

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: Stephanie Bowick

1 **MAYALL HURLEY P.C.**
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5 **Stockton, California 95207-8253**
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8 **Attorneys for Plaintiff GABRIEL CUEVA**

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 **IN AND FOR THE COUNTY OF LOS ANGELES**

11 **GABRIEL CUEVA, an individual,**

12 **Plaintiff,**

13 **vs.**

14 **STRAIN BALBOA CAREGIVERS, INC., a**
15 **corporation; CU UP! LLC, a limited liability**
16 **company; and DOES 1-100, inclusive,**

17 **Defendants.**

Case No.: **20STCV27189**

COMPLAINT

1. **PRIVATE ATTORNEYS GENERAL ACT**
2. **FAILURE TO PRODUCE PAYROLL RECORDS UPON REQUEST**
3. **FAILURE TO PRODUCE PERSONNEL RECORDS UPON REQUEST**
4. **FAILURE TO FURNISH COMPLETE AND ACCURATE ITEMIZED WAGE STATEMENTS**

18
19 Plaintiff Gabriel Cueva brings this action against Strain Balboa Caregivers, Inc., a
20 corporation; CU Up! LLC, a limited liability company; and Does 1 through 100, for violations of
21 the Labor Code.

22 **PARTIES**

23 1. Gabriel Cueva ("Cueva" or "Plaintiff") at all times relevant herein was employed in
24 Los Angeles County, California and was an "employee" as defined by the California Labor Code.

25 2. Strain Balboa Caregivers, Inc. ("SBCI") is a California corporation formed under
26 the laws of California and, at all times relevant herein, was an "employer" as defined by the
27 California Labor Code.

3. CU Up! LLC is a California limited liability company formed under the laws of Nevada and, at all times relevant herein, was an “employer” as defined by the California Labor Code.

4. SBCI, CU Up! LLC, and Does 1-100 are collectively referred to as Defendants.

5. Plaintiff is not aware of the true names and capacities of the Defendants sued herein as Does 1 through 100, whether individual, corporate, associate, or otherwise and therefore sues such Defendants by these fictitious names. Plaintiff will amend this Complaint to allege their true names and capacities when ascertained. Plaintiff is informed and believes, and on that basis alleges, that each of the fictitiously named Defendants is responsible in some manner for the occurrences herein alleged and that Plaintiff's injuries and damages herein alleged were legally caused by such Defendants. Unless otherwise indicated, each Defendant was acting within the course and scope of said agency and/or employment, with the knowledge and/or consent of said co-Defendant.

6. Plaintiff is informed and believes and thereupon alleges that at all times mentioned herein, each of the Defendants, including each Doe Defendant, was acting as the agent, servant, employee, partner and/or joint venturer of and was acting in concert with each of the remaining Defendants, including each Doe Defendant, in doing the things herein alleged, while at all times acting within the course and scope of such agency, service, employment partnership, joint venture and/or concert of action. Each Defendant, in doing the acts alleged herein, was acting both individually and within the course and scope of such agency and/or employment, with the knowledge and/or consent of the remaining Defendants.

JURISDICTION AND VENUE

7. Venue is proper in this Court because the unlawful acts alleged herein took place in Los Angeles County and Cueva's place of employment with Defendants was, at all times relevant herein, located within Los Angeles County.

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GENERAL ALLEGATIONS

8. Cueva was employed by Defendants in Chatsworth, California from April 21, 2018 through February 28, 2020. His joint employment with SBCI and CU Up! LLC is demonstrated by, *inter alia*, the fact that while his itemized wage statements showed CU Up! LLC as the employer, the storefront, as well as personnel documents issued to him, showed SBCI as the employer. **(Exhibits 1, 2.)**

9. Throughout his employment, Cueva was issued itemized wage statements which did not comply with Labor Code section 226, subdivision (a). First, the wage statements omitted the last four digits of the employee's social security number or an employee identification number *other than* the employee's social security number, in violation of Labor Code section 226, subdivision (a)(7). **(Exhibit 1.)** Second, the wage statements omitted the name and address of the legal entity that is the employer, in violation of Labor Code section 226, subdivision (a)(8) (while showing the employer name, the wage statements omitted the employer address). (*Id.*) Last, the wage statements did not show the total hours worked, in violation of Labor Code section 226, subdivision (a)(2).

10. Cueva has suffered injury as a result of Defendants' knowing and intentional failure to comply with Labor Code section 226, subdivisions (a)(2) and (8).

11. Cueva was unable to promptly and easily determine his total hours worked and the name and address of the legal entity that is the employer, from the wage statements furnished by Defendants.

12. On May 13, 2020, Cueva provided written notice to the Labor and Workforce Development Agency ("LWDA"), SBCI, and CU Up! LLC, regarding the specific provisions of the Labor Code alleged to have been violated, including the facts and theories to support those alleged violations. **(Exhibit 3.)**

13. On June 9, 2020, Cueva received a letter from an attorney for SBCI and CU Up! LLC, announcing that his clients had "cured" "any perceived deficiencies and alleged violations of wrongdoing under the Code." **(Exhibit 4.)**

1 14. On June 15, 2020, Cueva provided further written notice to the LWDA, SBCI, and
2 CU Up! LLC, disputing that any “cure” as to the alleged wage statement violations had been
3 properly effected. **(Exhibit 5.)**

4 15. On June 17, 2020, counsel for the LWDA e-mailed the parties (through respective
5 counsel) and afforded SBCI and CU Up! LLC additional time to cure the alleged violations of
6 Labor Code section 226, subdivision (a)(8). **(Exhibit 6.)**

7 16. On June 18, 2020, Cueva received a Declaration of Shaun Lang with regard to the
8 aforementioned alleged cure. **(Exhibit 7.)**

9 17. On June 25, 2020, Cueva provided yet *additional* written notice to the LWDA,
10 SBCI, and CU Up! LLC, further disputing the purported cure of violations of Labor Code section
11 226(a). **(Exhibit 8.)**

12 18. On July 2, 2020, the LWDA rendered its written decision that SBCI and CU Up!
13 LLC had failed to cure the alleged violations of Labor Code section 226(a)(8), and took no position
14 on the merit of any other alleged violation. **(Exhibit 9.)**

15 19. As of the filing of this Complaint, more than 65 calendar days after Cueva’s initial
16 written notice, the LWDA has not provided written notice that it intends to investigate any of
17 Cueva’s allegations as set forth above. Accordingly, Cueva has satisfied the administrative
18 prerequisites under Labor Code section 2699.3 to bring a civil action to recover civil penalties
19 against Defendants, in addition to other remedies, for violations of the California Labor Code.

20 20. On April 28, 2020, Cueva requested from SBCI, via certified mail return receipt
21 requested, copies of, inter alia, copies of his payroll records (Lab. Code, § 226, subd. (b)) and his
22 personnel records (Lab. Code, § 1198.5, subd. (b)). **(Exhibit 10.)** On May 13, 2020, Cueva
23 requested these records from CU Up! LLC. **(Exhibit 11.)** As of the date of the execution of this
24 Complaint, neither of his former co-employers have complied with these requests to any degree.

25 21. The foregoing list of misconduct is a partial list only, and set forth by way of
26 example.

27 ///

FIRST CAUSE OF ACTION
PRIVATE ATTORNEYS GENERAL ACT
(Lab. Code, § 2698 *et seq.*)
Against Defendants

22. Plaintiff hereby realleges and incorporates by reference each and every allegation set forth above as though fully set forth herein, except as said paragraphs are inconsistent with the allegations of this cause of action.

23. Pursuant to Labor Code section 2699, subdivision (a), any provision of the Labor Code which provides for a civil penalty to be assessed and collected by the LWDA for violations of the Labor Code may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees pursuant to the procedures outlined in Labor Code section 2699.3.

24. Plaintiff was employed by Defendants and the alleged violations were committed against him during his time of employment. Plaintiff is therefore an aggrieved employee as defined by Labor Code section 2699, subdivision (c). Other current and former employees are also aggrieved employees in that one or more of the alleged violations were also committed against them during their time of employment with Defendants.

25. Pursuant to Labor Code section 2699, subdivision (f), the civil penalty recoverable in a PAGA action is that which is provided for by the Labor Code or, where no civil penalty is specifically provided, one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation.

26. Pursuant to California Labor Code section 2699, subdivision (g), an aggrieved employee may recover the civil penalty on behalf of himself or herself and other current or former employees against whom one or more of the alleged violations was committed. Furthermore, any employee who prevails in any such action shall be entitled to an award of reasonable attorney's fees and costs.

1 27. Wherefore, Plaintiff and other employees (current and former) have been aggrieved
2 as set forth above and request relief as hereafter provided.

3 **SECOND CAUSE OF ACTION**
4 **FAILURE TO PRODUCE PAYROLL RECORDS UPON REQUEST**
5 **(Lab. Code, § 226, subd. (c))**
6 **Against Defendants**

7 28. Plaintiff hereby realleges and incorporates by reference each and every allegation
8 set forth above as though fully set forth herein, except as said paragraphs are inconsistent with the
9 allegations of this cause of action.

10 29. Pursuant to California Labor Code Labor Code section 226(c), an employer who
11 receives a written or oral request to inspect or copy records pursuant to subdivision (b) pertaining
12 to a current or former employee shall comply with the request as soon as practicable, but no later
13 than 21 calendar days from the date of the request.

14 30. As set forth above, Plaintiff requested copies of his wage statements, but Defendants
15 failed to timely comply.

16 31. Wherefore, Plaintiff seeks relief as set forth below.

17 **THIRD CAUSE OF ACTION**
18 **FAILURE TO PRODUCE PERSONNEL RECORDS UPON REQUEST**
19 **(Lab. Code, § 1198.5, subds. (a), (b)(1))**
20 **Against Defendants**

21 32. Plaintiff hereby realleges and incorporates by reference each and every allegation
22 above as though fully set forth herein, except as said paragraphs are inconsistent with the
23 allegations of this cause of action.

24 33. Pursuant to California Labor Code section 1198.5(a): Every current and former
25 employee, or his or her representative, has the right to inspect and receive a copy of the personnel
26 records that the employer maintains relating to the employee's performance or to any grievance
27 concerning the employee.

28 34. Pursuant to California Labor Code section 1198.5(b)(1): The employer shall make
the contents of those personnel records available for inspection to the current or former employee,

1 or his or her representative, at reasonable intervals and at reasonable times, but not later than 30
2 calendar days from the date the employer receives a written request.”

3 35. Pursuant to California Labor Code section 1198.5(k): If an employer fails to permit
4 a current or former employee, or his or her representative, to inspect or copy personnel records
5 within the times specified in this section, or times agreed to by mutual agreement as provided in
6 this section, the current or former employee or the Labor Commissioner may recover a penalty of
7 seven hundred fifty dollars (\$750) from the employer.

8 36. As set forth above, Defendants failed to timely comply with Labor Code section
9 1198.5 and furnish the records requested pursuant to Labor Code section 1198.5.

10 37. Wherefore, Plaintiff has been harmed and requests relief as hereinafter provided.

11 **FOURTH CAUSE OF ACTION**
12 **FAILURE TO FURNISH COMPLETE AND ACCURATE ITEMIZED WAGE**
13 **STATEMENTS**
14 **(Lab. Code, § 226(a))**
15 **Against Defendants**

16 38. Plaintiff hereby realleges and incorporates by reference each and every allegation set
17 forth above as though fully set forth herein, except as said paragraphs are inconsistent with the
18 allegations of this cause of action.

19 39. Pursuant to Labor Code section 226, subdivision (a), “every employer shall,
20 semimonthly or at the time of each payment of wages, furnish each of his or her employees, either as
21 a detachable part of the check, draft, or voucher paying the employee’s wages, or separately when the
22 wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross
23 wages earned, (2) total hours worked by the employee . . ., (3) the number of piece-rate units earned
24 and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, (5) net
25 wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the
26 employee and only the last four digits of his or her social security number or an employee
27 identification number, (8) the name and address of the legal entity that is the employer . . ., (9) all
28 applicable hourly rates in effect during the pay period and corresponding number of hours worked at

1 each hourly rate by the employee and, if the employer is a temporary services employer . . . , the rate
2 of pay and the total hours worked for each temporary services assignment.”

3 40. An employee suffering injury as a result of the knowing and intentional failure by an
4 employer to comply with Labor Code section 226, subdivision (a) is entitled to recover the greater of
5 all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one
6 hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed the
7 aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and
8 reasonable attorney’s fees. (Lab. Code, § 226, subd. (e)(1).)

9 41. An employee is deemed to suffer injury if the employer fails to provide a wage
10 statement or if the employer fails to provide accurate and complete information as required by any one
11 or more of the items (1) to (9), inclusive, of subdivision (a) and the employee cannot promptly and
12 easily determine from the wage statement alone, i) the amount of gross/net wages paid to the
13 employee during the pay period or any of the other information required to be provided pursuant to
14 Labor Code section 226, subdivision (a)(2)-(4), inclusive, (6) and (9), ii) deductions made by the
15 employer, iii) the name and address of the employer and iv) the name of the employee and the last
16 four digits of his or her social security number or employee identification number. (Lab. Code, § 226,
17 subds. (e)(2)(A) and (B)(i)-(iv).) “Promptly and easily determine” means a reasonable person would
18 be able to readily ascertain the information without reference to other documents or information.
19 (Lab. Code, § 226, subd. (e)(2)(C).)

20 42. During the relevant time period, Defendants intentionally and willfully failed to furnish
21 accurate itemized wage statements in violation of Labor Code section 226, subdivision (a).

22 43. Wherefore, Plaintiff has been injured and request relief as hereinafter provided.

23 **PRAYER FOR RELIEF**

24 WHEREFORE, Plaintiff prays judgment against Defendants as follows:

25 **For the First Cause of Action:**

- 26 1. For civil penalties, including but not limited to those available under Labor Code
27 sections 226.3 and 2699(f);

2. For injunctive relief;
3. For statutory attorneys' fees and costs, including but not limited to those available under Labor Code section 2699(g);
4. For prejudgment and post-judgment interest according to any applicable provision of law or as otherwise permitted by law, including those available under Civil Code sections 3287(a) and 3289(b); and
5. For such other and further relief as the court deems just and proper.

For the Second through Fourth Causes of Action:

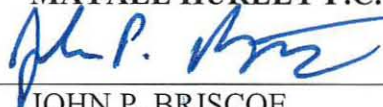
1. That this Court award injunctive relief, including that available under Labor Code section 226(h);
2. That this Court award statutory penalties including, but not limited to, those available under Labor Code sections 203, 226(e), (f), and 1198.5(k);
3. For injunctive relief;
4. That this Court award statutory attorneys' fees and costs, including those available under Labor Code section 226, subdivisions (e)(1) and (h), and 1194, as well as Code of Civil Procedure section 1021.5;
5. That this Court award prejudgment and post-judgment interest according to any applicable provision of law or as otherwise permitted by law, including those available under Civil Code sections 3287(a) and 3289(b); and
6. That this Court award such other and further relief as the court deems just and proper.

///

DATED: July 17, 2020

MAYALL HURLEY P.C.

By



JOHN P. BRISCOE
Attorneys for Plaintiff
GABRIEL CUEVA

Exhibit 1

CU UP! L.L.C.

5715

GABRIEL ROBERT CUEVA

Check Date 02-11-2020

Pay Period 01-23-2020 Thru 02-05-2020

Soc. Sec. No.

Net Check 1,086.05

YTD Gross Income 4,716.37

EARNINGS	RATE	UNITS	AMOUNT	DEDUCTIONS	CURRENT	YEAR-TO-DATE
SALARY & WAGES	20.60	66.88	1,377.73	Federal Withholding Tax	74.19	433.42
SALARY & WAGES	0.00	0.00	0.00	Social Security Withholding	152.19	292.41
OVERTIME/HOLIDAY	30.90	0.00	0.00	Medicare Withholding	19.98	68.39
OVERTIME/HOLIDAY	0.00	0.00	0.00	State Tax Withholding	31.55	130.29
OVERTIME/HOLIDAY	0.00	0.00	0.00	SDI Tax	13.77	47.16
SICKTIME	0.00	0.00	0.00	Local Tax	0.00	0.00
VACATION	0.00	0.00	0.00	Child Support	0.00	0.00
OVERTIME	0.00	0.00	0.00	Garnishment	0.00	0.00
RETRO PAY	0.00	0.00	0.00		0.00	0.00
Vacation Final Check	0.00	0.00	0.00		0.00	0.00
					0.00	0.00
					0.00	0.00
Total Earnings			1,377.73	Total Deductions	291.68	971.67

CU UP! L.L.C.

5775

GABRIEL ROBERT CUEVA

Check Date 02-25-2020

Pay Period 02-20-2020 Thru 02-24-2020

Soc. Sec. No.

Net Check 299.17

YTD Gross Income 6,170.56

EARNINGS	RATE	UNITS	AMOUNT	DEDUCTIONS	CURRENT	YEAR-TO-DATE
SALARY & WAGES	20.60	16.35	336.81	Federal Withholding Tax	20.36	561.17
SALARY & WAGES	0.00	0.00	0.00	Social Security Withholding	21.68	382.57
OVERTIME\HOLIDAY	30.90	0.42	12.98	Medicare Withholding	5.07	89.47
OVERTIME\HOLIDAY	0.00	0.00	0.00	State Tax Withholding	0.00	149.81
OVERTIME\HOLIDAY	0.00	0.00	0.00	SDI Tax	3.51	61.72
SICKTIME	0.00	0.00	0.00	Local Tax	0.00	0.00
VACATION	0.00	0.00	0.00	Child Support	0.00	0.00
OVERTIME	0.00	0.00	0.00	Garnishment	0.00	0.00
RETRO PAY	0.00	0.00	0.00		0.00	0.00
Vacation Final Check	0.00	0.00	0.00		0.00	0.00
					0.00	0.00
					0.00	0.00
Total Earnings			349.79	Total Deductions	50.62	1,244.74

715

5785

CU UP! L.L.C.
21550 OXNARD ST. 3RD FLOOR #300
WOODLAND HILLS, CA 91367
818-280-7120

CHASE
JPMorgan Chase Bank, N.A.
www.Chase.com
90-7162/3222

February 26, 2020

PAY TO THE ORDER OF **GABRIEL ROBERT CUEVA** \$ 114.55

One Hundred Fourteen Dollars and Fifty-Five Cents DOLLARS

GABRIEL ROBERT CUEVA
[REDACTED]

MEMO Pay Period 02-06-2020 Thru 02-19-2020

AUTHORIZED SIGNATURE [Signature]

Security features. Details on back.

CU UP! L.L.C.

5785

GABRIEL ROBERT CUEVA

Check Date 02-26-2020

Pay Period 02-06-2020 Thru 02-19-2020

Soc. Sec. No.

Net Check 114.55

YTD Gross Income 6,295.96

EARNINGS	RATE	UNITS	AMOUNT	DEDUCTIONS	CURRENT	YEAR-TO-DATE
SALARY & WAGES	22.00	0.00	0.00	Federal Withholding Tax	0.00	561.17
SALARY & WAGES	0.00	0.00	0.00	Social Security Withholding	7.78	390.35
OVERTIME/HOLIDAY	33.00	3.80	125.40	Medicare Withholding	1.82	91.29
OVERTIME/HOLIDAY	0.00	0.00	0.00	State Tax Withholding	0.00	149.81
OVERTIME/HOLIDAY	0.00	0.00	0.00	SDI Tax	1.25	62.97
SICKTIME	0.00	0.00	0.00	Local Tax	0.00	0.00
VACATION	0.00	0.00	0.00	Child Support	0.00	0.00
OVERTIME	0.00	0.00	0.00	Garnishment	0.00	0.00
RETRO PAY	0.00	0.00	0.00		0.00	0.00
Vacation Final Check	0.00	0.00	0.00		0.00	0.00
					0.00	0.00
					0.00	0.00
Total Earnings			125.40	Total Deductions	10.85	1,255.59

Exhibit 2

Gabriel Cueva
Strain Balboa Caregivers
21627 Devonshire St.
Chatsworth, CA 91311

Dear Gabriel Cueva:

As permitted by Section IV of the Employee Handbook, as amended, this letter will serve as a written notice that Strain Balboa Caregivers is terminating your employment as Key Holder effective immediately. As we have discussed, in our professional judgment, I believe this decision is in the best interest of our dispensary.

Any dispensary property, including your employee badge and store keys should be returned immediately, or no later than the close of business today. If you have any questions regarding your employment, please contact Jeremy Thomas.

You will receive all salary compensation earned through today.

Gabe, you have been a valued and respected member of the team and have definitely made a positive impact on the dispensary on many occasions. We very much appreciate your service to Strain Balboa Caregivers and wish you the best in the future.

Sincerely,

Jeremy Thomas

Manager

Exhibit 3

LAW OFFICES
MAYALL HURLEY

A PROFESSIONAL CORPORATION

SOUTHERN CALIFORNIA OFFICE

450 N. BRAND BLVD., SUITE 600

GLENDALE, CALIFORNIA 91203

(818) 646-6440

MAILING ADDRESS:

2453 GRAND CANAL BLVD.

STOCKTON, CALIFORNIA 95207

2453 GRAND CANAL BOULEVARD
STOCKTON, CALIFORNIA 95207-8253

FAX (209) 473-4818

TELEPHONE (209) 477-3833

WWW.MAYALLLAW.COM

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JENNY D. BAYSINGER
JOHN P. BRISCOE
VLADIMIR J. KOZINA
RACHAEL ALLGAIER

OF COUNSEL
J. ANTHONY ABBOTT

May 13, 2020

SUBMITTED ELECTRONICALLY

Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, California 94612

SENT VIA CERTIFIED MAIL

Strain Balboa Caregivers, Inc.
21627 Devonshire St., Unit B
Chatsworth, CA 91311

CU UP! LLC
21550 Oxnard St., 3rd Floor PMB#96
Woodland Hills, CA 91367

Re: Gabriel Cueva

To whom it may concern:

This firm represents Gabriel Cueva in relation to his former joint employment with Strain Balboa Caregivers, Inc. and CU UP! LLC (collectively "Employers"). In accordance with California Labor Code section 2699.3, this letter shall serve as Mr. Cueva's written notice to the Labor and Workforce Development Agency ("LWDA") and Employer regarding the following violations, and facts and theories supporting those violations, on Mr. Cueva's behalf and, as a proxy for the LWDA, on behalf of current and other former California employees of Employers.

Mr. Cueva was employed by Employers in Chatsworth, California from April 21, 2018 through February 28, 2020. His joint employment with Employers is demonstrated by, *inter alia*, the fact that while his itemized wage statements showed CU UP! LLC as the employer, the storefront, as well as personnel documents issued to him, showed Strain Balboa Caregivers, Inc. as the employer. (**Exhibits A, B.**)

Throughout his employment, Mr. Cueva was issued itemized wage statements which did not comply with Labor Code section 226, subdivision (a). First, the wage statements omitted the last four digits of the employee's social security number or an employee identification number other than the employee's social security number, in violation of Labor Code section 226, subdivision (a)(7). (**Exhibit A.**) Second, the wage statements omitted the name and address of the legal entity that is the employer, in violation of Labor Code section 226, subdivision (a)(8)

Labor and Workforce Development Agency
Strain Balboa Caregivers, Inc.
CU UP! LLC
Re: Gabriel Cueva/Strain Balboa Caregivers, Inc.
May 13, 2020
Page 2 of 2

(while showing the employer name, the wage statements did not show the employer address). (*Id.*) Last, the wage statements did not show the total hours worked, in violation of Labor Code section 226, subdivision (a)(2). (*Id.*) These violations were committed as against current and other former employees of Employers in California, and within the last year.

If the LWDA believes that it needs additional information to determine whether to investigate these claims, please contact me immediately to request the additional information, which I will provide to the extent it is available to me or my client.

If the LWDA does not intend to investigate these violations, Mr. Cueva intends to file a civil complaint against Employers pursuant to the Labor Code Private Attorneys General Act of 2004 (Labor Code, § 2698 *et seq.*), on his behalf and, as a proxy for the LWDA, on behalf of all aggrieved current and former employees. Thank you for your attention in this matter.

Sincerely,

MAYALL HURLEY P.C.

By



JOHN P. BRISCOE

CC: Jeff Katofsky (e-mail)

Exhibit A

CU UP! L.L.C.

5775

GABRIEL ROBERT CUEVA

Check Date 02-25-2020

Pay Period 02-20-2020 Thru 02-24-2020

Soc. Sec. No.

Net Check 299.17

YTD Gross Income 6,170.56

EARNINGS	RATE	UNITS	AMOUNT	DEDUCTIONS	CURRENT	YEAR-TO-DATE
SALARY & WAGES	20.60	16.35	336.81	Federal Withholding Tax	20.36	561.17
SALARY & WAGES	0.00	0.00	0.00	Social Security Withholding	21.68	382.57
OVERTIME\HOLIDAY	30.90	0.42	12.98	Medicare Withholding	5.07	89.47
OVERTIME\HOLIDAY	0.00	0.00	0.00	State Tax Withholding	0.00	149.81
OVERTIME\HOLIDAY	0.00	0.00	0.00	SDI Tax	3.51	61.72
SICKTIME	0.00	0.00	0.00	Local Tax	0.00	0.00
VACATION	0.00	0.00	0.00	Child Support	0.00	0.00
OVERTIME	0.00	0.00	0.00	Garnishment	0.00	0.00
RETRO PAY	0.00	0.00	0.00		0.00	0.00
Vacation Final Check	0.00	0.00	0.00		0.00	0.00
					0.00	0.00
					0.00	0.00
Total Earnings			349.79	Total Deductions	50.62	1,244.74

Exhibit B

Gabriel Cueva
Strain Balboa Caregivers
21627 Devonshire St.
Chatsworth, CA 91311

Dear Gabriel Cueva:

As permitted by Section IV of the Employee Handbook, as amended, this letter will serve as a written notice that Strain Balboa Caregivers is terminating your employment as Key Holder effective immediately. As we have discussed, in our professional judgment, I believe this decision is in the best interest of our dispensary.

Any dispensary property, including your employee badge and store keys should be returned immediately, or no later than the close of business today. If you have any questions regarding your employment, please contact Jeremy Thomas.

You will receive all salary compensation earned through today.

Gabe, you have been a valued and respected member of the team and have definitely made a positive impact on the dispensary on many occasions. We very much appreciate your service to Strain Balboa Caregivers and wish you the best in the future.

Sincerely,

Jeremy Thomas

Manager

Exhibit 4

jeff katofsky, esq.
jeff@katofskylaw.com

michael h. leff, esq.
michael@katofskylaw.com

simon y. song, esq.
simon@katofskylaw.com

gary salomons, esq. - of counsel
gary@salomonslaw.com

lloyd k. chapman, esq. - of counsel
(1960-2018)

June 9, 2020

by Certified Mail, Return Receipt

Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

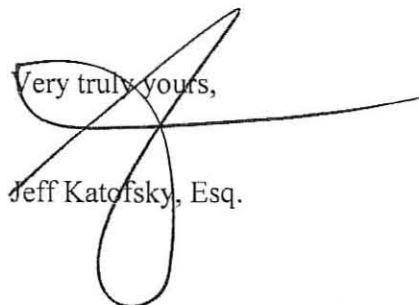
Re: Gabriel Cueva Complaint
Our Clients: Strain Balboa Caregivers, Inc.; CU UP! LLC

To Whom it May Concern:

Please be advised that this law firm represents CU UP! LLC and Strain Balboa Caregivers, Inc. We are in receipt of Mr. Cueva's claim of May 13, 2020 regarding alleged violations of Labor Code §226(a).

Pursuant to the Code, my clients have properly and legally cured any perceived deficiencies and alleged violations of wrongdoing under the Code. All employees and former employees have been properly and adequately provided corrected pay stubs at their last known addresses.

As these matters have been properly resolved, we consider the matter closed. Please contact this office if you have questions.

Very truly yours,

Jeff Katofsky, Esq.

JK:jeg

cc: John Briscoe, Esq.
Mayall Hurley

Exhibit 5

LAW OFFICES
MAYALL HURLEY
A PROFESSIONAL CORPORATION

SOUTHERN CALIFORNIA OFFICE
450 N. BRAND BLVD., SUITE 600
GLENDALE, CALIFORNIA 91203
(818) 646-6440

MAILING ADDRESS:
2453 GRAND CANAL BLVD.
STOCKTON, CALIFORNIA 95207

2453 GRAND CANAL BOULEVARD
STOCKTON, CALIFORNIA 95207-8253
FAX (209) 473-4818
TELEPHONE (209) 477-3833
WWW.MAYALLLAW.COM

VLADIMIR F. KOZINA
STEVEN A. MALCOUN
MARK E. BERRY
WILLIAM J. GORHAM III
NICHOLAS F. SCARDIGLI
ROBERT J. WASSERMAN
JENNY D. BAYSINGER
JOHN P. BRISCOE
VLADIMIR J. KOZINA
RACHAEL ALLGAIER

OF COUNSEL
J. ANTHONY ABBOTT

June 15, 2020

SUBMITTED ELECTRONICALLY

Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, California 94612

SENT VIA CERTIFIED MAIL AND E-MAIL
jeff@katofskylaw.com

Jeff Katofsky
Katofsky Law
4558 Sherman Oaks Ave.
Sherman Oaks, CA 91403

Re: Gabriel Cueva
LWDA Case No. LWDA-CM-786467-20

To whom it may concern:

As previously disclosed, this firm represents Gabriel Cueva in connection with claims arising from his former joint employment with Strain Balboa Caregivers, Inc. and CU UP! LLC ("Employers"). We received a letter from Jeff Katofsky, counsel for Employers, asserting that the alleged violations of Labor Code section 226 have been "cured" pursuant to Labor Code section 2699.3. For the reasons that follow, I write to dispute that purported cure.

At the outset, it should be noted that my letter of May 13, 2020 alleges violations of, *inter alia*, Labor Code section 226, subdivisions (a)(2) and (7). The Private Attorneys General Act ("PAGA") does not provide that such violations may be "cured" pursuant to Labor Code section 2699.3, subdivision (c). Thus, regardless of what actions Employers have taken, they are legally incapable of curing, under the PAGA, any violations of Labor Code section 226, subdivisions (a)(2) or (7).

To the extent that Employers allege they cured violations of Labor Code section 226, subdivision (a)(8), they have failed to carry their burden. The PAGA provides that to "cure" a violation of Labor Code section 226, subdivision (a), paragraphs (6) or (8) is to make "a *showing* that the employer has provided a fully compliant, itemized wage statement to each aggrieved

Labor and Workforce Development Agency
Jeff Katofsky
Re: Gabriel Cueva
June 15, 2020
Page 2 of 2

employee for each pay period for the three-year period prior to the date of the written notice sent pursuant to paragraph (1) of subdivision (c) of Section 2699.3.” (Lab. Code, § 2699, subd. (d), emphasis added.) “Showing” is not defined by the PAGA; however, Black’s defines it as “The act or an instance of establishing through *evidence* and argument.” (Black’s Law Dict. (2d ed. 2001, emphasis added).)

Assuming, for the sake of argument, that Mr. Katofsky has personal knowledge of *any* of the vague assertions set forth in his letter, he does not demonstrate that personal knowledge. Nor is there any properly authenticated evidence attached to that letter that would show that a cure has been effected. By using the word “showing” in section 2699, the Legislature clearly intended that an employer seeking to demonstrate a “cure” must submit something more than mere assertions of counsel. Yet, mere assertions of counsel are all that Employers have submitted.

There has thus been no “showing” that Employers have “provided a fully compliant, itemized wage statement to each aggrieved employee for each pay period for the three-year period” prior to May 13, 2020. If there are any questions or concerns, please do not hesitate to contact me.

Sincerely,

MAYALL HURLEY P.C.

By


JOHN P. BRISCOE

Exhibit 6

John Briscoe

From: Smith, Michael@DIR <MLSmith@dir.ca.gov>
Sent: Wednesday, June 17, 2020 6:09 PM
To: jeff@katofskylaw.com; John Briscoe
Subject: Re: Request for Response to Cure Dispute in Gabriel Cueva r v. Strain Balboa Caregivers, Inc. et al., Case No. LWDA-CM-786467-20
Attachments: 3127_001[1].pdf

Dear counsel:

Attached please find a copy of the letter emailed to me by Mr. Katofsky this afternoon, which appears to have been mailed to LWDA and Mr. Briscoe yesterday. In that letter Mr. Katofsky raised the issue of privacy. Privacy is indeed paramount. For both parties, please ensure that in any correspondence, declarations and attachments you redact personal information of employees. As requested in my email below, please also provide to opposing counsel everything provided to me.

Next, the LWDA's online record for this case does not appear to show any filing to date on behalf of the employers. **For the employers**, in addition to the information I request in my email below, **please provide a sworn declaration addressing the employers' compliance with Labor Code section 2699.3, subd. (c)(2)(A)**, requiring, among other things, that an employer give written notice of an alleged cure within 33 days of the PAGA notice "by certified mail to the aggrieved employee or representative **and by online filing with the agency** if the alleged violation is cured." Please provide this declaration at the same time and in the same manner as the submission requested in my email below.

Sincerely,

Michael L. Smith
Attorney
Division of Labor Standards Enforcement

From: Jeff Katofsky <jeff@katofskylaw.com>
Sent: Wednesday, June 17, 2020 1:43 PM
To: Smith, Michael@DIR <MLSmith@dir.ca.gov>
Subject: Re: Request for Response to Cure Dispute in Gabriel Cueva r v. Strain Balboa Caregivers, Inc. et al., Case No. LWDA-CM-786467-20

CAUTION: [External Email]

This email originated from outside of our DIR organization. Do not click links or open attachments unless you recognize the sender and know the content is expected and is safe. If in doubt reach out and check with the sender by phone.

This must have crossed.

We will prepare the declaration as requested.

Jeff Katofsky, Esq.
4558 Sherman Oaks Avenue
Sherman Oaks CA 91403
818 990 1475

ONLY REPLY TO jeff@katofskylaw.com

Otherwise, I will not get it

We do not accept service of any legal documents or notices, of any kind, by email or electronic means.

From: "Smith, Michael@DIR" <MLSmith@dir.ca.gov>

Date: Wednesday, June 17, 2020 at 1:39 PM

To: Jeff Katofsky <jeff@katofskylaw.com>

Cc: "jbriscoe@mayallaw.com" <jbriscoe@mayallaw.com>

Subject: Request for Response to Cure Dispute in Gabriel Cueva r v. Strain Balboa Caregivers, Inc. et al., Case No. LWDA-CM-786467-20

Dear counsel:

I am the Labor Commissioner attorney assigned to investigate the cure dispute raised against Strain Balboa Caregivers, Inc. et al. by John Briscoe, lawyer for Gabriel Cueva, by letter of June 15 to the Labor and Workforce Development Agency. I have attached a copy of that letter for your convenience. I am writing to request the employer's response to that letter.

In his June 15 letter, counsel for the employee correctly states that an employer must provide evidence that a cure has actually been carried out within the time allowed for a cure. Therefore, I am writing to request the employers' evidence demonstrating that it carried out a cure with respect to the alleged violation of Labor Code section 226(a)(8). **Please provide me a sworn declaration, from a person with direct knowledge of the cure, spelling out the actions taken to effect the alleged cure** which the employers may allege was carried out. Specifically, please have the declaration state clearly 1) which individuals, how many of them, and for what time periods, received modified wage statements; 2) how the employer sent or delivered modified wage statements to employees and former employees; 3) how the employer determined the addresses it used to send the modified statements; 4) what corrected information the modified wage statements contained; and 5) on what date(s) the foregoing curative actions were carried out. Please also provide a sample wage modified wage statement provided to employees. The requirements for a cure are stated in Labor Code section 2699(d).

Please lodge your response on the online PAGA filing portal, and provide your response to me at this email address, copying Mr. Briscoe (who is copied here) via email, by 5 p.m. on Wednesday, June 24. Because of the Private Attorneys' General Act's tight deadline for the LWDA to resolve cure disputes, I cannot grant any extensions. If you have any questions or would like to discuss any aspect of this cure dispute, feel free to call me at the number below.

Mr. Briscoe, if you have any response to the employers' evidence, please provide it **by 5 p.m. on Friday, June 26**, following the same guidelines I outlined for Mr. Katofsky.

Finally, the PAGA requires that my cure dispute decision be issued by certified mail. Given the current pandemic situation and my intermittent lack of office support staff, please let me know if you would stipulate to service of the cure dispute decision by e-mail. The decision will not be affected by whether you agree to such service.

I appreciate in advance your promptness, brevity, clarity and candor.

Regards,

Michael L. Smith
Attorney
Division of Labor Standards Enforcement
1515 Clay Street, Suite 2206
Oakland, CA 94612

**** Notice****

This e-mail message is confidential, is intended only for the named recipient(s) above, and may contain information that is privileged, attorney work product or exempt from disclosure under applicable law. If you have received this message in error, or are not a named recipient(s), you are hereby notified that any dissemination, distribution or copying of this e-mail is strictly prohibited. If you have received this message in error, please immediately notify the sender by return e-mail and delete this e-mail message from your computer. Thank you.

Exhibit 7

I, Shaun Lang, declare that I am the Managing Member of CU Up!, LLC and the President of Strain Balboa Caregivers, Inc, the "Employer" involved in this claim by Gabriel Cueva. I have personal and direct knowledge of the following facts and will testify thereto, if called to do so.

1) All current employees and former employees of Employer during the past three full years received modified wage statements. A sample is attached hereto as Exhibit A, redacted to protect the employee's privacy.

2) The modified wage statements were sent, by certified mail, return receipt requested, by me, on June 12 and June 13, within the prescribed time periods to each current and former employee to the last known address in accordance with the tax and employment information in Employer's possession.

3) The modified wage statements, as highlighted on the attached sample, now include the full legal name and address of Employer, the last four digits of the employees social security number, and a separate line and total for hour worked per period.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 16th of June 2020 at Chaparral, California.



Shaun Lang, President of
Strain Balboa Caregivers, Inc.
and Managing Member of
CU UP! LLC

928.28

7142 ETHEL AVE #6
NORTH HOLLYWOOD CA 91605

21627 Devonshire St Unit B Chatsworth CA 91311

YTD Gross Income	23,858.99
------------------	-----------

21627 Devonshire St Unit B Chatsworth CA 91311

YTD Gross Income	23,858.99
------------------	-----------

EARNINGS	RATE	UNITS/HOURS	AMOUNT	DEDUCTIONS	CURRENT	YEAR-TO-DATE
SALARY & WAGES	16.00	70.94	1,135.04	Federal Withholding Tax	91.82	1,935.21
SALARY & WAGES	0.00	0.00	0.00	Social Security Withholding	70.38	1,479.26
OVERTIME/HOLIDAY	24.00	0.00	0.00	Medicare Withholding	16.46	345.96
OVERTIME/HOLIDAY	0.00	0.00	0.00	State Tax Withholding	16.75	365.20
OVERTIME/HOLIDAY	0.00	0.00	0.00	SDI Tax	11.35	238.58
SICKTIME	16.00	0.00	0.00	Local Tax	0.00	0.00
VACATION	16.00	0.00	0.00	Child Support	0.00	0.00
OVERTIME	0.00	0.00	0.00	Garnishment	0.00	0.00
	0.00	0.00	0.00		0.00	0.00
Vacation Final Check	0.00	0.00	0.00		0.00	0.00
					0.00	0.00
	Total Units/Hours	70.94			0.00	0.00
Total Earnings			1,135.04	Total Deductions	206.76	4,364.21

Exhibit 8

LAW OFFICES
MAYALL HURLEY

A PROFESSIONAL CORPORATION

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JENNY D. BAYSINGER
JOHN P. BRISCOE
VLADIMIR J. KOZINA
RACHAEL ALLGAIER

OF COUNSEL
J. ANTHONY ABBOTT

June 25, 2020

SUBMITTED ELECTRONICALLY

Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, California 94612

SENT VIA CERTIFIED MAIL AND E-MAIL

jeff@katofskylaw.com

Jeff Katofsky
Katofsky Law
4558 Sherman Oaks Ave.
Sherman Oaks, CA 91403

Re: Gabriel Cueva
LWDA Case No. LWDA-CM-786467-20

To whom it may concern:

As previously disclosed, this firm represents Gabriel Cueva in connection with claims arising from his former joint employment with Strain Balboa Caregivers, Inc. and CU UP! LLC ("Employers").

Employers, despite having been generously afforded a second chance, have still failed to demonstrate "cure" under the dictates of the Private Attorneys General Act. In his initial letter of June 9, 2020, Jeff Katofsky presumed to unilaterally decree, without any evidence, that cure had been effected and that the matter was "closed." As briefed before, the PAGA provides that to "cure" a violation of Labor Code section 226, subdivision (a), paragraphs (6) or (8) is to make "a showing that the employer has provided a fully compliant, itemized wage statement to each aggrieved employee for each pay period for the three-year period prior to the date of the written notice sent pursuant to paragraph (1) of subdivision (c) of Section 2699.3." (Lab. Code, § 2699, subd. (d).) Employers could have, from the outset, read the law thoroughly and effected (and gave notice of) a proper cure but, as I pointed out in my letter of June 15, they did not.

Thereafter, Michael L. Smith, on behalf of the Division of Labor Standards Enforcement, generously gave Employers a second chance to demonstrate that cure was properly effected.

Labor and Workforce Development Agency
Jeff Katofsky
Re: Gabriel Cueva
June 25, 2020
Page 2 of 3

(See Lab. Code, § 2699.3, subd. (c)(2)(3).) In his e-mail of June 17, he requested that Employers provide –

a sworn declaration, from a person with direct knowledge of the cure, spelling out the actions taken to effect the alleged cure which the employers may allege was carried out. Specifically, please have the declaration state clearly 1) *which individuals, how many of them, and for what time periods, received modified wage statements*; 2) how the employer sent or delivered modified wage statements to employees and former employees; 3) how the employer determined the addresses it used to send the modified statements; 4) what corrected information the modified wage statements contained; and 5) on what date(s) the foregoing curative actions were carried out.

(Emphasis added.) Employers failed to satisfy Mr. Smith's request, however. The Declaration of Shaun Lang (the *only* evidence of cure submitted by Employers), does not set forth which individuals *or* how many individuals received modified wage statements. Mr. Lang also does not show for what time periods did any employee receive modified wage statements; he says only that "[a]ll current employees and former employers [sic] of Employer during the past three full years received modified wage statements." At most, this just means that those persons employed over the three years *prior to June 18, 2020* (i.e., *not* the three years prior to the date of my initial May 13 letter) received one or more wage statements; this does not amount to a showing that "the employer has provided a fully compliant, itemized wage statement *to each aggrieved employee for each pay period for the three-year period prior to the date of the written notice* sent pursuant to paragraph (1) of subdivision (c) of Section 2699.3." (Lab. Code, § 2699, subd. (d), emphasis added.) This alone renders the supplemental cure efforts ineffective.

Furthermore, attention must be paid to Mr. Lang's first sentence: "I, Shaun Lang, declare that I am the Managing Member of CU Up!, LLC *and the President of Strain Balboa Caregiver, Inc, [sic], the "Employer"* involved in this claim by Gabriel Cueva." (Emphasis added.) This use of the singular "Employer" (when the two companies have been collectively referred to, by both the undersigned and Mr. Smith, as the plural "Employers"), and the syntax of this sentence, leads one to the inevitable conclusion that CU Up! LLC has not demonstrated *any* evidence of cure.

Lastly, it *still* appears that Employers have not filed anything with the Labor and Workforce Development Agency's website. (See attached Declaration of John P. Briscoe, ¶ 2, Exhibit A.) The PAGA requires that any notice of "cure" must be submitted to the LWDA via online filing. (Lab. Code, § 2699.3, subd. (c)(2)(A).) Mr. Smith, in his June 17 e-mail, pointed this out and explicitly directed Employers to submit a declaration to the LWDA via online filing. Employers did not do this. By failing to properly submit *any* notice of cure, such cure must be further deemed ineffective.

Labor and Workforce Development Agency
Jeff Katofsky
Re: Gabriel Cueva
June 25, 2020
Page 3 of 3

The Legislature created this cure provision, but Employers failed to follow it—even after the undersigned pointed out the deficiencies and the DLSE, as a courtesy, gave them thorough and specific guidance. No third chance can be given. (See Lab. Code, § 2699.3, subd. (c)(2)(3).) The purported cure must be deemed ineffective.

Sincerely,

MAYALL HURLEY P.C.

By

A handwritten signature in blue ink, appearing to read "John P. Briscoe", is written over a horizontal line.

JOHN P. BRISCOE

Attachment

Exhibit 9



STATE OF CALIFORNIA
Labor & Workforce Development Agency

GOVERNOR Gavin Newsom – SECRETARY Julie Su

Agricultural Labor Relations Board – California Unemployment Insurance Appeals Board
California Workforce Investment Board – Department of Industrial Relations
Employment Development Department – Employment Training Panel – Public Employment Relations Board

July 2, 2020

CERTIFIED MAIL

John Briscoe, Esq.
Mayall Hurley
2453 Grand Canal Blvd.
Stockton, CA 95207

7019 2280 0002 0272 1333

Jeff Katofsky, Esq.
Katofsky Law
4558 Sherman Oaks Ave.
Sherman Oaks, CA 91403

7019 2280 0002 0272 1340

Re: Case No. LWDA-CM-786467-20
Gabriel Cueva v. Strain Balboa Caregivers, Inc. and CU UP! LLC

Decision on Cure Dispute

PLEASE TAKE NOTICE that the Labor Workforce Development Agency (LWDA), through one or more of its departments, divisions, commissions, boards, or agencies, has reviewed Gabriel Cueva's May 13, 2020 Private Attorneys General Act (PAGA) Notice; the June 9, 2020 cure notice submitted by Strain Balboa Caregivers ("Strain" or "the employer") on June 30, 2020; Mr. Cueva's June 15, 2020 cure dispute; Strain's submission of June 18, 2020 (lodged electronically on June 30, 2020); and Mr. Cueva's June 25, 2020 response, and has determined as follows.

I. Background

On May 13, 2020, Mr. Cueva submitted a PAGA Notice to the LWDA asserting that Strain violated several provisions of the Labor Code, including section 226, subd. (a)(8).¹

On June 9, 2020, Strain, by attorney Jeff Katofsky, apparently submitted to Mr. Cueva's counsel a response to Mr. Cueva's PAGA notice, stating generally and without any detail that the employer had cured the Labor Code violations alleged in the PAGA Notice, apparently by providing current and former employees corrected pay stubs at their last known address. The letter contained no description of how the pay stubs had been corrected.

¹ All further statutory references will be to the California Labor Code.

On June 15, 2020, Mr. Cueva, through his attorney John Briscoe, submitted a Cure Dispute. The principal basis for the dispute were that Strain had failed to make a showing that the cure had taken place.

II. Employer's Response to Cure Dispute

On June 18, 2020, the employer submitted via email to the undersigned a response to Mr. Cueva's cure dispute at the request of the undersigned. The response included a sworn declaration from Shaun Lang, managing member of CU Up!, LLC and President of Strain Balboa Caregivers, Inc. According to this declaration, the employer sent modified wage statements by certified mail on June 12 and 13 to "current and former employees ... during the past three full years" at their last known address. According to Mr. Lang, the revised wage statements included the full legal name and address of the employer. The sample attached to his declaration shows the employer name as "Strain Balboa Caregivers Inc" with an address of 21627 Devonshire St Unit B, Chatsworth, CA 91311.

The LWDA's records of online filings disclose that the employer did not lodge any documents on the LWDA's filing portal in this case until June 30, 2020, after plaintiff's attorney had submitted a response pointing out the employer's failure. At that time, the employer lodged its letter of June 9, a short letter of June 16, and its response of June 18 with declaration and exhibit. The employer also submitted a return receipt requested card showing receipt of a mailing – apparently the employer's June 9 cure response, by the LWDA.

III. The Employer Has Not Cured the Alleged Violation of Labor Code Section 226, Subdivision (a)(8)

Only violations of Labor Code sections *not* listed in section 2699.5 are curable. (See §§ 2699.3, subdivision (c), 2699.5.) Here, the Labor Code violation alleged to have been cured is section 226, subdivision (a)(8). The LWDA considers only the adequacy of the alleged cure of section 226, subdivision (a)(8), *without taking any position on the merits of any other violation alleged in the PAGA Notice or Cure Dispute.*

Here, the PAGA states explicitly at section 2699.3(c)(2)(A):

The employer may cure the alleged violation within 33 calendar days of the postmark date of the notice sent by the aggrieved employee or representative. **The employer shall give written notice within that period of time by certified mail to the aggrieved employee or representative and by online filing with the agency if the alleged violation is cured, including a description of actions taken, and no civil action pursuant to Section 2699 may commence.**

PAGA Claim of Gabriel Cueva v. Strain Balboa Caregivers, Inc. et al.
LWDA Case No. LWDA-CM-786467-20
July 2, 2020
Page 3

Here, the employer failed to comply with the PAGA, as it did not lodge its alleged cure or any response with the LWDA until June 30, after plaintiff's counsel pointed out the employer's failure to do so. The employer also failed to lodge its June 18 response online as instructed by the undersigned until this failure was pointed out by plaintiff's counsel.

Moreover, the employer's June 9 letter asserting a cure states only generally that violations had been cured and corrected wage statements sent, without the required "description of actions taken" to cure, such as what violations had allegedly been cured or what information was contained in the corrected wage statements.

In light of the evidence in this case, the LWDA determines that the employer has not cured the alleged violation of section 226, subd. (a)(8) in the above-captioned matter. The LWDA takes no position on the merit of any other alleged violation.

If you have questions concerning this decision, please send an email to PAGAinfo@dir.ca.gov or call the PAGA Unit at (510) 286-1340.

Sincerely,

/s/ Michael L. Smith

Michael L. Smith
Attorney
Division of Labor Standards Enforcement

Exhibit 10

LAW OFFICES
MAYALL HURLEY
A PROFESSIONAL CORPORATION

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JENNY D. BAYSINGER
JOHN P. BRISCOE
VLADIMIR J. KOZINA
RACHAEL ALLGAIER

OF COUNSEL
J. ANTHONY ABBOTT

April 28, 2020

SENT VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED

Strain Balboa Caregivers, Inc.
21627 Devonshire St. Unit B
Chatsworth, CA 91311

Re: Gabriel Cueva

To whom it may concern:

This office represents Gabriel Cueva in connection with claims arising from his former employment with Strain Balboa Caregivers, Inc. Mr. Cueva hereby requests copies of the following items:

1. Itemized wage statements, pursuant to Labor Code § 226(b);
2. All documents signed relating to the obtaining or holding of employment, pursuant to Labor Code § 432;
3. Personnel records, pursuant to Labor Code § 1198.5(b); and
4. All records documenting hours worked and paid sick days accrued and used, pursuant to Labor Code § 247.5(a).

Enclosed is a signed authorization from Mr. Cueva, designating this firm as counsel and authorizing release of the aforementioned records. If you wish to discuss any of the foregoing, do not hesitate to contact me.

Sincerely,

MAYALL HURLEY P.C.

By


JOHN P. BRISCOE

Enclosure

Employee Records Request

Pursuant to California Labor Code sections 226(b), 247.5, 432, and 1198.5, I, Gabriel Cueva (DOB: 06/16/1994), hereby authorize Strain Balboa Caregivers, Inc. and CU UP! L.L.C. to release copies of my payroll records, records of paid/accrued sick days, personnel records and personnel file to Mayall Hurley P.C. Please send my records to:

John P. Briscoe, Esq.
Mayall Hurley P.C.
2453 Grand Canal Blvd.
Stockton, CA 95207

HYPERLINK "mailto:jbriscoe@mayallaw.com" jbriscoe@mayallaw.com

Dated: 03/19/2020

Signature Gabriel Cueva

Print Name Gabriel Cueva

Exhibit 11

LAW OFFICES
MAYALL HURLEY

A PROFESSIONAL CORPORATION

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JENNY D. BAYSINGER
JOHN P. BRISCOE
VLADIMIR J. KOZINA
RACHAEL ALLGAIER

OF COUNSEL
J. ANTHONY ABBOTT

May 13, 2020

SENT VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED

CU UP! LLC
21550 Oxnard St., 3rd Floor PMB#96
Woodland Hills, CA 91367

Re: Gabriel Cueva

To whom it may concern:

This office represents Gabriel Cueva in connection with claims arising from his former employment with CU UP! LLC. Mr. Cueva hereby requests copies of the following items:

1. Itemized wage statements, pursuant to Labor Code § 226(b);
2. All documents signed relating to the obtaining or holding of employment, pursuant to Labor Code § 432;
3. Personnel records, pursuant to Labor Code § 1198.5(b); and
4. All records documenting hours worked and paid sick days accrued and used, pursuant to Labor Code § 247.5(a).

Enclosed is a signed authorization from Mr. Cueva, designating this firm as counsel and authorizing release of the aforementioned records. If you wish to discuss any of the foregoing, do not hesitate to contact me.

Sincerely,

MAYALL HURLEY P.C.

By


JOHN P. BRISCOE

Enclosure

Employee Records Request

Pursuant to California Labor Code sections 226(b), 247.5, 432, and 1198.5, I, Gabriel Cueva (DOB: 06/16/1994), hereby authorize Strain Balboa Caregivers, Inc. and CU UP! L.L.C. to release copies of my payroll records, records of paid/accrued sick days, personnel records and personnel file to Mayall Hurley P.C. Please send my records to:

John P. Briscoe, Esq.
Mayall Hurley P.C.
2453 Grand Canal Blvd.
Stockton, CA 95207

HYPERLINK "mailto:jbriscoe@mayallaw.com" jbriscoe@mayallaw.com

Dated: 03/19/2020

Signature Gabriel Cueva

Print Name Gabriel Cueva