ABRAMSON
LABOR GROUP

1700 W Burbank Blvd.
Burbank, California 91506
t | 213.493.6300
Cheryl.K@abramsonlabor.com
www.AbramsonLaborGroup.com

October 30, 2024

VIA ONLINE SUBMISSION

Stewart Knox, Secretary
California Labor & Workforce
Development Agency
800 Capitol Mall, Suite 5000 (MIC-55)
Sacramento, CA 95814

VIA CERTIFIED MAIL

Brilliant Art Inc. dba Valliani Jewelers
Attn: Human Resources
3030 Plaza Bonita Rd., Space 1076
National City, CA 91950

Brilliant Art Inc. dba Valliani Jewelers
Attn: Human Resources
1 Mills Cir., Space 1011
Ontario, CA 91764

Brilliant Art Inc. dba Valliani Jewelers
Attn: Human Resources
500 Inland Center Dr., Suite 426
San Bernardino, CA 92408

Brilliant Art Inc. dba Valliani Jewelers
Attn: Human Resources
14400 Bear Valley Rd., #641
Victorville, CA 92392

Brilliant Art Inc. dba Valliani Jewelers
Attn: Legal Department
2855 Stevens Creek Blvd., Ste. 2561
Santa Clara, CA 95050

NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO CALIFORNIA LABOR CODE SECTION 2698, *ET SEQ.*

To: The California Labor and Workforce Development Agency; Brilliant Art Inc. dba Valliani Jewelers

From: Jose Arizmendi, on behalf of himself and all other current and former hourly nonexempt employees for violations of the California Labor Code

To Whom It May Concern:

Abramson Labor Group has been retained by current employee Jose Arizmendi ("Mr. Arizmendi") to seek compensation and all other available relief, including civil penalties on his behalf and on the behalf of all those similarly aggrieved (collectively with Mr. Arizmendi, "Claimants") who have been injured by Brilliant Art Inc. doing business as Valliani Jewelers' ("Valliani") violations of the California Labor Code. Mr. Arizmendi, on behalf of himself and all other similarly aggrieved current and former hourly nonexempt employees of Valliani, intends to seek civil penalties, attorneys' fees, costs, and other available relief for violations of the California Labor Code, which are recoverable under sections 2698, *et seq.* of the Labor Code Private Attorneys General Act of 2004 ("PAGA").

Factual Statement:

Brilliant Art Inc. doing business as Valliani Jewelers owns and operates approximately 22 brick-and-mortar retail jewelry stores throughout California and also sells its inventory to customers online.

Claimant Mr. Arizmendi works for Valliani as an hourly, nonexempt employee in the position of Store Manager at Valliani's retail store in National City, California, earning $29.00 per hour plus 1-3% commissions on all sales at his location from approximately September 26, 2022 through the present. Before holding the position of Store Manager, Mr. Arizmendi held the position of Manager In Training, which was for about 5-6 months. Mr. Arizmendi has also worked at Valliani's Ontario, San Bernardino, and Victorville locations. Mr. Arizmendi, on behalf of himself and all other similarly aggrieved current and former employees in California in various positions, are or were engaged in retail sales-related tasks for Valliani. As part of their employment with Valliani, Claimant and other hourly, nonexempt employees, collectively, "hourly nonexempt employees," are or were assigned to and required to suffer and permitted to work without pay, while performing tasks collectively including, but not limited to, selling in-store customers jewelry and other items; greeting shoppers; assisting customers and shoppers with purchases and jewelry repair tickets; contacting customers to inform them that their jewelry is available for pick up or other related topics including sales; wiping down display cases; removing jewelry from the safe to put it on display; setting up new brick-and-mortar stores to ready them to open to the public; disarming and arming the store alarm; locking and unlocking the gate and door to the store to open and close the store to the public.

Although currently on medical leave, Claimant Mr. Arizmendi regularly works six (6) days per week for 8 hours or more hours per day. During the entire course of his employment, Valliani has failed to provide Mr. Arizmendi and those similarly aggrieved with overtime pay and compliant meal periods and rest breaks. Valliani has also failed to pay minimum wages to Mr. Arizmendi and other hourly, nonexempt employees in violation of Labor Code sections 510, 1194, 1197, and 1182.12, and section 4 of IWC Wage Order No. 7-2001. As a consequence, Valliani has failed to comply with Labor Code sections 226.7, 510, and 512, and sections 3, 11, and 12 of all applicable Industrial Welfare Commission ("IWC") Wage Orders, including but not limited to, IWC Wage Order No. 7-2001. In violation of Labor Code sections 510, 1194, 1197, and 1182.12, Valliani has failed to compensate Claimants at a rate of one and one-half (1.5) times their regular rate for all hours worked over eight (8) hours per workday and the first eight (8) hours worked on the seventh day of a workweek and at two (2) times their regular rate for hours worked over twelve (12) hours per workday and eight (8) hours on the seventh day of a workweek.

Valliani has also failed and continues to fail to pay all wages owed every pay period in violation of Labor Code section 204. Likewise, Valliani has failed and continues to fail to provide timely, accurate wage statements to Mr. Arizmendi and other aggrieved persons in violation of Labor Code section 226(a). Valliani has failed and continues to fail to fully reimburse Claimants for all necessary, business-related expenses and losses they incurred, including, but not limited to, all costs incurred for cell phone expenses and mileage, in violation of Labor Code section 2802. Mr. Arizmendi is informed and believes that such violations are ongoing, systematic, and continuous. Mr. Arizmendi intends to bring an action against

Valliani under the Private Attorneys General Act ("PAGA") to recover wages and penalties as provided by California law.[1]

Theories of Labor Code Violations and Remedies:

Claimant Mr. Arizmendi has been employed by Valliani since approximately September 26, 2022 through the present as a Store Manager. For a period of at least four (4) years prior to October 2024, but for our purposes here, one (1) year prior, Valliani has violated and continues to violate the California Labor Code sections as detailed below.

Claimants also were at all times entitled to payment of **minimum wages**. Valliani has failed and continues to fail to pay Claimants minimum wages for all hours worked as required by Labor Code sections 510, 1194, and 1194.2 and section 4 of IWC Wage Order No. 7-2001. First, Defendant Claimants worked a substantial amount of time while off-the-clock—meaning they were not punched in for work—and therefore, those working hours were not recorded and then compensated. This off-the-clock time primarily occurred because Claimants were required to (1) perform work during their meal periods while clocked out for their meal periods; (2) respond to off-shift contacts via phone call and WhatsApp messages regarding work-related questions; (3) on opening shifts, unlock gates and/or doors, disarm the alarm, turn on the computer; and (4) on closing shifts, arm the alarm, unlock and then re-lock doors and, for non-keyholders, wait at the front of the store entrance after clocking out to have the door unlocked to be able to exit the store. These pre- and post-shift wait times and meal period and off-shift interruptions in which Claimants performed work were all for the benefit of Valliani and, therefore, constitute compensable work. Claimants' off-the-clock time was never subsequently added and, therefore, uncompensated. Accordingly, Claimants were not paid for that time spent working off the clock. Second, Defendant enforces practices that effectively require Claimants to perform work during their meal periods, the effects of which Defendant could have mitigated by adding more staff to ensure sufficient floor coverage to allow compliant meal periods and rest breaks. However, Defendant instead chose to instruct Claimants to work through their meal periods, take them late, or take them with interruptions requiring them to return to work prematurely and to rarely if ever take rest breaks. In effect, these policies and practices cause Claimants to remain on-duty during meal periods and rest breaks, and therefore, constitute a failure on Valliani's part to provide compliant meal periods and rest breaks. Third, Defendant enforces practices that effectively require Claimants to perform work on closing shifts that should have been compensated but were not. This noncompliance could have been corrected by adding extra time to all employees' hours worked each shift With that, Valliani's corresponding failure to provide premium pay at the correct regular rate, if any

---

[1] Without limitation, Mr. Arizmendi, if permitted, will seek any and all penalties otherwise capable of being collected by the Commission. This includes each provision as set forth in Labor Code section 2699.5 as follows:

> The provisions of subdivision (a) of Section 2699.3 apply to any alleged violation of the following provisions: subdivision (k) of Section 96, Sections 98.6, 201, 201.3, 201.5, 201.7, 202, 203, 203.1, 203.5, 204, 204a, 204b, 204.1, 204.2, 205, 205.5, 206, 206.5, 208, 209, and 212, subdivision (d) of Section 213, Sections 221, 222, 222.5, 223, and 224, subdivision (a) of Section 226, Sections 226.7, 227, 227.3, 230, 230.1, 230.2, 230.3, 230A, 230.7, 230.8, and 231, subdivision (c) of Section 232, subdivision (c) of Section 232.5, Sections 233, 234, 351, 353, and 403, subdivision (b) of Section 404, Sections 432.2, 432.5, 432.7, 435, 450, 510, 511, 512, 513, 551, 552, 601, 602, 603, 604, 750, 751.8, 800, 850, 851, 851.5, 852, 921, 922, 923, 970, 973, 976, 1021, 1021.5, 1025, 1026, 1101, 1102, 1102.5, and 1153, subdivisions (c) and (d) of Section 1174, Sections 1194, 1197, 1197.1, 1197.5, and 1198, subdivision (b) of Section 1198.3, Sections 1199, 1199.5, 1290, 1292, 1293, 1293.1, 1294, 1294.1, 1294.5, 1296, 1297, 1298, 1301, 1308, 1308.1, 1308.7, 1309, 1309.5, 1391, 1391.1, 1391.2, 1392, 1683, and 1695, subdivision (a) of Section 1695.5, Sections 1695.55, 1695.6, 1695.7, 1695.8, 1695.9, 1696, 1696.5, 1696.6, 1697.1, 1700.25, 1700.26, 1700.31, 1700.32, 1700.40, and 1700.47, paragraphs (1), (2), and (3) of subdivision (a) of, and subdivision (e) of, Section 1701.4, subdivision (a) of Section 1701.5, Sections 1701.8, 1701.10, 1701.12, 1735, 1771, 1774, 1776, 1777.5, 1811, 1815, 2651., and 2673, subdivision (a) of Section 2673.1, Sections 2695.2, 2800, 2801, 2802, 2806, and 2810, subdivision (b) of Section 2929, and Sections 3095, 6310, 6311, and 6399.7.

premiums were paid at all, in lieu of compliant meal periods and rest breaks constitutes Valliani's failure to pay minimum wages and all hours worked every pay period and upon separation in violation of Labor Code sections 204, 226(a), 510, 1182.12, 1194, and 1197. Valliani's failure to pay Claimants their meal period and rest break premiums for noncompliant meal periods and rest breaks, as explained in further detail below, also constitutes a failure to pay minimum wages to Claimants. Therefore, Claimants are entitled to recover wages and/or penalties as provided by Labor Code section 1197.1 and section 20 of IWC Wage Order No. 7-2001.

Claimants were at all times entitled to unpaid off-duty, uninterrupted **meal periods**. As explained in the preceding paragraph, Valliani failed to authorize and permit full-length meal periods for Mr. Arizmendi and all other similarly aggrieved employees as required by Labor Code sections 226.7 and 512 and section 11 of IWC Wage Order No. 7-2001. Mr. Arizmendi and all similarly aggrieved persons were required to clock out late for their meal periods or else perform work during their meal periods by continuing to perform their assigned work that cut into their 30-minute meal periods or else return to work prematurely before 30 minutes had elapsed, largely because of in-store customers who needed immediate assistance. Claimants did not record (did not clock out and back in for) their meal periods until 30 minutes had elapsed. Despite that, Valliani did not compensate Claimants with an extra hour of pay at the regular rate for noncompliant meal periods for each workday on which they occurred. Accordingly, since Valliani required Mr. Arizmendi and others similarly situated to work during their meal periods in violation of Labor Code sections 226.7(a) and 512, Claimants seek all available penalties as set forth in Labor Code sections 558, section 20 of IWC Wage Order No. 7-2001, and 2699(f).

Claimants were at all times entitled to take paid, off duty 10-minute **rest breaks**. However, for the same reasons cited in the preceding paragraph regarding meal periods, Valliani likewise failed to authorize and permit Mr. Arizmendi and all other similarly aggrieved employees to take any full-length, off-duty rest breaks as required by Labor Code sections 226.7 and section 12 of IWC Wage Order No. 7-2001. Claimants were not able to take their requisite number of 10-minutes rest breaks based on their shift duration; Mr. Arizmendi and Claimants regularly worked through their rest breaks. Valliani did not compensate Claimants with an extra hour of pay at the regular rate for noncompliant rest breaks for each workday on which they occurred. Therefore, Claimants are entitled to recover wages and/or penalties as provided by Labor Code section 558 and section 20 of IWC Wage Order No. 7-2001. Furthermore, since Valliani required their hourly nonexempt employees to perform work during rest periods in violation of Labor Code section 226.7(b), Claimants seek all available penalties set forth in Labor Code sections 558 and 2699.

At all times relevant herein, Claimants were entitled to the payment of **overtime**. That is, pursuant to Labor Code sections 510, 1194, 1197, and 1182.12, Valliani was required to compensate Claimants at a rate of one-and-one-half (1.5) times their regular rate for all hours worked over eight (8) hours per workday and the first eight (8) hours worked on the seventh day of a workweek and at two (2) times their regular rate for hours worked over twelve (12) hours per workday and eight (8) hours on the seventh day of a workweek. Mr. Arizmendi and Claimants regularly worked overtime hours, some on the clock and some off the clock because of the on-duty meal periods and off-shift contacts described earlier. Valliani has failed to and continues to fail to pay Claimants overtime wages owed for off-the-clock time worked that should have been compensated as overtime, yet regularly required them to work these overtime hours without premium pay under Labor Code section 1194. In short, during the entire course of their employment, Valliani failed to provide Mr. Arizmendi and continues to fail to provide all others similarly situated with all overtime pay in violation of 226.7, 510, and 512 and all applicable IWC Wage Orders, including but not limited to IWC Wage Order 7-2001, section 3.

Claimants were at all times entitled to be provided timely and accurate **wage statements** from Valliani pursuant to Labor Code section 226. First, Mr. Arizmendi's paystubs do not provide the legal name of the employer; they read "Valliani Jewelers" rather than the legal name Brilliant Art Inc. Second, because Valliani failed to pay Claimants all of their meal period and rest break premiums for noncompliant meal periods and rest breaks and failed to pay Claimants minimum wages for all hours worked before, during, and after their shifts and for all overtime wages due, Claimants' wage statements were inaccurate in reflecting meal period and rest break premiums owed, overtime and minimum wages, and all hours worked every pay period. As a consequence, Claimants' wage statements also do not reflect the accurate amount of net and gross wages owed. Accordingly, Claimants seek all available penalties as set forth in Labor Code sections 226(e) and 2699.

Finally, Claimants were entitled to be reimbursed by Valliani for all necessary, **business-related expenses** they incurred in executing their duties for Valliani. California Labor Code section 2802 provides that "An employer shall indemnify his or his employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or his duties, or of his or his obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful." Valliani, however, has failed to fully reimburse Mr. Arizmendi and Claimants for all necessary, business-related expenses and losses they incurred, including, but not limited to, all costs incurred for (1) the use of their personal cell phones, which was required to communicate with customers and to use a smartphone application, Podium, and (2) mileage for trips to the bank to make deposits for Valliani. Accordingly, Claimants are entitled to recover their unreimbursed expenditures and losses pursuant to Labor Code section 2802.

Valliani's uniform failure to pay minimum and overtime wages, failure to authorize and permit full-length, off-duty meal periods and rest breaks or pay Claimants adequate premium compensation in lieu thereof, failure to keep accurate time records, failure to furnish timely and accurate wage statements, and failure to reimburse all necessary, business-related expenses, violate Labor Code sections 204, 226(a), 226.7, 510, 512, 1182.12, 1194, 1197, and 2802, and as such, penalties are recoverable as set forth in Labor Code sections 210, 1194, *et seq.*, and 2699.

Claimants are entitled to recover unpaid wages, with interest, and are entitled to an award of attorneys' fees as permitted by Labor Code section 1194, other penalties as permitted by Labor Code sections 210 and 2699.

Accordingly, Claimants seek the remedies set forth in the above-referenced Labor Code sections for themselves, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 2699(a), 2699.3(a), 2699.3(c), and 2699.5, Mr. Arizmendi, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for themselves, all other aggrieved employees, and the State of California against Valliani for violations of California Labor Code sections 204, 226(a), 226.7, 510, 512(a), 1174(d), 1182.12, 1194, 1197, 1197.1, and 2802.

Should you require any additional information, please feel free to contact me.

Sincerely,

ABRAMSON LABOR GROUP

Cheryl Kenner

Cheryl A. Kenner