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VIA U.S. CERTIFIED MAIL

November 13, 2020

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

Martin Milk Transport, Inc.
Attn: Eddie Martin
826 James Ave.
Corcoran, CA 93212

Seth Celin Martin DBA "Martin Hay
Transport"
3337 W. Cecil Ct.
Visalia, CA 93291

Seth Celin Martin DBA "Martin Hay
Transport"
2253 W. Benton Ct.,
Exeter, CA 93221

Seth Celin Martin DBA "Martin Hay
Transport"
30183 Road 88
Visalia, CA 93291

RE: California Labor Code section 2699 (Private Attorneys General Act) Notice by Aggrieved Employee

Dear PAGA Administrator and All Entities and Persons listed herein:

My office represents Ms. LUCILA BARAJAS. This constitutes statutory notice pursuant to Labor Code section 2699.3(a)(1) for purposes of bringing a claim under the Private Attorneys General Act ("PAGA"), Cal. Labor Code section 2699, et seq. Please consider this a request for the California Labor & Workforce Development Agency ("LWDA" or "Agency") to take action against Martin Milk Transport, Inc. and Seth Celin Martin DBA "Martin Hay Transport," their agents, managers and supervisors, including owner, President and CEO (collectively "Defendants"), for violations of the

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California Labor Code described below. Ms. LUCILA BARAJAS, an aggrieved employee represented by this law firm (hereinafter "Aggrieved Plaintiff") 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.

THIS NOTICE ALSO SERVES AS 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 Plaintiff, the state, and other current or former employees under the California Labor Code Private Attorney General (including underlying Labor Code and Industrial Welfare Commission Wage 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, 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 sections 210, 558, 558.1, 1197.1, 2699(f) and other provisions of the Labor Code, please consider this a notice to Martin Milk Transport, Inc. and Seth Celin Martin (DBA "Martin Hay Transport") and their owners, supervisors, managers, agents and all other person acting on behalf of Defendants (including and particularly, Seth Celin Martin) and the employer who caused to be violated any provision of the California Labor Code or Wage Orders governing hours and days of work. On information and belief, Mr. Seth Celin Martin has complete authority to implement and carry out the illegal policies at issue herein.

This investigation request and notice of California Labor Code violations concerns the systematic failure by Defendants to pay current and former non-exempt employees in conformance with the California Labor Code and Wage Orders. At the core of Defendants' violations is a policy of failing to properly record and compensated all work performed by non-exempt, piece-rate compensated employees.

Liability under the Private Attorneys General Act may be based on a wide variety of Labor Code predicate provisions, including but not limited to sections 201, 202, 203, 210, 216, 218, 218.6, 223, 225, 226, 226.2, 226.7, 510, 512, 2810.5, 6400, 6401, 6401.7, 6402, 6403, 6404, 1174, 1175, 1194, 1194.2, 1197, 1197.1 1199 and 2673.1(a), Industrial Welfare Commission Wage Orders, sections 2699 et seq. and all of the provisions listed in Labor Code section 2699.5 (including the penalty provisions related to these predicate provisions), among others. Any violation of these or any other Labor Code

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provisions serve as the basis for a PAGA claim by an aggrieved employee on behalf of themselves and other current and former employees.

The violations set forth below in this notice relate to all non-exempt, piece-rate compensated employees employed by Martin Milk Transport, Inc. and Seth C. Martin (DBA "Martin Hay Transport")'s to perform work in in California. The violations include:

1. Failure to pay non-exempt employees all wages earned in violation of Cal. Labor Code sections 201, 202, 221, 510, 1194, 558, 1197.1 and the Wage Orders. The failure to compensate for all hours worked stems from Defendants' practice of not recording all hours worked while employees are waiting for loads to be offloaded, or employees are on standby or on-call time, and by requiring, suffering or permitting employees to perform unpaid work outside their paid piece-rate work time. Defendants provide fixed compensation (categorized as "Loads" on employee paystubs) rather than compensation for actual hours worked including overtime pay resulting from the unpaid time.
2. Failure to pay proper overtime wages for uncompensated work at a piece-rate and piece-rate work that was unadjusted or improperly adjusted for overtime. For example, Defendants required Aggrieved Employee to work on the weekends and be "on-call," but did not compensate at an overtime rate despite Aggrieved Employee having worked more than forty (40) hours in one workweek. Defendants also paid other employees a fixed compensation based on "Loads" and failed to take into account waiting or standby time, and therefore failed to properly calculate overtime pay.
3. Failure to provide or authorize and permit all paid ten-minute rest breaks to which non-exempt employees are entitled, and failure to pay premium rest period wages in lieu of rest breaks, in violation of Cal. Labor Code sections 226.2, 226.7, 512 and Wage Orders and California case law. Defendants did not schedule or provide rest periods for non-exempt employees. Defendants did not provide separate compensation for rest periods to employees compensated on a piece-rate ("Loads") basis.
4. Failure to provide or authorize and permit thirty-minute meal periods to which non-exempt employees are entitled, and failure to pay premium meal period wages in lieu of meal breaks, in violation of Cal. Labor Code sections 226.7 and 512, the Wage Orders and California case law. Defendants did not schedule or provide meal periods to non-exempt employees. Defendants did not relieve Aggrieved Employee and other employees of all duties in order to satisfy its obligation to provide complete thirty-minute meal periods. This resulted in employees working straight through their shifts without a meal period.
5. Failure to keep accurate time records and failure to provide accurate wage statements. Defendants did not record all time worked by employees when they were waiting for loads to be offloaded or were otherwise on standby or on-call. Employee wage statements failed to include total hours worked, applicable rates of pay, itemization of compensable rest and recovery

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periods (and applicable rates of pay for each), and accurate gross and net wages earned, in violation of Labor Code sections 226, 1174 and the Wage Orders. To begin with, pay stubs do not list "Hours" worked or applicable "Rate." Defendants' failure to keep track of all start and end of work periods in violation of the Wage Orders results in grossly inaccurate wage statements because the statements do not reflect the total work performed during any given pay period, and omit time for waiting time, standby time, and on call time.

6. Failure to pay all wages owed immediately or within 72 hours upon separation from employment in violation of Labor Code sections 201, 202, 203, 256, and 1197.1. Defendants systematically failed to pay all wages earned (as described above) including unpaid minimum and overtime wages and failed to pay all additional wages in lieu of providing all rest and meal periods.
7. Failure to provide written notice, in the language the employer normally uses to communicate employment-related information to the employee, of the rates of pay and other information required by Labor Code section 2810.5.

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 Plaintiff LUCILA BARAJAS may be contacted through our office: Mallison & Martinez, Attorneys at Law, 1939 Harrison Street, Suite 730, Oakland, California 94612.

If no action is taken by the Agency within 60 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 Labor Code sections 210, 558, 1197.1, 2699(f) (and other provisions)).

Sincerely,

MALLISON & MARTINEZ



Liliana Garcia, Esq.

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EXETER CA 93221-9635

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ATTN: EDDIE MARTIN
826 JAMES AVE
CORCORAN CA 93212-9600

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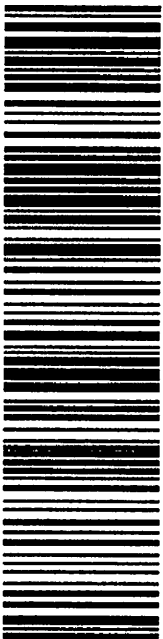
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VISALIA CA 93291-8828

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Concord, CA 93212-9606

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