

In the Matter of

**FRASER'S RESTAURANT & LOUNGE, INC., dba Fraser's Restaurant &
Quarterdeck Lounge, and THOMAS ALLEN FRASER
Case No. 23-11**

Final Order of Commissioner Brad Avakian

Issued April 21, 2011

SYNOPSIS

Six wage claimants worked for Respondent Fraser's Restaurant & Lounge, Inc. between February 1 and May 13, 2010, and a seventh wage claimant worked for Respondent Thomas Allen Fraser from May 18 through June 11, 2010. All seven performed work for which they were not properly compensated. Based on Respondents' admissions, the forum granted summary judgment to the Agency regarding the validity of the wage claims and ordered Respondents to pay \$12,565.80 in unpaid wages. ORS 652.140(2).

The above-entitled case was assigned to Alan McCullough, designated as Administrative Law Judge ("ALJ") by Brad Avakian, Commissioner of the Bureau of Labor and Industries for the State of Oregon.

The Bureau of Labor and Industries ("BOLI" or "the Agency") was represented by case presenter Patrick A. Plaza, an employee of the Agency. After the Agency issued an Order of Determination, but prior to a Notice of Hearing being issued, the Agency moved for and was granted partial summary judgment. The Agency subsequently amended its Order of Determination to delete all allegations left unresolved in the ALJ's interim order granting the Agency's motion for partial summary judgment. As a result, no hearing was scheduled or held.

Having fully considered the entire record in this matter, I, Brad Avakian, Commissioner of the Bureau of Labor and Industries, hereby make the following

Findings of Fact (Procedural and on the Merits), Ultimate Findings of Fact, Conclusions of Law, Opinion, and Order.

FINDINGS OF FACT – PROCEDURAL

1) On January 6, 2010, the Agency issued Order of Determination #09-3453 (“Order”) in which it alleged the following:

- Seven wage claimants -- Tracee Lyn Eggert, Kathy Veronica Giddens, Melissa L. Heikes, Susan Hohlweg, Lea Kathleen Stidham, Stacey Ann Whiteley, and Cheryl Ann Whitney (“Claimants”) -- were employed in Oregon by Fraser’s Restaurant & Lounge, Inc. (“FRLI”) dba Fraser’s Restaurant & Lounge and Thomas Allen Fraser and Marcia S. Fraser, dba Frasers, as successors in interest to FRLI. The Claimants “performed work, labor and services” for Respondents between February 1 and June 11, 2010.
- All Claimants filed wage claims and assigned their unpaid wages to the Oregon Bureau of Labor and Industries. In total, \$12,565.80 in wages was unpaid.
- Respondents owe \$14,112.00 to Claimants as ORS 652.150 penalty wages, along with interest, and \$14,112.00 to Claimants as ORS 653.055(1)(b) civil penalties, along with interest.

2) On August 4, 2010, Respondents Thomas and Marcia Fraser filed answers and requested a hearing. Both denied that they were successors in interest to FRLI or that they owed any penalty wages or civil penalties. Thomas Fraser admitted that he owed the wages claimed by Whiteley.

3) On August 9, 2010, Respondent FRLI filed an answer and request for hearing in which it admitted owing the wages claimed by all Claimants except Whiteley and denied it owed any penalty wages or civil penalties because of its inability to pay wages.

4) On November 1, 2010, the Agency filed a motion for partial summary judgment alleging that, as a matter of law, Respondents jointly and severally owed the unpaid wages to Claimants as set out in the Order of Determination. At the same time, the Agency moved to amend the Order of Determination to delete the Agency’s pleading for ORS 653.055(1)(b) civil penalties.

5) On November 3, 2010, the ALJ issued an order requiring Respondents' written response to the Agency's motions no later than November 15, 2010. Respondents did not file a response. On November 30, 2010, the ALJ issued a ruling **GRANTING** the Agency's motion to amend in its entirety and its motion for partial summary judgment in part. The ruling on the Agency's motion for partial summary judgment is reprinted below:

"On November 1, 2010, the Agency moved for partial summary judgment in this wage claim case, contending that there is no issue as to any material fact that 'Respondents, jointly and severally, owe unpaid wages to each of the seven claimants' as set forth in the Agency's Order of Determination. Respondents have had nearly a month to respond to the Agency's motion and have not done so.

"History Of The Case

"On July 12, 2010, the Agency issued Order of Determination #10-0981 ('Order') in which it alleged that seven wage claimants 'performed work, labor and services for Fraser's Restaurant & Lounge, Inc. dba Fraser's Restaurant & Deck Lounge, and, Thomas Allen Fraser and Marcia S. Fraser, dba Frasers, as Successors In Interest to Fraser's Restaurant & Lounge, Inc.' The Order alleged that each claimant was entitled to the unpaid wages listed below, computed at the rate of \$8.40 per hour for straight time hours and \$12.60 per hour for overtime hours.

<u>Claimant</u>	<u>Dates wages earned</u>	<u>Total wages due</u>
Susan Hohlweg:	2/1/10 – 3/29/10	\$1159.20
Melissa Heikes:	2/1/10 – 4/30/10	\$2771.10
Cheryl Whitney:	2/1/10 – 4/30/10	\$1740.90
Kathy Giddens:	2/2/10 – 3/22/10	\$2360.40
Lea Stidham:	3/1/10 – 4/16/10	\$1081.50
Tracee Eggert:	3/1/10 – 5/13/10	\$2709.00
Stacey Whiteley:	5/18/10 – 6/11/10	\$743.70

"In total, the Order alleged that Respondents were jointly and severally liable for \$12,565.80 in unpaid wages, \$14,112.00 in ORS 652.150 penalty wages, and \$14,112.00 in ORS 653.055(1)(b) civil penalties.

"On November 1, 2010, the Agency filed a motion to amend the Order to delete the Agency's pleading for \$14,112.00 in civil penalties based on ORS 653.055(1)(b). On November 24, 2010, I granted the Agency's motion. The Agency did not seek summary judgment with respect to the penalty wages sought in the Order. Consequently, the only issues considered by the forum in ruling on the Agency's

motion are: (1) whether the claimants are entitled to the unpaid wages sought in the Order and, (2) If so, who is liable to pay those wages.

“Summary Judgment Standard

“A motion for summary judgment may be granted where no genuine issue as to any material fact exists and a participant is entitled to a judgment as a matter of law, as to all or any part of the proceedings. *OAR 839-050-0150(4)(B)*. The standard for determining if a genuine issue of material fact exists and the evidentiary burden on the participants is as follows:

“ * * * No genuine issue as to a material fact exists if, based upon the record before the court viewed in a manner most favorable to the adverse party, no objectively reasonable juror could return a verdict for the adverse party on the matter that is the subject of the motion for summary judgment. The adverse party has the burden of producing evidence on any issue raised in the motion as to which the adverse party would have the burden of persuasion at [hearing].’ *ORCP 47C*.

“The evidentiary ‘record’ considered by the forum in deciding this matter consists of: (1) The Agency’s Order and Respondents’ answers and requests for hearing; (2) The exhibits attached to the Agency’s motion for partial summary judgment.

“Liability Of Fraser’s Restaurant & Lounge, Inc., dba Fraser’s Restaurant & Quarterdeck Lounge

“In its answer and request for hearing, Fraser’s Restaurant & Lounge, Inc. (‘Fraser’s, Inc.’) stated ‘[i]n response to #2 we agree for all wage claims except for Stacey Whiteley.’ Paragraph #2 of the Order incorporates the wage claims of all seven claimants by reference to Exhibit A attached to the Order¹ and includes the following language:

“* * * During the periods set out [earlier in this interim order] the Wage Claimants performed work, labor and services for Fraser’s Restaurant & Lounge, Inc. dba Fraser’s Restaurant & Deck Lounge, and, Thomas Allen Fraser and Marcia S. Fraser, dba Frasers, as Successors In Interest to Fraser’s Restaurant & Lounge, Inc. (the ‘Employers’). The Employers were required by the provisions of *ORS 653.025* to compensate the Wage Claimants at a rate not less than \$8.40 per hour for each hour worked. In addition, the Employers were required by the provisions of *ORS 653.261(1)* and *OAR 839-020-0030* to compensate the Wage Claimants one and one-half times the regular rates of pay for each hour worked over 40 hours in a given work week. The Wage Claimants worked a total of 1,578.75 hours, 24.5 of which were hours worked over 40 hours in a given work week, and are entitled to \$13,364.40 in wages, of which the Employers paid the sum of \$798.60, leaving a balance due and owing of \$12,565.80, along with interest as set out in Exhibit A.’

“Based on the language contained in Paragraph #2 of the Order, Fraser’s Inc.’s statement constitutes an admission that it employed Claimants Hohlweg, Heikes, Whitney, Giddens, Stidham, and Eggert, and that those six claimants worked the dates and earned the amounts and are owed the unpaid wages recited on page two of this interim order.

“Fraser’s, Inc. denied that it employed or owes any wages to Claimant Whiteley. Corporation Division records submitted by the Agency in support of its motion show that Frasers registered for business on May 12, 2010, and that Fraser’s, Inc. filed articles of dissolution on June 4, 2010. In the answers and requests for hearing filed by Thomas and Marcia Frazier, they both stated that Fraser’s, Inc. closed on April 30, 2010, and that Frasers opened for business on May 12, 2010. The Agency submitted no evidence to the contrary. Consequently, for purposes of this motion, the forum concludes that Fraser’s, Inc. closed on April 30, 2010. Since Stacy Whiteley did not begin her employment until May 18, 2010, she could not have been employed by Fraser’s, Inc.

“In conclusion, the forum **GRANTS** the Agency’s motion with regard to Fraser’s, Inc.’s liability for the amount of unpaid wages set out in the Agency’s Order as to Claimants Hohlweg, Heikes, Whitney, Giddens, Stidham, and Eggert. The forum **DENIES** the Agency’s motion with regard to Fraser’s, Inc.’s liability for the amount of unpaid wages set out in the Agency’s Order as to Claimant Whiteley.

“Liability Of Thomas And Marcia Fraser For Claimant Whiteley’s Unpaid Wages

“In his answer and request for hearing, Thomas Fraser admitted that he was the sole proprietor of Frasers, that Claimant Whiteley was his employee, and that he agreed with Whiteley’s wage claim as set out in paragraph #2 of the Agency’s Order. Marcia Fraser agreed that Claimant Whiteley was employed by Frasers but did not admit any ownership interest in Frasers. The Corporation Division records provided by the Agency in support of its motion show that Thomas Fraser is the authorized representative and registrant for Frasers and do not reflect any ownership interest by Marcia Fraser. Additionally, the Agency refers to Frasers as a sole proprietorship on pages 4 and 6 of its motion. By its very nature, a sole proprietorship can only be owned by one person. In this case, it appears that Thomas Fraser is that person. As such, Thomas Fraser is liable for Claimant Whiteley’s unpaid wages. For purposes of this motion, Marcia Fraser was not an employer and is not liable for Claimant Whiteley’s unpaid wages.

“In conclusion, the forum **GRANTS** the Agency’s motion with regard to Thomas Fraser’s liability for the amount of Claimant Whiteley’s unpaid wages as set out in the Agency’s Order. The forum **DENIES** the Agency’s motion with regard to Marcia Fraser’s liability for the amount of Claimant Whiteley’s unpaid wages as set out in the Agency’s Order.

“Liability Of Marcia Fraser As Successor In Interest To Fraser’s, Inc.

“The Agency alleges that Thomas and Marcia Fraser, doing business as Frasers, are successors in interest to Fraser’s, Inc. and thereby liable for the unpaid wages owed by Fraser’s, Inc. Based on the record to date, the forum has already concluded that Frasers is a sole proprietorship owned by Thomas Fraser and that Marcia Fraser has no ownership interest. Accordingly, there is no basis in fact or in law to justify granting partial summary judgment against Marcia Fraser on the theory that she is liable as a successor employer to the unpaid wages owed by Fraser’s, Inc.

“The forum **DENIES** the Agency’s motion for partial summary judgment with regard to Marcia Fraser’s liability for the amount of unpaid wages set out in the Agency’s Order as to Claimants Hohlweg, Heikes, Whitney, Giddens, Stidham, and Eggert.

“Liability Of Thomas Fraser As Successor In Interest To Fraser’s, Inc.

“Having denied the Agency’s motion as to Marcia Fraser, the forum evaluates the Agency’s claim of successorship against Thomas Fraser, the undisputed sole proprietor of Frasers.

“This forum has long held that the test to determine whether an employer is a successor is whether it conducts essentially the same business as conducted by the predecessor. The six elements to consider include: the name or identity of the business; its location; the lapse of time between the previous operation and the new operation; whether the same or substantially the same work force is employed; whether the same product is manufactured or the same service is offered; and, whether the same machinery, equipment, or methods of production are used. Not every element needs to be present to find a successor employer. The forum considers all of the facts together to reach a determination. *In the Matter of Bukovina Express, Inc.*, 27 BOLI 184, 201 (2006).

“A. The Name Or Identity Of The Business

“The predecessor’s name is Fraser’s Restaurant & Lounge, Inc. dba Fraser’s Restaurant & Quarterdeck Lounge (‘Fraser’s, Inc.’). The name of the alleged successor is Frasers. The president, secretary, and a registered agent of Fraser’s, Inc. was Gertrude Fraser. The vice president was Thomas Fraser. Thomas and Marcia Fraser were both directors. The authorized representative and registrant of Frasers is Thomas Fraser. Records from the Oregon Liquor Control Commission to show that Fraser’s, Inc. renewed its OLCC license on June 3, 2010, with a premises address of 1032 Oregon Avenue SW, Bandon, OR 97411, Frasers’ principal place of business. Although Respondents Thomas and Marcia Fraser allege in their respective answers that Frasers did not purchase Fraser’s, Inc., the forum concludes that these similarities in name and identity support a finding of successorship.

“B. Location

“The principal place of business of the predecessor is listed with the Corporation Division as ‘Hwy 101 & 10th, PO Box 687, Bandon, OR 97411.’ The principal place of business of Fraser’s Restaurant & Quarterdeck Lounge is listed with the Corporation Division as ‘1032 Oregon St. SW (Hwy 101 & 10th SW), PO Box 687, Bandon, OR 97411.’ The principal place of business of Frasers is listed with the Corporation Division as ‘1032 Oregon St. SW, PO Box 681, Bandon, OR 97411.’ Based on these Corporation Division records, the forum concludes that Frasers is doing business in the same location as Fraser’s, Inc. This indicates successorship.

“C. The Lapse Of Time Between The Previous Operation And The New Operation

“Fraser’s, Inc. filed articles of dissolution with the Corporation Division on June 4, 2010. Frasers filed an application for registration with the Corporation Division on May 12, 2010. Respondent Thomas Fraser states in his answer that the Fraser’s,

Inc. closed on April 30, 2010, and that Frasers opened a store for business on May 12, 2010. He also admits that Whiteley was employed by Frasers from May 18 through June 11, 2010. Based on Thomas Fraser's statements, the forum concludes Frasers opened its doors for business only 12 days after Fraser's, Inc. closed its doors. This brief lapse of time indicates successorship.

"D. Whether The Same Or Substantially The Same Work Force Is Employed

"There is no evidence in the record to show that Fraser's, Inc. and Frasers employed any of the same employees.

"E. Whether The Same Product Is Manufactured Or The Same Service Is Offered

"Aside from its name and the existence of an OLCC liquor license, the record is devoid of evidence as to the type of business that the Fraser's Restaurant & Lounge, Inc. operated. There is no evidence in the record as to the type of business that Frasers operates, other than a tenuous inference that it serves alcohol drawn from the fact that Fraser's, Inc. renewed its OLCC license the day before it filed articles of dissolution and Frasers operates out of the same location as Fraser's, Inc.

"F. Whether The Same Machinery, Equipment, Or Methods Of Production Are Used.

"There is no evidence in the record as to whether Frasers uses the same machinery, equipment, or methods of production as Fraser's, Inc.

"Conclusion

"Except for some Corporation Division records, the Agency's argument that Thomas and Marcia Fraser are successors to Fraser's, Inc. is based solely on conjecture. The Agency has presented no evidence whatsoever to satisfy three elements of the six element test used by the forum to determine successorship. Likewise, the Agency has presented no evidence to prove the specific type of business that Frasers operates.ⁱⁱ Based on the record to date, this forum is unable to conclude as a matter of law that Frasers conducts essentially the same business as Fraser's, Inc. The Agency's motion for partial summary judgment against Thomas Fraser on the theory that he is liable as a successor employer to the unpaid wages owed by Fraser's, Inc. is **DENIED**.

"Case Status

" The following allegations contained in the Agency's Order remain unresolved:

1. Whether Fraser's, Inc. is liable for Claimant Whiteley's unpaid wages.
2. Whether Fraser's, Inc. is liable for penalty wages to all seven wage claimants.
3. Whether Thomas Fraser dba Frasers is a successor in interest to Fraser's, Inc., and the extent of his liability, if any, for the unpaid wages due to wage claimants Hohlweg, Heikes, Whitney, Giddens, Stidham, and Eggert.
4. Whether Marcia Fraser has an ownership interest in Frasers. If so, the extent of her liability, if any, for the unpaid wages due to Whiteley as Whiteley's

employer and to wage claimants Hohlweg, Heikes, Whitney, Giddens, Stidham, and Eggert as a successor in interest to Fraser's, Inc.

5. Whether Thomas and Marcia Fraser are liable for ORS 652.150 penalty wages to the wage claimants."

This ruling is **AFFIRMED**.

6) On March 3, 2011, the Agency moved to amend its Order of Determination to make the following changes:

1. To delete the Agency's allegation that FRLI owes wages to Claimant Stacey Whiteley;
2. To remove Marcia Fraser as a named respondent;
3. To forego pursuit of all penalty wages assessed under ORS 652.150 against all named respondents; and
4. To withdraw its allegations that Thomas Fraser is liable for unpaid wages of FRLI's employees based on the theory of successor liability.

The Agency also asked the forum to issue proposed and final orders reiterating the findings in the ALJ's interim order dated November 30, 2010. Respondents filed no objections to the Agency's motion and the ALJ granted the Agency's motion on March 16, 2011.

7) On March 21, 2011, the ALJ issued a proposed order that notified the participants they were entitled to file exceptions to the proposed order within ten days of its issuance. No exceptions were filed.

FINDINGS OF FACT – THE MERITS

1) At all times material herein, Respondent FRLI was an Oregon domestic business corporation and an employer doing business in Bandon, Oregon that suffered or permitted one or more persons to work.

2) Respondent FRLI employed Claimant Eggert from March 1 through May 13, 2010, at the straight time wage of \$8.40 per hour and \$12.60 per hour for overtime hours. Eggert worked 330.25 straight time hours and 6.5 overtime hours, earning a total of \$2,856.00. Eggert was only paid \$147.00, leaving \$2,709.00 in unpaid, due and owing wages.

3) Respondent FRLI employed Claimant Giddens from February 2 through March 22, 2010, at the straight time wage of \$8.40 per hour and \$12.60 per hour for overtime hours. Giddens worked 254 straight time hours and 18 overtime hours, earning a total of \$2,360.40. Giddens was paid nothing, leaving \$2,360.40 in unpaid, due and owing wages.

4) Respondent FRLI employed Claimant Heikes from February 1 through April 30, 2010, at the straight time wage of \$8.40 per hour. Heikes worked 332.75 straight time hours, earning a total of \$2,795.10. Heikes was only paid \$24.00, leaving \$2,771.10 in unpaid, due and owing wages.

5) Respondent FRLI employed Claimant Hohlweg from February 1 through March 29, 2010, at the straight time wage of \$8.40 per hour. Hohlweg worked 177 straight time hours, earning a total of \$1,486.80. Hohlweg was only paid \$327.60, leaving \$1,159.20 in unpaid, due and owing wages.

6) Respondent FRLI employed Claimant Stidham from March 1 through April 16, 2010, at the straight time wage of \$8.40 per hour. Stidham worked 128.75 straight time hours, earning a total of \$1,081.50. Stidham was paid nothing, leaving \$1,081.50 in unpaid, due and owing wages.

7) Respondent FRLI employed Claimant Whitney from February 1 through April 30, 2010, at the straight time wage of \$8.40 per hour. Whitney worked 207.25 straight time hours, earning a total of \$1,740.90. Whitney was paid nothing, leaving \$1,740.90 in unpaid, due and owing wages.

8) At all times material herein, Respondent Thomas Allen Fraser was an individual and an employer doing business under the name of Frasers in Bandon, Oregon who suffered or permitted one or more persons to work.

9) Respondent Thomas Frazier employed Claimant Whiteley from May 18 through June 11, 2010, at the straight time wage of \$8.40 per hour. Whiteley worked 124.25 straight time hours, earning \$1043.70 and was paid only \$300.00, leaving \$743.70 in unpaid, due and owing wages.

ULTIMATE FINDINGS OF FACT

1) At all times material herein, Respondent FRLI was an Oregon domestic business corporation and an employer doing business in Bandon, Oregon that suffered or permitted one or more persons to work, including Claimants Eggert, Giddens, Heikes, Hohlweg, Stidham, and Whitney.

2) At all times material herein, Respondent Thomas Allen Fraser was an individual and employer doing business under the name of Frasers in Bandon, Oregon who suffered or permitted one or more persons to work, including Claimant Whiteley.

3) Claimants Eggert and Giddens were employed by Respondent FRLI at the straight time wage of \$8.40 per hour and overtime wage of \$12.60 per hour and worked straight time and overtime hours for which they were not paid. Respondent FRLI owes them the following unpaid wages:

<u>Claimant</u>	<u>Wages Owed</u>
Eggert	\$2,709.00
Giddens	\$2,360.40

4) Claimants Heikes, Hohlweg, Stidham, and Whitney were employed by Respondent FRLI at the straight time wage of \$8.40 per hour and performed work for which they were not paid. Respondent FRLI owes them the following unpaid wages:

<u>Claimant</u>	<u>Wages Owed</u>
Heikes	\$2,771.10
Hohlweg	\$1,159.20
Stidham	\$1,081.50
Whitney	\$ 743.70

5) Claimant Whiteley was employed by Respondent Thomas Fraser at the straight time wage of \$8.40 per hour and performed work for which Whiteley was not paid. Respondent Thomas Fraser owes Whiteley \$1,740.90 in unpaid wages.

CONCLUSIONS OF LAW

1) At all times material herein, Respondent FRLI employed Claimants Eggert, Giddens, Heikes, Hohlweg, Stidham, and Whitney. ORS 653.010.

2) At all times material herein, Respondent Thomas Fraser employed Claimant Whiteley. ORS 653.010.

3) The Commissioner of the Bureau of Labor and Industries has jurisdiction over the subject matter and Respondents herein. ORS 652.330, 652.332.

4) Respondents violated ORS 652.140 by failing to pay Claimants all wages earned and unpaid after the termination of their employment.

5) Under the facts and circumstances of this record, and according to the law applicable to this matter, the Commissioner of the Bureau of Labor and Industries is entitled to recover from Respondents, as assignee of the Claimants, unpaid wages in the amount of \$12,565.80, plus interest until paid. ORS 652.332.

OPINION

CLAIMANTS' WAGE CLAIMS

To establish Claimants' wage claims, it was necessary for the Agency to prove the following elements by a preponderance of the evidence: 1) Respondents employed Claimants; 2) The pay rate upon which Respondents and Claimants agreed, if more than the minimum wage; 3) Claimants performed work for which they were not properly compensated; and 4) The amount and extent of work Claimants performed for Respondents. *In the Matter of Creative Carpenters Corporation, 29 BOLI 271, 277 (2007)*. The Agency proved its case through Respondents' admissions and the forum

granted summary judgment to the Agency regarding the validity of the wage claims and the amount owed to each Claimant.

ORDER

NOW, THEREFORE, as authorized by ORS 652.332, the Commissioner of the Bureau of Labor and Industries hereby orders Respondent **Fraser's Restaurant & Lounge, Inc.** to deliver to the Fiscal Services Office of the Bureau of Labor and Industries, 1045 State Office Building, 800 NE Oregon Street, Portland, Oregon 97232-2180, the following:

A certified check payable to the Bureau of Labor and Industries in the amount of ELEVEN THOUSAND EIGHT HUNDRED TWENTY TWO DOLLARS AND TEN CENTS (\$11,822.10), less appropriate lawful deductions, representing gross earned, due and payable wages owed to Tracee Lyn Eggert, Kathy Veronica Giddens, Melissa L. Heikes, Susan Hohlweg, Lea Kathleen Stidham, and Cheryl Ann Whitney, plus interest at the legal rate on the sums of:

- a) \$2,360.40 from April 1, 2010, until paid;
- b) \$2,240.70 from May 1, 2010, until paid;
- c) \$7,221.00 from June 1, 2010, until paid.

NOW, THEREFORE, as authorized by ORS 652.332, the Commissioner of the Bureau of Labor and Industries hereby orders Respondent **Thomas Allen Fraser** to deliver to the Fiscal Services Office of the Bureau of Labor and Industries, 1045 State Office Building, 800 NE Oregon Street, Portland, Oregon 97232-2180, the following:

A certified check payable to the Bureau of Labor and Industries in the amount of SEVEN HUNDRED FORTY-THREE DOLLARS AND SEVENTY CENTS (\$743.70), less appropriate lawful deductions, representing gross earned, due and payable wages owed to Stacey Ann Whiteley, plus interest at the legal rate on the sum of \$743.70 from July 1, 2010, until paid.

ⁱ Exhibit A sets out the names of the seven wage claimants, their dates of employment, their rate of pay, the number of straight time and overtime hours that they worked, the amount they were paid, and the amount of unpaid wages currently owed to them.

ⁱⁱ The continued existence of a Fraser's Inc.'s OLCC license, when Fraser's, Inc. conducted business at the same location as Frasers and Frasers' owner was one of the Fraser's Inc.'s corporate officers, does not prove that Frasers serves alcohol when there is no other evidence in the record to support that fact.