

DIRECTOR OF THE DEPARTMENT OF LABOR & INDUSTRIES  
STATE OF WASHINGTON

In re: Ann Riggs,

Appellant.

Citation and Notice of Assessment No.  
DOC-226-20

OAH Docket No. 08-2020-LI-01488

No. 2021-008-WPA

DIRECTOR'S ORDER

RCW 49.48.084(4); RCW 34.05

Joel Sacks, Director of the Washington State Department of Labor & Industries, having considered the Initial Order served on January 4, 2021, having considered the petition for review filed by Ann Riggs (the Appellant), briefing submitted to the Director's Office, and having reviewed the record created at hearing and the records and files herein, issues this Director's Order. The Director makes the following Findings of Fact, Conclusions of Law, and Final Decision and Order.

**I. FINDINGS OF FACT**

1. The Office of Administrative Hearings issued and served the Initial Order on January 4, 2021.
2. The Appellant timely filed a petition for review with the Director.

DIRECTOR'S ORDER

RCW 49.48.084(4); RCW 34.05

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OFFICE OF THE DIRECTOR  
DEPARTMENT OF LABOR & INDUSTRIES  
P.O. BOX 44001  
OLYMPIA, WA 98504-4001

3. The Director adopts and incorporates all the Initial Order's findings of facts, except Finding 4.21 should refer to Determination of Compliance. And Finding 5.18 should refer to Big Lake Bar & Grill.

## II. CONCLUSIONS OF LAW

1. Based on the Appellant's timely filed petition for review, there is authority to review and decide this matter under RCW 49.48.084 and RCW 34.05.

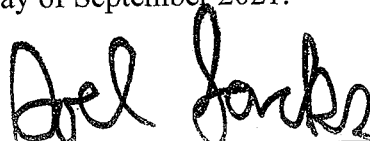
2. I have considered the findings and conclusions of the Initial Order, which correctly analyze the legal issues in this appeal and adopt and incorporate all the Initial Order's conclusions of law and "initial order" section.

3. The Appellant argues that she should be subject to the Minimum Wage Act because of her bartending duties. But under the Act, an employee may still work job duties such as bartending and be excluded from the Minimum Wage Act when the employee's primary duty is managerial. Here the evidence is replete with managerial duties showing it is the primary duty, and under the facts and law, she is not subject to the Minimum Wage Act.

## III. DECISION AND ORDER

Consistent with the above Findings of Fact and Conclusions of Law, the Determination of Compliance is affirmed. The Initial Order is incorporated by reference herein.

DATED at Tumwater, Washington this 7 day of September 2021.



JOEL SACKS  
Director

## SERVICE

This Order was served on you the day it was deposited in the United States mail. RCW 34.05.010(19).

## APPEAL RIGHTS

**Reconsideration.** Any party may file a petition for reconsideration. RCW 34.05.470. Any petition for reconsideration must be filed within 10 days of service of this Order and must state the specific grounds on which relief is requested. No matter will be reconsidered unless it clearly appears from the petition for reconsideration that (a) there is material clerical error in the order **or** (b) there is specific material error of fact or law. A petition for reconsideration, together with any argument in support thereof, should be filed by mailing, or by emailing to [DirectorAppeal@LNI.WA.GOV](mailto:DirectorAppeal@LNI.WA.GOV), or delivering it directly to Joel Sacks, Director of the Department of Labor and Industries, P. O. Box 44001 Olympia, Washington 98504-4001, with a copy to all other parties of record and their representatives. Filing means actual receipt of the document at the Director's Office. RCW 34.05.010(6).

**NOTE: A petition for reconsideration is not required before seeking judicial review.** If a petition for reconsideration is filed, however, the 30-day period will begin to run upon the resolution of that petition. A timely filed petition for reconsideration is deemed to be denied if, within twenty (20) days from the date the petition is filed, the Director does not (a) dispose of the petition **or** (b) serve the parties with a written notice specifying the date by which it will act on the petition. RCW 34.05.470(3).

**Judicial Review.** Any petition for judicial review must be filed with the appropriate court and served within 30 days after service of this Order. RCW 34.05.542. RCW 49.48.084(5) provides, "Orders that are not appealed within the time period specified in this section and Chapter 34.05 RCW are final and binding, and not subject to further appeal." Proceedings for judicial review may be instituted by filing a petition in superior court according to the procedures specified in chapter 34.05 RCW, Part V, Judicial Review and Civil Enforcement.

**DECLARATION OF MAILING**

I, Lisa Deck, hereby declare under penalty of perjury under the laws of the State of Washington, that the DIRECTOR'S ORDER was mailed on the 7 day of September 2021 via U.S. Mail, postage prepaid and email, to the following:

Ann Riggs  
33878 N. Shore Drive  
Mount Vernon, WA 98274  
[ariggs1967@gmail.com](mailto:ariggs1967@gmail.com)  
[blueheelerconstruction@gmail.com](mailto:blueheelerconstruction@gmail.com)

Lisa Roth, AAG  
Office of the Attorney General  
800 Fifth Avenue, Suite 2000  
Seattle, WA 98104  
[LisaM.Roth@atg.wa.gov](mailto:LisaM.Roth@atg.wa.gov)  
[lniseaeservice@atg.wa.gov](mailto:lniseaeservice@atg.wa.gov)

Shannon Wilkinson  
Big Lake Bar & Grill  
4210 Burke Avenue N.  
Seattle, WA 98103  
[shannon@biglakebarandgrill.com](mailto:shannon@biglakebarandgrill.com)

DATED this 7 day of September 2021, at Tumwater, Washington.

  
\_\_\_\_\_  
Lisa Deck

**WASHINGTON STATE  
OFFICE OF ADMINISTRATIVE HEARINGS**

In the matter of:

Ann Riggs,

Wage Claimant/Appellant.

Docket No. 08-2020-LI-01488

**INITIAL ORDER**

Agency: Labor and Industries

Program: Wage Payments

Agency No. DOC-226-20

**1. ISSUES**

- 1.1. Did the Department of Labor and Industries properly issue the Determination of Compliance # 226-20, dated April 17, 2020, which found that the Employer, Big Lake Bar & Grill LLC, did not violate the Washington wage laws and that the Employer does not owe Wage Claimant Ann Riggs for wages allegedly earned during the period of November 17, 2017 through November 1, 2019?
- 1.2. If it is found that the Determination of Compliance # 226-20 was not properly issued, what wages are owed to the Wage Claimant Ann Riggs?

**2. ORDER SUMMARY**

- 2.1. Determination of Compliance # 226-20, dated April 17, 2020, is **AFFIRMED**.
- 2.2. Big Lake Bar & Grill LLC does not owe Ann Riggs overtime wages for the period of November 17, 2017 through October 31, 2019.
- 2.3. For the periods of November 17, 2017 through February 11, 2018 and October 21, 2019 through October 31, 2019, when Ann Riggs was classified as an hourly employee, Big Lake Bar & Grill LLC paid her for all overtime hours worked.
- 2.4. For the period of February 12, 2018 through October 20, 2019, Big Lake Bar & Grill LLC properly classified Ann Riggs as exempt under RCW 49.46.010 and WAC 296-128-510 and does not owe her overtime wages for this period under RCW 49.46.130.

**3. HEARING**

- 3.1. Hearing Dates: November 16 and 18 – 19, 2020
- 3.2. Administrative Law Judge: Jane Cantor Shefler
- 3.3. Appellant: Ann Riggs, *pro se* (Claimant or Riggs)

- 3.4. Agency: Department of Labor and Industries  
(Department)
- 3.4.1. Counsel: Lisa Roth, Assistant Attorney General
- 3.4.2. Representative: Ruth Castro, Industrial Relations Agent
- 3.4.3. Witnesses:
- 3.4.3.1. Ruth Castro
  - 3.4.3.2. Amy Danner
  - 3.4.3.3. Michelle Lawler
  - 3.4.3.4. Ann Riggs
  - 3.4.3.5. Kara Segle
  - 3.4.3.6. Laura Wilkinson
  - 3.4.3.7. Shannon Wilkinson

3.5. Exhibits: Department Exhibits 1 through 14 were admitted. Appellant Exhibits A, C, E, H – L, O – U were admitted in their entirety. Pages 11 – 13 of Exhibit B were not admitted. Page 2 of Exhibit F was not admitted. Pages 6 – 7 of Exhibit G were not admitted. Exhibit M in its entirety was not admitted.

3.6. Close of Record: At the conclusion of the hearing, the record was kept open for the submission of documents by the Department of Labor and Industries. The Department timely submitted the documents and the record was closed on November 20, 2020.

#### 4. FINDINGS OF FACT

I find the following facts by a preponderance of the evidence:

##### *Jurisdiction*

- 4.1. On April 17, 2020, the Department issued Determination of Compliance # 226-20, finding the Employer, Big Lake Bar & Grill LLC dba Big Lake Bar & Grill (BLBG or Employer), did not violate Washington wage payment law by failing to pay Ann Riggs for overtime hours worked. *Exhibit 1, page 1 – 3.*
- 4.2. On May 14, 2020, the Department received Ms. Riggs's appeal of the Determination of Compliance. *Exhibit 4, page 7.*
- 4.3. This matter was referred to the Office of Administrative Hearings on August 10, 2020.

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*Employment Relationship*

- 4.4. On or about November 17, 2017, Big Lake Bar and Grill LLC purchased the restaurant. The majority members of the LLC are Shannon and Laura Wilkinson, with each owning a 40% share. For several years, Mr. and Mrs. Wilkinson have owned and operated a restaurant in Seattle and are experienced restaurateurs. Upon their purchase of Big Lake, they actively managed their new business.
- 4.5. Amy Danner and Michael Mooney are the minority members of the LLC, with each owning a 10% share. At the time of the purchase, neither had restaurant experience.
- 4.6. The Claimant had been employed by the previous owners of the restaurant for 17 years. When the Wilkinsons purchased the business, they retained several employees, including the Claimant.
- 4.7. The Claimant had been the “front of house” (FOH) manager for the previous owners. She also regularly worked, usually five days per week, as a bartender/server. She continued in these capacities under the Wilkinsons.
- 4.8. In the period between November 17, 2017 and February 11, 2018, the Claimant was an hourly employee, earning \$13.50 per hour. *Testimony of Ann Riggs (Riggs Testimony); Testimony of Laura Wilkinson (L. Wilkinson Testimony); Exhibit 5, pages 8 – 9.*
- 4.9. The Wilkinsons considered the Claimant a good manager and a valuable employee. In January 2018, they agreed that she would be promoted to general manager of the restaurant and be transitioned to salaried employee status, exempt from overtime, as of the payroll period beginning February 12, 2018. *Exhibit 5, page 8.*
- 4.10. Beginning in February 2018, the Claimant was paid an annual salary of \$31,600.00. The salary was increased to \$36,600.00 in March 2019. *Exhibit 5, page 9 and pages 31 - 95; L. Wilkinson Testimony.* As a salaried employee, the Claimant was provided two weeks per year of paid vacation and the opportunity to earn bonuses based on the profitability of the business. *Exhibit 5, page 9; Testimony of Shannon Wilkinson (S. Wilkinson Testimony); Testimony of L. Wilkinson.*
- 4.11. The Claimant was paid bi-monthly. When her salary was \$31,600 annually, she received \$1,215.28 twice a month. *See, e.g., Exhibit 5, page 50.* Once the salary increased to \$36,000 annually, she was paid \$1,407.69 bi-monthly. *See, e.g., Exhibit 5, page 47.*

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- 4.12. In the fall of 2019, the Claimant approached management with a request to transition back to hourly employee status. This request was accommodated and effective with the payroll period beginning October 21, 2019, she became an hourly employee, earning \$16.00 per hour. *Exhibit 5, page 24.*
- 4.13. The Claimant quit her position on November 1, 2019. In the period between October 21, 2019 and October 31, 2019 (her last day worked), she was paid for all accrued overtime hours. *Exhibit 5, page 24.*

#### *Riggs Job Duties and Responsibilities*

- 4.14. The Wilkinsons relied upon the Claimant's experience and expertise for the daily management of BLBG. They gave her broad discretion to accomplish the tasks necessary for the smooth running of the restaurant. *See, e.g., Exhibit 7, page 5; Riggs Testimony; L. Wilkinson Testimony; S. Wilkinson Testimony.*
- 4.15. Throughout the course of her employment, the Claimant's job duties and responsibilities were essentially unchanged. *Exhibit 6, pages 3 – 4; Exhibit 7.* These duties and responsibilities were many and varied. The Claimant oversaw the daily operations of the restaurant, including:
- a. Management of all aspects of the bartending and wait staff (FOH staff). She managed and directly supervised three to five employees at any given time. For the FOH staff, the Claimant was responsible for the hiring, firing, and training of employees. She disciplined staff for tardiness and other matters.
  - b. Management of the restaurant service. She scheduled the FOH work shifts, including her own bartending/serving shifts. She was responsible for making sure the restaurant was sufficiently staffed. She had authority to send staff home early when business was slow. When working as a bartender/server, the Claimant assigned tables to the wait staff and monitored their performance. She assigned closing duties. As FOH manager, she had authority to override the point-of-sale system when credits or other adjustments were given to customers.
  - c. "Back-up" management of the kitchen (BOH), when needed. Assisting with the "on-boarding" of newly-hired kitchen staff and facilitating their terminations when necessary.
  - d. Management of the bar and other FOH supplies, such as straws and other items as needed for the bar. The Claimant determined which liquor and other alcohol products to purchase. With consultation with Mrs. Wilkinson, she ordered liquor and other beverages, including sodas. The Claimant was the only employee on site who had keys to the wine cabinet and liquor storage area.



- e. Management of the pull-tab program, determining which games to offer and when to discontinue them. The Claimant prepared the monthly reports required by the state gambling commission.
- f. Management of the music entertainment including scheduling bands, determining compensation, and assisting with set-up and other matters.
- g. Management of large party events.
- h. Preparation of daily bank deposits, including transporting and depositing the cash at the bank. The Claimant was the only employee on site who had a key to the safe in which the FOH staff deposited their cash at the end of their shifts.
- i. Preparation of initial payroll information, including tracking tips for each employee.
- j. Arranging for and scheduling routine maintenance. Major repairs, though, were generally referred to Mr. Wilkinson.
- k. Purchase of supplies, using a company-issued credit card.

*Riggs Testimony; L. Wilkinson Testimony; S. Wilkinson Testimony; Testimony of Kara Segle; Testimony of Michelle Lawler; Exhibit 6; Exhibit 7, page 10; Exhibit 8, pages 9 - 13; Exhibits 9 – 12; Exhibit 14, page 7; Exhibit A; Exhibit F, pages 6 – 7.*

- 4.16. The Claimant was in regular communication with the Wilkinsons concerning the management of BLBG. Mr. Wilkinson oversaw the management of the BOH, while Mrs. Wilkinson focused upon the FOH management. The Claimant consulted with Mr. Wilkinson as necessary and assisted with the BOH management when needed. *S. Wilkinson Testimony*. The Claimant and Mrs. Wilkinson meet weekly to discuss FOH matters, including items for which the Claimant was primarily responsible (such as the pull tabs program, liquor inventory, entertainment, spending, and new employee training). *Exhibit 7*.
- 4.17. In March 2019, Amy Danner, one of the minority owners, became actively involved with BLBG. She had no restaurant experience and wanted to learn about the daily operations of the restaurant. After Ms. Danner began to work at the restaurant, certain changes in management systems were initiated. One such change was the adoption of a scheduling software application, which reduced the Claimant's scheduling responsibilities. Ms. Danner also participated in the hiring of new employees, including one bartender. *Testimony of Amy Danner*. Over time, the Claimant perceived that Ms. Danner was replacing her as manager. *Riggs Testimony*. However, when the Claimant switched back to hourly employee status in October 2019, her job duties were not significantly changed. *Exhibit 6*.

### *Wage Complaint and Investigation*

- 4.18. On November 1, 2019, the Claimant filed a Workers Rights Complaint with the Department. In her complaint, she asserted she was owed for 1,800 hours of work at a rate of \$17.60 per hour from December 1, 2017 to the date she filed her complaint. The Claimant alleged the Employer failed to pay her for overtime, vacation pay, travel time, and mileage, in the amount of \$47,520.00. *Exhibit 4.*
- 4.19. From November 5, 2019 to January 27, 2020, Department Industrial Relations Agent Ruth Castro investigated the wage complaint. The investigation focused upon the amount of overtime wages owed, if any. *Exhibit 2, pages 1 – 2; Exhibit 4, page 9.* Ms. Castro's investigation included gathering information from the Claimant and the Employer. *Testimony of Ruth Castro; Exhibits 2, 4, and 5.*
- 4.20. In response to a request for information from Ms. Castro, the Claimant calculated she was owed \$22,687.75 for 901.79 overtime hours worked during 2017 through 2019. *Exhibit 4, page 9.* At hearing, the Claimant clarified that she sought payment for overtime hours worked in her capacity as bartender/server, not for tasks performed in her capacity as general manager. *Riggs Testimony.*
- 4.21. On January 29, 2020, Ms. Castro issued a Wage Payment Act – Determination of Compliance Agent Summary. *Exhibit 1, page 5 – 7.* She recommended the issuance of a Declaration of Compliance because the Employer provided evidence to support that the Claimant was paid for all hours worked, including overtime, when she was a non-exempt employee. *Exhibit 1, page 7.*
- 4.22. On April 17, 2020, the Department issued Determination of Compliance # 226-20 regarding Ann Riggs's wage complaint. *Exhibit 1, pages 1 -3.*

### **5. CONCLUSIONS OF LAW**

Based upon the facts above, I make the following conclusions:

#### *Jurisdiction*

- 5.1. I have jurisdiction over the persons and subject matter under RCW 49.48.084(3) and chapter 34.05 RCW.

#### *Wage Complaints*

- 5.2. If an employee files a wage complaint, the Department must investigate. RCW 49.48.083(1). Here, Ms. Riggs filed a wage complaint and the Department was required to investigate that wage complaint.

- 5.3. If the Department determines the employer violated one or more wage payment requirements, a Citation and Notice of Assessment identifying the unpaid wages and assessing interest of 1% per month of unpaid wages is issued. RCW 49.48.083. If the Department determines no violation occurred, a Determination of Compliance is issued. RCW 49.48.083(1).
- 5.4. Wage payment requirements are those “set forth in RCW 49.46.020, 49.46.130, 49.48.010, 49.52.050, or 49.52.060, and any related rules adopted by the department.” RCW 49.48.082(10). These wage payment requirements include, but are not limited to, requirements to pay minimum wages, overtime wages, agreed wages, and wages for final pay periods. RCW 49.48.082(12).

*Burden of Proof*

- 5.5. Under the Wage Payment Act (“WPA”), RCW 49.48, the wage claimant has the initial burden of showing *prima facie* evidence of a wage payment law violation. See, *Anderson v. Mt. Clemens Pottery Co.*, 328 U.S. 680 (1946) (federal minimum wage law); *MacSuga v. County of Spokane*, 97 Wn.App. 435, 445, 983 P.2d 1167 (1999). The *prima facie* showing must be supported by a preponderance of the evidence.
- 5.6. A preponderance of the evidence is that evidence which, when fairly considered, produces the stronger impression, has the greater weight, and is more convincing as to its truth when weighed against the evidence in opposition to it. *Yamamoto v. Puget Sound Lumber Co.*, 84 Wash. 411, 146 P. 861 (1915).
- 5.7. Substantial evidence must be presented and must be “sufficient to persuade a fair-minded person of the truth or correctness of the matter.” *Ongom v. Dept. of Health*, 124 Wn App. 935, 948-49, 104 P.3d 29 (2005), *reviewed on other grounds*, 155 Wn.2d 1001, 122 P.3d 185 (2005)
- 5.8. In this matter, the Claimant must establish by a preponderance of the evidence that she was not paid wages for hours worked. To prevail in her claim for pay for overtime wages, she must establish the facts showing she is entitled to such wages for the period at issue.

*Wage Payment Laws*

- 5.9. RCW 49.46.020 requires that every employer shall pay to each of their employees a rate of minimum wage for hours worked. See *also*, Chapter 296-126 WAC.

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5.10. RCW 49.46.010(7) defines “wage” as:

[C]ompensation due to an employee by reason of employment, payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to such deductions, charges, or allowances as may be permitted by rules by director.

5.11. Employers must pay employees for all hours worked. “Hours worked” is defined as “all hours during which the employee is authorized or required by the employer to be on duty on the employer’s premises or at a prescribed work place.” WAC 296-126-002(8).

5.12. An employer is required to pay overtime when an employee works over 40 hours in a work week. RCW 49.46.130(1). The overtime rate is not less than one and a half times the regular rate at which the worker is employed. *Id.* A work week is defined as a fixed and regularly reoccurring seven day period. WAC 296-128-015.

5.13. Under RCW 49.46.010, individuals employed in a bona fide executive, administrative or professional capacity are exempt from the minimum wage requirements of Chapter 49.46 RCW, the Minimum Wage Requirements and Labor Standards Act (MWA), including its overtime provisions. RCW 49.46.010(3)(c); RCW 49.46.130(2)(a); WAC 296-128-510.

5.14. Under WAC 296-128-510<sup>1</sup>, an individual employed in a “bona fide executive” capacity is defined as any employee:

- (1) Whose primary duty consists of the management of the enterprise in which he is employed or of a customarily recognized department or subdivision thereof; and
- (2) Who customarily and regularly directs the work of two or more other employees therein; and
- (3) Who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring or firing and as to the advancement and promotion or any other change of status of other employees will be given particular weight; and
- (4) Who customarily and regularly exercises discretionary powers; and
- (5) Who does not devote more than 20 percent, or, in the case of an employee of a retail or service establishment who does not devote as much as 40 percent, of his hours worked in the work week to activities which are not directly and closely related to the

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<sup>1</sup> WAC 296-128-510 is cited as it was in effect prior to December 31, 2019.

performance of the work described in paragraphs (1) through (4) [above] ....

- (6) Who is compensated for his services on a salary basis at a rate of not less than \$155 per week exclusive of board, lodging, and other facilities: Provided, That an employee who is compensated on a salary rate of not less \$250 per week (exclusive of board, lodging, or other facilities), and whose primary duty consists of the management of the enterprise in which he is employed or of a customarily recognized department or subdivision thereof, and includes the customary and regular direction of the work of two or more other employees therein, shall be deemed to meet all of the requirements of this section.

- 5.15. Because the MWA is based upon the federal Fair Labor Standards Act (FLSA), Washington courts look to federal case law interpreting the FLSA for guidance in applying the MWA. *Drinkwitz v. Alliant Techsystems, Inc.*, 140 Wn.2d 291, 298 (2000); *Inniss v. Tandy Corp.*, 141 Wn.2d 517, 524 (2000).
- 5.16. "Primary duty" for purposes of the executive exemption means the principal, main, major or most important duty that the employee performs. 29 C.F.R. Sec. 541.700. Determination of an employee's primary duty must be based on all the facts in a particular case, with the major emphasis on the character of the employee's job as a whole. Factors to consider when determining the primary duty of an employee include, but are not limited to, the relative importance of the exempt duties as compared with other types of duties; the amount of time spent performing exempt work; the employee's relative freedom from direct supervision; and the relationship between the employee's salary and the wages paid to other employees for the kind of nonexempt work performed by the employee. *Id.*
- 5.17. Employees who spend more than 50% of their time performing exempt work will generally satisfy the primary duty requirement. Time alone, however, is not the sole test. Employees who do not spend more than 50% of their time performing exempt duties may nonetheless meet the primary duty requirement if the other factors support such a conclusion. *Id.*

### *Analysis*

- 5.18. The weight of evidence establishes that the Claimant was an exempt executive employee during the period of February 12, 2018 through October 21, 2019. The testimony of both parties, and the documentary evidence on record, establish that the Claimant, as general manager, was primarily responsible for the daily management and operation of the Blue Lake Bar & Grill, a requirement of WAC 296-128-510(1). Her duties and responsibilities meet the other criteria of WAC 296-128-510:

- a. The Claimant customarily and regularly directed the work of two or more employees, for the most part while working as a bartender/server. She had authority to hire and fire other employees. WAC 296-128-510(2) – (3) and (5);
- b. The Claimant customarily and regularly exercised discretionary powers. WAC 296-128-510(4). She was responsible for handling the cash deposits. She had authority to override the point-of-sale system. She managed the purchase of alcohol and other products as well as determined which pull-tabs games to offer. She regularly purchased supplies using a company credit card. The Claimant managed the music/entertainment program and the large party events; and
- c. The Claimant was compensated at a salary rate of more than \$250.00 per week. WAC 296-128-510(6).

5.19. The Claimant is not entitled to overtime wages under RCW 46.46.130(1). The testimony of both parties, and the documentary evidence on record, establish that, during the periods when she was an hourly employee, she was paid in full each pay period for all hours worked, including all hours worked over 40 in a work week. The Claimant has not met her burden of proving, by preponderance of the evidence, that she was underpaid during the periods of November 17, 2017 through February 11, 2018 and October 21, 2019 through October 31, 2019, when she was classified an hourly employee. For the period of February 12, 2018 through October 20, 2019, the Claimant was an exempt executive employee under Washington wage payment law, and she is not entitled to overtime pay under RCW 49.46.130. The Department's Determination is **affirmed**.

## 6. INITIAL ORDER

IT IS HEREBY ORDERED THAT:

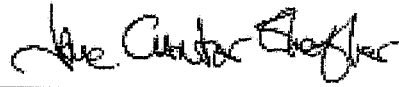
- 6.1. Determination of Compliance # 226-20, dated April 17, 2020, is **AFFIRMED**.
- 6.2. Big Lake Bar & Grill LLC did not violate the Washington wage laws by failing to pay overtime wages to Ann Riggs for the period of November 17, 2017 through October 31, 2019.
- 6.3. No wages or interest are owed Ann Riggs for work she performed for Big Lake Bar & Grill LLC when she was classified as an hourly employee, for the periods of November 17, 2017 through February 11, 2018 and October 21, 2019 through October 31, 2019.

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- 6.4. For the period of February 12, 2018 through October 20, 2019, Big Lake Bar & Grill LLC properly classified Ann Riggs as exempt under RCW 49.46.010(3)(c) and WAC 296-128-510, and does not owe her overtime wages for this period under RCW 49.46.130(2)(a).

Issued from Tacoma, Washington on the date of mailing.



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Jane Cantor Shefler  
Administrative Law Judge  
Office of Administrative Hearings

## APPEAL RIGHTS – READ CAREFULLY

### PETITION FOR REVIEW

Any party that disputes this Initial Order may file a Petition for Administrative Review with the Director of the Department of Labor and Industries.<sup>2</sup> You may e-mail your Petition for Administrative Review to the Director at [directorappeal@lni.wa.gov](mailto:directorappeal@lni.wa.gov). You may also mail or deliver your Petition for Administrative Review to the Director at the Department's physical address listed below.

Mailing Address:

Director  
Department of Labor and  
Industries  
PO Box 44001  
Olympia, WA 98504-4001

Physical Address:

7273 Linderson Way SW  
Tumwater, WA 98501

If you e-mail your Petition for Administrative Review, please do not mail or deliver a paper copy to the Director.

Whether you e-mail, mail or deliver the Petition for Administrative Review, the Director ***must actually*** receive the Petition for Administrative Review during office hours at the Director's office **within 30 days of the date this Initial Order was mailed to the parties**. You must also provide a copy of your Petition for Administrative Review to the other parties at the same time.

If the Director does not receive a Petition for Administrative Review within 30 days from the date of the Initial Order, the Initial Order shall become final with no further right to appeal.<sup>3</sup>

If you timely file a Petition for Administrative Review, the Director will conduct an administrative review under chapter 34.05 RCW.

### CERTIFICATE OF SERVICE ATTACHED

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<sup>2</sup> RCW 49.48.084 and RCW 34.05.464.

<sup>3</sup> RCW 49.48.084 and Chapter 34.05 RCW.



**CERTIFICATE OF SERVICE FOR OAH DOCKET NO. 08-2020-LI-01488**

I certify that true copies of this document were served from Tacoma, Washington via Consolidated Mail Services upon the following as indicated:

<p>Ann Riggs 33878 N Shore Drive Mount Vernon, WA 98274-8215 <b>Appellant/Wage Claimant</b></p>	<p><input checked="" type="checkbox"/> First Class Mail <input checked="" type="checkbox"/> Certified Mail, Return Receipt 9489 0090 0027 6093 5751 00 <input type="checkbox"/> Hand Delivery via Messenger <input type="checkbox"/> Campus Mail <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> E-mail <a href="mailto:ariggs1967@gmail.com">ariggs1967@gmail.com</a> <a href="mailto:blueheelerconstruction@gmail.com">blueheelerconstruction@gmail.com</a></p>
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Date: Monday, January 04, 2021

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