

HON. JAMES L. ROBERT

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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON**

R. ALEXANDER ACOSTA, Secretary of Labor,
United States Department of Labor,

Plaintiff,

v.

HOA SALON ROOSEVELT, INC., a Washington
corporation, **HOA SALON BALLARD, INC.**, a
Washington corporation, **THUY MICHELLE
NGUYEN PRAVITZ**, an individual and managing
agent of the Corporate Defendants, **ERIC
PRAVITZ**, an individual and managing agent of
the Corporate Defendants,

Defendants.

Case No.: 2:17-CV-00961-JLR

AGREED PRETRIAL ORDER

Trial Date: February 11, 2019

1 Pursuant to LCR 16(h) and the Court's Order at Dkt. 17, the parties submit the
2 following pretrial statement:

3 **A. Federal Jurisdiction**

4 Jurisdiction of this action is conferred upon the Court by 29 U.S.C. § 217, and by
5 28 U.S.C. §§ 1331, and 1345.

6 **B. Claims for Relief to be Pursued at Trial**

7 Plaintiff has two claims here: one legal and one equitable. The legal claim seeks
8 liquidated damages for violations of the FLSA. The equitable claim seeks injunctive
9 relief prohibiting future violations of 29 U.S.C. §§206, 207, 211(c), and 215(a)(3), plus a
10 restitutionary injunction against Defendants jointly and severally for the following willful
11 violations:

- 12 1. failure to pay minimum wages and overtime premium payments for
13 hours worked over 40 in a workweek in the amount of \$137,603 to 30
14 employees, pursuant to 29 U.S.C. §§ 206 and 207;
- 15 2. failure to keep, maintain, and produce records pursuant to 29 U.S.C.
16 §211(c);

17 **C. Undisputed Facts and Legal issues.**

18 The parties stipulate to the following facts:

- 19 1. Defendants Hoa Salon Roosevelt, Inc. and Hoa Salon Ballard, Inc. are
20 covered employers under the Act.
- 21 2. Defendant Michelle Pravitz is a 3(d) employer under the Act.
- 22 3. Defendant Eric Pravitz is a 3(d) employer under the Act.

1 4. Defendants employed people identified in Plaintiff's Amended
2 Complaint, Exhibit A.

3 5. Defendants sold the salon known as Hoa Salon Ballard at the end of
4 April 2016.

5 6. At the beginning of the relevant time period, starting in June of 2014,
6 Defendants paid their employees twice a month on the 5th and 20th of
7 the month. Defendants recorded information about hours at the salons
8 in a notebook. Mrs. Pravitz used the information from the notebook to
9 enter data into a form summarizing an entire month, including tips
10 earned and hours. Mr. Pravitz used that form to enter info into the
11 payroll system. These notebook sheets were not retained.

12 **D. Issues of Law:**

13 Plaintiff's Issues of Law:

- 14 1. Whether Defendants violated the FLSA by failing to pay their employees
15 at an hourly rate of no less than the required minimum wage, pursuant to
16 29 U.S.C. §206.
- 17 2. Whether Defendants violated the FLSA by failing to pay their employees
18 the greater of one and one-half times the federal minimum wage, or a rate
19 no less than one and one-half times the employee's regular rate of pay for
20 all hours worked over 40 in a workweek, pursuant to 29 U.S.C. §207.
- 21 3. Whether Defendants violated the FLSA by failing to keep and maintain
22 records of the hours worked by and wages paid to their employees,
pursuant to 29 U.S.C. §211(c).
4. Whether Defendants' violations of the FLSA were willful.

1 5. Whether liquidated damages should be awarded in an amount equal to
2 the amount of backwages due for failure to pay minimum wage and/or
3 overtime compensation.

4 Defendants' issues of law:

- 5 6. Has Plaintiff established that Defendants' payroll records do not accurately
6 record all hours worked by their employees?
- 7 7. Has Plaintiff established that that the employees he has included in Exhibit
8 A of his Amended Complaint worked hours for which they were not
9 properly compensated as asserted in his Complaint?
- 10 8. Has Plaintiff established the number of hours of uncompensated work
11 performed by the employees he has included in Exhibit A of his Amended
12 Complaint by a just and reasonable inference?
- 13 9. Has the Plaintiff established the injunctive relief sought in his Complaint is
14 appropriate?

15 **E. Witnesses**

On behalf of Plaintiff:	
Name/Address	Expected Testimony
Katherine Walum 300 Fifth Ave., Suite 1130 Seattle, WA 98104	Ms. Walum is expected to testify regarding her position as a Wage Hour Investigator and the information she determined during her investigation of Defendants, including but not limited to Defendants' business practices, documents received and examined during her investigation, opening conference and contact with Defendants, closing conference and contact with Defendants both before and after the Complaint was filed, and FLSA violations.

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<p>Mrs. Michelle Pravitz c/o Bardi Martin, counsel 200 West Thomas, Suite 420 Seattle, WA 98119 Will testify</p>	<p>Ms. Pravitz is expected to testify about her ownership and management of Hoa Salon Ballard and Hoa Salon Roosevelt, the Defendants' practice of hiring employees and outlining the terms of employment in writing, scheduling work at both salons and requiring workers to report to work 30 minutes before the opening of the salons, and directing the work of the employees at both salons. Ms. Pravitz will testify about how Defendants organized their payroll process to pay workers at both salons on a on a semi-monthly basis, the employment and pay records that Defendants created and either discarded or maintained, and the amounts paid to Defendants' employees.</p>
<p>Mr. Eric Pravitz c/o Bardi Martin, counsel 200 West Thomas, Suite 420 Seattle, WA 98119 Will testify</p>	<p>Mr. Pravitz is expected to testify about his ownership and management of Hoa Salon Ballard and Hoa Salon Roosevelt, the Defendants' practice of hiring employees and outlining the terms of employment in writing, scheduling work at both salons, how Defendants organized their payroll process to pay workers at both salons on a on a semi-monthly basis, the employment and pay records that Defendants created and either discarded or maintained, and the amounts paid to Defendants' employees.</p>
<p>Ms. Thi Thuy Trieu Do Will testify</p>	<p>Ms. Do is expected to testify about her employment with Defendants including her work at Hoa Salon Roosevelt and Hoa Salon Ballard, her dates and hours of work, how those hours were set, scheduled, and recorded (if at all), from whom she took direction, the manner of payment for her work, and information she observed about her coworkers' employment conditions, and any other fact bearing on Defendants' FLSA violations.</p>
<p>Ms. Hoang-Anh T. Le 2853 South Genesee Street, Seattle, WA 98108</p>	<p>Ms. Le is expected to testify about her employment with Defendants including her duties as an employee of Hoa Salon Roosevelt and Hoa Salon Ballard, her dates and hours of work, how those hours were set, scheduled, and recorded (if at all), from whom she took direction, the manner of payment for her work, and information she observed about her coworkers' employment conditions, and any other fact bearing on Defendants' FLSA violations.</p>

<p>1 Ms. Diem Thi Nguyen 7002 Tolmie Drive NE 2 Olympia, WA 98516</p>	<p>Ms. Nguyen is expected to testify about her employment with Defendants including her duties as an employee of Hoa Salon Roosevelt and Hoa Salon Ballard, her dates and hours of work, how those hours were set, scheduled, and recorded (if at all), from whom she took direction, the manner of payment for her work, and information she observed about her coworkers' employment conditions, and any other fact bearing on Defendants' FLSA violations.</p>
<p>3 4 5 Ms. Chau Ong</p>	<p>Ms. Ong is expected to testify about her employment with Defendants including her duties as an employee of Hoa Salon Roosevelt and Hoa Salon Ballard, her dates and hours of work, how those hours were set, scheduled, and recorded (if at all), from whom she took direction, the manner of payment for her work, and information she observed about her coworkers' employment conditions, and any other fact bearing on Defendants' FLSA violations.</p>
<p>6 7 8 9 Ms. Ly My Tran 10 162 South 120th Street 11 Seattle, WA 98168</p>	<p>Ms. Tran is expected to testify about her employment with Defendants including her duties as an employee of Hoa Salon Roosevelt and Hoa Salon Ballard, her dates and hours of work, how those hours were set, scheduled, and recorded (if at all), from whom she took direction, the manner of payment for her work, and information she observed about her coworkers' employment conditions, and any other fact bearing on Defendants' FLSA violations.</p>
<p>12 13 14 On behalf of Defendants:</p>	
<p>15 Name/Address</p>	<p>Expected Testimony</p>
<p>16 Thuy Michelle Nguyen 17 Pravitz 18 c/o Boyle Martin Thoeny, 19 200 West Thomas Street, 20 Suite 420, Seattle, WA 21 98119 22 Will Testify</p>	<p>Ms. Pravitz owned Hoa Salon Ballard and owns Hoa Salon Roosevelt, and is expected to testify about the ownership and management of the salons, including hiring, scheduling, payroll practices, and employees.</p>

<p>1 Eric Pravitz c/o Boyle Martin Thoeny, 2 200 West Thomas Street, 3 Suite 420, Seattle, WA 98119 Will Testify</p>	<p>Mr. Pravitz owned Hoa Salon Ballard and owns Hoa Salon Roosevelt, and is expected to testify about the ownership and management of the salons, including hiring, scheduling, payroll practices, and employees.</p>
<p>4 Phuong T Nguyen 5 12533 NE 160 PL 6 Woodinville, WA 98072 Will Testify</p>	<p>Ms. Nguyen is a former employee of Hoa Salon Ballard. She purchased and reopened the salon as White Lotus. She is expected to testify about her employment at Hoa Salon Ballard including her schedule, duties, breaks, payment of wages, and co-workers at the salon.</p>
<p>7 Ngoc Ha T. Pham 8 1828 181st St SW Lynnwood WA 98037 Will Testify</p>	<p>Ms. Pham is an employee at Hoa Salon Roosevelt, and is expected to testify about her employment there including her schedule, duties, breaks, payment of wages, and co-workers at the salon.</p>
<p>9 Nhi Truong Thi Ngoc 10 7009 42nd Ave S, Apt. 3 Seattle WA 98118-5452 Will Testify</p>	<p>Ms. Ngoc is a former employee at Hoa Salon Roosevelt, and is expected to testify about her employment there including her schedule, duties, breaks, payment of wages, and co-workers at the salon.</p>
<p>11 Viet Thi Phan 12 18930 Bothell Everett Hwy #F306 Bothell, WA 98012 Will Testify</p>	<p>Ms. Phan is a former employee at Hoa Salon Ballard, and is expected to testify about her employment there including her schedule, duties, breaks, payment of wages, and co-workers at the salon.</p>
<p>14 Phuong Kim Tran 15 13745 56th Ave S, Apt B205 Tukwila WA 98168 Will Testify</p>	<p>Ms. Tran is an employee at Hoa Salon Roosevelt, and is expected to testify about her employment there including her schedule, duties, breaks, payment of wages, and co-workers at the salon.</p>
<p>17 Hao My Tong 18 6901 Delridge Way SW Seattle, WA 98106 Will Testify</p>	<p>Ms. Tong is a former employee at Hoa Salon Ballard, and is expected to testify about her employment there including her schedule, duties, breaks, payment of wages, and co-workers at the salon.</p>

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15	Katherine Walum 300 Fifth Ave., Suite 1130 Seattle, WA 98104	Ms. Walum is expected to testify regarding her position as a Wage Hour Investigator and the information she determined during her investigation of Defendants, including but not limited to Defendants' business practices, documents received and examined during her investigation, opening conference and contact with Defendants, closing conference and contact with Defendants both before and after the Complaint was filed, and FLSA violations.
6 7 8 9 10 11 12 13 14 15	Thi Thuy Trieu Do 11904 Renton Ave S. Apt# 111 Seattle, WA 98178	Ms. Do is a former employee at Hoa Salon Ballard, and may testify about her employment there including her schedule, duties, breaks, and payment of wages.
8 9 10 11 12 13 14 15	Hoang-Anh T. Le 2853 South Genesee Street Seattle, WA 98108	Ms. Le is a former employee at Hoa Salon Ballard, and may testify about her employment there including her schedule, duties, breaks, and payment of wages.
10 11 12 13 14 15	Diem Thi Nguyen 7002 Tolmie Drive NE Olympia, WA 98516	Ms. Nguyen is a former employee at Hoa Salon Ballard, and may testify about her employment there including her schedule, duties, breaks, and payment of wages.
12 13 14 15	Chau Ong 12425 2nd Ave S. Burien, WA 98168	Ms. Ong is a former employee at Hoa Salon Ballard, and may testify about her employment there including her schedule, duties, breaks, payment of wages, and 2015 L&I complaint against defendants.
14 15	Ly My Tran 162 South 120th Street Seattle, WA 98168	Ms. Tran is a former employee at Hoa Salon Ballard, and may testify about her employment there including her schedule, duties, breaks, and payment of wages.

F. Exhibits

<u>Ex.</u>	<u>Description</u>	<u>STIP TO ADMISS</u>	<u>STIP TO AUTH: NOT ADMISS.</u>	<u>DISPUTE AUTH. AND ADMISS.</u>
1	Employment Offer Letter, Diep H. Le		X	
2	Employment Offer Letter, My Phuong Pham		X	
3	Employment Offer Letter, Nhi Ngoc		X	
4	Employment Offer Letter, Phuong Nguyen		X	
5	Employment Offer Letter, Thu Nguyen		X	
6	Employment Offer Letter, Viet Phan		X	

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<u>Ex.</u>	<u>Description</u>	<u>STIP TO ADMISS</u>	<u>STIP TO AUTH; NOT ADMISS.</u>	<u>DISPUTE AUTH. AND ADMISS.</u>
7	Hoa Ballard 2014 Payroll	X		
8	Hoa Ballard 2015 Payroll	X		
9	Hoa Ballard 2016 Payroll	X		
10	Hoa Ballard 2015 Worksheet (January)	X		
11	Hoa Ballard 2016 Worksheets (Jan.-Apr.)	X		
12	Hoa Roosevelt 2014 Payroll	X		
13	Hoa Roosevelt 2015 Payroll	X		
14	Hoa Roosevelt 2016 Payroll	X		
15	Hoa Roosevelt 2017 Payroll		X	
16	Hoa Roosevelt 2018 Payroll		X	
17	Hoa Roosevelt 2014 Worksheets	X		
18	Hoa Roosevelt 2015 Worksheets	X		
19	Hoa Roosevelt 2016 Worksheets	X		
20	Hoa Roosevelt 2017 Worksheets		X	
21	Hoa Roosevelt 2018 Worksheets		X	
22	Master back wage worksheet			X
23	Summary back wage calculations per employee, updated as necessary			X
24	Demonstrative exhibits based on payroll and worksheets (Exhibits 7-21)			X
25	Fact Sheet 44, Visits to Employers		X	
26	WH 1088, Fair Labor Standards Act Poster		X	
27	WH 1261, Regulations at Title 29 Part 516, Recordkeeping		X	
28	WH 1262, Regulations at Title 9 Part 778, Overtime Compensation		X	
29	WH 1297, Employment Relationship Under the Fair Labor Standards Act		X	
30	WH 1281, Regulations at Title 29 Part 541, Exemptions to the Fair Labor Standards Act		X	
31	WH 1282, Handy Reference Guide to the Fair Labor Standards Act		X	

<u>Ex.</u>	<u>Description</u>	<u>STIP TO ADMISS</u>	<u>STIP TO AUTH; NOT ADMISS.</u>	<u>DISPUTE AUTH. AND ADMISS.</u>
32	WH 1312, Regulations at Title 29 Part 785, Hours Worked		X	
33	WH 1318, U.S. Code, Title 29, Chapter 8, Fair Labor Standards Act		X	
34	WH 1330, Child Labor Provision for Non-Agricultural Occupations under Fair Labor Standards Act		X	
35	WH 1467, Regulations at Title 29, Part 578, Minimum Wage and Overtime Violations		X	
A1	Hoa Ballard 2015 Timesheets			X
A2	Hoa Ballard 2016 Timesheets			X
A3	Hoa Ballard 2014 Point of Sale Records			X
A4	Hoa Ballard 2015 Point of Sale Records			X
A5	Hoa Ballard 2016 Point of Sale Records			X
A6	Hoa Roosevelt 2014 Point of Sale Records			X
A7	Hoa Roosevelt 2015 Point of Sale Records			X
A8	Hoa Roosevelt 2016 Point of Sale Records			X
A9	Defendants' Employee Overtime Recalculation Ballard			X
A10	Defendants' Employee Overtime Recalculation Roosevelt			X
A11	DOL Master back wage worksheet (DOL 000100-102, 000105-170)		X	
A12	DOL Back Wage Compliance and Payment Agreement		X	
A13	DOL Summary of Unpaid Wages dated 3/22/17		X	
A14	Full-time nail tech hours created by DOL (DOL 002405)		X	
A15	DOL Subpoena to defendants (DOL 002369-2375)		X	
A16	Emails from K. Walum to B. Martin and T. Hong dated 3/1/17 (DOL 002359-2362)		X	
A17	Google Calendar invite for Hoa Salon Investigation – Final Conference (DOL 002363)		X	

<u>Ex.</u>	<u>Description</u>	<u>STIP TO ADMISS</u>	<u>STIP TO AUTH: NOT ADMISS.</u>	<u>DISPUTE AUTH. AND ADMISS.</u>
A18	Letter dated 3/14/17 from B. Martin to K. Walum with handwritten notes (DOL 002344-2347)		X	
A19	Email exchange between K. Walum and B. Martin dated 3/14/17 (5:48 p.m.) and 3/16/17 (1:30 p.m.), Subject: Hoa Salon Roosevelt and Ballard Response		X	
A20	Email from K. Walum to B. Martin dated 3/22/17 (DOL 002343)		X	
A21	Email exchange between K. Walum and B. Martin dated 3/24/17 and 3/30/17 (DOL 002339-2340)		X	
A22	DOL letter to defendants dated 10/21/16 (DOL 002387-2389)		X	
A23	K. Walum handwritten note, undated (DOL 002390)		X	
A24	Hoa Salon Price List (4-22-15)			X
A25	Hoang-Anh Le Employment Letter			X
A26	Hong-Loan Nguyen Employment Letter			X
A27	Thi Nguyen Employment Letter			X
A28	Ngoc Ha Pham Employment Letter			X
A29	Phuong Kim Tran Employment Letter			X

DATED this January 22, 2019.

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Solicitor of Labor

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/s/ Abigail G. Daquiz
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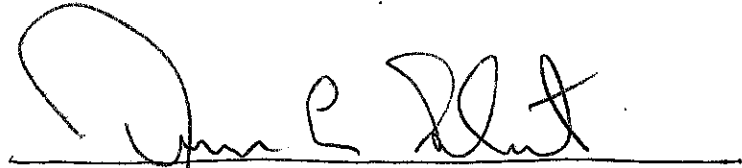
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/s/

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Attorneys for Defendants

Dated this 23rd day of January, 2019.



JAMES L. Robart
United States District Judge