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VIA ONLINE FILING

Labor and Workforce Development Agency

800 Capitol Mall, MIC-55

Sacramento, CA 95814

PAGAfiling@dir.ca.gov

<https://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-Act.html>

RE: Roy Flores v. C.H. Robinson Company, Inc., et al.

Dear Representative:

This office represents Roy Flores (“**Mr. Flores**”) with respect to his claims against C.H. Robinson Company, Inc., C.H. Robinson Worldwide, Inc., and United Employment Solutions, Inc. (collectively, “**Employers**”) for violations of the California Labor Code and IWC Wage Orders. This letter is being sent simultaneously to Employers by certified mail.

Employers employed Mr. Flores from approximately December 2018 to May 2019, as an hourly, non-exempt employee. During his employment with Employers, Mr. Flores was employed as a general laborer at Employers’ location at 19949 Kendall Drive, San Bernardino, CA 92407. Employers provide transportation and supply chain services.

Mr. Flores intends to seek penalties for violations of the California Labor Code which are recoverable under California Labor Code section 2698, et seq., the Private Attorneys General Act of 2004 (“**PAGA**”). Mr. Flores is seeking penalties on behalf of himself and in a representative capacity on behalf of the State of California and all current and former non-exempt employees of Employers (“**Aggrieved Employees**”). This letter is being sent in compliance with California Labor Code section 2699.3.

As detailed below, Employers violated several of California’s wage and hour laws during Mr. Flores’ employment, including but not limited to violations of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, and the Industrial Welfare Commission Wage Orders (“**IWC Wage Order**”) including *inter alia*, IWC Wage Order Nos. 8 and 9. The claims made on behalf of Mr. Flores and Aggrieved Employees are based upon the following facts and theories:

1. FAILURE TO PAY FOR ALL TIME WORKED AT CORRECT RATES OF PAY, INCLUDING MINIMUM WAGES, STRAIGHT TIME WAGES, AND OVERTIME COMPENSATION

Employers have engaged in numerous unlawful practices which resulted in the failure to pay Mr. Flores and Aggrieved Employees for all time worked at the correct rates of pay, including minimum wages, straight time wages, and overtime compensation.



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First, Employers regularly required Mr. Flores and Aggrieved Employees to work off-the-clock in order to complete their duties and responsibilities. This off-the-clock work included, amongst other things, requiring Mr. Flores and Aggrieved Employees to: (1) respond to Employers and work-related requests and perform work while clocked out for purported meal breaks; (2) perform work before clocking in for the start of their shift; and (3) perform work after clocking out for the end of their shift. Mr. Flores and Aggrieved Employees were not compensated for this off-the-clock work, resulting in a failure to pay minimum wages and straight time wages. Moreover, this off-the-clock work typically caused Mr. Flores and Aggrieved Employees to work more than eight (8) hours in a day and forty (40) hours in week, resulting in a failure to pay overtime compensation.

In addition to requiring Mr. Flores and Aggrieved Employees to perform work off-the-clock without compensation, Employers also utilized time rounding practices that resulted in the systematic underpayment of wages to Mr. Flores and Aggrieved Employees, including minimum wages, straight time wages and overtime wages. Employers also failed to accurately record the actual time worked by Mr. Flores and Aggrieved Employees, which resulted in a failure to pay Mr. Flores and Aggrieved Employees for all hours actually worked, including minimum wages, straight time wages and overtime wages. Finally, and as a matter of policy and/or practice, Employers failed to pay overtime to Mr. Flores and Aggrieved Employees for all overtime hours worked based on regular rates of pay correctly calculated to include all applicable remuneration.

As a result of the foregoing practices, Employers have failed to pay Mr. Flores and Aggrieved Employees for all wages earned at the correct rates of pay, including minimum wages, straight time wages, and overtime compensation. Accordingly, Employers violated IWC Wage Order Nos. 8 and 9 and California Labor Code sections 204, 510, 1194, 1197, 1197.1 and 1198.

Mr. Flores and Aggrieved Employees will therefore seek PAGA default penalties; penalties pursuant to paragraph (20)(A) of IWC Wage Order Nos. 8 and 9; penalties pursuant to California Labor Code sections 558, 1197.1, and 1199; and attorneys' fees and costs.

2. FAILURE TO PROVIDE MEAL PERIODS AND PAY MEAL PERIOD PREMIUMS

Employers failed to provide Mr. Flores and Aggrieved Employees with legally-compliant 30-minute meal periods. Mr. Flores and Aggrieved Employees were required by Employers to work more than five (5) hours per day, but were not provided with uninterrupted 30-minute meal periods. Further, Mr. Flores and Aggrieved Employees were not provided with a second uninterrupted 30-minute meal period when they worked over ten (10) hours per day. Employers regularly required Mr. Flores and Aggrieved Employees to work through their first and second meal periods, to take their first meal period after their fifth (5th) hour of work, and/or to take their second meal periods after their tenth (10th) hour of work. On the occasions that Mr. Flores and Aggrieved Employees did take a meal period, their meal periods were frequently interrupted or cut short.

Employers' policies, practices, and procedures were responsible for the violations alleged above and



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prevented Mr. Flores and other Aggrieved Employees from taking timely, complete and duty-free meal periods because, amongst other reasons: (1) Employers did not have legally-compliant policies regarding the provision and timing of meal periods or systematically disregarded its own purported meal period policies; (2) Employers' management at various levels, affecting all hourly-non-exempt employees, failed and refused to implement and enforce legally compliant meal period policies and practices; (3) Employers failed to adequately inform and train Mr. Flores and other Aggrieved Employees regarding their right to take timely, uninterrupted, and duty-free meal periods; (4) Employers failed to adequately inform and train Mr. Flores and other Aggrieved Employees about their right to premium wages for non-compliant meal periods; (5) Employers failed to ensure that there was adequate staffing to allow Mr. Flores and other Aggrieved Employees to take timely, uninterrupted, and duty-free meal periods; (6) Employers required Mr. Flores and other Aggrieved Employees to remain on-call and respond to work-related requests at all times, including during meal periods, which included responding to in-person verbal interruptions; and (7) Employers' policy and culture prevented Mr. Flores and other Aggrieved Employees from taking timely, uninterrupted, and duty-free meal periods because of the priority placed on completing job requirements over employees' right to receive timely, uninterrupted, and duty-free meal periods.

Mr. Flores and Aggrieved Employees did not receive an extra hour of wages at their regular rate of pay for the meal periods which were not provided to them in compliance with California law.

Accordingly, Employers violated IWC Wage Order Nos. 8 and 9 and California Labor Code sections 226.7(a), 512(a) and 1198.

Mr. Flores and Aggrieved Employees will therefore seek PAGA default penalties pursuant to Labor Code section 2699; penalties pursuant to paragraph (20)(A) of IWC Wage Order Nos. 8 and 9; penalties pursuant to California Labor Code California Labor Code sections 558 and 1199; and attorneys' fees and costs.

3. FAILURE TO AUTHORIZE AND PERMIT REST PERIODS AND PAY REST PERIOD PREMIUMS

Employers failed to authorize and permit Mr. Flores and Aggrieved Employees take legally-compliant 10-minute periods. Employers required Mr. Flores and Aggrieved Employees to work through rest periods. Mr. Flores and Aggrieved Employees were not provided with uninterrupted, duty-free rest periods when they worked more than four (4) hours or a major fraction thereof. Further, Mr. Flores and Aggrieved Employees were not provided with a second uninterrupted, duty-free rest period when they worked more than six (6) hours in a day, or a third uninterrupted, duty-free rest period after working more than ten (10) hours in day. In the rare event that a rest period was taken, it was frequently interrupted or cut short. Moreover, Mr. Flores and Aggrieved Employees were never completely relieved of duty as required by *Augustus v. ABM Security Services, Inc.*, 2 Cal.5th 257 (2016).

Employers' policies, practices, and procedures were responsible for the violations alleged above and prevented Mr. Flores and other Aggrieved Employees from taking timely and complete rest periods



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because, amongst other reasons: (1) Employers did not have legally-compliant policies regarding the provision and timing of rest periods or systematically disregarded its own purported rest period policies; (2) Employers' management at various levels, affecting all hourly-non-exempt employees, failed and refused to implement and enforce legally compliant rest period policies and practices; (3) Employers failed to adequately inform and train Mr. Flores and other Aggrieved Employees regarding their right to take timely, uninterrupted, and duty-free rest periods; (4) Employers failed to adequately inform and train Mr. Flores and other Aggrieved Employees about their right to premium wages for non-compliant rest periods; (5) Employers failed to ensure that there was adequate staffing to allow Mr. Flores and other Aggrieved Employees to take timely, uninterrupted, and duty-free rest periods; (6) Employers required Mr. Flores and other Aggrieved Employees to remain on-call and respond to work-related requests at all times, including during rest periods, which included responding in-person verbal interruptions; and (7) Employers' policy and culture prevented Mr. Flores and other Aggrieved Employees from taking timely, uninterrupted, and duty-free rest periods because of the priority placed on completing job requirements over employees' right to receive rest periods.

Mr. Flores and Aggrieved Employees did not receive an extra hour of wages at their regular rate of pay for the rest periods which were not provided to them in compliance with California law.

Accordingly, Employers violated IWC Wage Order Nos. 8 and 9 and California Labor Code sections 226.7(a), and 1198.

Mr. Flores and Aggrieved Employees will therefore seek PAGA default penalties pursuant to Labor Code section 2699; penalties pursuant to paragraph (20)(A) of IWC Wage Order Nos. 8 and 9; California Labor Code sections 558 and 1199 penalties; and attorneys' fees and costs.

4. FAILURE TO TIMELY PAY WAGES DURING EMPLOYMENT

As to each pay period, Employers have failed to timely pay all wages earned because Mr. Flores and Aggrieved Employees were not paid all the wages they were owed including, *inter alia*, overtime compensation, straight time wages, minimum wages, and meal and rest period premiums. Accordingly, Employers violated California Labor Code section 204(a).

Mr. Flores and Aggrieved Employees will therefore seek PAGA default penalties pursuant to Labor Code section 2699; penalties pursuant to California Labor Code sections 210 and 1199; and attorneys' fees and costs.

5. FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS

As a result of the practices described above, the wage statements provided to Mr. Flores and Aggrieved Employees never included the actual hours worked and the actual gross wages earned. The wage statements provided to Mr. Flores and Aggrieved Employees also failed to state the address of legal entity of employer and inclusive pay period dates. Accordingly, Employers violated California Labor



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Code section 226(a).

Mr. Flores and Aggrieved Employees will therefore seek PAGA default penalties; penalties pursuant to California Labor Code section 226.3; and attorneys' fees and costs.

6. FAILURE TO MAINTAIN ACCURATE RECORDS

Employers have failed to maintain accurate records relating to Mr. Flores and Aggrieved Employees' work periods, meal periods, total daily hours worked, and total hours worked per payroll period. Accordingly, Employers violated IWC Wage Order Nos. 8 and 9 and California Labor Code sections 1198.5 and 1174(d).

Mr. Flores and Aggrieved Employees will therefore seek PAGA default penalties pursuant to Labor Code section 2699; penalties pursuant to paragraph (20)(A) of IWC Wage Order Nos. 8 and 9; California Labor Code section 1174.5 penalties; and attorneys' fees and costs.

7. FAILURE TO TIMELY PAY ALL WAGES UPON TERMINATION OF EMPLOYMENT

Upon the termination of employment, Mr. Flores and Aggrieved Employees were not paid all wages due to them within twenty-four (24) hours or even within seventy-two (72) hours for those who resigned. Specifically, as a result of Employers' practices of requiring Mr. Flores and Aggrieved Employees to work off-the-clock without compensation, unlawful rounding practices, failure to properly calculate regular rates, and failure to accurately record all hours actually worked, Employers failed to pay Mr. Flores and Aggrieved Employees for all straight time wage, minimum wages and overtime compensation owed to them upon termination of their employment. Employers also failed to pay Mr. Flores and Aggrieved Employees for accrued vacation time they were owed, amongst other wages. Accordingly, Employers violated California Labor Code sections 201 and 202.

Mr. Flores and Aggrieved Employees will, therefore, seek PAGA default penalties pursuant to Labor Code section 2699; penalties pursuant to California Labor Code sections 203, 1199, and 2699(f)(2); and attorneys' fees and costs.

8. FAILURE TO PROVIDE ADEQUATE SEATING.

Pursuant to Labor Code section 1198 "... the standard conditions of labor fixed by the commission ... shall be ... the standard conditions of labor for employees. The employment of any employee ... under conditions of labor prohibited by the order is unlawful." IWC Wage Order Nos. 8 and 9, paragraph 14 require "all working employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats." The wage order also requires employers to provide "an adequate number of suitable seats shall be in reasonable proximity to the work area," which employees must be allowed to use when it does not interfere with their duties.



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Mr. Flores and Aggrieved Employees were not provided with seats despite the fact that the nature of the work reasonably permitted the use of seats. Accordingly, Employers violated Labor Code section 1198 and IWC Order Nos. 8 and 9. *See also Bright v. 99¢ Only Stores*, 189 Cal.App.4th 1472 (2010).

Mr. Flores and Aggrieved Employees will therefore seek PAGA default penalties; penalties pursuant to paragraph (20)(A) of IWC Wage Order Nos. 8 and 9; and attorneys' fees and costs.

Therefore, on behalf of himself, the State of California and all Aggrieved Employees, Mr. Flores may seek all applicable penalties related to these violations of the California Labor Code pursuant to PAGA. If you have any questions or require additional information, please do not hesitate to contact us. Thank you for your attention to this matter.

Very Truly Yours,

A handwritten signature in blue ink, appearing to read 'Amir Nayebdadash', is written over a horizontal line.

Amir Nayebdadash

Notice provided to Employer via Certified Mail (7019 1120 0002 3020 3599)

C.H. ROBINSON COMPANY, INC.
14701 CHARLSON ROAD,
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Notice provided to Employer via Certified Mail (7019 1120 0002 3020 3605)

C.H. ROBINSON COMPANY INC.
19949 KENDALL DRIVE
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Notice provided to Employer via Certified Mail (7019 1120 0002 3020 3612)

C.H. ROBINSON COMPANY, INC.
ATTN: CSC – LAWYERS INCORPORATING SERVICE - REGISTERED AGENT
2710 GATEWAY OAKS DRIVE, SUITE 150N
SACRAMENTO, CA 95833

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ATTN: CSC – LAWYERS INCORPORATING SERVICE - REGISTERED AGENT
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UNITED EMPLOYMENT SOLUTIONS, INC.
10803 FOOTHILL BLVD SUITE#109
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5507 VAN BUREN BLVD
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