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**STATE OF WASHINGTON  
THURSTON COUNTY SUPERIOR COURT**

DEPARTMENT OF LABOR AND  
INDUSTRIES OF THE STATE OF  
WASHINGTON

Plaintiff,

v.

FOWLER NAT D. AND MARY M.  
DBA FARM BOY DRIVE IN

Defendant.

NO. 20-2-02460-34

DECLARATION OF LYNDSEY  
BANKS

I, Lyndsey Banks, declare under the penalty of perjury under the laws of the State of Washington that the following is true and correct:

1. I am over the age of eighteen and am otherwise competent to testify. I make these statements on personal knowledge and belief.
2. I am employed by the Department of Labor & Industries of the State of Washington, Division of Occupational Safety and Health (DOSH) as the Region 4 Compliance Manager. DOSH's Region 4 covers areas from the Columbia River north to Thurston, Mason, and Grays Harbor Counties, and from the Washington Coast east to Klickitat County.
3. As the Region 4 Compliance Manager, I am responsible for all compliance activities performed in the region under the Washington Industrial Safety and Health Act (WISHA). I manage a group of Compliance Safety and Health Officers (CSHOs) and

1 their supervisors. Among other things, the CSHOs perform WISHA inspections at  
2 jobsites throughout the region. Inspections may be prompted by employee or citizen  
3 complaints, or observations made by DOSH staff. Some inspections are also randomly  
4 performed based on factors such as the business in which an employer is engaged and  
5 the employer's history of on-the-job injuries and illnesses.

6 4. In early December of 2020, DOSH learned that Farm Boy Drive-In was allowing indoor  
7 dining in violation of Governor Jay Inslee's COVID-19 proclamations and WAC 296-  
8 800-14035. Based on this information, a DOSH inspector drove past Farm Boy on  
9 December 4, 2020, and observed patrons dining inside.

10 5. As a result of the December 4 observations, myself and the inspector contacted Farm  
11 Boy by telephone and attempted to speak with an owner or manager. The person who  
12 answered the phone advised us that no manager or owner was present. We provided  
13 contact information but did not receive a return call from Farm Boy at that time.

14 6. On December 4, 2020, the Department prepared an order of immediate restraint (OIR)  
15 that required Farm Boy to cease providing indoor dining services. The Department sent  
16 the OIR to Farm Boy Drive In via Federal Express on December 7, 2020, and it was  
17 delivered on December 8, 2020.

18 7. On December 8, 2020, the Department issued a Citation and Notice to Farm Boy based  
19 on the restaurant's failure to comply with WAC 296-800-14035. The Citation and Notice  
20 was sent to Farm Boy Drive In via Federal Express and was delivered on December 9,  
21 2020.

22 8. On December 10, 2020, a CSHO drove past Farm Boy Drive In and observed cars in the  
23 parking lot, a neon sign reading "Open," and people inside the restaurant sitting at a table.

24 9. It is my understanding that on December 15, 2020, the Court issued a temporary  
25 restraining order requiring Farm Boy to comply with the December 4 OIR, which in turn  
26 directs Farm Boy to cease providing indoor dining services to customers. It is my further

1 understanding that the temporary restraining order was served on Farm Boy on December  
2 17, 2020.

3 10. On December 19, 2020, a DOSH representative drove past Farm Boy and observed that  
4 it was open and providing indoor dining services.

5 11. On December 20, 2020, Farm Boy posted on its Facebook page a notice that “Tomorrow,  
6 Monday Dec 21, we will be closing at 1pm so we can have our employee Christmas  
7 party!”

8 12. On the morning of December 22, 2020, a DOSH inspector drove past Farm Boy and  
9 observed that it was open and that customers were dining indoors. I, too, drove past on  
10 December 22, 2020, at approximately 12:36 p.m. and observed that there were unmasked  
11 individuals seated inside the restaurant and the parking lot was full.

12 13. It is my understanding that there was a court hearing regarding the temporary restraining  
13 order running roughly from 1:30 p.m. to 2:00 p.m. on December 22, 2020. Beginning at  
14 approximately 2:40 p.m. on December 22, Farm Boy hosted a live video on its Facebook  
15 page during which a Farm Boy representative discussed the court hearing. The  
16 representative stated that “We will continue to stay open and support you guys and feed  
17 you guys and welcome you guys if you want to come.” Later in the video, the  
18 representative stated that “I cannot legally confirm or deny that we are open for dine-in  
19 seating. You can drive by and see if we’re open for dine-in seating, but I cannot publicly  
20 say that.” The video appears at  
21 <https://www.facebook.com/Farmboydriveinrestaurant/videos/151615066413733>.

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14. At approximately 8:28 a.m. on December 23, 2020, I drove past Farm Boy and observed that the parking lot was full. The restaurant was open and there were unmasked individuals sitting at tables inside the restaurant.

DATED this 23 day of December, 2020 in Vancouver, Washington by:

  
LYNDSEY BANKS