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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

CLARISSA WINN,

Plaintiff,

v.
BLAKESLEE VINEYARD ESTATE, INC. dba
BLAKESLEE VINEYARD ESTATE TASTING
ROOM, and WILLIAM BLAKESLEE,
individually,

Defendants.

Case No:

INDIVIDUAL AND CLASS ACTION
COMPLAINT

Oregon Wage and Hour, Breach of Contract,
Conversion, and other claims

Jury Trial Requested

NOT SUBJECT TO MANDATORY
ARBITRATION

Prayer: \$800,000

FILING FEE: \$594 – ORS 21.160(1)(c)

Plaintiff Clarissa Winn (“Plaintiff”), individually and on behalf of all other similarly situated individuals (the “Proposed Class”), brings this complaint against Blakeslee Vineyard Estate, Inc. dba Blakeslee Vineyard Estate Tasting Room (“Blakeslee Vineyard Estate”) and William Blakeslee (“W. Blakeslee”) (collectively “Defendants”) for unpaid wages, unauthorized deductions, late payment of wages on termination, conversion, breach of contract, false information related to hours worked or compensation, an accounting, and demands a trial by jury as follows:

PRELIMINARY STATEMENT

1.

This is an action under state wage and hour statutes, and the common law, for present and former employees to recover unpaid wages, tips kept, statutory damages and penalties, economic and noneconomic compensatory damages, attorney fees, costs and disbursements, an accounting and other equitable relief. All allegations made herein are made upon information and belief, based on

1 investigation of counsel and personal knowledge. Plaintiff reserves the right to amend her complaint
2 upon the discovery of additional facts.

3 **PARTIES**

4 2.

5 Plaintiff and the Proposed Class are current and former hourly employees of Blakeslee Vineyard
6 Estate in the vineyard's tasting room.

7 3.

8 Plaintiff is a resident of Sherwood, Oregon. Plaintiff was employed at Defendants' winery, in the
9 tasting room located at 20875 SW Chapman Road Sherwood, OR 97140 from February 2022 until
10 September 2022. Plaintiff's job title was shift lead or tasting room business coordinator. Her job duties
11 included serving food and wine, selling wine club subscriptions to customers, assisting with
12 reservations, restocking supplies and inventory. Plaintiff had minimal supervisory duties but did not
13 make decisions regarding hiring or firing, wages, or tips.

14 4.

15 The Proposed Class consists of Oregon residents. Defendants employed¹ the Proposed Class at
16 various times in their tasting room in Sherwood, Oregon. The Proposed Class includes servers, back of
17 house personnel who prepared food and wine for customers, former shift leads with similar job duties to
18 Plaintiff.

19 5.

20 Blakeslee Vineyard Estate is an Oregon corporation with its principal place of business at 20875
21 SW Chapman Road., Sherwood, OR 97140. Blakeslee Vineyard Estate is a winery that grows and sells
22 wine. Blakeslee Vineyard Estate operates the tasting room where Plaintiff and the Proposed Class
23 worked. At all times alleged herein, Blakeslee Vineyard Estate conducted regular, sustained business
24 activity in Multnomah County and authorized an agent residing in Multnomah County to receive service
25 of process.

26 ¹ The Proposed Class also includes current employees of Blakeslee Vineyard Estate. For the sake of
using a consistent tense in this complaint, the past tense is used when referring to the Proposed Class.
PAGE 2 – INDIVIDUAL AND CLASS ACTION COMPLAINT

1 6.

2 W. Blakeslee is the president and secretary of Blakeslee Vineyard Estate. W. Blakeslee along
3 with his wife Sheila Blakeslee own and operate Blakeslee Vineyard Estate. W. Blakeslee committed
4 most employment violations alleged herein. In his position at Blakeslee Vineyard Estate, W. Blakeslee
5 had the authority to hire, fire, and discipline employees. W. Blakeslee also had the power to supervise,
6 set schedules, adjust wages, keep, maintain, and modify employee records, oversee operations of the
7 tasting room, and otherwise control all terms of Plaintiff's and Proposed Class's employment.

8 **CLASS ALLEGATIONS**

9 7.

10 Plaintiff incorporates the preceding paragraphs of this complaint by reference.

11 8.

12 Pursuant to ORCP 32, Plaintiff seeks to have this action maintained as a class comprised of all
13 current and former hourly employees of Blakeslee Vineyard Estate's tasting room who were employed at
14 any time from December 5, 2016, up to the date that the Court certifies the class.

15 9.

16 The Proposed Class is comprised of at least 45 individuals and potentially more than 150
17 individuals. So, the Proposed Class is so numerous that joinder of its individual members is
18 impracticable. To that end, an accounting is claimed as a form of relief.

19 10.

20 Damages caused by Defendants' unlawful employment practices are common among the
21 Proposed Class. Plaintiff's claims are typical of the Proposed Class and the scope of the Proposed Class
22 includes Plaintiff.

23 11.

24 Plaintiff will fairly and adequately protect the interests of the Proposed Class because there is no
25 conflict of interest between Plaintiff and the Proposed Class, and because Plaintiff is represented by
26 competent counsel who will vigorously pursue the claims in this class action. Also, Plaintiff notified

1 Defendants in writing thirty or more days prior to the commencement of this action of Plaintiff and
2 Proposed Class's claims.

3 12.

4 A class action is superior to other methods available for fair and efficient adjudication of this
5 controversy because:

- 6 (a) Given the size of the Proposed Class, it is probable that inconsistent or varying adjudications
7 with respect to the members of the Proposed Class could establish incompatible standards of
8 conduct for Defendant;
- 9 (b) Common questions of law and fact predominate over individual questions;
- 10 (c) All members of the Proposed Class have been treated similarly by Defendant so as to make
11 appropriate final relief with respect to the class as a whole;
- 12 (d) It is desirable to concentrate litigation of these claims in a single forum. Multnomah County
13 is the most easily accessible circuit court for the named parties and their counsel; and
- 14 (e) Plaintiff knows of no other means available to eliminate or significantly reduce the difficulty
15 of managing this class action. Plaintiff believes that pursuit of these claims as a class action
16 will be significantly more manageable than pursuing the claims through separate
17 adjudications.

18 **FACTS COMMON TO ALL CLAIMS**

19 13.

20 Plaintiff incorporates the preceding paragraphs of this complaint by reference.

21 14.

22 Defendants require(d) Plaintiff and Proposed Class to contribute some portion or all of their tips
23 and gratuities to a tip pool. Defendants announced that the purpose of the tip pool was to redistribute the
24 tips to non-tipped employees.

25 ///

26 ///

1 15.

2 Defendants kept the tip pool secret, so that Plaintiff and the Proposed Class did not know if they
3 were paid the correct amount.

4 16.

5 On multiple occasions, W. Blakeslee told Plaintiff and individuals in the Proposed Class that the
6 supposed tip pool was his personal “slush fund.” During summer 2022, W. Blakeslee told Plaintiff, on
7 multiple occasions he could use the “slush fund” for whatever purpose he wanted to. On multiple
8 occasions, W. Blakeslee also said that the tips taken were “for the house,” meaning they were for
9 Defendants rather than employees.

10 17.

11 Generally, although not always, W. Blakeslee on behalf of Blakeslee Vineyard Estate allowed
12 wait staff to keep cash tips who were left by customers in the tasting room for wait staff.

13 18.

14 But, for tips left on credit card bills by customers, W. Blakeslee removed approximately twenty-
15 five percent of the tips. At one point, over Plaintiff’s objections, W. Blakeslee increased the amount to
16 thirty percent of employee tips.

17 19.

18 According to W. Blakeslee, these tips were supposed to be redistributed to back-of-house
19 employees, not normally in customer-facing roles. In other words, W. Blakeslee disguised a fund he
20 used for operational expenses as a tip pool.

21 20.

22 Defendants further deviated from the purported tip pool procedure in the following ways:

- 23 (a) Some portion of Plaintiff and Proposed Class’s tips were redistributed to vineyard workers as
24 an annual bonus, not part of a valid tip pool;
- 25 (b) Defendants kept a significant portion of these tips for themselves and for the operational
26 expenses of Blakeslee Vineyard Estate; and

1 (c) Defendants sometimes kept more than twenty five percent of the tips from credit cards and
2 adjusted the total number of tips to make it appear in point-of-service software that only
3 twenty-five percent of the tips had been taken.

4 21.

5 Defendants did not disclose this tip scheme in the interview process or job ads to prospective
6 employees. Some members of the Proposed Class were not told of the tip scheme until after they were
7 hired and began their first day of work. Defendants failed to pay some members of the Proposed Class
8 tips at all for their first few weeks of employment.

9 22.

10 On one occasion, W. Blakeslee told a former shift lead that shift leads were not allowed to
11 receive tips from customers, despite serving food to customers. W. Blakeslee then kept all of that shift
12 lead's earned tips from that pay period. So, in response, that shift lead stopped hosting customers,
13 allowing wait staff to receive the tips from customers. W. Blakeslee then reprimanded that shift lead,
14 angry that W. Blakeslee was no longer receiving the entirety of that shift lead's tips.

15 23.

16 According to another former employee, W. Blakeslee told her that employees "were making too
17 much in tips," and then reduced her hourly pay rate.

18 24.

19 As part of their compensation, Plaintiff, Proposed Class and Defendants agreed that for each
20 wine club subscription that Plaintiff and Proposed Class sold to a customer, they would receive a bonus
21 on their next paycheck.

22 25.

23 However, W. Blakeslee changed the policy retroactively, and took back the already-earned
24 bonuses of Plaintiff and Proposed Class in subsequent paychecks. Under W. Blakeslee's new policy,
25 employees would only earn a wine club bonus if the customer did not cancel their subscription within a
26 year. Since most employees at Blakeslee Vineyard Estate did not last a whole year (due to the

1 employment practices described herein), Defendants effectively eliminated the club bonuses.

2 26.

3 W. Blakeslee, on behalf of Blakeslee Vineyard Estate, has regularly reduce employees' hours in
4 the following ways:

5 (a) W. Blakeslee rounded down Plaintiff and Proposed Class's hours before each pay period on
6 each separate day that they worked;

7 (b) W. Blakeslee took 30 minutes off timesheets for lunches that employees did not take and
8 which he required them not to take; and

9 (c) W. Blakeslee manipulated point-of-service timecard entries to reduce employees' hours.

10 27.

11 W. Blakeslee, on behalf of Blakeslee Vineyard Estate, has used these practices to reduce labor
12 costs over an extended period of time, likely running back at least six years.

13 28.

14 For example, when Plaintiff asked W. Blakeslee for an accounting of her final paycheck, W.
15 Blakeslee sent Plaintiff a printout of the clock in-clock out times from the employee timecard service.
16 On the printout of the clock in-clock out times, it shows that Plaintiff worked 2.16 hours on September
17 1, 2022. On September 2, 2022, it shows that Plaintiff worked 6.85 hours. Next to the September 1
18 entry, W. Blakeslee wrote in blue pen the number "2." Next to the September 2 entry, W. Blakeslee
19 wrote in blue pen "6.5." Defendants then paid Plaintiff for a total of only 8.5 hours worked on those two
20 days.

21 29.

22 W. Blakeslee used this method to remove 30-minute lunches that employees did not take.
23 Defendants almost never allowed Plaintiff or Proposed Class to take a 30-minute lunch for a shift longer
24 than six hours. Rather than hire more employees to work the busy times in the tasting room, W.
25 Blakeslee simply prevented employees from taking their lunches and deducted those hours from their
26 paychecks. On multiple occasions, W. Blakeslee told Plaintiff and individuals in the Proposed Class that

1 he was aware that employees did not get their breaks. According to W. Blakeslee, since the tasting room
2 was not always busy, it made up for the lack of lunch or other breaks.

3 30.

4 Plaintiff's personnel file reveals that W. Blakeslee engaged in this practice of hand rounding
5 down hours for the length of her employment. Corroboration from other members of the Proposed Class
6 reveals that this practice extended much further back in time.

7 31.

8 Also, W. Blakeslee would reduce employees' hours by changing clock in-clock out times in the
9 Blakeslee Vineyard Estate's point-of-service software. Members of the Proposed Class reported frequent
10 irregularities in their hours worked and pay received.

11 32.

12 As of the filing of this action, Defendants have not paid Plaintiff for all hours worked despite
13 having received written notice of nonpayment.

14 **FACTS RELATED TO PLAINTIFF'S INDIVIDUAL CLAIMS**

15 33.

16 On August 7, 2022, W. Blakeslee required Plaintiff and other employees to serve customers at a
17 private 'celebration of life' at Blakeslee Vineyard Estate's location.

18 34.

19 The following day, on August 8, 2022, W. Blakeslee required Plaintiff to delete employees'
20 hours from the point-of-service software. W. Blakeslee then paid every employee cash at a rate of
21 \$20.00 per hour rather than their regular rates and handed each employee a printout. Some employees,
22 including Plaintiff had regular hourly rates higher than \$20.00 per hour.

23 ///

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1 **FIRST CLAIM FOR RELIEF**

2 **Unpaid Wages—ORS 652.120**

3 **(Against Blakeslee Vineyard Estate)**

4 35.

5 Plaintiff incorporates the preceding paragraphs of this complaint by reference.

6 36.

7 Blakeslee Vineyard Estate failed to pay Plaintiff and the Proposed Class all wages due including
8 tips at each regular payday as required by ORS 652.120.

9 37.

10 So, Plaintiff and the Proposed Class are entitled to their unpaid wages in an amount to be proved
11 at trial, attorney fees and costs, and pre- and post-judgement interest.

12 **SECOND CLAIM FOR RELIEF**

13 **Unauthorized Deductions ORS 652.615**

14 **(Against Blakeslee Vineyard Estate)**

15 38.

16 Plaintiff incorporates the preceding paragraphs of this complaint by reference.

17 39.

18 By failing to provide employees with a statement of full amounts of deductions taken and by
19 deducting without a lawful purpose, Blakeslee Vineyard Estate violated ORS 652.610.

20 40.

21 Under 652.615, “there is hereby created a private cause of action for a violation of ORS
22 652.610(3) for actual damages or \$200, whichever is greater. In any such action the court may award to
23 the prevailing party, in addition to costs and disbursements, reasonable attorney fees.”

24 41.

25 Because W. Blakeslee, on behalf of Blakeslee Vineyard Estate, violated ORS 652.610(3) by
26 illegally deducting hours and tips from *each* employee’s paycheck at *each* pay period, Plaintiff and

1 Proposed Class are entitled to \$200 for each paycheck containing a deduction or the amount deducted,
2 whichever is greater.

3 **THIRD CLAIM FOR RELIEF**

4 **Unpaid Wages Upon Termination—ORS 652.150**

5 **(Against Blakeslee Vineyard Estate)**

6 42.

7 Plaintiff incorporates the preceding paragraphs of this complaint by reference.

8 43.

9 Pursuant to ORS 652.140, Defendants were required to pay Plaintiff and the Proposed Class all
10 wages due by the statutory deadline after termination, but, as described herein, willfully failed to do so.

11 44.

12 Plaintiffs and the Proposed Class are entitled to collect all wages remaining due, in an amount to
13 be proven at trial together with attorney fees and costs, as well as pre- and post-judgment interest, and the
14 30 days of statutory penalty wages provided by ORS 652.150.

15 **FOURTH CLAIM FOR RELIEF**

16 **Conversion (Wrongful Theft of Tips)**

17 **(Against W. Blakeslee)**

18 45.

19 Plaintiff incorporates the preceding paragraphs of this complaint by reference.

20 46.

21 By misappropriating the tip pool funds entrusted to them, W. Blakeslee exercised unlawful
22 dominion and control over the property, which completely interfered with the employees' right to
23 control it, so that defendants may justly be required to repay the full value of the property. This breach
24 of bailment contract and of trust and of fiduciary responsibilities qualifies as, and is enforceable as,
25 conversion.

26 ///

1 47.

2 Plaintiff and the Proposed Class are entitled to recover the value of the property tortiously
3 converted, in addition to pre- and post-judgment interest and (on motion) punitive damages.

4 **FIFTH CLAIM FOR RELIEF**

5 **Breach of Contract (Tips and Wine Club Bonuses)**

6 **(Against Blakeslee Vineyard Estate)**

7 48.

8 Plaintiff incorporates the preceding paragraphs of this complaint by reference.

9 49.

10 Defendants told Plaintiff and Proposed Class that the tip pool would be distributed to non-tipped
11 employees. Defendants also told Plaintiff and the Proposed Class that they would be entitled to a bonus
12 for each wine subscription they sold. When the terms of that contract no longer suited Defendants, they
13 took the tips for themselves and took wine club bonuses out of Plaintiff and the Proposed Class's
14 paychecks.

15 50.

16 Plaintiff and the Proposed Class are therefore entitled to (1) the difference between tips earned
17 and those appropriated by Defendants for other purposes and (2) the unpaid, but earned, wine club
18 bonuses.

19 **SIXTH CLAIM FOR RELIEF**

20 **Accounting (Tips, Wages, and Wine Club Bonuses)**

21 **(Against Blakeslee Vineyard Estate)**

22 51.

23 Plaintiff incorporates the preceding paragraphs of this complaint by reference.

24 52.

25 By collecting all tips from Plaintiff and the Proposed Class, for the purpose of redistributing
26 them, Defendants became the bailor, fiduciary and trustee of those funds, holding them in trust for the

1 proper recipients. As such, Defendants owe Plaintiff and the Proposed Class a duty to render an account
2 showing in detail the items taken in and expended, when, to whom, and for what purpose, and that the
3 account rendered, and expenditures claimed were correct, just and necessary.

4 53.

5 Plaintiff and the Proposed Class are therefore entitled to a full accounting of the tips and
6 gratuities received and/or paid out by defendants, and to an equitable award of any amounts to which
7 such accounting demonstrates that they are entitled.

8 **SEVENTH CLAIM FOR RELIEF**

9 **False Information Related to Hours Worked or Compensation – ORS 652.100**

10 **(By Plaintiff Against Blakeslee Vineyard Estate)**

11 54.

12 Plaintiff incorporates the preceding paragraphs of this complaint by reference.

13 55.

14 Under ORS 652.100, an employer may not “[c]ompel, coerce, or otherwise induce or attempt to
15 induce an employee to create, file or sign documents containing information that the employer knows is
16 false related to the hours worked or compensation received by the employee.”

17 56.

18 By requiring Plaintiff to delete timecard information on August 8, 2022, so that Blakeslee
19 Vineyard Estate could pay some hourly employees less than their actual hourly rate for the celebration
20 of life event, Blakeslee Vineyard Estate violated this section.

21 57.

22 As such, Plaintiff is entitled to \$1,000 for this violation, injunctive relief, attorney fees, and
23 costs.

24 **PRAYER FOR RELIEF**

25 WHEREFORE, Plaintiff requests that the Court:

26 (1) Upon motion certify a class, designate Plaintiff as the class representative, and designate

- 1 Plaintiff's counsel as the class counsel;
- 2 (2) Award such actual, statutory, penalty and other damages as set forth above and in amounts to
- 3 be proven at trial;
- 4 (3) Award the attorney fees, costs and expenses of suit of Plaintiff and the Proposed Class;
- 5 (4) Order Defendants to pay pre-judgment and post-judgment interest on all amounts due to
- 6 Plaintiffs and the Proposed Class as a result of their claims;
- 7 (5) Order all awards to be increased by such amounts as required to offset income-tax
- 8 consequences of the award;
- 9 (6) Order an accounting;
- 10 (7) Declare Defendants' violations as enumerated herein and enjoin Defendants from committing
- 11 similar violations in future;
- 12 (8) Award punitive damages upon motion; and
- 13 (9) Order such further or alternative relief as the Court deems appropriate.
- 14

15 DATED this 5th day of December, 2022.

16 Respectfully submitted,

17 **EMPLOYMENT LAW PROFESSIONALS**

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