

SUMMONS

(CITACION JUDICIAL)

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

NOTICE TO DEFENDANT: (AVISO AL DEMANDADO):

EQUINOX SAN RAFAEL LLC, a Delaware limited liability company; EQUINOX HOTEL MANAGEMENT, INC., a California corporation (Additional Parties Attachment Attached)

YOU ARE BEING SUED BY PLAINTIFF: (LO ESTÁ DEMANDANDO EL DEMANDANTE):

DEMARQUS WIGGINS, on behalf of the State of California in his representative capacity as a private attorney general,

ELECTRONICALLY FILED

Superior Court of California
County of Marin

03/17/2025

James M. Kim, Clerk of the Court

By: D. Harrison, Deputy

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es): Marin County Superior Court

Marin County Courthouse - 3501 Civic Center Drive, San Rafael, CA 94903

CASE NUMBER:
(Número del Caso):

CV0005669

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Jean-Claude Lapuyade, Esq. T: (619)599-8292 JCL Law Firm, APC - 5440 Morehouse Drive, Suite 3600, San Diego, CA 92121

DATE:
(Fecha) 03/17/2025

James M. Kim
(Secretario)

Clerk, by

D. Harrison

, Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



NOTICE TO THE PERSON SERVED: You are served

- ☐ as an individual defendant.
- ☐ as the person sued under the fictitious name of (specify):
- ☐ on behalf of (specify):
under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other (specify):
- ☐ by personal delivery on (date):

SHORT TITLE:

Demargus Wiggins v. Equinox San Rafael LLC, et al.

CASE NUMBER:

INSTRUCTIONS FOR USE

- This form may be used as an attachment to any summons if space does not permit the listing of all parties on the summons.
- If this attachment is used, insert the following statement in the plaintiff or defendant box on the summons: "Additional Parties Attachment form is attached."

L **a** **d** **d** **a** **r** **e** **(C** **U** **r** **r** **)**:

☐ Plaintiff ☒ Defendant ☐ Cross-Complainant ☐ Cross-Defendant

EQUINOX UGI SR INVESTMENTS LLC, a Delaware limited liability company; SAN RAFAEL HILLCREST LLC, a California limited liability company; and DOES 1-50, Inclusive,

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Attorneys for PLAINTIFF

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF MARIN COUNTY

DEMARQUS WIGGINS, on behalf of the State
of California in his representative capacity as a
private attorney general,

Plaintiff,

v.

EQUINOX SAN RAFAEL LLC, a Delaware
limited liability company; EQUINOX HOTEL
MANAGEMENT, INC., a California
corporation; EQUINOX UGI SR
INVESTMENTS LLC, a Delaware limited
liability company; SAN RAFAEL
HILLCREST LLC, a California limited
liability company; and DOES 1-50, Inclusive,

Defendants.

ELECTRONICALLY FILED

Superior Court of California
County of Marin

03/17/2025

James M. Kim, Clerk of the Court

By: D. Harrison, Deputy

Case No: CV0005669

REPRESENTATIVE ACTION
COMPLAINT FOR:

- 1) VIOLATIONS OF THE PRIVATE
ATTORNEYS GENERAL ACT [LABOR
CODE §§ 2698 ET SEQ.

1 PLAINTIFF DEMARQUS WIGGINS ("PLAINTIFF") on behalf of the people of the State
2 of California, and as an "aggrieved employee" acting as a private attorney general under the Labor
3 Code Private Attorney General Act of 2004, § 2699, *et seq.* ("PAGA") only, alleges on information
4 and belief, except for his own acts and knowledge which are based on personal knowledge, the
5 following:

6 **INTRODUCTION**

7 1. PLAINTIFF brings this action against EQUINOX SAN RAFAEL LLC, a
8 Delaware limited liability company, DEFENDANT EQUINOX HOTEL MANAGEMENT,
9 INC., a California corporation, EQUINOX UGI SR INVESTMENTS LLC, a Delaware limited
10 liability company, and SAN RAFAEL HILLCREST LLC, a California limited liability company;
11 (collectively, "DEFENDANTS") seeking only to recover PAGA civil penalties on behalf of all
12 current and former aggrieved employees that worked for DEFENDANTS. PLAINTIFF does **not**
13 **seek to recover anything other than penalties as permitted by California Labor Code § 2699.**
14 To the extent that statutory violations are mentioned for wage violations, PLAINTIFF does not
15 seek underlying general and/or special damages for those violations, but simply the civil penalties
16 permitted by California Labor Code § 2699.

17 2. California has enacted the PAGA which permits PLAINTIFF to bring an action on
18 behalf of others for PAGA penalties *only*, which is the precise and sole nature of this action.

19 3. Accordingly, PLAINTIFF seeks to obtain all applicable relief for DEFENDANTS'
20 violations under PAGA and solely for the relief as permitted by PAGA that is, penalties and any
21 other relief the Court deems proper pursuant to PAGA. Nothing in this complaint should be
22 constructed as attempting to obtain any relief that would not be available in a PAGA- only action.

23 4. PLAINTIFF is not suing in his individual capacity; he is proceeding herein solely
24 under the PAGA, on behalf of the State of California for all aggrieved employees, including
25 himself and other aggrieved employees. Nothing in this complaint should be construed as
26 PLAINTIFF suing his individual capacity.

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5. PLAINTIFF is informed and believes, and thereon alleges, that DEFENDANTS decreased their employment-related costs by systematically violating California wage and hour laws.

6. DEFENDANTS' systematic pattern of wage and hour and IWC Wage Order violations toward PLAINTIFF and other aggrieved employees in California include, *inter alia*:

- a. Failure to provide compliant meal and rest periods;
- b. Failure to allow employees to take duty-free meal and rest periods;
- c. Failure to pay all minimum, sick pay, regular and overtime wages;
- d. Failure to correctly calculate the regular rate of pay;
- e. Failure to pay within seven (7) days of the close of payroll;
- f. Failure to pay for all hours worked;
- g. Failure to maintain true and accurate records;
- h. Failure to reimburse for required business expenses;
- i. Failure to provide accurate itemized wage statements; and
- j. Failure to timely pay wages due during, and upon termination of employment.

7. PLAINTIFF reserves the right to name additional representatives throughout the State of California.

THE PARTIES

8. Defendant EQUINOX SAN RAFAEL LLC (“DEFENDANT San Rafael”) is a Delaware limited liability company that at all relevant times mentioned herein conducted and continues to conduct substantial and regular business throughout California.

9. DEFENDANT EQUINOX HOTEL MANAGEMENT, INC. (“DEFENDANT Equinox”) is a California corporation that at all relevant times mentioned herein conducted and continues to conduct substantial and regular business throughout California.

10. Defendant EQUINOX UGI SR INVESTMENTS LLC (“DEFENDANT UGI”) is a Delaware limited liability company that at all relevant times mentioned herein conducted and continues to conduct substantial and regular business throughout California.

1 11. Defendant SAN RAFAEL HILLCREST LLC (“DEFENDANT Hillcrest”) is a
2 California limited liability company that at all relevant times mentioned herein conducted and
3 continues to conduct substantial and regular business throughout California.

4 12. DEFENDANTS were the employers of PLAINTIFF as evidenced by the
5 documents issued to PLAINTIFF and by the company PLAINTIFF performed work for.

6 13. DEFENDANTS develops and operates hotels throughout the state of California,
7 including Marin County, where PLAINTIFF worked.

8 14. PLAINTIFF was employed by DEFENDANTS in California from March 2023 to
9 September 2023, paid in part an hourly wage, and entitled to the legally required meal and rest
10 periods and payment of minimum and overtime wages due for all time worked.

11 15. PLAINTIFF, and such persons that may be added from time to time who satisfy
12 the requirements and exhaust the administrative procedures under the Private Attorney General
13 Act, bring this Representative Action on behalf of the State of California with respect to himself
14 and all individuals who are or previously were employed by Defendant San Rafael and/or
15 Defendant Equinox and/or Defendant UGI and/or Defendant Hillcrest in California and classified
16 as non-exempt employees (“AGGRIEVED EMPLOYEES”) during the time period of August 27,
17 2023, and the present (“PAGA PERIOD”).

18 16. PLAINTIFF is an “AGGRIEVED EMPLOYEE” within the meaning of Labor
19 Code § 2699(c) because PLAINTIFF was employed by DEFENDANTS and personally suffered
20 each of the alleged Labor Code violations committed by DEFENDANTS.

21 17. PLAINTIFF and all other AGGRIEVED EMPLOYEES are, and at all relevant
22 times were, employees of DEFENDANTS, within the meanings set forth in the California Labor
23 Code and the applicable Industrial Welfare Commission Wage Order.

24 18. Each of the fictitiously named defendants participated in the acts alleged in this
25 Complaint. The true names and capacities of the Defendants named as DOES 1 THROUGH 50,
26 inclusive, are presently unknown to PLAINTIFF. PLAINTIFF will amend this Complaint, setting
27 forth the true names and capacities of these fictitiously named Defendants when their true names
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1 are ascertained. PLAINTIFF is informed and believes, and on that basis alleges, that each of the
2 fictitious Defendants have participated in the acts alleged in this Complaint.

3 19. DEFENDANTS, including DOES 1 THROUGH 50 (hereinafter collectively
4 “DEFENDANTS”), were PLAINTIFF’S employers or persons acting on behalf of PLAINTIFF’S
5 employer, within the meaning of California Labor Code § 558, who violated or caused to be
6 violated, a section of Part 2, Chapter 1 of the California Labor Code or any provision regulating
7 hours and days of work in any order of the Industrial Welfare Commission and, as such, are
8 subject to civil penalties for each underpaid employee, as set forth in Labor Code § 558, at all
9 relevant times.

10 20. DEFENDANTS were PLAINTIFF’S employer or persons acting on behalf of
11 PLAINTIFF’S employer either individually or as an officer, agent, or employee of another person,
12 within the meaning of California Labor Code § 1197.1, who paid or caused to be paid to any
13 employee a wage less than the minimum fixed by California state law, and as such, are subject to
14 civil penalties for each underpaid employee.

15 **JURISDICTION AND VENUE**

16 21. This Court has jurisdiction over this Action pursuant to California Code of Civil
17 Procedure, Section 410.10 and California Business & Professions Code, Section 17203. This
18 Court has jurisdiction over AGGRIEVED EMPLOYEES’ claims for civil penalties under the
19 Private Attorney General Act of 2004, California Labor Code §2698, *et seq.*

20 22. Venue is proper in this Court pursuant to California Code of Civil Procedure,
21 Sections 395 and 395.5, because DEFENDANTS (i) currently maintain and at all relevant times
22 maintained offices and facilities in this County and/or conduct substantial business in this County,
23 and (ii) committed the wrongful conduct herein alleged in this County against AGGRIEVED
24 EMPLOYEES.

25 **THE CONDUCT**

26 23. In violation of the applicable sections of the California Labor Code and the
27 requirements of the Industrial Welfare Commission (“IWC”) Wage Order, DEFENDANTS as a
28 matter of company policy, practice, and procedure, intentionally, knowingly, and systematically

1 failed to provide legally compliant meal and rest periods, failed to accurately compensate
2 PLAINTIFF and AGGRIEVED EMPLOYEES for missed meal and rest periods, failed to pay
3 PLAINTIFF and AGGRIEVED EMPLOYEES for all time worked, failed compensate
4 PLAINTIFF and AGGRIEVED EMPLOYEES for off-the-clock work, failed to pay PLAINTIFF
5 and AGGRIEVED EMPLOYEES overtime at the correct regular rate of pay, failed to compensate
6 PLAINTIFF and AGGRIEVED EMPLOYEES meal rest premiums at the regular rate, failed to
7 reimburse PLAINTIFF and other AGGRIEVED EMPLOYEES for business expenses, and
8 knowingly and intentionally failed to issue to PLAINTIFF and AGGRIEVED EMPLOYEES with
9 accurate itemized wage statements showing, among other things, all applicable hourly rates in
10 effect during the pay periods and the corresponding amount of time worked at each hourly rate.
11 DEFENDANTS' uniform policies and practices are intended to purposefully avoid the accurate
12 and full payment for all time worked as required by California law which allows DEFENDANTS
13 to illegally profit and gain an unfair advantage over competitors who comply with the law. To
14 the extent equitable tolling operates to toll claims by the AGGRIEVED EMPLOYEES against
15 DEFENDANTS, the PAGA PERIOD should be adjusted accordingly.

16 **A. Meal Period Violations**

17 24. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANTS
18 were required to pay PLAINTIFF and AGGRIEVED EMPLOYEES for all their time worked,
19 meaning the time during which an employee is subject to the control of an employer, including
20 all the time the employee is suffered or permitted to work. From time to time during the PAGA
21 PERIOD, DEFENDANTS required PLAINTIFF and AGGRIEVED EMPLOYEES to work
22 without paying them for all the time they were under DEFENDANTS' control. Specifically,
23 DEFENDANTS required PLAINTIFF to work while clocked out during what was supposed to
24 be PLAINTIFF'S off-duty meal break. Indeed, there were many days when PLAINTIFF did not
25 even receive a partial lunch. As a result, the PLAINTIFF and other AGGRIEVED EMPLOYEES
26 forfeited minimum wage and overtime compensation by regularly working without their time
27 being accurately recorded and without compensation at the applicable minimum wage and
28 overtime rates. DEFENDANTS' uniform policy and practice not to pay PLAINTIFF and other

1 AGGRIEVED EMPLOYEES for all time worked is evidenced by DEFENDANTS' business
2 records.

3 25. From time to time during the PAGA PERIOD, as a result of their rigorous work
4 schedules and DEFENDANTS' inadequate staffing practices, PLAINTIFF and other
5 AGGRIEVED EMPLOYEES are from time to time unable to take thirty (30) minute off duty
6 meal breaks and were not fully relieved of duty for their meal periods. PLAINTIFF and other
7 AGGRIEVED EMPLOYEES are required to perform work as ordered by DEFENDANTS for
8 more than five (5) hours during some shifts without receiving a meal break. Further,
9 DEFENDANTS fails to provide PLAINTIFF and AGGRIEVED EMPLOYEES with a second
10 off-duty meal period for some workdays in which DEFENDANTS require these employees to
11 work ten (10) hours of work. The nature of the work performed by PLAINTIFF and other
12 AGGRIEVED EMPLOYEES does not qualify for the limited and narrowly construed "on-duty"
13 meal period exception. When they were provided with meal periods, PLAINTIFF and other
14 AGGRIEVED EMPLOYEES were, from time to time, required to remain on duty and on call.
15 DEFENDANTS' failure to provide PLAINTIFF and the AGGRIEVED EMPLOYEES Members
16 with legally required meal breaks is evidenced by DEFENDANTS' business records. PLAINTIFF
17 and AGGRIEVED EMPLOYEES therefore forfeit meal breaks without additional compensation
18 and in accordance with DEFENDANTS' strict corporate policy and practice.

19 **B. Rest Period Violations**

20 26. From time to time during the PAGA PERIOD, PLAINTIFF and other
21 AGGRIEVED EMPLOYEES were also required to work in excess of four (4) hours without being
22 provided ten (10) minute rest periods as a result of their rigorous work requirements and
23 DEFENDANTS' inadequate staffing. Further, for the same reasons, these employees were denied
24 their first rest periods of at least ten (10) minutes for some shifts worked of at least two (2) to four
25 (4) hours from time to time, a first and second rest period of at least ten (10) minutes for some
26 shifts worked of between six (6) and eight (8) hours from time to time, and a first, second and
27 third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or more from
28 time to time. When they were provided with rest breaks, PLAINTIFF and other AGGRIEVED

1 EMPLOYEES were, from time to time, required to remain on premises, on duty and/or on call
2 and/or on the premises. PLAINTIFF and other AGGRIEVED EMPLOYEES were also not
3 provided with one-hour wages *in lieu* thereof. As a result of their rigorous work schedules and
4 DEFENDANTS' inadequate staffing, PLAINTIFF and other AGGRIEVED EMPLOYEES were
5 from time to time denied their proper rest periods by DEFENDANTS and DEFENDANTS'
6 managers.

7 **C. Unreimbursed Business Expenses**

8 27. DEFENDANTS as a matter of corporate policy, practice, and procedure,
9 intentionally, knowingly, and systematically failed to reimburse and indemnify the PLAINTIFF
10 and the other AGGRIEVED EMPLOYEES for required business expenses incurred by the
11 PLAINTIFF and other AGGRIEVED EMPLOYEES in direct consequence of discharging their
12 duties on behalf of DEFENDANTS. Under California Labor Code Section 2802, employers are
13 required to indemnify employees for all expenses incurred in the course and scope of their
14 employment. Cal. Lab. Code § 2802 expressly states that "an employer shall indemnify his or her
15 employee for all necessary expenditures or losses incurred by the employee in direct consequence
16 of the discharge of his or her duties, or of his or her obedience to the directions of the employer,
17 even though unlawful, unless the employee, at the time of obeying the directions, believed them
18 to be unlawful."

19 28. In the course of their employment, DEFENDANTS required PLAINTIFF and
20 other AGGRIEVED EMPLOYEES to incur personal expenses for the use of their personal cell
21 phones and personal vehicles as a result of and in furtherance of their job duties. Specifically,
22 PLAINTIFF and other AGGRIEVED EMPLOYEES were required to use their own cell phones
23 and vehicles in order to perform work related tasks. However, DEFENDANTS unlawfully failed
24 to reimburse PLAINTIFF and other AGGRIEVED EMPLOYEES for the personal expenses
25 incurred for the use of their personal cell phones and vehicles. As a result, in the course of their
26 employment with DEFENDANTS, the PLAINTIFF and other AGGRIEVED EMPLOYEES
27 incurred unreimbursed business expenses that included, but were not limited to, costs related to
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1 the use of their personal cell phones and vehicles, all on behalf of and for the benefit of
2 DEFENDANTS.

3 **D. Wage Statement Violations**

4 29. California Labor Code Section 226 required an employer to furnish its employees
5 and accurate itemized wage statement in writing showing (1) gross wages earned, (2) total hours
6 worked, (3) the number of piece-rate units earned and any applicable piece-rate, (4) all deductions,
7 (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the
8 name of the employee and only the last four digits of the employee's social security number or an
9 employee identification number other than a social security number, (8) the name and address of
10 the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay
11 period and the corresponding number of hours worked at each hourly rate by the employee.

12 30. From time to time during the PAGA PERIOD, when PLAINTIFF and other
13 AGGRIEVED EMPLOYEES missed meal and rest breaks, or were paid inaccurately for missed
14 meal and rest period premiums, or were not paid for all hours worked, DEFENDANTS also failed
15 to provide PLAINTIFF and other AGGRIEVED EMPLOYEES with complete and accurate wage
16 statements which failed to show, among other things, all deductions, the total hours worked and
17 all applicable hourly rates in effect during the pay period, and the corresponding amount of time
18 worked at each hourly rate, correct rates of pay for penalty payments or missed meal and rest
19 periods.

20 31. In addition to the foregoing, DEFENDANTS, from time to time, failed to provide
21 PLAINTIFF and the AGGRIEVED EMPLOYEES Members with wage statements that comply
22 with Cal. Lab. Code § 226.

23 32. As a result, DEFENDANTS issued PLAINTIFF and AGGRIEVED
24 EMPLOYEES with wage statements that violate Cal. Lab. Code § 226. Further, DEFENDANTS'
25 violations are knowing and intentional, were not isolated due to an unintentional payroll error due
26 to clerical or inadvertent mistake.

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1 **E. Off-the-Clock Work Resulting in Minimum Wage and Overtime Violations**

2 33. During the PAGA PERIOD, from time-to-time DEFENDANTS failed and
3 continues to fail to accurately pay PLAINTIFF and AGGRIEVED EMPLOYEES for all hours
4 worked.

5 34. During the PAGA PERIOD, from time-to-time DEFENDANTS required
6 PLAINTIFF and AGGRIEVED EMPLOYEES to perform pre-shift or post-shift work. This
7 resulted in PLAINTIFF and AGGRIEVED EMPLOYEES to have to work while off-the-clock.

8 35. DEFENDANTS directed and directly benefited from the undercompensated off-
9 the-clock work performed by PLAINTIFF and the other AGGRIEVED EMPLOYEES.

10 36. DEFENDANTS controlled the work schedules, duties, and protocols, applications,
11 assignments, and employment conditions of PLAINTIFF and AGGRIEVED EMPLOYEES.

12 37. DEFENDANTS was able to track the amount of time PLAINTIFF and
13 AGGRIEVED EMPLOYEES spent working; however, DEFENDANTS failed to document,
14 track, or pay PLAINTIFF and AGGRIEVED EMPLOYEES all wages earned and owed for all
15 the work they performed.

16 38. PLAINTIFF and AGGRIEVED EMPLOYEES were non-exempt employees,
17 subject to the requirements of the California Labor Code.

18 39. DEFENDANTS' policies and practices deprived PLAINTIFF and the other
19 AGGRIEVED EMPLOYEES of all minimum regular, overtime, and double time wages owed for
20 the off-the-clock work activities. Because PLAINTIFF and AGGRIEVED EMPLOYEES
21 typically worked over forty (40) hours in a workweek, and more than eight (8) hours per day,
22 DEFENDANTS' policies and practices also deprived them of overtime pay.

23 40. DEFENDANTS knew or should have known that PLAINTIFF and AGGRIEVED
24 EMPLOYEES' off-the-clock work was compensable under the law.

25 41. As a result, PLAINTIFF and AGGRIEVED EMPLOYEES forfeited wages due to
26 them for all hours worked at DEFENDANTS' direction, control, and benefit for the time spent
27 working while off-the-clock. DEFENDANTS' uniform policy and practice to not pay
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1 PLAINTIFF and AGGRIEVED EMPLOYEES wages for all hours worked in accordance with
2 applicable law is evidenced by DEFENDANTS' business records.

3 **F. Regular Rate Violation – Overtime, Double Time, Meal and Rest Period Premiums,**
4 **and Redeemed Sick Pay**

5 42. From time to time during the PAGA PERIOD, DEFENDANTS failed and
6 continues to fail to accurately calculate and pay PLAINTIFF and the other AGGRIEVED
7 EMPLOYEES for their overtime and double time hours worked, meal and rest period premiums,
8 and redeemed sick pay. As a result, PLAINTIFF and the other AGGRIEVED EMPLOYEES
9 forfeited wages due to them for working overtime without compensation at the correct overtime
10 and double time rates, meal and rest period premiums, and redeemed sick pay rates.
11 DEFENDANTS' uniform policy and practice not to pay PLAINTIFF and the AGGRIEVED
12 EMPLOYEES Members at the correct rate for all overtime and double time worked, meal and
13 rest period premiums, and redeemed sick pay in accordance with applicable law is evidenced by
14 DEFENDANTS' business records.

15 43. State law provides that employees must be paid overtime at one-and-one-half times
16 their "regular rate of pay." PLAINTIFF and other AGGRIEVED EMPLOYEES were
17 compensated at an hourly rate plus incentive pay that was tied to specific elements of an
18 employee's performance.

19 44. The second component of PLAINTIFF'S and other AGGRIEVED EMPLOYEES'
20 compensation was DEFENDANTS' non-discretionary incentive program that paid PLAINTIFF
21 and other AGGRIEVED EMPLOYEES' incentive wages based on their performance for
22 DEFENDANTS. The non-discretionary bonus program provided all employees paid on an hourly
23 basis with bonus compensation when the employees met the various performance goals set by
24 DEFENDANTS.

25 45. From-time-to-time, when calculating the regular rate of pay, in those pay periods
26 where PLAINTIFF and other AGGRIEVED EMPLOYEES worked overtime, double time, paid
27 meal and rest period premium payments, and/or redeemed sick pay, and earned non-discretionary
28 bonus, DEFENDANTS failed to accurately include the non-discretionary bonus compensation as

1 part of the employees' "regular rate of pay" and/or calculated all hours worked rather than just all
2 non-overtime hours worked. Management and supervisors described the incentive/bonus program
3 to potential and new employees as part of the compensation package. As a matter of law, the
4 incentive compensation received by PLAINTIFF and other AGGRIEVED EMPLOYEES must be
5 included in the "regular rate of pay." The failure to do so has resulted in a systematic underpayment
6 of overtime and double time compensation, meal and rest period premiums, and redeemed sick pay
7 to PLAINTIFF and other AGGRIEVED EMPLOYEES by DEFENDANTS. Specifically,
8 California Labor Code Section 246 mandates that paid sick time for non-employees shall be
9 calculated in the same manner as the regular rate of pay for the workweek in which the non-exempt
10 employee uses paid sick time, whether or not the employee actually works overtime in that
11 workweek. DEFENDANTS' conduct, as articulated herein, by failing to include the incentive
12 compensation as part of the "regular rate of pay" for purposes of sick pay compensation was in
13 violation of Cal. Lab. Code § 246 the underpayment of which is recoverable under Cal. Labor Code
14 Sections 201, 202, 203 and/or 204.

15 46. In violation of the applicable sections of the California Labor Code and the
16 requirements of the Industrial Welfare Commission ("IWC") Wage Order, DEFENDANTS as a
17 matter of company policy, practice, and procedure, intentionally and knowingly failed to
18 compensate PLAINTIFF and AGGRIEVED EMPLOYEES at the correct rate of pay for all
19 overtime and double time worked, meal and rest period premiums, and sick pay. This uniform
20 policy and practice of DEFENDANTS is intended to purposefully avoid the payment of the
21 correct overtime and double time compensation, meal and rest period premiums, and sick pay as
22 required by California law which allowed DEFENDANTS to illegally profit and gain an unfair
23 advantage over competitors who complied with the law. To the extent equitable tolling operates
24 to toll claims by the AGGRIEVED EMPLOYEES members against DEFENDANTS, the PAGA
25 PERIOD should be adjusted accordingly.

26 **G. Sick Pay Violations**

27 47. Cal. Labor Code Section 246 (a)(1) mandates that "An employee who, on or after
28 July 1, 2015, works in California for the same employer for 30 or more days within a year from

1 the commencement of employment is entitled to paid sick days as specified in this section.”
2 Further, Cal. Labor Code Sections 246(b)-(d) provide for the sick day accrual requirements. From
3 time to time, DEFENDANTS failed to have a policy or practice in place that provided
4 PLAINTIFF and AGGRIEVED EMPLOYEES with sick days and/or paid sick leave.

5 48. California Labor Code Section 246(i) requires an employer to furnish its
6 employees with written wage statements setting forth the amount of paid sick leave available.
7 From time to time, DEFENDANTS violated Cal. Lab. Code § 246 by failing to furnish
8 PLAINTIFF and AGGRIEVED EMPLOYEES with wage statements setting forth the amount of
9 paid sick leave available.

10 **H. Violations for Untimely Payment of Wages**

11 49. Pursuant to California Labor Code section 204, PLAINTIFF and the
12 AGGRIEVED EMPLOYEES members were entitled to timely payment of wages during their
13 employment. PLAINTIFF and the AGGRIEVED EMPLOYEES members, from time to time, did
14 not receive payment of all wages, including, but not limited to, overtime wages, minimum wages,
15 meal period premium wages, and rest period premium wages within permissible time period.

16 50. Pursuant to Cal. Lab. Code § 201, “If an employer discharges an employee, the
17 wages earned and unpaid at the time of discharge are due and payable immediately.” Pursuant to
18 Cal. Lab. Code § 202, if an employee quits his or her employment, “his or her wages shall become
19 due and payable not later than 72 hours thereafter, unless the employee has given 72 hours
20 previous notice of his or her intention to quit, in which case the employee is entitled to his or her
21 wages at the time of quitting.” PLAINTIFF and the AGGRIEVED EMPLOYEES were, from time
22 to time, not timely provided the wages earned and unpaid at the time of their discharge and/or at
23 the time of quitting, in violation of Cal. Lab. Code §§ 201 and 202. Further, DEFENDANTS’
24 violations are willful and intentional, were not isolated due to an unintentional payroll error due
25 to clerical or inadvertent mistake.

26 51. As such, PLAINTIFF demands up to thirty days of pay as penalty for not timely
27 paying all wages due at time of termination for all AGGRIEVED EMPLOYEES whose
28 employment ended during the PAGA PERIOD.

1 **I. Unlawful Deductions**

2 52. DEFENDANTS, from time-to-time unlawfully deducted wages from PLAINTIFF
3 and AGGRIEVED EMPLOYEES' pay without explanations and without authorization to do so
4 or notice to PLAINTIFF and the AGGRIEVED EMPLOYEES Members. As a result,
5 DEFENDANTS violated Labor Code § 221.

6 **J. Unlawful Rounding Practices**

7 53. During the PAGA Period, DEFENDANTS did not have in place an immutable
8 timekeeping system to accurately record and pay PLAINTIFF and other AGGRIEVED
9 EMPLOYEES for the actual time these employees worked each day, including overtime hours.
10 Specifically, DEFENDANTS had in place an unlawful rounding policy and practice that resulted
11 in PLAINTIFF and AGGRIEVED EMPLOYEES being undercompensated for all of their time
12 worked. As a result, DEFENDANTS were able to and did in fact unlawfully, and unilaterally
13 round the time recorded in DEFENDANTS' timekeeping system for PLAINTIFF and
14 AGGRIEVED EMPLOYEES in order to avoid paying these employees for all their time worked,
15 including the applicable overtime compensation for overtime worked. As a result, PLAINTIFF
16 and other AGGRIEVED EMPLOYEES, from time to time, forfeited compensation for their time
17 worked by working without their time being accurately recorded and without compensation at the
18 applicable overtime rates.

19 54. Further, the mutability of DEFENDANTS' timekeeping system and unlawful
20 rounding policy and practice resulted in PLAINTIFF and AGGRIEVED EMPLOYEES' time
21 being inaccurately recorded. As a result, from time to time, DEFENDANTS' unlawful rounding
22 policy and practice caused PLAINTIFF and AGGRIEVED EMPLOYEES to perform work as
23 ordered by DEFENDANTS for more than five (5) hours during a shift without receiving an off-
24 duty meal break.

25 **K. Timekeeping Manipulation**

26 55. During the PAGA PERIOD, DEFENDANTS, from time-to-time, did not have an
27 immutable timekeeping system to accurately record and pay PLAINTIFF and AGGRIEVED
28 EMPLOYEES for the actual time PLAINTIFF and AGGRIEVED EMPLOYEES worked each

1 day, including regular time, overtime hours, sick pay, meal and rest breaks. As a result,
2 DEFENDANTS was able to and did in fact, unlawfully, and unilaterally alter the time recorded
3 in DEFENDANTS' timekeeping system for PLAINTIFF and AGGRIEVED EMPLOYEES in
4 order to avoid paying these employees for all hours worked, applicable overtime compensation,
5 applicable sick pay, missed meal breaks and missed rest break.

6 56. As a result, PLAINTIFF and AGGRIEVED EMPLOYEES, from time-to-time,
7 forfeited time worked by working without their time being accurately recorded and without
8 compensation at the applicable pay rates.

9 57. The mutability of the timekeeping system also allowed DEFENDANTS to alter
10 employee time records by recording fictitious thirty (30) minute meal breaks in DEFENDANTS'
11 timekeeping system so as to create the appearance that PLAINTIFF and AGGRIEVED
12 EMPLOYEES clocked out for thirty (30) minute meal break when in fact the employees were not
13 at all times provided an off-duty meal break. This practice is a direct result of DEFENDANTS'
14 uniform policy and practice of denying employees uninterrupted thirty (30) minute off-duty meal
15 breaks each day or otherwise compensate them for missed meal breaks.

16 58. As a result, PLAINTIFF and AGGRIEVED EMPLOYEES forfeited wages due
17 them for all hours worked at DEFENDANTS' direction, control and benefit for the time the
18 timekeeping system was inoperable. DEFENDANTS' uniform policy and practice to not pay
19 PLAINTIFF and AGGRIEVED EMPLOYEES wages for all hours worked in accordance with
20 applicable law is evidenced by DEFENDANTS' business records.

21 59. Specifically, as to PLAINTIFF, PLAINTIFF was from time to time unable to take
22 off duty meal and rest breaks and was not fully relieved of duty for PLAINTIFF'S rest and meal
23 periods. PLAINTIFF was required to perform work as ordered by DEFENDANTS for more than
24 five (5) hours during a shift without receiving an off-duty meal break. Further, DEFENDANTS
25 failed to provide PLAINTIFF with a second off-duty meal period each workday in which
26 DEFENDANTS required PLAINTIFF to work ten (10) hours of work. When DEFENDANTS
27 provided PLAINTIFF with a rest break, they required PLAINTIFF to remain on-duty and on-call
28 for the rest break. DEFENDANTS policy caused PLAINTIFF to remain on-call and on-duty

1 during what was supposed to be PLAINTIFF'S off-duty meal periods. PLAINTIFF therefore
2 forfeited meal and rest breaks without additional compensation and in accordance with
3 DEFENDANTS' strict corporate policy and practice. Moreover, DEFENDANTS also provided
4 PLAINTIFF with paystubs that failed to comply with Cal. Lab. Code § 226. Further,
5 DEFENDANTS also failed to reimburse PLAINTIFF for required business expenses related to
6 the personal expenses incurred for the use of PLAINTIFF'S personal cell phone and personal
7 vehicle, on behalf of and in furtherance of PLAINTIFF'S employment with DEFENDANTS. To
8 date, DEFENDANTS has not fully paid PLAINTIFF the minimum, overtime and double time
9 compensation still owed to PLAINTIFF or any penalty wages owed to PLAINTIFF under Cal.
10 Lab. Code § 203. The amount in controversy for PLAINTIFF individually does not exceed the
11 sum or value of \$75,000.

12 **FIRST CAUSE OF ACTION**

13 **VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT**

14 **(Cal. Lab. Code §§2698 et seq.)**

15 **(Alleged by PLAINTIFF against all Defendants)**

16 60. PLAINTIFF realleges and incorporates by this reference, as though fully set forth
17 herein, the prior paragraphs of this Complaint.

18 61. PAGA is a mechanism by which the State of California itself can enforce state
19 labor laws through the employee suing under the PAGA who do so as the proxy or agent of the
20 state's labor law enforcement agencies. An action to recover civil penalties under PAGA is
21 fundamentally a law enforcement action designed to protect the public and not to benefit private
22 parties. The purpose of the PAGA is not to recover damages or restitution, but to create a means
23 of "deputizing" citizens as private attorneys general to enforce the Labor Code. In enacting
24 PAGA, the California Legislature specified that "it was ... in the public interest to allow
25 aggrieved employees, acting as private attorneys general to recover civil penalties for Labor
26 Code violations ..." Stats. 2003, ch. 906, § 1. Accordingly, PAGA claims cannot be subject to
27 arbitration.

28 ///

1 62. At all relevant times, for the reasons described herein, and others, PLAINTIFF and
2 the AGGRIEVED EMPLOYEES were aggrieved employees of DEFENDANTS within the
3 meaning of Labor Code Section 2699(c).

4 63. Labor Code Sections 2699(a) and (k) authorize an AGGRIEVED EMPLOYEE,
5 like PLAINTIFF, on behalf of herself and other current or former employees, to bring a civil
6 action to recover civil penalties pursuant to the procedures specified in Labor Code Section
7 2699.3

8 64. PLAINTIFF complied with the procedures for bringing suit specified in Labor
9 Code Section 2699.3. By certified letter, return receipt requested, dated August 27, 2024,
10 PLAINTIFF gave written notice to the Labor and Workforce Development Agency (“LWDA”)
11 and to DEFENDANTS of the specific provisions of the Labor Code alleged to have been
12 violated, including the facts and theories to support the alleged violations. See **Exhibit #1.**

13 65. PLAINTIFF complied with the procedures for bringing suit specified in Labor
14 Code Section 2699.3. By certified letter, return receipt requested, dated September 5, 2024,
15 PLAINTIFF gave written notice to the Labor and Workforce Development Agency (“LWDA”)
16 and to DEFENDANTS of the specific provisions of the Labor Code alleged to have been
17 violated, including the facts and theories to support the alleged violations. See **Exhibit #2.**

18 66. PLAINTIFF complied with the procedures for bringing suit specified in Labor
19 Code Section 2699.3. By certified letter, return receipt requested, dated November 14, 2024,
20 PLAINTIFF gave written notice to the Labor and Workforce Development Agency (“LWDA”)
21 and to DEFENDANTS of the specific provisions of the Labor Code alleged to have been
22 violated, including the facts and theories to support the alleged violations. See **Exhibit #3.**

23 67. PLAINTIFF complied with the procedures for bringing suit specified in Labor
24 Code Section 2699.3. By certified letter, return receipt requested, dated January 7, 2025,
25 PLAINTIFF gave written notice to the Labor and Workforce Development Agency (“LWDA”)
26 and to DEFENDANTS of the specific provisions of the Labor Code alleged to have been
27 violated, including the facts and theories to support the alleged violations. See **Exhibit #4.**

28 ///

1 68. As of the date of this complaint, more than sixty-five (65) days after serving the
2 LWDA with notice of DEFENDANTS' violations, the LWDA has not provided any notice by
3 certified mail of its intent to investigate the DEFENDANTS' alleged violations as mandated by
4 Labor Code Section 2699.3(a)(2)(A). Accordingly, pursuant to Labor Code Section
5 2699.3(a)(2)A, PLAINTIFF may commence and is authorized to pursue this cause of action.

6 69. Pursuant to Labor Code Sections 2699(a) and (f), PLAINTIFF and the
7 AGGRIEVED EMPLOYEES are entitled to civil penalties for DEFENDANTS' violations of
8 Labor Code Section 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 221, 226, 226.2, 226.3, 226.7,
9 246, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.1, 1197.14, 1198, 1198.5, 1199, 2802 and
10 2804 in the following amounts:

11 a. For violation of Labor Code Sections 201, 202, 203, and 204, up to (\$200)
12 per AGGRIEVED EMPLOYEE per pay period [penalty per Labor Code
13 Section 2699(f)];

14 b. For violations of Labor Code Section 226(a), a civil penalty in the amount
15 of two hundred fifty dollars (\$250) for each AGGRIEVED EMPLOYEE for
16 any initial violation and one thousand dollars for each subsequent violation
17 [penalty per Labor Code Section 226.3];

18 c. For violations of Labor Code Sections 204, a civil penalty in the amount of
19 one hundred dollars (\$100) for each AGGRIEVED EMPLOYEE for any initial
20 violation and two hundred dollars (\$200) for AGGRIEVED EMPLOYEE for
21 each subsequent violation [penalty per Labor Code Section 210];

22 d. For violations of Labor Code Sections 226.7, 510 and 512, a civil penalty
23 in the amount of fifty dollars (\$50) for each underpaid AGGRIEVED
24 EMPLOYEE for the initial violation and hundred dollars (\$100) for each
25 underpaid AGGRIEVED EMPLOYEE for each subsequent violation [penalty
26 per Labor Code Section 558];

27 e. For violations of Labor Code Section 1174(d), a civil penalty in the amount
28 of five hundred (\$500) dollars for per AGGRIEVED EMPLOYEE [penalty per

1 Labor Code Section 1174.5].

2 f. For violations of Labor Code Sections 1194, 1194.2, 1197, 1198 and 1199,
3 a civil penalty in the amount of one hundred dollars (\$100) per AGGRIEVED
4 EMPLOYEE per pay period for the initial violation and two hundred dollars
5 fifty (\$250) per AGGRIEVED EMPLOYEE per pay period for each subsequent
6 violation [penalty per Labor Code Section].

7 70. For all provisions of the Labor Code for which civil penalty is not specifically
8 provided, Labor Code § 2699(f) imposes upon DEFENDANTS a penalty of up to two hundred
9 dollars (\$200) for each AGGRIEVED EMPLOYEE per pay period. PLAINTIFF and the
10 AGGRIEVED EMPLOYEES are entitled to an award of reasonable attorney's fees and costs in
11 connection with their claims for civil penalties pursuant to Labor Code Section 2699(k)(1).

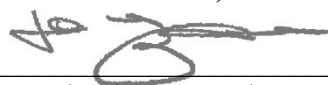
12 **PRAYER FOR RELIEF**

13 WHEREFORE, PLAINTIFF prays for judgment against DEFENDANTS as follows:

- 14 1. For reasonable attorney's fees and costs of suit to the extent permitted by law,
15 including pursuant to Labor Code § 2699, *et seq.*;
- 16 2. For civil penalties to the extent permitted by law pursuant to the Labor Code under
17 the Private Attorneys General Act; and
- 18 3. For such other relief as the Court deems just and proper.

19
20 DATED: March 15, 2025

21 **JCL LAW FIRM, APC**

22 By: 

23 Jean-Claude Lapuyade, Esq.
24 Attorney for PLAINTIFF
25
26
27
28

EXHIBIT 1

August 27, 2024

Via Online Filing to LWDA and Certified Mail to Defendant
Labor and Workforce Development Agency
Online Filing

EQUINOX SAN RAFAEL, LLC
c/o Registered Agent Solutions, Inc.
720 14th St
San Francisco, CA 95814

Sent via Certified Mail and Return Receipt No. 9589 0710 5270 1756 9920 28

Re: Notice of Violations of California Labor Code Sections 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 221, 226, 226.2, 226.3, 226.7, 227.3, 246, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.1, 1197.14, 1198, 1198.5, 1199, 2802, 2804, and Violation of Applicable Industrial Welfare Commission Wage Order(s), and Pursuant to California Labor Code Section 2699.5

Dear Sir/Madam:

This notice is being sent in compliance with Cal. Lab. Code § 2699.3. Our offices represent Plaintiff Demarcus Wiggins ("Plaintiff") and other aggrieved employees. Plaintiff was employed by Defendant Equinox San Rafael LLC ("Defendant") in California from March 2023, through September 2023, as a non-exempt employee, paid on an hourly basis, and entitled to payment of all wages and the legally required meal and rest breaks.

Plaintiff alleges that within the past year, he personally suffered violations of the following Labor Codes Sections as a result of Defendant's failure to pay Plaintiff for all time worked, provide Plaintiff with compliant meal periods, provide Plaintiff with compliant rest periods, provide Plaintiff with accurate itemized wage statements that facially comply with the requirements provided for in Labor Code Section 226, furnish wages to Plaintiff with the frequency as set forth under Labor Code Section 204, and reimburse Plaintiff for necessary business expenses: Labor Code §§ 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 221, 226, 226.2, 226.3, 226.7, 227.3, 246, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.1, 2802, and 2804. These violations are actionable under California Labor Code section 2699.3.

The information below provides notice to the Labor and Workforce Development Agency of the facts and theories supporting the alleged violations for the agency's reference. If the agency needs any further information, please do not hesitate to ask.

Plaintiff seeks to represent a group of aggrieved employees defined as any person currently or formerly employed by Defendant who performed work in California and against whom one or more of the alleged violations listed above were committed during the relevant claim period ("Aggrieved Employees"). Plaintiff believes this group to be comprised of all current and former non-exempt employees who performed work for Defendant in California during the period beginning one year prior to the date of this Notice and continuing through the

present.

In violation of the applicable sections of the California Labor Code and the requirements of the Industrial Welfare Commission (“IWC”) Wage Order, Defendant as a matter of company policy, practice, and procedure, intentionally, knowingly, and systematically failed to provide legally compliant meal and rest periods, failed to accurately compensate Plaintiff and other Aggrieved Employees for missed meal and rest periods, failed to pay Plaintiff and other Aggrieved Employees for all time worked, failed to compensate Plaintiff and other Aggrieved Employees for off-the-clock work, failed to pay Plaintiff and other Aggrieved Employees overtime at the correct regular rate of pay, failed to compensate Plaintiff and other Aggrieved Employees meal and rest premiums at the regular rate of pay, failed to pay Plaintiff and other Aggrieved Employees redeemed sick pay at the regular rate of pay, failed to reimburse Plaintiff and other Aggrieved Employees for business expenses, and failed to issue to Plaintiff and other Aggrieved Employees accurate itemized wage statements showing, among other things, all applicable hourly rates in effect during the pay periods and the corresponding amount of time worked at each hourly rate. Defendant’s uniform policies and practices are intended to purposefully avoid the accurate and full payment for all time worked as required by California law which allows Defendant to illegally profit and gain an unfair advantage over competitors who comply with the law.

Meal Period Violations: Pursuant to the Industrial Welfare Commission Wage Orders, Defendant was required to pay Plaintiff and the Aggrieved Employees for all their time worked, meaning the time during which an employee is subject to the control of an employer, including all the time the employee is suffered or permitted to work. From time to time during the last year, Defendant required Plaintiff and other Aggrieved Employees to work without paying them for all the time they were under Defendant’s control. Specifically, Defendant required Plaintiff to work while clocked out during what was supposed to be Plaintiff’s off-duty meal break. Indeed, there were many days where Plaintiff did not even receive a partial lunch. As a result, Plaintiff and other Aggrieved Employees forfeited minimum wage and overtime compensation by regularly working without their time being accurately recorded and without compensation at the applicable minimum wage and overtime rates. Defendant’s uniform policy and practice not to pay Plaintiff and other Aggrieved Employees for all time worked is evidenced by Defendant’s business records.

During the last year, as a result of their rigorous work schedules and Defendant’s inadequate staffing practices, Plaintiff and other Aggrieved Employees were from time to time unable to take thirty (30) minute off duty meal breaks and were not fully relieved of duty for their meal periods. Plaintiff and other Aggrieved Employees were required to perform work as ordered by Defendant for more than five (5) hours during some shifts without receiving a meal break. Further, Defendant failed to provide Plaintiff and other Aggrieved Employees with a second off-duty meal period for some workdays in which these employees were required by Defendant to work ten (10) hours of work. The nature of the work performed by Plaintiff and other Aggrieved Employees does not qualify for the limited and narrowly construed “on-duty” meal period exception. When they were provided with meal periods, Plaintiff and other Aggrieved Employees were, from time to time, required to remain on duty and on call. Defendant’s failure to provide Plaintiff and other Aggrieved Employees with legally required meal breaks is evidenced by Defendant’s business records. As a result of their rigorous work schedules and Defendant’s inadequate staffing, Plaintiff and other Aggrieved Employees therefore forfeited meal breaks without additional compensation and in accordance with Defendant’s strict corporate policy and practice.

Rest Period Violations: From time to time during the past year, Plaintiff and other Aggrieved Employees were also required to work in excess of four (4) hours without being provided ten (10)

minute rest periods as a result of their rigorous work requirements and Defendant's inadequate staffing. Further, for the same reasons, these employees were denied their first rest periods of at least ten (10) minutes for some shifts worked of at least two (2) to four (4) hours from time to time, a first and second rest period of at least ten (10) minutes for some shifts worked of between six (6) and eight (8) hours from time to time, and a first, second and third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or more from time to time. When they were provided with rest breaks, Plaintiff and other Aggrieved Employees were, from time to time, required to remain on premises, on duty and/or on call, and not fully relieved of all duties. Plaintiff and other Aggrieved Employees were also not provided with one-hour wages in lieu thereof. As a result of their rigorous work schedules and Defendant's inadequate staffing, Plaintiff and other Aggrieved Employees were from time to time denied their proper rest periods by Defendant and Defendant's managers.

Unreimbursed Business Expenses: Defendant as a matter of corporate policy, practice, and procedure, intentionally, knowingly, and systematically failed to reimburse and indemnify the Plaintiff and other Aggrieved Employees for required business expenses incurred by the Plaintiff and other Aggrieved Employees in direct consequence of discharging their duties on behalf of Defendant. Under California Labor Code Section 2802, employers are required to indemnify employees for all expenses incurred in the course and scope of their employment. Cal. Lab. Code § 2802 expressly states that "an employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her 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."

Within the last year, in the course of their employment, Defendant required Plaintiff and other Aggrieved Employees to incur personal expenses for the use of their personal cell phones and vehicles as a result of and in furtherance of their job duties. Specifically, Plaintiff and other Aggrieved Employees were required to use their personal cell phones and vehicles in order to perform work related tasks. . However, Defendant unlawfully failed to reimburse Plaintiff and other Aggrieved Employees for the personal expenses incurred for the purchase and maintenance of their work uniforms. As a result, in the course of their employment with Defendant, the Plaintiff and other Aggrieved Employees incurred unreimbursed business expenses that included, but were not limited to, costs related to the personal expenses incurred for the purchase and maintenance of their work uniforms, all on behalf of and for the benefit of Defendant.

Wage Statement Violations: California Labor Code Section 226 requires an employer to furnish its employees and accurate itemized wage statement in writing showing (1) gross wages earned, (2) total hours worked, (3) the number of piece-rate units earned and any applicable piece-rate, (4) all deductions, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of the employee's social security number or an employee identification number other than a social security number, (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. From time to time during the last year, when Plaintiff and other Aggrieved Employees missed meal and rest breaks, or were paid inaccurately for missed meal and rest period premiums, or were not paid for all hours worked, Defendant also failed to provide Plaintiff and other Aggrieved Employees with complete and accurate wage statements which failed to show, among other things, all deductions, the total hours worked and all applicable hourly rates in effect during the pay period, and the corresponding amount of time worked at each hourly rate, correct rates of pay for penalty payments or missed meal and rest periods. Defendant also failed to provide Plaintiff

and other Aggrieved Employees with complete and accurate wage statements that included all required elements listed above. Specifically, Defendant, from time to time, failed to provide Plaintiff and other Aggrieved Employees with wage statements that comply with Cal. Lab. Code § 226(a)(1)-(9). As a result, Defendant issued Plaintiff and other Aggrieved Employees with wage statements that violate Cal. Lab. Code § 226. Further, Defendant's violations are knowing and intentional, were not isolated due to an unintentional payroll error due to clerical or inadvertent mistake.

Off-the-Clock Work Resulting in Minimum Wage and Overtime Violations: During the last year, from time-to-time, Defendant failed and continue to fail to accurately pay Plaintiff and other Aggrieved Employees for all hours worked. During the last year, from time-to-time Defendant required Plaintiff and other Aggrieved Employees to perform pre-shift or post-shift work. This resulted in Plaintiff and other Aggrieved Employees having to work while off-the-clock. Defendant directly benefited from the undercompensated off-the-clock work performed by Plaintiff and other Aggrieved Employees. Defendant controlled the work schedules, duties, and protocols, applications, assignments, and employment conditions of Plaintiff and other Aggrieved Employees.

Defendant were able to track the amount of time Plaintiff and other Aggrieved Employees spent working; however, Defendant failed to document, track, or pay Plaintiff and other Aggrieved Employees all wages earned and owed for all the work they performed. Plaintiff and other Aggrieved Employees were non-exempt employees, subject to the requirements of the California Labor Code. Defendant's policies and practices deprived Plaintiff and other Aggrieved Employees of all minimum regular, overtime, and double time wages owed for the off-the-clock work activities. Because Plaintiff and other Aggrieved Employees typically worked over forty (40) hours in a workweek, and more than eight (8) hours per day, Defendant's policies and practices also deprived them of overtime pay.

Defendant knew or should have known that Plaintiff's and other Aggrieved Employees' off-the-clock work was compensable under the law. As a result, Plaintiff and other Aggrieved Employees forfeited wages due to them for all hours worked at Defendant's direction, control, and benefit for the time spent working while off-the-clock, including but not limited to, undergoing pre-shift and post-shift work. Defendant's uniform policy and practice to not pay Plaintiff and other Aggrieved Employees wages for all hours worked in accordance with applicable law is evidenced by Defendant's business records.

Regular Rate Violation – Overtime, Double Time, Meal and Rest Period Premiums, and Redeemed Sick Pay: From time to time during the last year, Defendant failed and continue to fail to accurately calculate and pay Plaintiff and other Aggrieved Employees for their overtime and double time hours worked, meal and rest period premiums, and redeemed sick pay. As a result, Plaintiff and other Aggrieved Employees forfeited wages due to them for working overtime without compensation at the correct overtime and double time rates, meal and rest period premiums, and redeemed sick pay rates. Defendant's uniform policy and practice not to pay Plaintiff and other Aggrieved Employees at the correct rate for all overtime and double time worked, meal and rest period premiums, and sick pay in accordance with applicable law is evidenced by Defendant's business records.

State law provides that employees must be paid overtime at one-and-one-half times their "regular rate of pay." Plaintiff and other Aggrieved Employees were compensated at an hourly rate plus incentive pay that was tied to specific elements of an employee's performance. The second

component of Plaintiff's and other Aggrieved Employees' compensation was Defendant's non-discretionary incentive program that paid Plaintiff and other Aggrieved Employees incentive wages based on their performance for Defendant. The non-discretionary bonus program provided all employees paid on an hourly basis with bonus compensation when the employees met the various performance goals set by Defendant. However, from time to time, when calculating the regular rate of pay in those pay periods where Plaintiff and other Aggrieved Employees worked overtime, double time, paid meal and rest period premium payments, and/or redeemed sick pay, and earned non-discretionary bonuses, Defendant failed to accurately include the non-discretionary bonus compensation as part of the employee's "regular rate of pay" and/or calculated all hours worked rather than just all non-overtime hours worked. Management and supervisors described the incentive/bonus program to potential and new employees as part of the compensation package. As a matter of law, the incentive compensation received by Plaintiff and other Aggrieved Employees must be included in the "regular rate of pay." The failure to do so has resulted in a systematic underpayment of overtime and double time compensation, meal and rest period premium payments, and redeemed sick pay to Plaintiff and other Aggrieved Employees by Defendant.

Specifically, California Labor Code Section 246 mandates that paid sick time for non-exempt employees shall be calculated in the same manner as the regular rate of pay for the workweek in which the non-exempt employee uses paid sick time, whether or not the employee actually works overtime in that workweek. Defendant's conduct, as articulated herein, by failing to include the incentive compensation as part of the "regular rate of pay" for purposes of sick pay compensation was in violation of Cal. Lab. Code § 246 the underpayment of which is recoverable under Cal. Lab. Code Sections 201, 202, 203, and/or 204.

In violation of the applicable sections of the California Labor Code and the requirements of the Industrial Welfare Commission ("IWC") Wage Order, Defendant as a matter of company policy, practice, and procedure, intentionally and knowingly failed to compensate Plaintiff and other Aggrieved Employees at the correct rate of pay for all overtime and double time worked, meal and rest period premiums, and redeemed sick pay as required by California law which allowed Defendant to illegally profit and gain an unfair advantage over competitors who complied with the law.

Unlawful Deductions: During the last year, Defendant, from time-to-time, unlawfully deducted wages from Plaintiff and Aggrieved Employees' pay without explanations and without authorization to do so or notice to Plaintiff and the Aggrieved Employees. As a result, Defendant violated Labor Code § 221.

Timekeeping Manipulation: During the last year, Defendant, from time-to-time, did not have an immutable timekeeping system to accurately record and pay Plaintiff and other Aggrieved Employees for the actual time Plaintiff and other Aggrieved Employees worked each day, including regular time, overtime hours, sick pay, meal and rest breaks. As a result, Defendant were able to and did in fact, unlawfully, and unilaterally alter the time recorded in Defendant's timekeeping system for Plaintiff and other Aggrieved Employees in order to avoid paying these employees for all hours worked, applicable overtime compensation, applicable sick pay, missed meal breaks and missed rest breaks. As a result, Plaintiff and other Aggrieved Employees, from time-to-time, forfeited time worked by working without their time being accurately recorded and without compensation at the applicable pay rates.

The mutability of the timekeeping system also allowed Defendant to alter employee time records by recording fictitious thirty (30) minute meal breaks in Defendant's timekeeping system so as to

create the appearance that Plaintiff and other Aggrieved Employees clocked out for thirty (30) minute meal break when in fact the employees were not at all times provided an off-duty meal break. This practice is a direct result of Defendant's uniform policy and practice of denying employees uninterrupted thirty (30) minute off-duty meal breaks each day or otherwise compensate them for missed meal breaks. As a result, Plaintiff and other Aggrieved Employees forfeited wages due to them for all hours worked at Defendant's direction, control and benefit for the time the timekeeping system was inoperable. Defendant's uniform policy and practice to not pay Plaintiff and the Aggrieved Employees wages for all hours worked in accordance with applicable law is evidenced by Defendant's business records.

Unlawful Rounding Practices: During the last year, Defendant did not have in place an immutable timekeeping system to accurately record and pay Plaintiff and other Aggrieved Employees for the actual time these employees worked each day, including overtime hours. Specifically, Defendant had in place an unlawful rounding policy and practice that resulted in Plaintiff and the Aggrieved Employees being undercompensated for all of their time worked. As a result, Defendant were able to and did in fact unlawfully, and unilaterally round the time recorded in Defendant's timekeeping system for Plaintiff and the Aggrieved Employees in order to avoid paying these employees for all their time worked, including the applicable overtime compensation for overtime worked. As a result, Plaintiff and other Aggrieved Employees, from time to time, forfeited compensation for their time worked by working without their time being accurately recorded and without compensation at the applicable overtime rates.

Further, the mutability of Defendant's timekeeping system and unlawful rounding policy and practice resulted in Plaintiff's and the Aggrieved Employees' time being inaccurately recorded. As a result, from time to time, Defendant's unlawful rounding policy and practice caused Plaintiff and other Aggrieved Employees to perform work as ordered by Defendant for more than five (5) hours during a shift without receiving an off-duty meal break.

Untimely Payment of Wages: Pursuant to California Labor Code section 204, Plaintiff and the Aggrieved Employees were entitled to timely payment of wages during their employment. Plaintiff and the Aggrieved Employees, from time to time, did not receive payment of all wages, including, but not limited to, overtime wages, minimum wages, meal period premium wages, and rest period premium wages within permissible time period. Pursuant to Cal. Lab. Code § 201, "If an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately." Pursuant to Cal. Lab. Code § 202, if an employee 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." Plaintiff and the Aggrieved Employees were, from time to time, not timely provided the wages earned and unpaid at the time of their discharge and/or at the time of quitting, in violation of Cal. Lab. Code §§ 201 and 202. To date, Defendant have not fully paid PLAINTIFF the minimum, overtime and double time compensation still owed to her or any penalty wages owed to her under Cal. Lab. Code § 203.

Sick Pay Violations: Cal. Labor Code Section 246 (a)(1) mandates that "An employee who, on or after July 1, 2015, works in California for the same employer for 30 or more days within a year from the commencement of employment is entitled to paid sick days as specified in this section." Further, Cal. Labor Code Sections 246(b)-(d) provide for the sick day accrual requirements. From time to time, including within the last year, Defendant failed to have a policy or practice in place that provided Plaintiff and other Aggrieved Employees with sick days and/or paid sick leave. As of January 1, 2024, Defendant failed to adhere to the law in that they failed to provide and allow

employees to use at least 40 hours or five days of paid sick leave per year. California Labor Code Section 246(i) requires an employer to furnish its employees with written wage statements setting forth the amount of paid sick leave available. From time to time, including within the last year, Defendant violated Cal. Lab. Code § 246 by failing to furnish Plaintiff and other Aggrieved Employees with wage statements setting forth the amount of paid sick leave available.

To the extent that entities and/or individuals are named and charged with violations of the Labor Code—making them liable on an individual basis as permitted by numerous Labor Code Sections including, but not limited to 558, 558.1, and 1197.1—Plaintiff reserves any and all rights to add, substitute, or change the name of employer entities and/or individuals responsible for the violations at issue.

Any further amendments and changes to this notice shall relate back to the date of this notice. Consequently, Defendant is on notice that Plaintiff continues his investigation, with the full intent to amend and/or change this notice, to add any undiscovered violations of any of the provisions of the California Labor Code—to the extent that are applicable to this case—and to change and/or add the identities of any entities and/or individuals responsible for the violations contained herein.

This notice is provided in compliance with California Labor Code section 2695, *et seq.* .

If you have any questions or concerns, please do not hesitate to contact me at the above number and address.

Sincerely yours,
JCL LAW FIRM, APC

A handwritten signature in black ink, appearing to read 'Jean-Claude Lapuyade', with a stylized flourish at the end.

Jean-Claude Lapuyade, Esq.
Attorney at Law

EXHIBIT 2

September 5, 2024

Via Online Filing to LWDA and Certified Mail to Defendant
Labor and Workforce Development Agency
Online Filing

EQUINOX SAN RAFAEL, LLC
c/o Registered Agent Solutions, Inc.
720 14th St
Sacramento, CA 95814

Sent via Certified Mail and Return Receipt No. 9589 0710 5270 1166 8827 11

EQUINOX HOSPITALITY GROUP, LLC
c/o Masoud Ghafouri
108 Williams Lane
Foster City, CA 94404

Sent via Certified Mail and Return Receipt No. 9589 0710 5270 1166 8827 28

LWDA Case No.: LWDA-CM-1047692-24

Re: Amended Notice of Violations of California Labor Code Sections 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 221, 226, 226.2, 226.3, 226.7, 227.3, 246, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.1, 1197.14, 1198, 1198.5, 1199, 2802, 2804, and Violation of Applicable Industrial Welfare Commission Wage Order(s), and Pursuant to California Labor Code Section 2699.5

Dear Sir/Madam:

This notice is being sent in compliance with Cal. Lab. Code § 2699.3. Our offices represent Plaintiff Demarqus Wiggins ("Plaintiff") and other aggrieved employees. Plaintiff was employed by Defendant Equinox San Rafael LLC ("Defendant San Rafael"), Equinox Hospitality Group, LLC ("Defendant Equinox") in California from March 2023, through September 2023, as a non-exempt employee, paid on an hourly basis, and entitled to payment of all wages and the legally required meal and rest breaks.

Plaintiff alleges that within the past year, he personally suffered violations of the following Labor Codes Sections as a result of Defendant's failure to pay Plaintiff for all time worked, provide Plaintiff with compliant meal periods, provide Plaintiff with compliant rest periods, provide Plaintiff with accurate itemized wage statements that facially comply with the requirements provided for in Labor Code Section 226, furnish wages to Plaintiff with the frequency as set forth under Labor Code Section 204, and reimburse Plaintiff for necessary business expenses: Labor Code §§ 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 221, 226, 226.2, 226.3, 226.7, 227.3, 246, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.1, 2802, and 2804. These violations are actionable under California Labor Code section 2699.3.

The information below provides notice to the Labor and Workforce Development Agency of the

facts and theories supporting the alleged violations for the agency's reference. If the agency needs any further information, please do not hesitate to ask.

Plaintiff seeks to represent a group of aggrieved employees defined as any person currently or formerly employed by Defendant who performed work in California and against whom one or more of the alleged violations listed above were committed during the relevant claim period ("Aggrieved Employees"). Plaintiff believes this group to be comprised of all current and former non-exempt employees who performed work for Defendant in California during the period beginning one year prior to the date of this Notice and continuing through the present.

In violation of the applicable sections of the California Labor Code and the requirements of the Industrial Welfare Commission ("IWC") Wage Order, Defendant as a matter of company policy, practice, and procedure, intentionally, knowingly, and systematically failed to provide legally compliant meal and rest periods, failed to accurately compensate Plaintiff and other Aggrieved Employees for missed meal and rest periods, failed to pay Plaintiff and other Aggrieved Employees for all time worked, failed to compensate Plaintiff and other Aggrieved Employees for off-the-clock work, failed to pay Plaintiff and other Aggrieved Employees overtime at the correct regular rate of pay, failed to compensate Plaintiff and other Aggrieved Employees meal and rest premiums at the regular rate of pay, failed to pay Plaintiff and other Aggrieved Employees redeemed sick pay at the regular rate of pay, failed to reimburse Plaintiff and other Aggrieved Employees for business expenses, and failed to issue to Plaintiff and other Aggrieved Employees accurate itemized wage statements showing, among other things, all applicable hourly rates in effect during the pay periods and the corresponding amount of time worked at each hourly rate. Defendant's uniform policies and practices are intended to purposefully avoid the accurate and full payment for all time worked as required by California law which allows Defendant to illegally profit and gain an unfair advantage over competitors who comply with the law.

Meal Period Violations: Pursuant to the Industrial Welfare Commission Wage Orders, Defendant was required to pay Plaintiff and the Aggrieved Employees for all their time worked, meaning the time during which an employee is subject to the control of an employer, including all the time the employee is suffered or permitted to work. From time to time during the last year, Defendant required Plaintiff and other Aggrieved Employees to work without paying them for all the time they were under Defendant's control. Specifically, Defendant required Plaintiff to work while clocked out during what was supposed to be Plaintiff's off-duty meal break. Indeed, there were many days where Plaintiff did not even receive a partial lunch. As a result, Plaintiff and other Aggrieved Employees forfeited minimum wage and overtime compensation by regularly working without their time being accurately recorded and without compensation at the applicable minimum wage and overtime rates. Defendant's uniform policy and practice not to pay Plaintiff and other Aggrieved Employees for all time worked is evidenced by Defendant's business records.

During the last year, as a result of their rigorous work schedules and Defendant's inadequate staffing practices, Plaintiff and other Aggrieved Employees were from time to time unable to take thirty (30) minute off duty meal breaks and were not fully relieved of duty for their meal periods. Plaintiff and other Aggrieved Employees were required to perform work as ordered by Defendant for more than five (5) hours during some shifts without receiving a meal break. Further, Defendant failed to provide Plaintiff and other Aggrieved Employees with a second off-duty meal period for some workdays in which these employees were required by Defendant to work ten (10) hours of work. The nature of the work performed by Plaintiff and other Aggrieved Employees does not qualify for the limited and narrowly construed "on-duty" meal period exception. When they were

provided with meal periods, Plaintiff and other Aggrieved Employees were, from time to time, required to remain on duty and on call. Defendant's failure to provide Plaintiff and other Aggrieved Employees with legally required meal breaks is evidenced by Defendant's business records. As a result of their rigorous work schedules and Defendant's inadequate staffing, Plaintiff and other Aggrieved Employees therefore forfeited meal breaks without additional compensation and in accordance with Defendant's strict corporate policy and practice.

Rest Period Violations: From time to time during the past year, Plaintiff and other Aggrieved Employees were also required to work in excess of four (4) hours without being provided ten (10) minute rest periods as a result of their rigorous work requirements and Defendant's inadequate staffing. Further, for the same reasons, these employees were denied their first rest periods of at least ten (10) minutes for some shifts worked of at least two (2) to four (4) hours from time to time, a first and second rest period of at least ten (10) minutes for some shifts worked of between six (6) and eight (8) hours from time to time, and a first, second and third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or more from time to time. When they were provided with rest breaks, Plaintiff and other Aggrieved Employees were, from time to time, required to remain on premises, on duty and/or on call, and not fully relieved of all duties. Plaintiff and other Aggrieved Employees were also not provided with one-hour wages in lieu thereof. As a result of their rigorous work schedules and Defendant's inadequate staffing, Plaintiff and other Aggrieved Employees were from time to time denied their proper rest periods by Defendant and Defendant's managers.

Unreimbursed Business Expenses: Defendant as a matter of corporate policy, practice, and procedure, intentionally, knowingly, and systematically failed to reimburse and indemnify the Plaintiff and other Aggrieved Employees for required business expenses incurred by the Plaintiff and other Aggrieved Employees in direct consequence of discharging their duties on behalf of Defendant. Under California Labor Code Section 2802, employers are required to indemnify employees for all expenses incurred in the course and scope of their employment. Cal. Lab. Code § 2802 expressly states that "an employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her 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."

Within the last year, in the course of their employment, Defendant required Plaintiff and other Aggrieved Employees to incur personal expenses for the use of their personal cell phones and vehicles as a result of and in furtherance of their job duties. Specifically, Plaintiff and other Aggrieved Employees were required to use their personal cell phones and vehicles in order to perform work related tasks. . However, Defendant unlawfully failed to reimburse Plaintiff and other Aggrieved Employees for the personal expenses incurred for the purchase and maintenance of their work uniforms. As a result, in the course of their employment with Defendant, the Plaintiff and other Aggrieved Employees incurred unreimbursed business expenses that included, but were not limited to, costs related to the personal expenses incurred for the purchase and maintenance of their work uniforms, all on behalf of and for the benefit of Defendant.

Wage Statement Violations: California Labor Code Section 226 requires an employer to furnish its employees and accurate itemized wage statement in writing showing (1) gross wages earned, (2) total hours worked, (3) the number of piece-rate units earned and any applicable piece-rate, (4) all deductions, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of the employee's social security number or an employee identification number other than a social security number, (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. From time to time during the last year, when Plaintiff and other Aggrieved Employees missed meal and rest breaks, or were paid inaccurately for missed meal and rest period premiums, or were not paid for all hours worked, Defendant also failed to provide Plaintiff and other Aggrieved Employees with complete and accurate wage statements which failed to show, among other things, all deductions, the total hours worked and all applicable hourly rates in effect during the pay period, and the corresponding amount of time worked at each hourly rate, correct rates of pay for penalty payments or missed meal and rest periods. Defendant also failed to provide Plaintiff and other Aggrieved Employees with complete and accurate wage statements that included all required elements listed above. Specifically, Defendant, from time to time, failed to provide Plaintiff and other Aggrieved Employees with wage statements that comply with Cal. Lab. Code § 226(a)(1)-(9). As a result, Defendant issued Plaintiff and other Aggrieved Employees with wage statements that violate Cal. Lab. Code § 226. Further, Defendant's violations are knowing and intentional, were not isolated due to an unintentional payroll error due to clerical or inadvertent mistake.

Off-the-Clock Work Resulting in Minimum Wage and Overtime Violations: During the last year, from time-to-time, Defendant failed and continue to fail to accurately pay Plaintiff and other Aggrieved Employees for all hours worked. During the last year, from time-to-time Defendant required Plaintiff and other Aggrieved Employees to perform pre-shift or post-shift work. This resulted in Plaintiff and other Aggrieved Employees having to work while off-the-clock. Defendant directly benefited from the undercompensated off-the-clock work performed by Plaintiff and other Aggrieved Employees. Defendant controlled the work schedules, duties, and protocols, applications, assignments, and employment conditions of Plaintiff and other Aggrieved Employees.

Defendant were able to track the amount of time Plaintiff and other Aggrieved Employees spent working; however, Defendant failed to document, track, or pay Plaintiff and other Aggrieved Employees all wages earned and owed for all the work they performed. Plaintiff and other Aggrieved Employees were non-exempt employees, subject to the requirements of the California Labor Code. Defendant's policies and practices deprived Plaintiff and other Aggrieved Employees of all minimum regular, overtime, and double time wages owed for the off-the-clock work activities. Because Plaintiff and other Aggrieved Employees typically worked over forty (40) hours in a workweek, and more than eight (8) hours per day, Defendant's policies and practices also deprived them of overtime pay.

Defendant knew or should have known that Plaintiff's and other Aggrieved Employees' off-the-clock work was compensable under the law. As a result, Plaintiff and other Aggrieved Employees forfeited wages due to them for all hours worked at Defendant's direction, control, and benefit for the time spent working while off-the-clock, including but not limited to, undergoing pre-shift and post-shift work. Defendant's uniform policy and practice to not pay Plaintiff and other Aggrieved Employees wages for all hours worked in accordance with applicable law is evidenced by Defendant's business records.

Regular Rate Violation – Overtime, Double Time, Meal and Rest Period Premiums, and Redeemed Sick Pay: From time to time during the last year, Defendant failed and continue to fail to accurately calculate and pay Plaintiff and other Aggrieved Employees for their overtime and double time hours worked, meal and rest period premiums, and redeemed sick pay. As a result, Plaintiff and other Aggrieved Employees forfeited wages due to them for working overtime without

compensation at the correct overtime and double time rates, meal and rest period premiums, and redeemed sick pay rates. Defendant's uniform policy and practice not to pay Plaintiff and other Aggrieved Employees at the correct rate for all overtime and double time worked, meal and rest period premiums, and sick pay in accordance with applicable law is evidenced by Defendant's business records.

State law provides that employees must be paid overtime at one-and-one-half times their "regular rate of pay." Plaintiff and other Aggrieved Employees were compensated at an hourly rate plus incentive pay that was tied to specific elements of an employee's performance. The second component of Plaintiff's and other Aggrieved Employees' compensation was Defendant's non-discretionary incentive program that paid Plaintiff and other Aggrieved Employees incentive wages based on their performance for Defendant. The non-discretionary bonus program provided all employees paid on an hourly basis with bonus compensation when the employees met the various performance goals set by Defendant. However, from time to time, when calculating the regular rate of pay in those pay periods where Plaintiff and other Aggrieved Employees worked overtime, double time, paid meal and rest period premium payments, and/or redeemed sick pay, and earned non-discretionary bonuses, Defendant failed to accurately include the non-discretionary bonus compensation as part of the employee's "regular rate of pay" and/or calculated all hours worked rather than just all non-overtime hours worked. Management and supervisors described the incentive/bonus program to potential and new employees as part of the compensation package. As a matter of law, the incentive compensation received by Plaintiff and other Aggrieved Employees must be included in the "regular rate of pay." The failure to do so has resulted in a systematic underpayment of overtime and double time compensation, meal and rest period premium payments, and redeemed sick pay to Plaintiff and other Aggrieved Employees by Defendant.

Specifically, California Labor Code Section 246 mandates that paid sick time for non-exempt employees shall be calculated in the same manner as the regular rate of pay for the workweek in which the non-exempt employee uses paid sick time, whether or not the employee actually works overtime in that workweek. Defendant's conduct, as articulated herein, by failing to include the incentive compensation as part of the "regular rate of pay" for purposes of sick pay compensation was in violation of Cal. Lab. Code § 246 the underpayment of which is recoverable under Cal. Lab. Code Sections 201, 202, 203, and/or 204.

In violation of the applicable sections of the California Labor Code and the requirements of the Industrial Welfare Commission ("IWC") Wage Order, Defendant as a matter of company policy, practice, and procedure, intentionally and knowingly failed to compensate Plaintiff and other Aggrieved Employees at the correct rate of pay for all overtime and double time worked, meal and rest period premiums, and redeemed sick pay as required by California law which allowed Defendant to illegally profit and gain an unfair advantage over competitors who complied with the law.

Unlawful Deductions: During the last year, Defendant, from time-to-time, unlawfully deducted wages from Plaintiff and Aggrieved Employees' pay without explanations and without authorization to do so or notice to Plaintiff and the Aggrieved Employees. As a result, Defendant violated Labor Code § 221.

Timekeeping Manipulation: During the last year, Defendant, from time-to-time, did not have an immutable timekeeping system to accurately record and pay Plaintiff and other Aggrieved Employees for the actual time Plaintiff and other Aggrieved Employees worked each day, including regular time, overtime hours, sick pay, meal and rest breaks. As a result, Defendant were

able to and did in fact, unlawfully, and unilaterally alter the time recorded in Defendant's timekeeping system for Plaintiff and other Aggrieved Employees in order to avoid paying these employees for all hours worked, applicable overtime compensation, applicable sick pay, missed meal breaks and missed rest breaks. As a result, Plaintiff and other Aggrieved Employees, from time-to-time, forfeited time worked by working without their time being accurately recorded and without compensation at the applicable pay rates.

The mutability of the timekeeping system also allowed Defendant to alter employee time records by recording fictitious thirty (30) minute meal breaks in Defendant's timekeeping system so as to create the appearance that Plaintiff and other Aggrieved Employees clocked out for thirty (30) minute meal break when in fact the employees were not at all times provided an off-duty meal break. This practice is a direct result of Defendant's uniform policy and practice of denying employees uninterrupted thirty (30) minute off-duty meal breaks each day or otherwise compensate them for missed meal breaks. As a result, Plaintiff and other Aggrieved Employees forfeited wages due to them for all hours worked at Defendant's direction, control and benefit for the time the timekeeping system was inoperable. Defendant's uniform policy and practice to not pay Plaintiff and the Aggrieved Employees wages for all hours worked in accordance with applicable law is evidenced by Defendant's business records.

Unlawful Rounding Practices: During the last year, Defendant did not have in place an immutable timekeeping system to accurately record and pay Plaintiff and other Aggrieved Employees for the actual time these employees worked each day, including overtime hours. Specifically, Defendant had in place an unlawful rounding policy and practice that resulted in Plaintiff and the Aggrieved Employees being undercompensated for all of their time worked. As a result, Defendant were able to and did in fact unlawfully, and unilaterally round the time recorded in Defendant's timekeeping system for Plaintiff and the Aggrieved Employees in order to avoid paying these employees for all their time worked, including the applicable overtime compensation for overtime worked. As a result, Plaintiff and other Aggrieved Employees, from time to time, forfeited compensation for their time worked by working without their time being accurately recorded and without compensation at the applicable overtime rates.

Further, the mutability of Defendant's timekeeping system and unlawful rounding policy and practice resulted in Plaintiff's and the Aggrieved Employees' time being inaccurately recorded. As a result, from time to time, Defendant's unlawful rounding policy and practice caused Plaintiff and other Aggrieved Employees to perform work as ordered by Defendant for more than five (5) hours during a shift without receiving an off-duty meal break.

Untimely Payment of Wages: Pursuant to California Labor Code section 204, Plaintiff and the Aggrieved Employees were entitled to timely payment of wages during their employment. Plaintiff and the Aggrieved Employees, from time to time, did not receive payment of all wages, including, but not limited to, overtime wages, minimum wages, meal period premium wages, and rest period premium wages within permissible time period. Pursuant to Cal. Lab. Code § 201, "If an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately." Pursuant to Cal. Lab. Code § 202, if an employee 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." Plaintiff and the Aggrieved Employees were, from time to time, not timely provided the wages earned and unpaid at the time of their discharge and/or at the time of quitting, in violation of Cal. Lab. Code §§ 201 and 202. To date, Defendant have not fully paid PLAINTIFF the minimum, overtime and double time compensation still owed

to her or any penalty wages owed to her under Cal. Lab. Code § 203.

Sick Pay Violations: Cal. Labor Code Section 246 (a)(1) mandates that “An employee who, on or after July 1, 2015, works in California for the same employer for 30 or more days within a year from the commencement of employment is entitled to paid sick days as specified in this section.” Further, Cal. Labor Code Sections 246(b)-(d) provide for the sick day accrual requirements. From time to time, including within the last year, Defendant failed to have a policy or practice in place that provided Plaintiff and other Aggrieved Employees with sick days and/or paid sick leave. As of January 1, 2024, Defendant failed to adhere to the law in that they failed to provide and allow employees to use at least 40 hours or five days of paid sick leave per year. California Labor Code Section 246(i) requires an employer to furnish its employees with written wage statements setting forth the amount of paid sick leave available. From time to time, including within the last year, Defendant violated Cal. Lab. Code § 246 by failing to furnish Plaintiff and other Aggrieved Employees with wage statements setting forth the amount of paid sick leave available.

To the extent that entities and/or individuals are named and charged with violations of the Labor Code—making them liable on an individual basis as permitted by numerous Labor Code Sections including, but not limited to 558, 558.1, and 1197.1—Plaintiff reserves any and all rights to add, substitute, or change the name of employer entities and/or individuals responsible for the violations at issue.

Any further amendments and changes to this notice shall relate back to the date of this notice. Consequently, Defendant is on notice that Plaintiff continues his investigation, with the full intent to amend and/or change this notice, to add any undiscovered violations of any of the provisions of the California Labor Code—to the extent that are applicable to this case—and to change and/or add the identities of any entities and/or individuals responsible for the violations contained herein.

This notice is provided in compliance with California Labor Code section 2695, *et seq.* .

If you have any questions or concerns, please do not hesitate to contact me at the above number and address.

Sincerely yours,
JCL LAW FIRM, APC

A handwritten signature in black ink, appearing to read 'JC Lapuyade', with a stylized flourish at the end.

Jean-Claude Lapuyade, Esq.
Attorney at Law

EXHIBIT 3

November 14, 2024

Via Online Filing to LWDA and Certified Mail to Defendants

Labor and Workforce Development Agency

Online Filing

EQUINOX SAN RAFAEL, LLC

c/o Registered Agent Solutions, Inc.

720 14th St

Sacramento, CA 95814

Sent via Certified Mail and Return Receipt No. 9589 0710 5270 2308 6645 61

EQUINOX HOTEL MANAGEMENT, INC.

c/o Abdul Suleman

2442 Lake Street

San Francisco, CA 94121

Sent via Certified Mail and Return Receipt No. 9589 0710 5270 2308 6625 43

LWDA Case No.: LWDA-CM-1047692-24

Re: Second Amended Notice of Violations of California Labor Code Sections 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 221, 226, 226.2, 226.3, 226.7, 227.3, 246, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.1, 1197.14, 1198, 1198.5, 1199, 2802, 2804, and Violation of Applicable Industrial Welfare Commission Wage Order(s), and Pursuant to California Labor Code Section 2699.5

Dear Sir/Madam:

This notice is being sent in compliance with Cal. Lab. Code § 2699.3. Our offices represent Plaintiff Demarqus Wiggins ("Plaintiff") and other aggrieved employees. Plaintiff was employed by Defendant Equinox San Rafael LLC ("Defendant San Rafael") and Defendant Equinox Hotel Management, Inc. ("Defendant Equinox") in California from March 2023, through September 2023, as a non-exempt employee, paid on an hourly basis, and entitled to payment of all wages and the legally required meal and rest breaks.

Plaintiff alleges that within the past year, he personally suffered violations of the following Labor Codes Sections as a result of Defendants' failure to pay Plaintiff for all time worked, provide Plaintiff with compliant meal periods, provide Plaintiff with compliant rest periods, provide Plaintiff with accurate itemized wage statements that facially comply with the requirements provided for in Labor Code Section 226, furnish wages to Plaintiff with the frequency as set forth under Labor Code Section 204, and reimburse Plaintiff for necessary business expenses: Labor Code §§ 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 221, 226, 226.2, 226.3, 226.7, 227.3, 246, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.1, 2802, and 2804. These violations are actionable under California Labor Code section 2699.3.

The information below provides notice to the Labor and Workforce Development Agency of the

facts and theories supporting the alleged violations for the agency's reference. If the agency needs any further information, please do not hesitate to ask.

Plaintiff seeks to represent a group of aggrieved employees defined as any person currently or formerly employed by Defendant Equinox San Rafael LLC and/or Defendant Equinox Hotel Management, Inc. who performed work in California and against whom one or more of the alleged violations listed above were committed during the relevant claim period ("Aggrieved Employees"). Plaintiff believes this group to be comprised of all current and former non-exempt employees who performed work for Defendants in California during the period beginning one year prior to the date of this Notice and continuing through the present.

In violation of the applicable sections of the California Labor Code and the requirements of the Industrial Welfare Commission ("IWC") Wage Order, Defendants as a matter of company policy, practice, and procedure, intentionally, knowingly, and systematically failed to provide legally compliant meal and rest periods, failed to accurately compensate Plaintiff and other Aggrieved Employees for missed meal and rest periods, failed to pay Plaintiff and other Aggrieved Employees for all time worked, failed to compensate Plaintiff and other Aggrieved Employees for off-the-clock work, failed to pay Plaintiff and other Aggrieved Employees overtime at the correct regular rate of pay, failed to compensate Plaintiff and other Aggrieved Employees meal and rest premiums at the regular rate of pay, failed to pay Plaintiff and other Aggrieved Employees redeemed sick pay at the regular rate of pay, failed to reimburse Plaintiff and other Aggrieved Employees for business expenses, and failed to issue to Plaintiff and other Aggrieved Employees accurate itemized wage statements showing, among other things, all applicable hourly rates in effect during the pay periods and the corresponding amount of time worked at each hourly rate. Defendants' uniform policies and practices are intended to purposefully avoid the accurate and full payment for all time worked as required by California law which allows Defendants to illegally profit and gain an unfair advantage over competitors who comply with the law.

Meal Period Violations: Pursuant to the Industrial Welfare Commission Wage Orders, Defendants were required to pay Plaintiff and the Aggrieved Employees for all their time worked, meaning the time during which an employee is subject to the control of an employer, including all the time the employee is suffered or permitted to work. From time to time during the last year, Defendants required Plaintiff and other Aggrieved Employees to work without paying them for all the time they were under Defendants' control. Specifically, Defendants required Plaintiff to work while clocked out during what was supposed to be Plaintiff's off-duty meal break. Indeed, there were many days when Plaintiff did not even receive a partial lunch. As a result, Plaintiff and other Aggrieved Employees forfeited minimum wage and overtime compensation by regularly working without their time being accurately recorded and without compensation at the applicable minimum wage and overtime rates. Defendants' uniform policy and practice not to pay Plaintiff and other Aggrieved Employees for all time worked is evidenced by Defendants' business records.

During the last year, as a result of their rigorous work schedules and Defendants' inadequate staffing practices, Plaintiff and other Aggrieved Employees were from time to time unable to take thirty (30) minute off duty meal breaks and were not fully relieved of duty for their meal periods. Plaintiff and other Aggrieved Employees were required to perform work as ordered by Defendants for more than five (5) hours during some shifts without receiving a meal break. Further, Defendants failed to provide Plaintiff and other Aggrieved Employees with a second off-duty meal period for some workdays in which Defendants required these employees to work ten (10) hours of work. The nature of the work performed by Plaintiff and other Aggrieved Employees does not qualify for the limited and narrowly construed "on-duty" meal period exception. When they were

provided with meal periods, Plaintiff and other Aggrieved Employees were, from time to time, required to remain on duty and on call. Defendants' failure to provide Plaintiff and other Aggrieved Employees with legally required meal breaks is evidenced by Defendants' business records. As a result of their rigorous work schedules and Defendants' inadequate staffing, Plaintiff and other Aggrieved Employees therefore forfeited meal breaks without additional compensation and in accordance with Defendants' strict corporate policy and practice.

Rest Period Violations: From time to time during the past year, Plaintiff and other Aggrieved Employees were also required to work in excess of four (4) hours without being provided ten (10) minute rest periods as a result of their rigorous work requirements and Defendants' inadequate staffing. Further, for the same reasons, these employees were denied their first rest periods of at least ten (10) minutes for some shifts worked of at least two (2) to four (4) hours from time to time, a first and second rest period of at least ten (10) minutes for some shifts worked of between six (6) and eight (8) hours from time to time, and a first, second and third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or more from time to time. When they were provided with rest breaks, Plaintiff and other Aggrieved Employees were, from time to time, required to remain on premises, on duty and/or on call, and not fully relieved of all duties. Plaintiff and other Aggrieved Employees were also not provided with one-hour wages in lieu thereof. As a result of their rigorous work schedules and Defendants' inadequate staffing, Plaintiff and other Aggrieved Employees were from time to time denied their proper rest periods by Defendants and Defendants' managers.

Unreimbursed Business Expenses: Defendants as a matter of corporate policy, practice, and procedure, intentionally, knowingly, and systematically failed to reimburse and indemnify the Plaintiff and other Aggrieved Employees for required business expenses incurred by the Plaintiff and other Aggrieved Employees in direct consequence of discharging their duties on behalf of Defendants. Under California Labor Code Section 2802, employers are required to indemnify employees for all expenses incurred in the course and scope of their employment. Cal. Lab. Code § 2802 expressly states that "an employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her 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."

Within the last year, in the course of their employment, Defendants required Plaintiff and other Aggrieved Employees to incur personal expenses for the use of their personal cell phones and vehicles as a result of and in furtherance of their job duties. Specifically, Plaintiff and other Aggrieved Employees were required to use their personal cell phones and vehicles in order to perform work related tasks. . However, Defendants unlawfully failed to reimburse Plaintiff and other Aggrieved Employees for the personal expenses incurred for the purchase and maintenance of their work uniforms. As a result, in the course of their employment with Defendants, the Plaintiff and other Aggrieved Employees incurred unreimbursed business expenses that included, but were not limited to, costs related to the personal expenses incurred for the purchase and maintenance of their work uniforms, all on behalf of and for the benefit of Defendants.

Wage Statement Violations: California Labor Code Section 226 requires an employer to furnish its employees and accurate itemized wage statement in writing showing (1) gross wages earned, (2) total hours worked, (3) the number of piece-rate units earned and any applicable piece-rate, (4) all deductions, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of the employee's social security number or an employee identification number other than a social security number, (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. From time to time during the last year, when Plaintiff and other Aggrieved Employees missed meal and rest breaks, or were paid inaccurately for missed meal and rest period premiums, or were not paid for all hours worked, Defendants also failed to provide Plaintiff and other Aggrieved Employees with complete and accurate wage statements which failed to show, among other things, all deductions, the total hours worked and all applicable hourly rates in effect during the pay period, and the corresponding amount of time worked at each hourly rate, correct rates of pay for penalty payments or missed meal and rest periods. Defendants also failed to provide Plaintiff and other Aggrieved Employees with complete and accurate wage statements that included all required elements listed above. Specifically, Defendants, from time to time, failed to provide Plaintiff and other Aggrieved Employees with wage statements that comply with Cal. Lab. Code § 226(a)(1)-(9). As a result, Defendants issued Plaintiff and other Aggrieved Employees with wage statements that violate Cal. Lab. Code § 226. Further, Defendants' violations are knowing and intentional, were not isolated due to an unintentional payroll error due to clerical or inadvertent mistake.

Off-the-Clock Work Resulting in Minimum Wage and Overtime Violations: During the last year, from time-to-time, Defendants failed and continue to fail to accurately pay Plaintiff and other Aggrieved Employees for all hours worked. During the last year, from time-to-time Defendants required Plaintiff and other Aggrieved Employees to perform pre-shift or post-shift work. This resulted in Plaintiff and other Aggrieved Employees having to work while off-the-clock. Defendants directly benefited from the undercompensated off-the-clock work performed by Plaintiff and other Aggrieved Employees. Defendants controlled the work schedules, duties, and protocols, applications, assignments, and employment conditions of Plaintiff and other Aggrieved Employees.

Defendants were able to track the amount of time Plaintiff and other Aggrieved Employees spent working; however, Defendants failed to document, track, or pay Plaintiff and other Aggrieved Employees all wages earned and owed for all the work they performed. Plaintiff and other Aggrieved Employees were non-exempt employees, subject to the requirements of the California Labor Code. Defendants' policies and practices deprived Plaintiff and other Aggrieved Employees of all minimum regular, overtime, and double time wages owed for the off-the-clock work activities. Because Plaintiff and other Aggrieved Employees typically worked over forty (40) hours in a workweek, and more than eight (8) hours per day, Defendants' policies and practices also deprived them of overtime pay.

Defendants knew or should have known that Plaintiff's and other Aggrieved Employees' off-the-clock work was compensable under the law. As a result, Plaintiff and other Aggrieved Employees forfeited wages due to them for all hours worked at Defendants' direction, control, and benefit for the time spent working while off-the-clock, including but not limited to, undergoing pre-shift and post-shift work. Defendants' uniform policy and practice to not pay Plaintiff and other Aggrieved Employees wages for all hours worked in accordance with applicable law is evidenced by Defendants' business records.

Regular Rate Violation – Overtime, Double Time, Meal and Rest Period Premiums, and Redeemed Sick Pay: From time to time during the last year, Defendants failed and continue to fail to accurately calculate and pay Plaintiff and other Aggrieved Employees for their overtime and double time hours worked, meal and rest period premiums, and redeemed sick pay. As a result, Plaintiff and other Aggrieved Employees forfeited wages due to them for working overtime

without compensation at the correct overtime and double time rates, meal and rest period premiums, and redeemed sick pay rates. Defendants' uniform policy and practice not to pay Plaintiff and other Aggrieved Employees at the correct rate for all overtime and double time worked, meal and rest period premiums, and sick pay in accordance with applicable law is evidenced by Defendants' business records.

State law provides that employees must be paid overtime at one-and-one-half times their "regular rate of pay." Plaintiff and other Aggrieved Employees were compensated at an hourly rate plus incentive pay that was tied to specific elements of an employee's performance. The second component of Plaintiff's and other Aggrieved Employees' compensation was Defendants' non-discretionary incentive program that paid Plaintiff and other Aggrieved Employees incentive wages based on their performance for Defendants. The non-discretionary bonus program provided all employees paid on an hourly basis with bonus compensation when the employees met the various performance goals set by Defendants. However, from time to time, when calculating the regular rate of pay in those pay periods where Plaintiff and other Aggrieved Employees worked overtime, double time, paid meal and rest period premium payments, and/or redeemed sick pay, and earned non-discretionary bonuses, Defendants failed to accurately include the non-discretionary bonus compensation as part of the employee's "regular rate of pay" and/or calculated all hours worked rather than just all non-overtime hours worked. Management and supervisors described the incentive/bonus program to potential and new employees as part of the compensation package. As a matter of law, the incentive compensation received by Plaintiff and other Aggrieved Employees must be included in the "regular rate of pay." The failure to do so has resulted in a systematic underpayment of overtime and double time compensation, meal and rest period premium payments, and redeemed sick pay to Plaintiff and other Aggrieved Employees by Defendants.

Specifically, California Labor Code Section 246 mandates that paid sick time for non-exempt employees shall be calculated in the same manner as the regular rate of pay for the workweek in which the non-exempt employee uses paid sick time, whether or not the employee actually works overtime in that workweek. Defendants' conduct, as articulated herein, by failing to include the incentive compensation as part of the "regular rate of pay" for purposes of sick pay compensation was in violation of Cal. Lab. Code § 246 the underpayment of which is recoverable under Cal. Lab. Code Sections 201, 202, 203, and/or 204.

In violation of the applicable sections of the California Labor Code and the requirements of the Industrial Welfare Commission ("IWC") Wage Order, Defendants as a matter of company policy, practice, and procedure, intentionally and knowingly failed to compensate Plaintiff and other Aggrieved Employees at the correct rate of pay for all overtime and double time worked, meal and rest period premiums, and redeemed sick pay as required by California law which allowed Defendants to illegally profit and gain an unfair advantage over competitors who complied with the law.

Unlawful Deductions: During the last year, Defendants, from time-to-time, unlawfully deducted wages from Plaintiff and Aggrieved Employees' pay without explanations and without authorization to do so or notice to Plaintiff and the Aggrieved Employees. As a result, Defendants violated Labor Code § 221.

Timekeeping Manipulation: During the last year, Defendants, from time-to-time, did not have an immutable timekeeping system to accurately record and pay Plaintiff and other Aggrieved Employees for the actual time Plaintiff and other Aggrieved Employees worked each day, including regular time, overtime hours, sick pay, meal and rest breaks. As a result, Defendants

were able to and did in fact, unlawfully, and unilaterally alter the time recorded in Defendants' timekeeping system for Plaintiff and other Aggrieved Employees in order to avoid paying these employees for all hours worked, applicable overtime compensation, applicable sick pay, missed meal breaks and missed rest breaks. As a result, Plaintiff and other Aggrieved Employees, from time-to-time, forfeited time worked by working without their time being accurately recorded and without compensation at the applicable pay rates.

The mutability of the timekeeping system also allowed Defendants to alter employee time records by recording fictitious thirty (30) minute meal breaks in Defendants' timekeeping system so as to create the appearance that Plaintiff and other Aggrieved Employees clocked out for thirty (30) minute meal break when in fact the employees were not at all times provided an off-duty meal break. This practice is a direct result of Defendants' uniform policy and practice of denying employees uninterrupted thirty (30) minute off-duty meal breaks each day or otherwise compensate them for missed meal breaks. As a result, Plaintiff and other Aggrieved Employees forfeited wages due to them for all hours worked at Defendants' direction, control and benefit for the time the timekeeping system was inoperable. Defendants' uniform policy and practice to not pay Plaintiff and the Aggrieved Employees wages for all hours worked in accordance with applicable law is evidenced by Defendants' business records.

Unlawful Rounding Practices: During the last year, Defendants did not have in place an immutable timekeeping system to accurately record and pay Plaintiff and other Aggrieved Employees for the actual time these employees worked each day, including overtime hours. Specifically, Defendants had in place an unlawful rounding policy and practice that resulted in Plaintiff and the Aggrieved Employees being undercompensated for all of their time worked. As a result, Defendants were able to and did in fact unlawfully, and unilaterally round the time recorded in Defendants' timekeeping system for Plaintiff and the Aggrieved Employees in order to avoid paying these employees for all their time worked, including the applicable overtime compensation for overtime worked. As a result, Plaintiff and other Aggrieved Employees, from time to time, forfeited compensation for their time worked by working without their time being accurately recorded and without compensation at the applicable overtime rates.

Further, the mutability of Defendants' timekeeping system and unlawful rounding policy and practice resulted in Plaintiff's and the Aggrieved Employees' time being inaccurately recorded. As a result, from time to time, Defendants' unlawful rounding policy and practice caused Plaintiff and other Aggrieved Employees to perform work as ordered by Defendants for more than five (5) hours during a shift without receiving an off-duty meal break.

Untimely Payment of Wages: Pursuant to California Labor Code section 204, Plaintiff and the Aggrieved Employees were entitled to timely payment of wages during their employment. Plaintiff and the Aggrieved Employees, from time to time, did not receive payment of all wages, including, but not limited to, overtime wages, minimum wages, meal period premium wages, and rest period premium wages within permissible time period. Pursuant to Cal. Lab. Code § 201, "If an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately." Pursuant to Cal. Lab. Code § 202, if an employee 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." Plaintiff and the Aggrieved Employees were, from time to time, not timely provided the wages earned and unpaid at the time of their discharge and/or at the time of quitting, in violation of Cal. Lab. Code §§ 201 and 202. To date, Defendants have not fully paid PLAINTIFF the minimum, overtime and double time compensation still owed

to her or any penalty wages owed to her under Cal. Lab. Code § 203.

Sick Pay Violations: Cal. Labor Code Section 246 (a)(1) mandates that “An employee who, on or after July 1, 2015, works in California for the same employer for 30 or more days within a year from the commencement of employment is entitled to paid sick days as specified in this section.” Further, Cal. Labor Code Sections 246(b)-(d) provide for the sick day accrual requirements. From time to time, including within the last year, Defendants failed to have a policy or practice in place that provided Plaintiff and other Aggrieved Employees with sick days and/or paid sick leave. As of January 1, 2024, Defendants failed to adhere to the law in that they failed to provide and allow employees to use at least 40 hours or five days of paid sick leave per year. California Labor Code Section 246(i) requires an employer to furnish its employees with written wage statements setting forth the amount of paid sick leave available. From time to time, including within the last year, Defendants violated Cal. Lab. Code § 246 by failing to furnish Plaintiff and other Aggrieved Employees with wage statements setting forth the amount of paid sick leave available.

To the extent that entities and/or individuals are named and charged with violations of the Labor Code—making them liable on an individual basis as permitted by numerous Labor Code Sections including, but not limited to 558, 558.1, and 1197.1—Plaintiff reserves any and all rights to add, substitute, or change the name of employer entities and/or individuals responsible for the violations at issue.

Any further amendments and changes to this notice shall relate back to the date of this notice. Consequently, Defendants is on notice that Plaintiff continues his investigation, with the full intent to amend and/or change this notice, to add any undiscovered violations of any of the provisions of the California Labor Code—to the extent that are applicable to this case—and to change and/or add the identities of any entities and/or individuals responsible for the violations contained herein.

This notice is provided in compliance with California Labor Code section 2695, *et seq.* .

If you have any questions or concerns, please do not hesitate to contact me at the above number and address.

Sincerely yours,
JCL LAW FIRM, APC

A handwritten signature in black ink, appearing to read 'JC Lapuyade', with a stylized flourish at the end.

Jean-Claude Lapuyade, Esq.
Attorney at Law

EXHIBIT 4

January 7, 2025

Via Online Filing to LWDA and Certified Mail to Defendants

Labor and Workforce Development Agency

Online Filing

EQUINOX SAN RAFAEL, LLC

c/o Registered Agent Solutions, Inc.

720 14th St

Sacramento, CA 95814

Sent via Certified Mail and Return Receipt No. 9589 0710 5270 2308 6625 98

EQUINOX HOTEL MANAGEMENT, INC.

c/o Abdul Suleman

2422 Lake Street

San Francisco, CA 94121

Sent via Certified Mail and Return Receipt No. 9589 0710 5270 2308 6625 74

SAN RAFAEL HILLCREST LLC

c/o Jeffrey L. Anastas

225 Arizona Avenue, Suite 450

Santa Monica, CA 90401

Sent via Certified Mail and Return Receipt No. 9589 0710 5270 2308 6625 81

EQUINOX UGI SR INVESTMENTS LLC

c/o Registered Agent Solutions, Inc.

720 14th Street

Sacramento, CA, 95814

Sent via Certified Mail and Return Receipt No. 9589 0710 5270 2308 6626 04

Case Name: *Demarqus Wiggins v. Equinox San Rafael LLC, et al.*

Case No. CV0003780

LWDA Case No.: LWDA-CM-1047692-24

Re: Third Amended Notice of Violations of California Labor Code Sections 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 221, 226, 226.2, 226.3, 226.7, 227.3, 246, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.1, 1197.14, 1198, 1198.5, 1199, 2802, 2804, and Violation of Applicable Industrial Welfare Commission Wage Order(s), and Pursuant to California Labor Code Section 2699.5

Dear Sir/Madam:

This amended notice is being sent in compliance with Cal. Lab. Code § 2699.3. Our offices represent Plaintiff Demarqus Wiggins ("Plaintiff") and other aggrieved employees. Plaintiff was employed by Defendant Equinox San Rafael LLC ("Defendant San Rafael"), Defendant Equinox Hotel Management, Inc. ("Defendant Equinox"), Defendant San Rafael Hillcrest LLC (Defendant

“San Rafael Hillcrest”) and Defendant Equinox UGI SR Investments LLC (Defendant “Equinox UGI”) in California from March 2023, through September 2023, as a non-exempt employee, paid on an hourly basis, and entitled to payment of all wages and the legally required meal and rest breaks.

The original claim in this case was submitted to the LWDA on August 27, 2024, by Plaintiffs against Defendant Equinox San Rafael, LLC. Plaintiff has since identified DOE Defendants 2-3 as additional Defendants who acted as Plaintiffs’ joint employer:

DOE 1 – EQUINOX HOTEL MANAGEMENT, INC., a California corporation

DOE 2 – SAN RAFAEL HILLCREST LLC, a California corporation

DOE 3 – EQUINOX UGI SR INVESTMENTS LLC, a Delaware corporation

Therefore, the claim is amended to add Defendants EQUINOX HOTEL MANAGEMENT, INC., SAN RAFAEL HILLCREST LLC, and as EQUINOX UGI SR INVESTMENTS LLC additional employers and Defendants in this case. Defendants EQUINOX HOTEL MANAGEMENT, INC., SAN RAFAEL HILLCREST LLC, and as EQUINOX UGI SR INVESTMENTS LLC will be added to Plaintiffs’ complaint with the Superior Court of California, County of Marin in the same manner.

Plaintiff alleges that within the past year, he personally suffered violations of the following Labor Codes Sections as a result of Defendants’ failure to pay Plaintiff for all time worked, provide Plaintiff with compliant meal periods, provide Plaintiff with compliant rest periods, provide Plaintiff with accurate itemized wage statements that facially comply with the requirements provided for in Labor Code Section 226, furnish wages to Plaintiff with the frequency as set forth under Labor Code Section 204, and reimburse Plaintiff for necessary business expenses: Labor Code §§ 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 221, 226, 226.2, 226.3, 226.7, 227.3, 246, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.1, 2802, and 2804. These violations are actionable under California Labor Code section 2699.3.

The amended information below provides notice to the Labor and Workforce Development Agency of the facts and theories supporting the alleged violations for the agency’s reference. If the agency needs any further information, please do not hesitate to ask.

Plaintiff seeks to represent a group of aggrieved employees defined as any person currently or formerly employed by Defendant Equinox San Rafael LLC, Defendant Equinox Hotel Management, Inc., Defendant San Rafael Hillcrest LLC and/or Defendant Equinox UGI SR Investments LLC who performed work in California and against whom one or more of the alleged violations listed above were committed during the relevant claim period (“Aggrieved Employees”). Plaintiff believes this group to be comprised of all current and former non-exempt employees who performed work for Defendants in California during the period beginning one year prior to the date of original Notice and continuing through the present.

In violation of the applicable sections of the California Labor Code and the requirements of the Industrial Welfare Commission (“IWC”) Wage Order, Defendants as a matter of company policy, practice, and procedure, intentionally, knowingly, and systematically failed to provide legally compliant meal and rest periods, failed to accurately compensate Plaintiff and other Aggrieved Employees for missed meal and rest periods, failed to pay Plaintiff and other Aggrieved Employees for all time worked, failed to compensate Plaintiff and other Aggrieved Employees for off-the-clock work, failed to pay Plaintiff and other Aggrieved Employees overtime at the correct regular rate

of pay, failed to compensate Plaintiff and other Aggrieved Employees meal and rest premiums at the regular rate of pay, failed to pay Plaintiff and other Aggrieved Employees redeemed sick pay at the regular rate of pay, failed to reimburse Plaintiff and other Aggrieved Employees for business expenses, and failed to issue to Plaintiff and other Aggrieved Employees accurate itemized wage statements showing, among other things, all applicable hourly rates in effect during the pay periods and the corresponding amount of time worked at each hourly rate. Defendants' uniform policies and practices are intended to purposefully avoid the accurate and full payment for all time worked as required by California law which allows Defendants to illegally profit and gain an unfair advantage over competitors who comply with the law.

Meal Period Violations: Pursuant to the Industrial Welfare Commission Wage Orders, Defendants were required to pay Plaintiff and the Aggrieved Employees for all their time worked, meaning the time during which an employee is subject to the control of an employer, including all the time the employee is suffered or permitted to work. From time to time during the last year, Defendants required Plaintiff and other Aggrieved Employees to work without paying them for all the time they were under Defendants' control. Specifically, Defendants required Plaintiff to work while clocked out during what was supposed to be Plaintiff's off-duty meal break. Indeed, there were many days when Plaintiff did not even receive a partial lunch. As a result, Plaintiff and other Aggrieved Employees forfeited minimum wage and overtime compensation by regularly working without their time being accurately recorded and without compensation at the applicable minimum wage and overtime rates. Defendants' uniform policy and practice not to pay Plaintiff and other Aggrieved Employees for all time worked is evidenced by Defendants' business records.

During the last year, as a result of their rigorous work schedules and Defendants' inadequate staffing practices, Plaintiff and other Aggrieved Employees were from time to time unable to take thirty (30) minute off duty meal breaks and were not fully relieved of duty for their meal periods. Plaintiff and other Aggrieved Employees were required to perform work as ordered by Defendants for more than five (5) hours during some shifts without receiving a meal break. Further, Defendants failed to provide Plaintiff and other Aggrieved Employees with a second off-duty meal period for some workdays in which Defendants required these employees to work ten (10) hours of work. The nature of the work performed by Plaintiff and other Aggrieved Employees does not qualify for the limited and narrowly construed "on-duty" meal period exception. When they were provided with meal periods, Plaintiff and other Aggrieved Employees were, from time to time, required to remain on duty and on call. Defendants' failure to provide Plaintiff and other Aggrieved Employees with legally required meal breaks is evidenced by Defendants' business records. As a result of their rigorous work schedules and Defendants' inadequate staffing, Plaintiff and other Aggrieved Employees therefore forfeited meal breaks without additional compensation and in accordance with Defendants' strict corporate policy and practice.

Rest Period Violations: From time to time during the past year, Plaintiff and other Aggrieved Employees were also required to work in excess of four (4) hours without being provided ten (10) minute rest periods as a result of their rigorous work requirements and Defendants' inadequate staffing. Further, for the same reasons, these employees were denied their first rest periods of at least ten (10) minutes for some shifts worked of at least two (2) to four (4) hours from time to time, a first and second rest period of at least ten (10) minutes for some shifts worked of between six (6) and eight (8) hours from time to time, and a first, second and third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or more from time to time. When they were provided with rest breaks, Plaintiff and other Aggrieved Employees were, from time to time, required to remain on premises, on duty and/or on call, and not fully relieved of all duties. Plaintiff and other Aggrieved Employees were also not provided with one-hour wages in lieu thereof. As a

result of their rigorous work schedules and Defendants' inadequate staffing, Plaintiff and other Aggrieved Employees were from time to time denied their proper rest periods by Defendants and Defendants' managers.

Unreimbursed Business Expenses: Defendants as a matter of corporate policy, practice, and procedure, intentionally, knowingly, and systematically failed to reimburse and indemnify the Plaintiff and other Aggrieved Employees for required business expenses incurred by the Plaintiff and other Aggrieved Employees in direct consequence of discharging their duties on behalf of Defendants. Under California Labor Code Section 2802, employers are required to indemnify employees for all expenses incurred in the course and scope of their employment. Cal. Lab. Code § 2802 expressly states that "an employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her 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."

Within the last year, in the course of their employment, Defendants required Plaintiff and other Aggrieved Employees to incur personal expenses for the use of their personal cell phones and vehicles as a result of and in furtherance of their job duties. Specifically, Plaintiff and other Aggrieved Employees were required to use their personal cell phones and vehicles in order to perform work related tasks. . However, Defendants unlawfully failed to reimburse Plaintiff and other Aggrieved Employees for the personal expenses incurred for the purchase and maintenance of their work uniforms. As a result, in the course of their employment with Defendants, the Plaintiff and other Aggrieved Employees incurred unreimbursed business expenses that included, but were not limited to, costs related to the personal expenses incurred for the purchase and maintenance of their work uniforms, all on behalf of and for the benefit of Defendants.

Wage Statement Violations: California Labor Code Section 226 requires an employer to furnish its employees and accurate itemized wage statement in writing showing (1) gross wages earned, (2) total hours worked, (3) the number of piece-rate units earned and any applicable piece-rate, (4) all deductions, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of the employee's social security number or an employee identification number other than a social security number, (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. From time to time during the last year, when Plaintiff and other Aggrieved Employees missed meal and rest breaks, or were paid inaccurately for missed meal and rest period premiums, or were not paid for all hours worked, Defendants also failed to provide Plaintiff and other Aggrieved Employees with complete and accurate wage statements which failed to show, among other things, all deductions, the total hours worked and all applicable hourly rates in effect during the pay period, and the corresponding amount of time worked at each hourly rate, correct rates of pay for penalty payments or missed meal and rest periods. Defendants also failed to provide Plaintiff and other Aggrieved Employees with complete and accurate wage statements that included all required elements listed above. Specifically, Defendants, from time to time, failed to provide Plaintiff and other Aggrieved Employees with wage statements that comply with Cal. Lab. Code § 226(a)(1)-(9). As a result, Defendants issued Plaintiff and other Aggrieved Employees with wage statements that violate Cal. Lab. Code § 226. Further, Defendants' violations are knowing and intentional, were not isolated due to an unintentional payroll error due to clerical or inadvertent mistake.

Off-the-Clock Work Resulting in Minimum Wage and Overtime Violations: During the last year,

from time-to-time, Defendants failed and continue to fail to accurately pay Plaintiff and other Aggrieved Employees for all hours worked. During the last year, from time-to-time Defendants required Plaintiff and other Aggrieved Employees to perform pre-shift or post-shift work. This resulted in Plaintiff and other Aggrieved Employees having to work while off-the-clock. Defendants directly benefited from the undercompensated off-the-clock work performed by Plaintiff and other Aggrieved Employees. Defendants controlled the work schedules, duties, and protocols, applications, assignments, and employment conditions of Plaintiff and other Aggrieved Employees.

Defendants were able to track the amount of time Plaintiff and other Aggrieved Employees spent working; however, Defendants failed to document, track, or pay Plaintiff and other Aggrieved Employees all wages earned and owed for all the work they performed. Plaintiff and other Aggrieved Employees were non-exempt employees, subject to the requirements of the California Labor Code. Defendants' policies and practices deprived Plaintiff and other Aggrieved Employees of all minimum regular, overtime, and double time wages owed for the off-the-clock work activities. Because Plaintiff and other Aggrieved Employees typically worked over forty (40) hours in a workweek, and more than eight (8) hours per day, Defendants' policies and practices also deprived them of overtime pay.

Defendants knew or should have known that Plaintiff's and other Aggrieved Employees' off-the-clock work was compensable under the law. As a result, Plaintiff and other Aggrieved Employees forfeited wages due to them for all hours worked at Defendants' direction, control, and benefit for the time spent working while off-the-clock, including but not limited to, undergoing pre-shift and post-shift work. Defendants' uniform policy and practice to not pay Plaintiff and other Aggrieved Employees wages for all hours worked in accordance with applicable law is evidenced by Defendants' business records.

Regular Rate Violation – Overtime, Double Time, Meal and Rest Period Premiums, and Redeemed Sick Pay: From time to time during the last year, Defendants failed and continue to fail to accurately calculate and pay Plaintiff and other Aggrieved Employees for their overtime and double time hours worked, meal and rest period premiums, and redeemed sick pay. As a result, Plaintiff and other Aggrieved Employees forfeited wages due to them for working overtime without compensation at the correct overtime and double time rates, meal and rest period premiums, and redeemed sick pay rates. Defendants' uniform policy and practice not to pay Plaintiff and other Aggrieved Employees at the correct rate for all overtime and double time worked, meal and rest period premiums, and sick pay in accordance with applicable law is evidenced by Defendants' business records.

State law provides that employees must be paid overtime at one-and-one-half times their "regular rate of pay." Plaintiff and other Aggrieved Employees were compensated at an hourly rate plus incentive pay that was tied to specific elements of an employee's performance. The second component of Plaintiff's and other Aggrieved Employees' compensation was Defendants' non-discretionary incentive program that paid Plaintiff and other Aggrieved Employees incentive wages based on their performance for Defendants. The non-discretionary bonus program provided all employees paid on an hourly basis with bonus compensation when the employees met the various performance goals set by Defendants. However, from time to time, when calculating the regular rate of pay in those pay periods where Plaintiff and other Aggrieved Employees worked overtime, double time, paid meal and rest period premium payments, and/or redeemed sick pay, and earned non-discretionary bonuses, Defendants failed to accurately include the non-discretionary bonus compensation as part of the employee's "regular rate of pay" and/or calculated

all hours worked rather than just all non-overtime hours worked. Management and supervisors described the incentive/bonus program to potential and new employees as part of the compensation package. As a matter of law, the incentive compensation received by Plaintiff and other Aggrieved Employees must be included in the “regular rate of pay.” The failure to do so has resulted in a systematic underpayment of overtime and double time compensation, meal and rest period premium payments, and redeemed sick pay to Plaintiff and other Aggrieved Employees by Defendants.

Specifically, California Labor Code Section 246 mandates that paid sick time for non-exempt employees shall be calculated in the same manner as the regular rate of pay for the workweek in which the non-exempt employee uses paid sick time, whether or not the employee actually works overtime in that workweek. Defendants’ conduct, as articulated herein, by failing to include the incentive compensation as part of the “regular rate of pay” for purposes of sick pay compensation was in violation of Cal. Lab. Code § 246 the underpayment of which is recoverable under Cal. Lab. Code Sections 201, 202, 203, and/or 204.

In violation of the applicable sections of the California Labor Code and the requirements of the Industrial Welfare Commission (“IWC”) Wage Order, Defendants as a matter of company policy, practice, and procedure, intentionally and knowingly failed to compensate Plaintiff and other Aggrieved Employees at the correct rate of pay for all overtime and double time worked, meal and rest period premiums, and redeemed sick pay as required by California law which allowed Defendants to illegally profit and gain an unfair advantage over competitors who complied with the law.

Unlawful Deductions: During the last year, Defendants, from time-to-time, unlawfully deducted wages from Plaintiff and Aggrieved Employees’ pay without explanations and without authorization to do so or notice to Plaintiff and the Aggrieved Employees. As a result, Defendants violated Labor Code § 221.

Timekeeping Manipulation: During the last year, Defendants, from time-to-time, did not have an immutable timekeeping system to accurately record and pay Plaintiff and other Aggrieved Employees for the actual time Plaintiff and other Aggrieved Employees worked each day, including regular time, overtime hours, sick pay, meal and rest breaks. As a result, Defendants were able to and did in fact, unlawfully, and unilaterally alter the time recorded in Defendants’ timekeeping system for Plaintiff and other Aggrieved Employees in order to avoid paying these employees for all hours worked, applicable overtime compensation, applicable sick pay, missed meal breaks and missed rest breaks. As a result, Plaintiff and other Aggrieved Employees, from time-to-time, forfeited time worked by working without their time being accurately recorded and without compensation at the applicable pay rates.

The mutability of the timekeeping system also allowed Defendants to alter employee time records by recording fictitious thirty (30) minute meal breaks in Defendants’ timekeeping system so as to create the appearance that Plaintiff and other Aggrieved Employees clocked out for thirty (30) minute meal break when in fact the employees were not at all times provided an off-duty meal break. This practice is a direct result of Defendants’ uniform policy and practice of denying employees uninterrupted thirty (30) minute off-duty meal breaks each day or otherwise compensate them for missed meal breaks. As a result, Plaintiff and other Aggrieved Employees forfeited wages due to them for all hours worked at Defendants’ direction, control and benefit for the time the timekeeping system was inoperable. Defendants’ uniform policy and practice to not pay Plaintiff and the Aggrieved Employees wages for all hours worked in accordance with applicable law is evidenced by Defendants’ business records.

Unlawful Rounding Practices: During the last year, Defendants did not have in place an immutable timekeeping system to accurately record and pay Plaintiff and other Aggrieved Employees for the actual time these employees worked each day, including overtime hours. Specifically, Defendants had in place an unlawful rounding policy and practice that resulted in Plaintiff and the Aggrieved Employees being undercompensated for all of their time worked. As a result, Defendants were able to and did in fact unlawfully, and unilaterally round the time recorded in Defendants' timekeeping system for Plaintiff and the Aggrieved Employees in order to avoid paying these employees for all their time worked, including the applicable overtime compensation for overtime worked. As a result, Plaintiff and other Aggrieved Employees, from time to time, forfeited compensation for their time worked by working without their time being accurately recorded and without compensation at the applicable overtime rates.

Further, the mutability of Defendants' timekeeping system and unlawful rounding policy and practice resulted in Plaintiff's and the Aggrieved Employees' time being inaccurately recorded. As a result, from time to time, Defendants' unlawful rounding policy and practice caused Plaintiff and other Aggrieved Employees to perform work as ordered by Defendants for more than five (5) hours during a shift without receiving an off-duty meal break.

Untimely Payment of Wages: Pursuant to California Labor Code section 204, Plaintiff and the Aggrieved Employees were entitled to timely payment of wages during their employment. Plaintiff and the Aggrieved Employees, from time to time, did not receive payment of all wages, including, but not limited to, overtime wages, minimum wages, meal period premium wages, and rest period premium wages within permissible time period. Pursuant to Cal. Lab. Code § 201, "If an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately." Pursuant to Cal. Lab. Code § 202, if an employee 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." Plaintiff and the Aggrieved Employees were, from time to time, not timely provided the wages earned and unpaid at the time of their discharge and/or at the time of quitting, in violation of Cal. Lab. Code §§ 201 and 202. To date, Defendants have not fully paid PLAINTIFF the minimum, overtime and double time compensation still owed to her or any penalty wages owed to her under Cal. Lab. Code § 203.

Sick Pay Violations: Cal. Labor Code Section 246 (a)(1) mandates that "An employee who, on or after July 1, 2015, works in California for the same employer for 30 or more days within a year from the commencement of employment is entitled to paid sick days as specified in this section." Further, Cal. Labor Code Sections 246(b)-(d) provide for the sick day accrual requirements. From time to time, including within the last year, Defendants failed to have a policy or practice in place that provided Plaintiff and other Aggrieved Employees with sick days and/or paid sick leave. As of January 1, 2024, Defendants failed to adhere to the law in that they failed to provide and allow employees to use at least 40 hours or five days of paid sick leave per year. California Labor Code Section 246(i) requires an employer to furnish its employees with written wage statements setting forth the amount of paid sick leave available. From time to time, including within the last year, Defendants violated Cal. Lab. Code § 246 by failing to furnish Plaintiff and other Aggrieved Employees with wage statements setting forth the amount of paid sick leave available.

To the extent that entities and/or individuals are named and charged with violations of the Labor Code—making them liable on an individual basis as permitted by numerous Labor Code Sections including, but not limited to 558, 558.1, and 1197.1—Plaintiff reserves any and all rights to add,

substitute, or change the name of employer entities and/or individuals responsible for the violations at issue.

Any further amendments and changes to this notice shall relate back to the date of original notice. Consequently, Defendants is on notice that Plaintiff continues his investigation, with the full intent to amend and/or change this notice, to add any undiscovered violations of any of the provisions of the California Labor Code—to the extent that are applicable to this case—and to change and/or add the identities of any entities and/or individuals responsible for the violations contained herein.

This amended notice is provided in compliance with California Labor Code section 2695, *et seq.* .

If you have any questions or concerns, please do not hesitate to contact me at the above number and address.

Sincerely yours,
JCL LAW FIRM, APC

A handwritten signature in black ink, appearing to read 'JC Lapuyade', with a stylized flourish extending to the right.

Jean-Claude Lapuyade, Esq.
Attorney at Law