



Berkeh Alemzadeh, Esq.
(562) 590-5550 phone
(562) 590-8400 facsimile
balem@mahoney-law.net

April 27, 2020

Via Certified Electronic Mail

LABOR AND WORKFORCE DEVELOPMENT AGENCY
PAGAfilings@dir.ca.gov

VIA U.S. MAIL & CERTIFIED MAIL# 7019 0700 0001 7488 7087

Return Receipt Requested

Q-FLEX INC.
1301 E. Hunter Ave.,
Santa Ana, CA 92705

Re: Ariel Lozano v Q-FLEX Inc.

**NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO
LABOR CODE SECTION § 2698 ET SEQ.**

To: California Labor and Workforce Development Agency; Q-FLEX Inc.

From: Ariel Lozano, on behalf of herself and aggrieved employees who were subject to the employer's wage and hour policies as set forth below.

Factual Statement

Please note that this firm, Mahoney Law Group, APC, represents the interests of Ms. Ariel Lozano ("Ms. Lozano" or "Employee"), who intends to file a complaint alleging various Labor Code violations and seeking civil penalties under the Private Attorneys General Act of 2004, Labor Code sections 2698 *et seq.* ("PAGA"), on behalf of herself and all other aggrieved employees.

Theories of Labor Code Violations and Remedies

Q-FLEX Inc. (collectively, "Q-FLEX" or "Employer") is a California corporation that manufacture circuits throughout California. Ms. Lozano began her employment with Employer in or around April 30, 2018 until her termination on or around May 8, 2019.

Ms. Lozano alleges Employer violated various sections of the Labor Code, including sections 201, 202, 203, 226, 226.7, 510, 512, 1174, and 1194, by failing to provide Ms. Lozano and all other aggrieved employees with meal and rest periods and premium pay, failing to pay all

wages owed, including minimum wage and overtime, failing to provide accurate wage statements and maintain accurate payroll records, and failing to provide all wages earned at end of employment. Ms. Lozano and similarly aggrieved employees consist of identifiable, current, and/or former similarly situated persons who worked for Employer in non-exempt positions in California during the liability period of one year prior to the filing of a complaint alleging a PAGA cause of action.

Q-FLEX failed to provide Ms. Lozano and other aggrieved employees with meal and rest periods, or premium compensation in lieu thereof, in accordance with California law.

Ms. Lozano alleges that she and other aggrieved employees were often precluded from taking timely and uninterrupted meal and rest breaks in accordance with California law due to the nature of their shifts. Ms. Lozano and other aggrieved employees allege that they did not receive at least one duty-free, uninterrupted meal period within the first five (5) hours worked, and a second meal period before the start of the 10th hour of work. *Brinker Rest. Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1041-42. In fact, Employer had an auto-deduct policy whereby Employer automatically deducted meal breaks taken by Ms. Lozano and another aggrieved employee, regardless of whether Ms. Lozano and other aggrieved employees actually took an uninterrupted, duty free meal break. When employees were prevented from taking timely and complete meal periods, they did not receive premium pay as compensation for the missed meal period.

Ms. Lozano further alleges that she and other aggrieved employees did not receive at least one duty-free, uninterrupted rest period for every four (4) hours worked, or major fraction thereof, as required by the Labor Code. Ms. Lozano and other aggrieved employees were generally precluded from taking rest periods due to Employer's failure to sufficiently staff shifts to provide relief and thereby allow Ms. Lozano and other aggrieved employees the opportunity to take rest breaks. When employees were prevented from taking rest breaks, they did not receive premium pay for the missed rest break.

Ms. Lozano alleges she and other aggrieved employees were not compensated with premium pay for every meal period and rest period that was not provided. Employer's conduct is actionable under PAGA as violations of Labor Code sections 226.7 and 512.

Q-FLEX failed to pay Ms. Lozano and other aggrieved employees for all hours worked, in accordance with California law, including both minimum wage and overtime

Employer failed to pay Ms. Lozano and other aggrieved employees at the legally mandated wage rates for all hours worked in violation of California law. Ms. Lozano and other aggrieved employees allege that Employer utilized a rounding policy with respect to the hours worked by Ms. Lozano and other aggrieved employees to the nearest quarter-hour worked to the detriment of Ms. Lozano and other aggrieved employees. In doing so, Employer failed to provide compensation at least at a minimum wage rate for all hours worked as required by the Labor Code. Employer's failure to provide Ms. Lozano and other aggrieved employees pay for all hours worked is a violation of California's minimum wage laws, as Ms. Lozano and other aggrieved employees should have been provided at least the applicable minimum wage for all hours worked.

Further, as Ms. Lozano and other aggrieved employees already worked shifts of at least eight (8) hours per day, all hours worked but not compensated were required to be compensated at a rate of at least one-and-a-half times each employee's base rate of pay. However, Employer had a policy whereby they would only compensate Ms. Lozano and other aggrieved employees at a rate of one-and-a-half times each employee's base rate of pay when they worked in excess of forty (40) hours per week, not when they worked in excess of eight (8) hours in one work day. To the extent such hours exceeded twelve (12) in one day or eight (8) on the seventh (7th) consecutive day worked, such hours were required to be compensated at a rate of at least two (2) times each employee's base rate of pay. Furthermore, Employer had a policy and/or practice of utilizing a "rounding" policy which operated to the benefit of the Employer thus depriving Ms. Lozano and other aggrieved employees from being paid all minimum wages and overtime wages as a result of Employer's unlawful "rounding" policy.

Employer's failure to pay minimum wage and applicable overtime rates to Ms. Lozano and other aggrieved employees as detailed above is actionable under PAGA as a violation of Labor Code sections 510 and 1194.

Q-FLEX failed to provide Ms. Lozano and other aggrieved employees compliant wage statements, and failed to pay all wages earned at the time their employment ended

Ms. Lozano and other aggrieved employees received wage statements that failed to list the total hours worked as required by Labor Code 226. Further, by failing to include on Ms. Lozano's and other aggrieved employees' pay stubs all rest and meal break premium wages, and full compensation for all hours worked, Employer failed to keep accurate payroll records and failed to provide Ms. Lozano and other aggrieved employees with complete and accurate wage statements. This conduct is in violation of Labor Code sections 226 and 1174 and is actionable under PAGA.

As a further result of Employer's failure to pay all wages owed as described herein, Employer also violated Labor Code sections 201, 202, and 203, due to its uniform policy, practice, and procedure of failing to pay all wages earned to former employees at the time their employment ended.

Reservation of Rights

The facts and claims contained herein are based on the information available at the time of this writing. Therefore, if through discovery and/or expert review, Ms. Lozano becomes aware of additional compensation owed or losses incurred by Ms. Lozano or by any other aggrieved employee of the Employer, Ms. Lozano expressly reserves the right to revise these facts and/or add any new claims by amending the claim letter or by adding applicable causes of action to the complaint which will relate back to the date of this letter.

If the Labor and Workforce Development Agency intends to investigate the allegations set forth herein, please provide notice via certified mail to:

LABOR AND WORKFORCE DEVELOPMENT AGENCY

April 27, 2020

Page 4 of 4

Mahoney Law Group, APC

Berkeh Alemzadeh

249 E. Ocean Blvd., Suite 814

Long Beach, CA 90802

Tel: (562) 590-5550

Email: balem@mahoney-law.net

Sincerely,

A handwritten signature in black ink, appearing to be 'Berkeh Alemzadeh', with a stylized flourish at the end.

Berkeh Alemzadeh, Esq.

MAHONEY LAW GROUP, APC