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VIA EMAIL AT PAGAfiling@dir.ca.gov and CERTIFIED U.S. MAIL—RETURN RECEIPT REQUESTED

May 13, 2020

Attention: PAGA Administrator
Acting Agency Secretary
California Labor & Workforce Development Agency
PAGAfiling@dir.ca.gov

Angelo's Gourmet Deli, Inc.
(and other likely defendants, including but not limited to managers and supervisors)
C/O Jae Hyun Choi
12025 San Pablo Ave.
Richmond, CA 94805

Jae Hyun Choi
12025 San Pablo Ave.
Richmond, CA 94805

Anna (LNU)
12025 San Pablo Ave.
Richmond, CA 94805

Kyung Hee Lee
12025 San Pablo Ave.
Richmond, CA 94805

May 13, 2020

Letter to PAGA Administrator, Angelo's Gourmet Deli, Inc. et al.

Re: Cal. Lab. Code § 2699 Notice by Aggrieved Employees

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RE: Labor Code §2699 Notice by Aggrieved Employee *Raymunda E. Menjivar (D.O.B. 11/17/1974)*

Dear PAGA Administrator and All Entities and Persons listed herein:

This constitutes statutory notice pursuant to Labor Code § 2699.3(a)(1) for purposes of bringing a claim under the Private Attorneys General Act, Cal. Labor Code § 2699, *et seq.* Please consider this a request for the California Labor & Workforce Development Agency ("LWDA" or "Agency") to take action against Angelo's Gourmet Deli, Inc. ("Angelo's"); Affiliated Companies, and their agents, managers and supervisors – including but not limited to Chief Executive Officer Kyung Hee Lee, and Chief Financial Officer and Secretary Jae Hyun Choi, and Anna (LNU) (collectively "Angelo's"), for violations of the California Labor Code described below. The aforementioned entities and individuals were aware of, complicit in, and actually caused the violations described below. I am writing on behalf of Raymunda E. Menjivar, Aggrieved Employee represented by this law firm (hereinafter "Aggrieved Plaintiff") who seeks to assert a PAGA claim on behalf of the State of California for Labor Code violations against all other current or former employees who have been employed by Angelo's in California.

Angelo's is a delicatessen located in Richmond that employs non-exempt employees, including but not limited to cashiers, prep cooks, and servers. This investigation request and notice of California Labor Code violations concerns the systematic failure by Angelo's to pay current and former California non-exempt employees in conformance with provisions set out in the California Labor Code and in Wage Orders promulgated by the Industrial Welfare Commission.

At the core of Angelo's violations is the systematic failing to keep accurate time and payroll records; requiring, suffering or permitting employees to perform unpaid work outside their scheduled worktime; refusing to provide proper rest and meal periods or to provide premium wages in lieu thereof; failing to pay premium/overtime wages; failing to provide sick pay; failing to provide accurate wage statements, and failing to pay all wages owed upon separation from employment.

Liability under the Private Attorneys General Act (Cal. Labor Code §§ 2698 *et seq.*) ("PAGA") may be based on a wide variety of Labor Code predicate provisions, including but not limited to §§ 201, 202, 203, 210, 216, 218, 218.6, 223, 225, 226, 226.7, 246, 510, 512, 6400, 6401, 6401.7, 6402, 6403, 6404, 1174, 1175, 1194, 1194.2, 1197, 1197.1 1199 and 2673.1(a), IWC wage orders, 2699 *et seq.* and all of the provisions listed in Labor Code 2699.5 (including the penalty provisions related to these predicate provisions), among others. Any violation of these or any other Labor Code provisions serves as the basis for a PAGA claim by an aggrieved employee on behalf of the state of California. Angelo's and its agents and/or supervisors caused the violations described below by enforcing and carrying out its illegal policies:

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1. Angelo's has failed to pay our client and other non-exempt employees all wages earned, **including minimum wages**, in violation of Cal. Labor Code §§ 201, 202, 221, 1194, 1197 and 558, and the Wage Orders, by inaccurately keeping records of actual hours worked and wages earned, and by failing to pay for all hours worked.

Specifically, Angelo's required non-exempt employees to work "off the clock" by requiring her to perform work-related tasks during their unpaid meal periods. For example, if Ms. Menjivar was on her lunch break, and a customer came in, she was expected to cut her break short and serve that customer, without first clocking back in. Jae Choi and Anna (LNU) also frequently required Ms. Menjivar to have conversations with them about work-related topics during her unpaid meal periods as well as after punching out for the day.

2. Angelo's has violated California's rest and meal break provisions, including Labor Code §§ 226.7, 512 and 558 and the Wage Orders, by discouraging breaks, not providing all requisite breaks or not relieving employees of all duty during break time.

Non-exempt employees were denied paid rest periods. They generally had only one "break" during the day, which was their unpaid meal period. Non-exempt employees clocked out for their meal periods, which were usually significantly shorter than the required 30 minutes.

Non-exempt employees were required to be available during their meal periods in case any customers came in. However, Angelo's failed to compensate employees in lieu of their incomplete or late meal breaks as prescribed by law.

3. Angelo's has failed to pay proper premium/overtime wages at one and one half the regular rate of pay for shifts greater than eight (8) hours in a work day and/or forty (40) hours in a workweek, and failure to pay proper premium/double-time wages at double the regular rate of pay for shifts greater than twelve (12) hours in a day and/or eight (8) hours on any seventh consecutive work day of a workweek, in violation of Labor Code § 510 and the IWC Wage Orders.

Specifically, Angelo's required non-exempt employees to work shifts in excess of these thresholds without proper compensation. Overtime provisions of the Labor code and IWC Wage Orders were violated by inaccurately keeping records of actual hours worked and wages earned by requiring, suffering or permitting employees to work without compensation, by not compensating workers for all hours worked, including overtime hours and proper overtime pay and by not compensating for off-the-clock time and by failing to pay for all hours worked within the meaning of the IWC Wage Orders.

4. Angelo's has failed to provide sick pay, in violation of California Labor codes §§ 246(a)(1), 246 (b)(1) and 248.5.

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Non-exempt Employees were denied paid sick leave to care for themselves or for close family members. Employees who called in sick were not compensated for sick time.

5. For the above reasons, Angelo's has failed to keep accurate time records and to provide accurate wage statements that reflect the actual hours worked and amounts earned, in violation of Labor Code sections 226, 1174 and the Wage Orders.
6. Given the numerous violations indicated above, it is reasonable to conclude that Angelo's did not pay all wages owed to its non-exempt employees upon termination in violation of the Cal. Lab. Code section 203.

PLEASE TAKE NOTICE THAT THIS IS ALSO A GENERAL LITIGATION PRESERVATION NOTICE to preserve all documents relating to all employees, including but not limited to all timekeeping and payroll records in paper form, native electronic form and any other format in which they are generated and maintained in the regular course of business; all databases and computer or electronic systems that are used for timekeeping and payroll; all records and evidence in any way related to the facts and claims asserted in this letter; all records and evidence in any way related to claims of Aggrieved Plaintiffs, the state and other current or former employees under the California Labor Code Private Attorney General (including underlying Labor Code and IWC orders), the California Government Code, and the Equal Employment Opportunity Act. These documents include but are not limited to all schedules (both current and former) all timekeeping records, all rest and meal period records, all duty and responsibility records, all records with employee signatures or initials, all payroll records, all state or federal withholding records, all personnel files and other employment records, all records concerning the payment or non-payment of wages, or provision or non-provision of state mandated labor code protections, as well as all documents pertaining to harassment or discrimination against employees, all communications relating to these records and documents, and all emails relating to these records and documents.

Further, pursuant to California Labor Code §§ 210, 558, 558.1, 1197.1, 2699(f) and other provisions of the Labor Code, please consider this a notice to Angelo's; Affiliated Companies, and owners, supervisors, managers, agents and all other person acting on behalf of Angelo's; Affiliated Companies, and managers including but not limited to Chief Executive Officer Kyung Hee Lee, and Chief Financial Officer and Secretary Jae Hyun Choi, and Anna (LNU), and the employers who caused to be violated any provision of the California Labor Code or Wage Orders governing hours and days of work. Angelo's has complete authority to implement and carry out the illegal payroll policies at issue herein. These violations are a uniform policy applied to all non-exempt workers at Angelo's.

Kyung Hee Lee, as the Chief Executive Officer of Angelo's and Jae Hyun Choi, as the Chief Financial Officer and Secretary of Angelo's, are in charge of making major corporate decisions and managing the operations of the corporation. Anna (LNU) who may or may not be the same person as Kyung Hee Lee, is, on information and belief, the spouse of Jae Hyun Choi

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and co-owns Angelo's. As such, these individuals were on notice, whether actual or constructive, of all of the violations described above, and failed to prevent or address them.

Aggrieved Plaintiff, who worked as a prep cook for Defendants during the past year may be contacted through our office: Mallison & Martinez, Attorneys at Law, 1939 Harrison Street, Suite 730, Oakland, California 94612.

If no action is taken within 65 days, we will assume that we may pursue this action under the theories described above against the Defendants described above and their managers, agents, owners and other liable persons and entities (pursuant to §210, 558, 1197.1, 2699(f) (and other provisions)).

Sincerely,

A handwritten signature in black ink, appearing to be 'LS' or 'Leanna M. Sac'.

Leanna M. Sac, Esq.

MALLISON & MARTINEZ