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September 30, 2025

***Via Online Submission***

California Labor & Workforce
Development Agency
Attn. PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612

***Via Certified U.S. Mail – Return Receipt Requested***

Frito-Lay Sales, LP
7701 Legacy Drive
Plano, Texas 75024

Frito-Lay Sales, LP
1500 Francisco Street
Torrance, California 90501

**Re: Notice Pursuant to California Labor Code § 2699.3**
**Employee:** Raquel Rios Bernal
**Employers:** Rolling Frito-Lay Sales, LP

To Whom It May Concern:

This office represents Raquel Rios Bernal, who was employed by Rolling Frito-Lay Sales, LP ("Frito-Lay") as a non-exempt Full Time Merchandiser from approximately July 31, 2023 to February 7, 2025. Pursuant to the California Labor Code Private Attorneys General Act of 2004 ("PAGA"), Labor Code § 2698, *et seq.*, this letter sets forth the specific provisions of the Labor Code and Industrial Welfare Commission ("IWC") Wage Order No. 1-2001, which Ms. Bernal alleges Frito-Lay has violated, including the facts and theories to support the alleged violations. Please be advised that this letter constitutes written notice required by Labor Code § 2699.3, subdivisions (a)(1)(A) and (c)(1)(A) and may lead to immediate action against Frito-Lay in a court of law and/or administrative proceedings, as well as the imposition of substantial penalties and other remedies against Frito-Lay.

This letter also serves as notice of Ms. Bernal's demand for preservation and non-spoliation of evidence, requesting that all relevant documents and data be saved and that all electronic files and hard-copy documents related to Ms. Bernal's employment and potential claims be preserved, even without a court order. Spoliation of evidence may result in legal claims for damages and monetary and evidentiary sanctions, including "adverse inference" jury instructions. Furthermore, intentional spoliation of evidence may carry criminal consequences pursuant to California Penal Code § 135.

We are investigating a potential representative action on behalf of Frito-Lay's current and former non-exempt employees in the State of California regarding, among other things, the following violations: failure to provide meal and rest periods to employees in violation of Labor Code §§ 226.7 and 512 and Wage Order No. 1-2001, §§ 11-12; failure to pay one additional hour of compensation at the employee's regular rate of compensation for each workday that a meal or rest period is not provided in violation of Labor Code § 226.7 and Wage Order No. 1-2001, §§ 11(D) and 12(B); failure to pay employees minimum wages for all hours worked in violation of Labor Code §§ 1194, 1197 and 1197.1 and Wage Order No. 1-2001, § 4; failure to pay employees overtime wages in violation of Labor Code §§ 510 and 1194 and Wage Order No. 1-2001, § 3; failure to timely pay employees all wages earned in violation of Labor Code § 204; willful failure to pay all wages due to discharged and quitting employees in violation of Labor Code §§ 201-203; failure to furnish accurate itemized wage statements to employees in violation of Labor Code § 226; failure to maintain required records pursuant to Labor Code §§ 226, 1174 and 1174.5 and Wage Order No. 1-2001, § 7; failure to indemnify employees for necessary business expenditures pursuant to Labor Code § 2802; and unlawful deductions and withholdings from employees' wages in violation of Labor Code §§ 221, 223 and 224.

The allegations made by Ms. Bernal on behalf of herself and all other current and former non-exempt employees of Frito-Lay in the State of California during the one year preceding the date of this notice are based on the following facts and theories: meal periods were less than 30 minutes, late (first meal periods starting after the fifth hour of work and/or second meal periods starting after the tenth hour), or not given at all (including second meal periods after 10 hours of work); rest periods were less than 10 minutes, not provided, and/or late; employees were not provided one hour of pay for each workday a meal period was not provided; employees were not provided one hour of pay for each workday a rest break was not authorized and permitted; employees were not reimbursed for necessary business expenditures; and employees were not paid proper minimum and overtime wages for all hours worked as required by California law.[1] Given the meal and rest break violations and Frito-Lay's failure to compensate its employees fully, as set forth above, employees' wage statements were inaccurate and failed to comply with California law. Frito-Lay also failed to timely pay its employees all wages during employment and upon separation. In short, Frito-Lay's unlawful employment practices and policies have deprived its employees of earned wages and other compensation.

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[1] "[T]he statement that defendant has not provided its employees with proper rest periods states both the facts and the theory." *Gutierrez v. California Commerce Club, Inc.* (2010) 187 Cal.App.4th 969, 979 n.5.

**Failure to Provide Meal Periods**

Pursuant to Labor Code §§ 226.7 and 512 and Wage Order No. 1-2001, § 11, an employer is required to provide meal periods to its employees. An employer must provide a meal period to any employee who works a shift of more than five hours and a second meal period to any employee who works a shift of more than 10 hours. Furthermore, an employer must pay one extra hour of compensation for each workday a meal period is not provided.

Ms. Bernal and other aggrieved employees were and are non-exempt employees and are entitled to the protections of California Labor Code §§ 226.7 and 512 and Wage Order No. 1-2001, § 11. Frito-Lay failed to provide its employees timely 30-minute meal breaks. Ms. Bernal's and other aggrieved employees' meal breaks were often short (less than 30 minutes), late (first meal periods after the fifth hour of work and second meal periods after the tenth hour), and/or missed.

Ms. Bernal and other aggrieved employees were required to clock out for their meal breaks but continue working, or were instructed by Frito-Lay's management to alter their time records to reflect compliant meal breaks when no meal break was provided. Ms. Bernal's and other aggrieved employees' meal breaks were missed and late because Ms. Bernal and other aggrieved employees were given too much work to perform during their shifts. Ms. Bernal, for example, was required to travel to a number of stores during her shifts to build store displays with Frito-Lay's merchandise, and Frito-Lay's management expected Ms. Bernal to complete each store's display before the end of her scheduled shift, resulting in her not having enough time to take timely and complete meal breaks. Additionally, Ms. Bernal's and other aggrieved employees' meal breaks were regularly interrupted by phone calls from Frito-Lay's management regarding work-related issues. Furthermore, Ms. Bernal and other aggrieved employees were not provided a second meal break when they worked over 10 hours.

Frito-Lay further violated Labor Code § 226.7 and Wage Order No. 1-2001 by failing to compensate Ms. Bernal and other aggrieved employees who were not provided with meal periods in accordance with California law one additional hour of pay at each employee's regular rate of compensation for each workday a meal period was not provided.

**Failure to Authorize and Permit Rest Periods**

Pursuant to Labor Code § 226.7 and Wage Order No. 1-2001, § 12, an employer is required to provide rest periods to its employees. An employer must provide a 10-minute rest period for every four hours worked or major fraction thereof which insofar as practicable shall be in the middle of each work period. Furthermore, an employer must pay one extra hour of compensation for each workday a rest period is not authorized and permitted.

Ms. Bernal and other aggrieved employees were and are non-exempt employees and are entitled to the protections of Labor Code § 226.7 and Wage Order No. 1-2001. Frito-Lay failed to authorize and permit its employees to take required rest periods because rest periods were missed, short, or late. Ms. Bernal and other aggrieved employees were unable to take compliant rest breaks because Ms. Bernal and other aggrieved employees were given too much work to perform during their shifts to take rest breaks. As an example, Ms. Bernal was required to travel to a number of stores during her shifts to build store displays with Frito-Lay's merchandise, and Frito-Lay's management expected Ms. Bernal to complete the each store's display before the end of her scheduled shift, resulting in her not having enough time to take rest breaks. Additionally, Frito-Lay failed to relieve employees of all duty and employer control during their rest breaks as employees were required to respond to calls from management during rest breaks.

Frito-Lay further violated Labor Code § 226.7 and Wage Order No. 1-2001, § 12 by failing to pay Ms. Bernal and other aggrieved employees one additional hour of pay at each employee's regular rate of compensation for each workday a rest period was not authorized and permitted.

**Failure to Pay Minimum Wages**

Pursuant to Labor Code §§ 1194 and 1197 and Wage Order No. 1-2001, § 4, payment to an employee of less than the applicable minimum wage for all hours worked in a payroll period is unlawful.

Ms. Bernal and other aggrieved employees are current and former non-exempt employees and are entitled to the protections of Labor Code §§ 1194 and 1197 and Wage Order No. 1-2001, § 4. Frito-Lay failed to pay Ms. Bernal and other aggrieved employees minimum wages for all hours worked by, among other things: requiring, suffering or permitting Ms. Bernal and other aggrieved employees to work during their meal breaks but not compensating them for this time; illegally and inaccurately recording time worked by Ms. Bernal and other aggrieved employees; instructing Ms. Bernal and other aggrieved employees to alter their time records to avoid paying employees all wages owed; and other methods to be discovered.

Frito-Lay's conduct violates Labor Code §§ 1194 and 1197 and Wage Order No. 1-2001, § 4.

**Failure to Pay Overtime Wages**

Pursuant to California Labor Code §§ 510 and 1194 and Wage Order No. 1-2001, § 3, an employer must compensate its employees for all overtime, which is calculated at one and one-half times the regular rate of pay for hours worked in excess of eight hours per day and/or 40 hours per week, and for the first eight hours on the seventh consecutive work day, with double time for all hours worked in excess of eight hours on the seventh day of any workweek, or after 12 hours in any workday.

Ms. Bernal and other aggrieved employees are current and former non-exempt employees and are entitled to the protections of Labor Code §§ 510 and 1194 and Wage Order No. 1-2001. Frito-Lay failed to compensate Ms. Bernal and other aggrieved employees for all overtime hours worked as required under the foregoing provisions of the Labor Code and IWC Wage Order by, among other things: failing to pay overtime at one and one-half times or double the regular rate of pay as provided by Labor Code §§ 510 and 1194 and Wage Order No. 1-2001, § 3; requiring, suffering or permitting Ms. Bernal and other aggrieved employees to work during meal periods but not compensating them for this time; illegally and inaccurately recording time worked by Ms. Bernal and other aggrieved employees instructing Ms. Bernal and other aggrieved employees to alter their time records to avoid paying employees all wages owed; and other methods to be discovered.

In violation of California law, Frito-Lay has refused to perform its obligation to compensate Ms. Bernal and other aggrieved employees for all wages earned and all hours worked. Frito-Lay's conduct violates Labor Code §§ 510 and 1194 and Wage Order No. 1-2001, § 3.

**Failure to Timely Pay All Wages Earned**

Pursuant to Labor Code § 204, an employer must pay its employees at least twice a month for all wages earned during the preceding pay period. Labor Code § 204 provides that labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month. An employer using an alternate payday schedule must pay wages within seven calendar days of the end of the payroll period in which the wages were earned.

Frito-Lay failed to pay Ms. Bernal and other aggrieved employees on their regularly scheduled payday for all work performed during the preceding pay period. For example, Frito-Lay failed to compensate Ms. Bernal and other aggrieved employees for all hours worked, including time spent working during meal breaks without compensation. Additionally, Frito-Lay failed to pay Mr. Bernal and other aggrieved employees premium wages owed for each work day a meal period was not provided and each work day a rest period was not authorized and permitted.

Frito-Lay also failed to pay Ms. Bernal and other aggrieved employees for the overtime wages they earned in violation of Labor Code § 204. Labor Code § 204 requires an employer to pay overtime wages no later than the payday for the next regular payroll period following the payroll period in which the overtime wages were earned. Frito-Lay knew it was required to pay overtime wages, yet on many occasions failed to pay Ms. Bernal and other aggrieved employees overtime wages on any payday.

**Failure to Pay All Wages Due Upon Separation**

Pursuant to Labor Code §§ 201 and 202, an employer is required to pay all earned and unpaid wages to an employee upon separation. Labor Code § 201 mandates that if an employer discharges an employee, the employee's wages accrued and unpaid at the time of discharge are due and payable immediately. Pursuant to Labor Code § 202, an employer is required to pay all accrued wages due to an employee no later than 72 hours after the employee quits his or her employment, unless the employee provided 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

Frito-Lay failed to pay accrued wages and other compensation to Ms. Bernal and other aggrieved employees in accordance with Labor Code §§ 201 and 202. Because Frito-Lay required Ms. Bernal and other aggrieved employees to work during their meal breaks without compensation and failed to pay Ms. Bernal and other aggrieved employees the premium wages for all meal periods which were not provided and all rest periods which were not authorized and permitted, Frito-Lay failed and continues to fail to pay the full earned and unpaid wages due to Ms. Bernal and other aggrieved employees upon separation.

**Failure to Furnish Accurate Itemized Wage Statements**

Labor Code § 226 requires every employer to furnish each of its employees an accurate itemized wage statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

Frito-Lay failed to provide Ms. Bernal and other aggrieved employees accurate itemized wage statements in writing showing each employee's gross wages earned, total hours worked, all deductions made, net wages earned, and all applicable hourly rates in effect during each pay period and the corresponding number of hours worked at each hourly rate, in violation of Labor Code § 226 and Wage Order No. 1-2001, § 7. Frito-Lay failed to provide its employees lawful meal and rest breaks; nevertheless, Frito-Lay failed to include in the wage statements the extra hour of compensation owed for each workday a meal break was not provided and each workday a rest break was not authorized and permitted.

**Failure to Maintain Required Records**

Frito-Lay failed to maintain records as required under Labor Code §§ 226 and 1174 and Wage Order No. 1-2001, § 7, including but not limited to the following records: total daily hours worked by each employee; applicable rates of pay; all deductions; meal periods; time records showing when each employee begins and ends each work period; and accurate itemized statements.

Frito-Lay failed to provide its employees lawful meal and rest breaks; nevertheless, Frito-Lay failed to include in the wage statements the extra hour of compensation owed for each work day a meal break was not provided and each work day a rest break was not authorized and permitted. In addition, Frito-Lay failed to compensate Ms. Bernal and other aggrieved employees for all hours worked. As a result, Frito-Lay failed to maintain accurate records of the total daily hours worked by each employee, meal periods, and when each employee began and ended each work period. Employees' wage statements also were inaccurate.

**Failure to Indemnify Employees for Necessary Expenditures Incurred in Discharge of Duties**

Labor Code § 2802(a) requires an employer to indemnify an employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer. Frito-Lay failed to indemnify Ms. Bernal and other aggrieved employees for all business expenses and/or losses incurred in direct consequence of the discharge of their duties while working under the direction of Frito-Lay, including but not limited to expenses for cell phone usage and other employment-related expenses. Ms. Bernal, for example, was required to use her personal cell phone to communicate with Frito-Lay's management and to clock in and out for her shifts and meal breaks but was not reimbursed for such cell phone usage. Thus, Frito-Lay has violated Labor Code § 2802.

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This notice is hereby given to Frito-Lay and any and all related and/or alter ego companies, corporations, partnerships, and/or business entities, as well as against any and all officers, owners, directors, managers, managing agents, or entities who are or may be liable under California law for any of the violations alleged herein as to any locations or employees who worked at any time in the State of California.

This notice is made on behalf of all persons who are, were, or will be non-exempt employees of Frito-Lay, or any related or alter-ego company, corporation, partnership, and/or business entity at any time on or after a date four years prior to the date of this letter in the State of California.

This notice shall be construed as extending without limitation to any past, present, future, or continuing violation of the Labor Code, the applicable IWC Wage Order, or any applicable regulation which might be discovered as a result of a reasonable and diligent investigation made pursuant to this notice.

**This notice shall further represent Ms. Bernal's reasonable attempt to settle her dispute with Frito-Lay prior to litigation. Pursuant to *Graham v. DaimlerChrysler Corp.*, 34 Cal. 4th 553 (2004), this notice serves to apprise Frito-Lay of Ms. Bernal's aforementioned grievances and the proposed remedies as detailed below, while affording Frito-Lay reasonable opportunity to meet Ms. Bernal's demands.**

Demand is hereby made that Frito-Lay shall agree, in writing received at this office no later than 30 calendar days from the postmark date of this notice, as follows:

1. Frito-Lay shall pay Ms. Bernal and all other similarly-situated persons employed by Frito-Lay at any time during the past 48 months back pay and compensation for the above-referenced violations.

2. Frito-Lay shall comply with all California labor laws and ensure that its non-exempt employees are paid proper overtime compensation and given required meal and rest periods.

3. Frito-Lay shall conduct a survey or interview all current and former non-exempt employees in California during the past 48 months to obtain information from them regarding the number of meal breaks which were not provided, the number of rest breaks which were not authorized and permitted, and the number of employees who incurred cell phone expenses or other expenditures in the discharge of their duties, with the investigation to be completed within 60 days.

4. Frito-Lay shall pay each employee one hour of pay for each workday he or she was not authorized and permitted one or more rest periods, as required by Labor Code § 226.7. Frito-Lay also shall pay each employee one hour of pay for each workday he or she was not provided one or more meal periods, as required by Labor Code § 226.7.

5. Frito-Lay shall reimburse those employees who were forced to pay for any business expenses incurred for Frito-Lay's benefit, including but not limited to cell phone expenses.

6. Frito-Lay shall pay waiting time penalties, equal to 30 days of pay, to each former employee who was not paid all wages due as described herein.

7. Frito-Lay shall pay accrued interest to all employees at the rate of 10 percent per annum for said unpaid wages.

8. Frito-Lay shall pay all penalties arising from the violations of the Labor Code and IWC Wage Order sections referenced above and pursuant to PAGA, Labor Code § 2698 *et seq*., including but not limited to penalties under Labor Code §§ 206.5, 210, 225.5, 226.3, 558, 1174.5, 1182.12, 1197.1, 1198, 1199 and 2699 and Wage Order No. 1-2001, § 20.

If the Labor and Workforce Development Agency intends to investigate the allegations set forth herein, please notify this office of that decision by certified mail addressed to Matern Law Group, PC, 2101 E. El Segundo Blvd., Suite 403, El Segundo, California 90245. Additionally, please advise us if the Agency or Frito-Lay require additional information regarding Ms. Bernal's complaints.

Thank you for your prompt attention to this matter.

Very truly yours,

**MATERN LAW GROUP, PC**

Launa W. 

Launa Adolph