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April 21, 2020

PAGA NOTICE FILED ELECTRONICALLY
PAGA FILING FEE BY U.S. MAIL

Department of Industrial Relations
Accounting Unit
455 Golden Gate Avenue, 10th Floor
San Francisco, California 94102
<https://dir.tfaforms.net/128>

Re: Notice Letter of Agustin Pedroza Labra on Behalf of Himself and
Aggrieved Employees Under California Labor section 2699.3

Employer: Ross Dress for Less, Inc.
5130 Hacienda Drive
Dublin, California 94568

Ross Stores, Inc.
5130 Hacienda Drive
Dublin, California 94568

Michael Kobayashi
5130 Hacienda Drive
Dublin, California 94568

To Whom It May Concern:

This letter shall constitute notice under Labor Code section 2699.3 (hereinafter "PAGA Notice"). The \$75 filing fee made payable to the California Labor and Workforce Development Agency for the PAGA Notice was mailed along with a copy of this PAGA Notice to the Department of Industrial Relations at the above-listed mailing address.

This PAGA Notice concerns Agustin Pedroza Labra ("Mr. Pedroza") employment with his former employers Ross Dress for Less, Inc. ("Dress for Less"), Ross Stores, Inc. ("Ross Stores") and Michael Kobayashi ("Kobayashi" and collectively with Dress for Less and Ross Stores, "Employers"). Mr. Pedroza was a non-exempt employee of Employers, with duties that included, but were not limited to, unloading trucks and pallets, wrapping product, and labeling, from approximately September of 2015 through the end of April of 2019. Other aggrieved employees that Mr. Pedroza seeks to represent are all other non-exempt employees of Employers. In return, Employers paid (or purported to pay) Mr. Pedroza and other aggrieved employees an hourly wage for their services.

Mr. Pedroza and other aggrieved employees are covered by Labor Code section 510 and applicable Wage Orders. Mr. Pedroza is informed and believes, and based thereon alleges, that Employers had and have a policy or practice of, on occasion, requiring their employees to work more than eight (8) hours per day, twelve (12) hours per day, forty (40) hours per week, and/or seven (7) straight workdays in a workweek without paying them proper overtime wages, as a result of, without limitation, failing to accurately track and/or pay for all minutes actually worked; engaging, suffering, or permitting employees to work off the clock; detrimentally rounding, manipulating and/or editing time entries to show lesser minutes than actually worked during the pay period; and failing to include all forms of remuneration, including non-discretionary bonuses and/or incentive pay, into the regular rate of pay for the purpose of calculating the overtime rate of pay, for the occasional pay periods where overtime was worked and a non-discretionary bonus and/or incentive pay was provided, to the detriment of Mr. Pedroza and other aggrieved employees. Consequently, Mr. Pedroza is informed and believes, and based thereon alleges, that Employers violated Labor Code sections 510, 1194, and applicable Wage Orders based on their practice of, at times, providing total compensation that is less than the required legal overtime compensation for the overtime worked, entitling Mr. Pedroza and other aggrieved employees to damages. Employers would also be liable for civil penalties pursuant to Labor Code sections 558 and 2699.

Mr. Pedroza is informed and believes, and based thereon alleges, that Employers had and have a practice or policy of, at times failing to compensate Mr. Pedroza and other aggrieved employees with minimum wages for all minutes worked or otherwise under Employers' control as a result of, without limitation, failing to accurately track and/or pay for all minutes actually worked; engaging, suffering, or permitting employees to work off the clock; and detrimentally rounding, and manipulating and/or editing time entries to show lesser minutes than actually worked during the pay period. As such, Mr. Pedroza is informed and believes, and based thereon alleges, that Employers violated, without limitation, Labor Code section 1197 and applicable Wage Orders based on their continued failure to pay minimum wages for all minutes worked, entitling Mr. Pedroza and other aggrieved employees to actual and liquidated damages under, without limitation, Labor Code sections 1194 and 1194.2. Employers would also be liable for civil penalties pursuant to Labor Code sections 558, 1197.1, and 2699.

Mr. Pedroza is informed and believes, and based thereon alleges, that Employers had and have a policy or practice of, at times compelling their employees to work in excess of five (5) and ten (10) hours per day without being afforded uninterrupted, timely, and complete 30-minute meal periods or compensation in lieu thereof including, without limitation, by interrupting meal periods, not providing timely meal periods, failing to provide first and second meal periods all together, and/or providing short meal periods. Consequently, Mr. Pedroza is informed and believes, and based thereon alleges, that Employers violated Labor Code section 512, entitling Mr. Pedroza and other aggrieved employees to premium payments under Labor Code section 226.7. Employers would also be liable for civil penalties pursuant to Labor Code sections 558 and 2699.

Mr. Pedroza is informed and believes, and based thereon alleges, that Employers maintain policies or practices of, on occasion, compelling their non-exempt employees, including, without limitation, Mr. Pedroza, to work over four-hour periods (or major fractions thereof) without authorizing and permitting their employees to take uninterrupted, timely, and complete ten-minute rest periods in which the employees are completely relieved of all of their duties. As such, Mr. Pedroza is informed and believes, and based thereon alleges, that he and other aggrieved employees are entitled to relief under, without limitation, Labor Code section 226.7. Employers would also be liable for civil penalties pursuant to Labor Code sections 558 and 2699.

In addition to the above, Mr. Pedroza is informed and believes, and based thereon alleges that Employers at times failed and continue to fail to keep adequate or accurate time records including wage statements and similar payroll documents under Labor Code section 226, documents signed to obtain or hold employment under Labor Code section 432, personnel records under Labor Code section 1198.5, and time records under Labor Code section 1174, making it difficult for Mr. Pedroza and other aggrieved employees to calculate their unpaid wages and/or premium payments. This would entitle Mr. Pedroza and other aggrieved employees to penalties prescribed by Labor Code sections 226 and 1198.5. Employers would also be liable for civil penalties pursuant to Labor Code sections 558 and 2699.

As a result of, among other things, Employers' herein-described policy or practice of at times failing to: accurately record time; failing to pay overtime and minimum wages; provide meal periods or compensation in lieu thereof; and provide rest periods or compensation in lieu thereof, as described above, Mr. Pedroza is informed and believes, and based thereon alleges, that Employers also intentionally failed and continue to fail to, at times, furnish employees, including, without limitation, Mr. Pedroza, with itemized wage statements that accurately reflect: gross wages earned; total hours worked by the employee; net wages earned; all deductions; all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee; and other such information as required by Labor Code section 226, subdivision (a). Specifically, Employers intentionally failed to furnish employees with itemized wage statements that accurately reflect the hours worked by Mr. Pedroza and other aggrieved employees and the rates of pay at which they were or should have been paid, thus resulting in a failure to reflect gross and net wages earned and paid at each rate, as well. Consequently, since Employers would have failed to comply with Labor Code section 226, subdivision (a), Mr. Pedroza and other aggrieved employees would be entitled to recover penalties under, without limitation, Labor Code section 226, subdivision (e). Employers would also be liable for civil penalties pursuant to Labor Code sections 226.3, 558, and 2699.

Mr. Pedroza is informed and believes, and based thereon alleges, that Employers also failed and refused, and continue to fail and refuse, to on occasion timely pay compensation to Mr. Pedroza and other terminated or resigned employees, including but not limited to, all wages owed

as a result of Employers' practice or policy of failing to pay, among other wages, overtime wages, minimum wages, and premium wages. Consequently, Employers would be liable for waiting time penalties for having violated California Labor Code sections 201, 202, and 203. Employers would also be liable for civil penalties pursuant to Labor Code sections 558 and 2699.

Mr. Pedroza is further informed and believes, and based thereon alleges that Employers have on occasion, failed and refused, and continues to fail and refuse, to comply with the notice requirements of Labor Code section 2810.5 (*i.e.*, the Wage Theft Protection Act of 2011) by, among other things, failing to provide Mr. Pedroza and other aggrieved employees with the rates of pay and overtime rates of pay applicable to their employment, allowances claimed as part of the minimum wage, the regular payday designated by Employers, the name of the employer, including any "doing business as" names used, the name, address and telephone number of the workers' compensation insurance carrier, information regarding paid sick leave, and other pertinent information required to be disclosed by Employers under Labor Code section 2810.5. Mr. Pedroza is informed and believes that failure to provide such information, including rates of pay that are in effect, has permitted Employers to pay employees at rates of pay that were not agreed upon and violate minimum wage and overtime wage laws in California. Among other relief, employees may collect from Employers in connection with these violations' civil penalties pursuant to Labor Code sections 558 and 2699.

Mr. Pedroza is further informed and believes, and based thereon alleges, that Employers at times, have or had a policy or practice of failing to provide Mr. Pedroza and other aggrieved employees with the amount of paid sick leave required to be provided pursuant to California law (including, without limitation, Labor Code section 246, *et seq.*), and also did not permit its use upon request as contemplated under California law. As such, Employers would be liable for civil penalties for violation of the paid sick leave regulations under Labor Code sections 558 and 2699.

Mr. Pedroza is informed and believes, and based thereon alleges that Employers had and have a policy or practice of, on occasion, failing to pay employees their wages in accordance with Labor Code Section 204, which requires that: "[l]abor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and 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." Mr. Pedroza is informed and believes and based thereon alleges that Employers did not and do not pay their employees in accordance with Labor Code Section 204. As such, Mr. Pedroza is informed and believes, and based thereon alleges that Employers violated Labor Code section 204. Employers would be liable for civil penalties pursuant to Labor Code sections 210, 558 and 2699.

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California Labor and Workforce Development Agency

April 21, 2020

Page 5

Pursuant to Labor Code section 2699.3, subdivision (a)(2)(A), please advise within sixty-five (65) calendar days of the postmarked date of this notice whether the LWDA intends to investigate the violations alleged above. Our office understands that if we do not receive a response within sixty-five (65) calendar days of the postmark date of this PAGA Notice that the LWDA intends to investigate these allegations, Mr. Pedroza may immediately thereafter file a civil complaint against Employers to allege causes of action for civil penalties under the Private Attorney General Act for the herein-described alleged violations of the Labor Code.

Very truly yours,

BIBIYAN LAW GROUP, P.C.



David D Bibiyan

cc: Ross Dress for Less, Inc. (via U.S. Certified Mail, Return Receipt Requested)
Ross Stores, Inc. (via U.S. Certified Mail, Return Receipt Requested)
Michael Kobayashi (via U.S. Certified Mail, Return Receipt Requested)