one or more restaurants. Accordingly, Lawrence and all of the other Aggrieved Employees are entitled to the protections the Wage Order provides.

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Failure To Pay Wages For All Hours Worked At The Correct
Rates of Pay
(Lab. Code §§ 510, 1194, 1197, and 1198)

Under Labor Code section 1197, “The minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than the minimum so fixed is unlawful.”

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 1194 states:

- (a) Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney’s fees, and costs of suit.

In relevant part, Labor Code section 510 states:

Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.

In relevant part, Section 3 of the Wage Order states:

The following overtime provisions are applicable to employees 18 years of age or over and to employees 16 or 17 years of age who are not required by law to attend school and are not otherwise prohibited by law from engaging in the subject work. Such employees shall not be employed more than eight (8) hours in any workday or more than 40 in a workweek unless the employee receives one and one half (1½) times such employee's regular rate of pay for all hours worked over 40 hours in the workweek. Eight (8) hours of labor constitutes a day's work. Employment beyond eight (8) hours in any workday or more than six (6) days in any workweek is permissible provided the employee is compensated for such overtime at not less than:

- (a) One and one-half (1½) times the employee's regular rate of pay for all hours worked in excess of eight (8) hours up to and including twelve (12) hours in any workday, and for the first eight (8) hours worked on the seventh (7th) consecutive day of work in a workweek;
- (b) Double the employee's regular rate of pay for all hours worked in excess of 12 hours in any workday and for all hours worked in excess of eight (8) hours on the seventh (7th) consecutive day of work in a workweek; and
- (c) The overtime rate of compensation required to be paid to a nonexempt full-time salaried employee shall be computed by using the employee's regular hourly salary as one fortieth (1/40) of the employee's weekly salary.

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

In conjunction, these provisions of the Labor Code require employers to pay employees no less than their agreed-upon or statutorily mandated wage rates for all hours worked, including hours spent working "off-the-clock" (before punching in or after punching out on a time clock) when the employer knew or reasonably should have known that employees were working during those hours. *Morillion v. Royal Packing Co.* (2000) 22 Cal.4th 575, 585.

Due to chronic understaffing and the Washington Group Employers' customer service requirements, the Washington Group Employers denied Lawrence and all other Aggrieved Employees their earned duty-free meal periods. Additionally, the Washington Group Employers frequently required Lawrence and the Aggrieved Employees to take off-the-clock, on-duty, 30-minute meal periods right when their shifts began. During these off-the-clock meal breaks on arrival, the Washington Group Employers expected Lawrence and the Aggrieved Employees to attend pre-shift meetings and take tests. However, the Washington Group Employers compelled them to record such meal periods as off-duty and did not pay them for the time. During shifts in which the Washington Group Employers did not compel Lawrence and the Aggrieved Employees to take off-the-clock meal breaks on arrival, the Washington Group Employers' managers directed Lawrence and all other Aggrieved Employees to delay, forgo, or shorten 30-minute meal periods when the restaurant was understaffed. The Washington Group Employers also prohibited Lawrence and all other Aggrieved Employees from taking a meal period if there was no one available to cover for them. The Washington Group Employers compelled Lawrence and all other Aggrieved Employees to remain in their assigned work areas and available to receive work-related directions during meal periods. In addition to the unpaid, on-duty meal periods described above, the Washington Group Employers required Lawrence and the Aggrieved Employees to study voluminous written materials off-the-clock and without pay. The Washington Group Employers sent Lawrence and the Aggrieved Employees detailed menu information, which they encouraged their employees to study from home and informed them they would be tested on. These activities outside of work, which include memorizing ever-changing menus and wine, cocktail, and entrée ingredient lists, consumed significant time for each employee. Lawrence and all other Aggrieved Employees were not paid for such off-the-clock work. Further, the Washington Group Employers blended mandatory gratuities earned by Lawrence and all other Aggrieved Employees with the traditional voluntary gratuities under the same earnings code, "Tips." As such, it makes it impossible for Lawrence and all other Aggrieved Employees to understand their pay stubs, and which portions of their pay or non-discretionary income that should factor into the overtime wage calculation.

With respect to overtime wages, the regular rate of pay under California law must include "all remuneration for employment paid to, on behalf of, the employee." O.L. 2002.06.14 (quoting 29 U.S.C. § 207(e)). This requirement includes, but is not limited to bonuses. *See, e.g., Huntington Memorial Hosp. v. Superior Court* (2005) 131 Cal. App. 4th 893, 904–05. Bonuses must be included in the regular rate whether they are the sole

source of the employee's compensation or are in addition to a guaranteed salary or hourly rate. 29 C.F.R. §§ 778.117, 778.208. *See Oliver v. Mercy Med. Ctr., Inc.* (9th Cir. 1982) 695 F.2d 379. At all relevant times during their work for the Washington Group Employers, Lawrence and all of the other Aggrieved Employees earned automatic or mandatory gratuities, rest period premium wages, and meal period premium wages during pay periods in which they worked hours qualifying for overtime and/or double time premium pay rates. However, the Washington Group Employers failed to pay to Lawrence and all of the other Aggrieved Employees automatic or mandatory gratuities, rest period premium wages, meal period premium wages, and overtime premium pay on such automatic or mandatory gratuities, rest period premium wages, meal period premium wages, and other non-discretionary compensation.

At all relevant times during the applicable limitations period, the Washington Group Employers failed to compensate Lawrence and all of the other Aggrieved Employees for all hours worked, including, but not limited to minimum, regular, and overtime wages for all hours they worked at the correct rates of pay. Accordingly, Lawrence now seeks civil penalties on behalf of himself and all of the other Aggrieved Employees as follows:

1. \$50 for each aggrieved employee for each initial violation of Labor Code § 510, 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 § 558);
2. \$100 for each aggrieved employee for each initial violation of Labor Code § 1194, and \$200 for each aggrieved employee for each subsequent violation, per pay period (penalties set by Labor Code § 2699(f)(2));
3. \$100 for each underpaid aggrieved employee for each initial violation of Labor Code § 1197, and \$250 for each underpaid aggrieved employee for each subsequent violation per pay period (regardless of whether the initial violations were intentionally committed), in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section 203 (penalties set by Labor Code § 1197.1) and

4. \$100 for each aggrieved employee for each initial violation of Labor Code § 1198, and \$200 for each aggrieved employee for each subsequent violation, per pay period (penalties set by Labor Code § 2699(f)(2)).

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 Washington Group Employers failed to provide Lawrence and all of the other Aggrieved Employees with all timely meal periods. Due to chronic understaffing and The Washington Group Employers’ customer service requirements, the Washington Group Employers denied Lawrence and all of the other Aggrieved Employees their 30-minute off-duty meal period within the first five hours of work. Additionally, the Washington Group Employers frequently required Lawrence and the Aggrieved Employees to take off-the-clock, on-duty, 30-minute meal periods right

when their shifts began. During these off-the-clock meal breaks on arrival, the Washington Group Employers expected Lawrence and the Aggrieved Employees to attend pre-shift meetings and take tests. However, the Washington Group Employers compelled them to record such meal periods as off-duty and did not pay them for the time. During shifts in which the Washington Group Employers did not compel Lawrence and the Aggrieved Employees to take off-the-clock meal breaks on arrival, the Washington Group Employers' managers directed Lawrence and all other Aggrieved Employees to delay, forgo, or shorten 30-minute meal periods when the restaurant was understaffed. The Washington Group Employers also prohibited Lawrence and all other Aggrieved Employees from taking a meal period if there was no one available to cover for them. The Washington Group Employers compelled Lawrence and all other Aggrieved Employees to remain in their assigned work areas and available to receive work-related directions during meal periods. Furthermore, the Washington Group Employers failed to pay premium wages for days on which they failed to provide Lawrence and all of the other Aggrieved Employees with timely meal periods as required by law. Accordingly, Lawrence now seeks civil penalties for these Labor Code violations that the Washington Group Employers have committed against him 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)).

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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 Washington Group Employers failed to authorize and permit Lawrence and all of the other Aggrieved Employees to take ten-minute, paid, duty-free rest breaks every four hours worked or major fraction thereof. The Washington Group Employers did not seek an exemption from the rest period protections of the Wage Order from the California Division of Labor Standards Enforcement. Due to chronic understaffing and The Washington Group Employers' customer service requirements, the Washington Group Employers denied Lawrence and all other Aggrieved Employees their earned duty-free rest breaks. The Washington Group Employers compelled Lawrence and all other Aggrieved Employees to remain in their assigned work areas and available to receive work-related directions. The Washington Group Employers' managers directed Lawrence and all other Aggrieved Employees to delay, shorten, or forgo 10-minute rest breaks when the restaurant was understaffed. The Washington Group Employers prohibited Lawrence and all other Aggrieved Employees from taking a rest break if there was no one available to cover for them. Moreover, the Washington Group Employers failed to pay Lawrence and all of the other Aggrieved Employees premium wages on workdays the Washington Group Employers failed to provide Lawrence and all of the other Aggrieved Employees with 10-minute rest periods every four hours worked or major fraction thereof as required by law. Accordingly, Lawrence now seeks civil penalties for these Labor Code violations that the Washington Group Employers have committed against him 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 Washington Group Employers required Lawrence and all of the other Aggrieved Employees to incur certain business expenses in the course of performing their duties. The Washington Group Employers required Lawrence and all of the other Aggrieved Employees to supply mobile phones, telecom, and server books to perform their job duties. However, the Washington Group Employers did not provide these items and did not reimburse Lawrence and the other Aggrieved Employees for these items. The Washington Group Employers required Lawrence and all of the other Aggrieved Employees to supply mobile phones and pay for mobile phone plans to perform their job duties. Further, the Washington Group Employers required Lawrence and all of the other Aggrieved Employees to supply server books to perform their job duties. However, the Washington Group Employers did not provide these items and did not reimburse Lawrence and the other Aggrieved Employees for these items. Accordingly, Lawrence seeks civil penalties for these Labor Code violations that the Washington Group Employers have committed against him 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 Washington 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 Washington Group Employers failed to state in the wage statements they issued to Lawrence and all of the other Aggrieved Employees 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 and for non-discretionary income from mandatory gratuities that should factor into the overtime wage calculation (as described above). The Washington Group Employers knowingly and intentionally failed to state on the wage statements they issued to Lawrence and all of the other Aggrieved Employees the earned but unpaid wages described above. The wage statements do not

state all minimum wages earned, all regular wages earned, all overtime wages earned, all meal period premium wages earned, all rest break premium wages earned, all hours worked at each rate of pay, all mandatory gratuities, and other required information.

Accordingly, Lawrence seeks civil penalties for the Labor Code violations that the Washington Group Employers have committed against him 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 Washington Group Employers failed to compensate Lawrence and all of the other Aggrieved Employees for wages earned, including minimum wages, regular wages, overtime wages, unprovided meal period premium wages, unprovided rest break premium wages, and other compensation, at the intervals stated above. As a result, the Washington Group Employers failed to timely pay all earned wages due during employment within the time periods set by Labor Code section 204. Accordingly, Lawrence now seeks civil penalties for the Labor Code violations that the Washington Group Employers have committed against him 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).

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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 Washington Group Employers failed to pay Lawrence and all of the other Aggrieved Employees whose employment ended all of the earned but unpaid wages described above by the conclusion of their employment with Lawrence, including minimum wages, regular wages, overtime wages, unprovided meal period premium wages, unprovided rest break premium wages, and other compensation. By failing to pay Lawrence and all of the other Aggrieved Employees as set forth above at the end of employment, the Washington Group Employers are liable for violations of Labor Code §§ 201, 202, and 203. Accordingly, on behalf of himself and all of the other Aggrieved Employees, Lawrence seeks civil penalties from the Washington 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 Provide Storage Facilities, Lockers, and Change Rooms
(Lab. Code § 1198)

Section 13 of Wage Order states,

- (A) Employers shall provide suitable lockers, closets, or equivalent for the safekeeping of employees' outer clothing during working hours, and when required, for their work clothing during non-working hours. When the occupation requires a change of clothing, change rooms or equivalent space shall be provided in order that employees may change their clothing in reasonable privacy and comfort. These rooms or spaces may be adjacent to but shall be separate from toilet rooms and shall be kept clean.

NOTE: This section shall not apply to change rooms and storage facilities regulated by the Occupational Safety and Health Standards Board.

- (B) Suitable resting facilities shall be provided in an area separate from the toilet rooms and shall be available to employees during work hours.

Labor Code § 1198 makes it unlawful for an employer to employ an employee under conditions that violate the Wage Order.

The Washington Group Employers failed to provide closets, storage facilities, changing rooms, and a sufficient number of lockers for use by Lawrence and all of the other Aggrieved Employees. If within 33 days of this notice, the Washington Group Employers fail to notify my office in writing by certified mail that they have cured the violations of Labor Code § 1198 and the Wage Order mentioned above, Lawrence, on

behalf of himself and all of the other Aggrieved Employees, will commence a civil action and seek civil penalties from the Washington Group Employers as follows:

1. \$100 for each aggrieved employee for each initial violation of California Labor Code § 1198, and \$200 for each aggrieved employee for each subsequent violation, per pay period (penalties set by California 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 states,

(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.

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

Conclusion

As noted above, this letter constitutes the required notice under the Labor Code Private Attorneys General Act of 2004. Please be advised that Gerard Lawrence 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: Gerard Lawrence

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LWDA / The Washington Group Employers

Re: Gerard Lawrence

May 28, 2024

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The Washington Group LLC DBA Scopa Italian Roots

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