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VIA CERTIFIED U.S. MAIL—RETURN RECEIPT REQUESTED

October 22, 2020

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

FreeWire Technologies, Inc.
C/O Human Resources Department
1933 Davis St., Ste. 301A
San Leandro, CA 94577

RE: Labor Code §2699 Notice by Aggrieved Employee Jordan Smilo

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 FreeWire Technologies, Inc. (and their agents, managers and supervisors – including but not limited to owners, managers, supervisors) (collectively “Defendants”), for violations of the California Labor Code described below. I am writing on behalf of Jordan Smilo, an aggrieved employee represented by this law firm (hereinafter “Aggrieved Plaintiff”) who seeks to assert a PAGA claim on behalf of the State of California and all other current or former employees who have been employed by Defendants in California.

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

October 22, 2020

Letter to PAGA Administrator, FreeWire Technologies, Inc. Re: Labor Code §2699 Notice by Aggrieved Employee Jordan Smilo

Page 2 of 3

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 which include 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, all employment policy documents, 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 FreeWire Technologies, Inc.'s owners, supervisors, managers, agents and all other person acting on behalf of FreeWire Technologies, Inc. and any other managers or supervisors who caused to be violated any provision of the California Labor Code or Wage Orders and had authority to implement and carry out the illegal policies at issue herein.

This investigation request and notice of California Labor Code violations concerns the retaliation by FreeWire Technologies, Inc. against employees who complained to the company about unsafe work conditions and practices and retaliation against employees who refused to work in violation of health and safety standards. At the core of FreeWire Technologies, Inc.'s violations are a policy of failing to furnish each of their workers a place of employment free from recognized hazards (Covid-19) that were likely to cause death or serious physical harm and retaliating against employees who spoke out against that policy. In particular, FreeWire Technologies, Inc. required non-essential workers who could perform their work remotely, to work at FreeWire Technologies, Inc.'s offices, in an office space which did not allow for adequate social distancing, against the Order of the Health Officer of the County of Alameda No. 20-04 Dated March 31, 2020 (hereinafter "Order" or "the Order"), imposed under the authority granted to the health office under California Health and Safety Code §§ 101040, 101085 and 120175 to take preventative measures necessary in order to protect public health. The order was in effect between March 31, 2020 and May 3, 2020 and Section 5 of the Order required all non-essential business within the County of Alameda to cease all activities at facilities located within the County of Alameda, permitting employees to conduct business activities in their residences. All essential businesses were directed to maximize the number of employees who worked from home and implement a social distancing protocol.

Irrespective of whether FreeWire Technologies, Inc. is deemed an essential business or whether the Aggrieved Plaintiff and other aggrieved employees are deemed to be essential workers, FreeWire Technologies, Inc. violated the order by implementing a policy of requiring employees to work at

October 22, 2020

Letter to PAGA Administrator, FreeWire Technologies, Inc. Re: Labor Code §2699 Notice by Aggrieved Employee Jordan Smilo

Page 3 of 3

FreeWire Technologies Inc.'s offices. The policy implemented by FreeWire Technologies, Inc. 1) failed to maximize the number of employees who worked from home and 2) failed to implement a social distancing protocol within FreeWire Technologies, Inc's offices. Employees who spoke out against this policy were retaliated against, furlough and/or terminated.

FreeWire Technologies, Inc's policies and practices constitute violations of California Labor Code § 6310 which establishes protection against retaliation for employees who complain to their employer about unsafe work conditions or practices and California Labor Code § 6311 which establishes protection for employers who refusing to work in violation of health and safety standards. Aggrieved Plaintiff and aggrieved employees were retaliated against for refusing the work in violation of the Alameda County Order and the General Duty Clause, Section 5(a)(1) of the Occupational Safety and Health (OSH) Act of 1970, 29 USC 654(a)(1), which requires employers to furnish to each worker "employment and a place of employment, which are free from recognized hazards that are causing or are likely to cause death or serious physical harm."

Liability under the Private Attorneys General Act (Cal. Labor Code §§ 2698 *et seq.*) ("PAGA") may be based on a wide variety of California Labor Code predicate provisions. A violation of California Labor Code provisions serves as the basis for a PAGA claim by an aggrieved employee on behalf of themselves and other current and former employees and pursuant to the underlying PAGA.

In particular, the policies described above, and the violations set forth relate to employees employed at FreeWire Technologies, Inc. locations and worksites in California. The above provisions do not include all of the derivative penalties associated with the above provisions, which are listed throughout the Labor Code and are PAGA penalties.

Aggrieved Plaintiffs and employees 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 Defendant described above and their managers, agents, owners and other liable persons and entities.

Sincerely,

A handwritten signature in black ink, appearing to be 'Stan Mallison', written over a horizontal line.

Stan Mallison, Esq.
MALLISON & MARTINEZ