

JACKSON APC

2 Venture Plaza, Ste. 240 * Irvine, CA 92618 * Tel: 949-281-6857 * Fax: 949-777-6218
Jackson APC

Armond Jackson
ajackson@jacksonapc.com

July 29, 2022

Sent By Certified Mail to Daylight Foods, Inc.

Submitted Via Online to Labor and Workforce Development Agency

Daylight Foods, Inc.

600 Vista Way
Milpitas, California 95035

Daylight Foods, Inc.

30200 Whipple Road
Union City, California 94587

**Chris Vlahopoulitis Agent for Service of
Process for Daylight Foods, Inc.**

600 Vista Way
Milpitas, California 95035

**Labor and Workforce Development
Agency**

Attn. PAGA Administrator
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102
(415) 703-4810

**PRIVATE ATTORNEY GENERAL ACT (PAGA) NOTICE
PURSUANT TO LABOR CODE § 2699 – THIRD AMENDED**

Re: Amended Notice Pursuant to California Labor Code Section 2699
Violations of California Labor Code Sections 201, 202, 203, 226(a) 1-2, 4-5, 9, 226.3,
226.7, 510, 512, 558, 1194
Violations of California Labor Code Section 1198 (Industrial Welfare Commission Order
Nos. 3-2001, 4-2001, 7-2001, 8-2001, 9-2001, 13-2001, 14-2001 (“Wage Orders 1, 3, 4, 7,
8, 9, 13 and 14”), Sections 3, 7, 11 and 12
Labor and Workforce Development Agency Right to Investigate and Issue a Citation (Lab.
Code § 2699.3)
Maximillion Archuleta v. Daylight Foods, Inc. et al.

Dear Daylight Foods, Inc. and PAGA Administrator:

This letter is issued pursuant to Labor Code § 2698, et seq. (Specifically Labor Code § 2699(f)), which provides notice to the PAGA Administrator and Daylight Foods, Inc. by Maximillion Archuleta (“Mr. Archuleta” or “Plaintiff”), on behalf of all aggrieved current and former similarly-situated employees of Daylight Foods, Inc. (“DFI”), collectively referred to herein as “Defendants” or “Defendant,” in California for all California nonexempt employees, a private right of action under the Private Attorney General Act (PAGA) of 2004. As a prerequisite to filing this private action in superior court, Mr. Archuleta is required to provide notice by certified mail to the Labor and Workforce Development Agency and the employers regarding each violation, along with facts and theories supporting each violation as mentioned below (Labor Code § 2699.3).

We previously provided notice of Mr. Archuleta’s claims to the California Labor and Workforce Development Agency (“LWDA”) on February 26, 2021, and submitted the applicable filing fee pursuant to Labor Code section 2699.3(a)(1)(B). We served an additional amended notice on March 12, 2021 to Defendant’s updated address. This second amended notice supplements Mr. Archuleta’s prior LWDA notice and is intended to clarify the facts and theories supporting his claims. If you have any questions regarding this letter, please contact Armond M. Jackson, Esq. at Jackson APC at 949-281-6857 or via email at ajackson@jacksonapc.com.

Facts and Theories

DFI is a food supplier that sources food from farms to grocers and restaurants. This letter encompasses violations for California nonexempt employees working at DFI.

Mr. Archuleta worked as a general laborer for DFI until around March 14, 2020. As a nonexempt employee, Mr. Archuleta performed job duties such as pulling merchandise for the customer on behalf of DFI. Throughout Mr. Archuleta’s employment, he worked 5, 6, or 10 hour plus shifts and was not able to take a uninterrupted 30-minute meal break each five hours at a reasonably practicable time nor was he provided a second or third meal break which he was entitled to on the shifts when he worked above 10 and 12 hours shifts about 4 to 5 time each week. Mr. Archuleta and similarly situated employees were required to walk across the warehouse during their meal periods and then stand in line to complete time recording sheets, resulting in shortened and interrupted meal periods. Moreover, throughout Mr. Archuleta’s employment, he worked above 4-hour plus shifts and was not authorized or permitted to take an uninterrupted 10-minute rest break each four hours at a reasonably practicable time. Also, Mr. Archuleta and similarly situated employees were required to walk across the warehouse during rest periods, and then stand in line to complete time recording sheets, resulting in interrupted and shortened rest periods. Mr. Archuleta was also required to answer phone calls from his supervisors on his personal cellular phone during his meal and rest breaks.

Defendants did not compensate Mr. Archuleta with his premium wages when he was subjected to late, short, missed, on-call, interrupted, on-premises or missed meal breaks and rest

breaks in violation of California Labor Code section 226.7, 512, and Wage Orders 1, 3, 4, 7, 8, 9, 13 and 14, Sections 11 and 12 approximately 10 to 20 shifts each month. Other similarly situated employees deployed to work at Defendants were under the same conditions as Mr. Archuleta.

Moreover, Defendants failed to incorporate Mr. Archuleta's premium wages and hours' worth of work on his wage statements as required by California Labor Code section 226(a). All other similarly situated employees were subjected to the same working conditions as Mr. Archuleta, such as not being provided with their entitled meal breaks and rest breaks as stated above or paid premium wages, nor were the hours' worth of work or premium wages disclosed on their wage statements.

As stated, Mr. Archuleta was required to walk across warehouse and then stand in line to complete time recording sheets during his meal break, resulting in off-the clock work during his meal breaks. Moreover, Mr. Archuleta and other similarly situated employees were required to arrive at Defendants worksite but would wait in long lines for above 5 and 10 minutes before being permitted to clock in. Additionally, Mr. Archuleta and similarly situated employees had to engage in post-shift off-the-clock work after being required to clock out after the end of their shift. Due to understaffing and poor scheduling on Defendants' part, Mr. Archuleta and other similarly situated employees were also forced to work off the clock after shifts in order to complete all assigned tasks. Finally, other similarly situated employees were required to utilize their personal vehicles to perform work-related tasks, but were not paid for all of their time. For example, other similarly situated employees drove to and attended an orientation session at a warehouse in San Jose, but were not paid for their travel time to and from the training. Additionally, other similarly situated employees were required to undergo a mandatory drug test and/or physical examination upon hiring. However, Defendants did not compensate these employees for the time they spent traveling to and from the medical facilities and for the time they spent undergoing the drug testing and/or physical examinations. These practices resulted in violations of California Labor Code sections 510, 1194 and Wage Orders 1, 3, 4, 7, 8, 9, 13 and 14, Section 3.

Moreover, at the time of Mr. Archuleta's termination, Defendants refused to pay Mr. Archuleta his entitled wages and premium wages. Mr. Archuleta believes that Defendants do not pay premium wages to any of the similarly situated employees at the time of termination.

Lastly, Defendants required aggrieved employees to sign arbitration agreements as a condition of employment despite this practice and policy being prohibited under California Labor Code section 432.6

By virtue of requiring Mr. Archuleta to work off-the-clock at DFI, not providing and/or not authorizing or permitting Mr. Archuleta and all other similarly situated employees to take their entitled meal breaks and rest breaks, failing to incorporate the address of the legal entity and hours worked and wages earned on the itemized wage statements disclosing total hours worked, total gross wages earned, net wages earned, hours worked at the applicable hourly rate and deductions that should have been taken out, and failing to pay out wages and premium wages at termination, among other violations, Defendants are violating California Labor Code Sections 201, 202, 203,

221, 222.5, 226(a), 226.3, 226.7, 246, 510, 512, 1194, 2802, 6401, and 6403, and Wage Orders 1, 3, 4, 7, 8, 9, 13 and 14, Sections 3, 7, 11 and 12.

Violation of California Labor Code Section 203

An employer may not willfully fail to pay any wages owed to an employee who is either discharged or quits. If the employer does fail to pay its employees upon separation of employment, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefore is commenced; but the wages shall not continue for more than 30 days (See Lab. Code §203). Here, Defendants did not compensate Mr. Archuleta and does not compensate other similarly situated employees for the earned wages and premium wages at the time of termination, acquittal or resignation or end of employment.

Violation of California Labor Code § 210

Labor Code section 210, an employer may not fail to pay the wages of each employee. Here, Defendants failed to pay for all hours worked due to requiring employees to work off-the-clock, requiring employees to engage in post-shift off-the-clock work, not permitting employees to clock-in until after having to wait in long lines at the worksite and being required to wait in lines to fill out timesheets during off-the-clock meal breaks. These unpaid working activities would take more than 5 and 10 minutes at a time.

Violation of California Labor Code § 221

It shall be unlawful for any employer to collect or receive from an employee any part of wages theretofore paid by said employer to said employee. Again, here, Defendants failed to pay for all hours worked due to requiring employees to work off-the-clock, requiring employees to engage in post-shift off-the-clock work, not permitting employees to clock-in until after having to wait in long lines at the worksite and being required to wait in lines to fill out timesheets during off-the-clock meal breaks. These unpaid working activities would take more than 5 and 10 minutes at a time.

Violation of California Labor Code § 226(a)

Labor Code § 226 (a) requires employers to provide “accurate itemized statement in writing” each pay period that includes nine categories of information. These categories include (1) gross wages earned, (2) total hours worked, (4) deductions taken, (5) net wages earned, (8) name and address of the legal entity employer and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee (See Labor Code §226, subsection (a)). Any employer who has violated California Labor Code Section 226(a) will also be subject to penalties under California Labor Code Section 226.3. These records must be maintained for a period of at least three years. It is Mr. Archuleta’s contention that Defendants are in violation of the following California Labor Codes.

Violation of 226 (a)(1)

Section a (1) requires gross wages to be inserted on an employee's paystubs. Mr. Archuleta's and other similarly situated employees' paystubs did not accurately reflect their gross wages earned by virtue of excluding hours worked and wages earned because Mr. Archuleta and other similarly situated employees worked off-the-clock and during their entitled meal periods and rest periods but Defendants did not compensate them for that extra hours' worth of work while off-the-clock nor did Defendants disclose or record the extra hours' worth of gross wages earned on their paystubs for failing to provide the entitled meal breaks and rest breaks.

Violation of 226 (a)(2)

Section a (2) requires the total hours worked by the employee to be inserted on an employee's paystubs. Mr. Archuleta and other similarly situated employees' paystubs did not accurately reflect their gross wages earned by virtue of excluding hours worked and wages earned because Mr. Archuleta and other similarly situated employees worked off-the-clock and during their entitled meal periods and rest periods but Defendants did not compensate them for that extra hours' worth of work while off-the-clock nor did Defendants disclose or record the extra hours' worth of gross wages earned on their paystubs for failing to provide the entitled meal breaks and rest breaks.

Violation of 226 (a)(4)

Section a (4) requires all deductions out of the employees' wages to be inserted on an employee's paystubs. Mr. Archuleta and other similarly situated employees' paystubs did not accurately reflect their gross wages earned by virtue of excluding hours worked and wages earned because Mr. Archuleta and other similarly situated employees worked off-the-clock and during their entitled meal periods and rest periods but Defendants did not compensate them for that extra hours' worth of work while off-the-clock nor did Defendants disclose or record the extra hours' worth of gross wages earned on their paystubs for failing to provide the entitled meal breaks and rest breaks.

Violation of 226 (a)(5)

Section a (5) requires net wages to be inserted on an employee's paystubs. Mr. Archuleta's and other similarly situated employees' paystubs did not accurately reflect their gross wages earned by virtue of excluding hours worked and wages earned because Mr. Archuleta's and other similarly situated employees worked off-the-clock and during their entitled meal periods and rest periods but Defendants did not compensate them for that extra hours' worth of work while off-the-clock nor did Defendants disclose or record the extra hours' worth of gross wages earned on their paystubs for failing to provide the entitled meal breaks and rest breaks.

Violation of 226 (a)(8)

Section a (8) requires the name and address of the legal entity of the employer to be included on an employee's paystubs. Mr. Archuleta's and other similarly situated employees' paystubs did not reflect the correct legal address for Defendants. According to the California Secretary of State's website, Defendants' address is "600 VISTA WAY, MILPITAS CA 95035"; however, Mr. Archuleta's and other similarly situated employees' paystubs list a different address, "30200 WHIPPLE RD, UNION CITY, CA 94587."

Violation of 226 (a)(9)

Section a (9) requires all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. Mr. Archuleta's and other similarly situated employees' paystubs did not accurately reflect their gross wages earned by virtue of excluding hours worked and wages earned because Mr. Archuleta and other similarly situated employees worked off-the-clock and during their entitled meal periods and rest periods but Defendants did not compensate them for that extra hours' worth of work while off-the-clock nor did Defendants disclose or record the extra hours' worth of gross wages earned on their paystubs for failing to provide the entitled meal breaks and rest breaks.

Violation of California Labor Code Sections 201, 202, 203, 226.7, 510, 512, 1194, 1198, Wage Orders 1, 3, 4, 7, 8, 9, 13 and 14, Sections, 3, 7, 11 and 12

An employer must provide meal periods and rest periods pursuant to an applicable order of the Industrial Welfare Commission (See Lab. Code §226.7, 512).

Under Labor Code § 1198 an employer is required to comply with the standard conditions of labor required in the orders set by the Industrial Welfare Commission, Wage Orders 1, 3, 4, 7, 8, 9, 13 and 14.

Under these circumstances, Mr. Archuleta's position at Defendants falls within Wage Orders 1, 3, 4, 7, 8, 9, 13 and 14 as Defendants employed Mr. Archuleta as a nonexempt employee classified as an employee. Thus all sections and subsections that pertain to California Wage Orders 1 and 4 below are applicable to Mr. Archuleta and all similarly situated aggrieved employees within these Wage Orders were employed or remain employed by Defendants.

California Labor Code sections 226.7, 512, Wage Orders 1, 3, 4, 7, 8, 9, 13 and 14, Section 11 states no employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, except that when a work period of not more than six (6) hours will complete the day's work the meal period may be waived by mutual consent of the employer and the employee. Unless the employee is relieved of all duty during a 30-minute meal period, the meal period shall be considered an on-duty meal period and counted as time worked. An on-duty meal period shall be permitted only when the nature of the work prevents an employee from being relieved of all duty and when by written agreement between the parties an on-the-job paid meal period is agreed to. The written agreement shall state that the employee may, in writing, revoke the agreement at any time. (B) If an employer fails to provide an employee a

meal period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided.

Mr. Archuleta and other similarly situated employees did not receive their entitled uninterrupted meal periods during their employment at Defendants while regularly working above 5 and 10 hour shifts. Moreover, Mr. Archuleta and other similarly situated employees were not provided with their meal periods in the middle of each work period as required and as reasonably practicable. As stated above, Mr. Archuleta and other similarly situated employees were subjected to on-premises, on-call, short, interrupted, missed or late meal periods. Nor were they compensated for working through their meal periods or for failing to be provided with meal periods in violation of California Labor Code Section 226.7, 512 and Wage Orders 1, 3, 4, 7, 8, 9, 13 and 14, Section 11.

California Labor Code sections 226.7, 512, Wage Orders 1, 3, 4, 7, 8, 9, 13 and 14, Section 12 states every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof. However, a rest period need not be authorized for employees whose total daily work time is less than three and one-half (3 1/2) hours. Authorized rest period time shall be counted as hours worked for which there shall be no deduction from wages. (B) If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the rest period is not provided that were short, interrupted, on-premises, on-call, late or not taken at all.

Mr. Archuleta and other similarly situated employees did not receive their entitled uninterrupted rest periods and meal breaks during their employment at Defendants while regularly working above 4, 5, 6, 7.5, 10 and 12 hour shifts.

Violation of California Labor Code § 222.5 – Failure to Pay for Costs of Mandatory Physical Exams and/or Drug Testing

California Labor Code section 222.5 requires employers to pay for the costs an employee incurs for obtaining any required medical or physical examination.

During the relevant time period, Defendants implemented, on a company-wide basis, an employer-imposed requirement that other similarly situated employees undergo mandatory drug testing and/or physical examinations upon hiring, but required them to do so at their own expense. As stated, Defendants had a company-wide policy requiring that other similarly situated employees travel to a specified medical facility on their own time and use their own means of transportation to undergo drug testing and/or physical examinations. At all times, Defendants were in control of scheduling the date and time for the testing and/or examinations, selecting the provider/facility where the testing and/or examinations were to take place, and determining the scope of the testing

and/or examinations. However, Defendants did not compensate other similarly situated employees for the time they spent traveling to and from the medical facilities, for the time they spent undergoing the drug testing and/or physical examinations, or reimburse them for the travel expenses they incurred getting to and from the medical facilities. Defendants' policy and/or practice of not paying for all costs other similarly situated employees incurred obtaining mandatory drug testing and/or physical examinations is in violation of California Labor Code section 222.5.

Violation of California Labor Code Section 246

California's Healthy Workplaces, Healthy Families Act of 2014 was enacted to provide employees who have worked in California for 30 or more days from the commencement of employment with paid sick days, to be accrued at least one hour for every 30 hours worked. Employers must provide no less than 24 hours or three (3) days of paid sick leave (or equivalent paid leave or paid time off) in each year of the employee's employment. Codified at California Labor Code sections 245.5, 246, 246.5, 247, 247.5, 248.5, and 249, section 246(i) provides that an employer must provide an employee with written notice that sets forth the amount of paid sick leave available, or paid time off that an employer provides in lieu of sick leave, for use on either the employee's itemized wage statement or in a separate written statement provided on the designated pay date with the employee's wages. The penalties described in this article for a violation of this subdivision shall be in lieu of the penalties for a violation of Section 226.

During the relevant time period, Defendants failed, on a company-wide basis, to provide Mr. Archuleta and similarly situated employees with written notice on wage statements and/or other separate written statements that correctly listed the requisite information set forth in Labor Code section 246(i). Defendants' ongoing and systematic failure to provide accurate written notice of sick leave benefits to Mr. Archuleta and similarly situated employees violates California Labor Code section 246(i).

California Labor Code Section 510, and 1194, Wage Orders 1, 3, 4, 7, 8, 9, 13 and 14, Section 3

Section 3 lays out the requirements for overtime pay applicable to employees working in similar establishments such as Defendants'. If an employee works in excess of eight (8) hours in any one day, or over forty (40) hours in one week, those hours must be paid at the rate of one and one-half (1.5) times the employee's regular rate of pay for all hours worked in excess of eight (8) hours and up until twelve (12) hours in any day. Any hour worked in excess of 12 hours in any workday is to be paid at the rate of double the employee's regular rate of pay.

Moreover, if any employee works (7) consecutive days, the employee shall be paid one and one-half (1.5) times his or her regular pay for the first eight (8) hours. Any hours worked in excess of eight (8) hours on the seventh consecutive day must be paid at twice the employee's regular rate of pay.

Violation of California Labor Code Section 432.6

California Labor Code section 432.5 states “[n]o employer, or agent, manager, superintendent, or officer thereof, shall require any employee or applicant for employment to agree, in writing, to any term or condition which is known by such employer, or agent, manager, superintendent, or officer thereof to be prohibited by law.” Defendants required the aggrieved employees to execute arbitration agreements as a condition of employment in violation of California Labor Code section 432.6.

Violation of California Labor Code Section 510

Work in excess of eight hours in one workday and/or 40 hours in one workweek, and the first eight hours on the seventh day of work in any workweek must be compensated at no less than one and one-half times the employee’s regular rate of compensation (See Lab. Code §510). “Double time” is required after twelve hours in any workday, after eight hours on the seventh day of work. Mr. Archuleta and other similarly situated employees were not paid any overtime for hours worked in excess of 8 hours per day or forty hours per week, because they worked through shifts above 8 hours per day and 40 hours per week and not paid overtime rates and minimum wage rates for off-the-clock and on-the-clock work. The employees were never provided with overtime and minimum wage compensation for this time. Moreover, Defendants provided performance-based bonuses and incentive payments but failed to include the correct overtime rates incorporating the bonuses into their compensation, resulting in underpayment.

Violation of California Labor Code Section 558

Any employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty in addition to recover unpaid wages (See Lab. Code §558).

Violation of California Labor Code Section 1194

Any employee receiving less than the legal minimum wage or overtime compensation applicable to the employee is entitled to recover, in a civil action, the unpaid balance of the full amount of the minimum wage or overtime compensation including interest, reasonable attorney’s fees, and costs of suit (See Lab. Code §1194). Mr. Archuleta and other similarly situated employees were not paid all overtime and minimum wages for all hours worked including those hours in excess of 8 hours per day or forty hours per week because they worked overtime hours not paid at these overtime rates due to Defendants’ failing to pay for off-the-clock work.

Violation of California Labor Code § 2802 – Unreimbursed Business Expenses

California Labor Code section 2802 requires employers to pay for all necessary expenditures and losses incurred by the employee in the performance of his or her job. The purpose of Labor Code section 2802 is to prevent employers from passing off their cost of doing business

and operating expenses on to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144 (2014). The applicable wage order provides that: “[w]hen tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft.”

First, Defendants had a company-wide policy of requiring other similarly situated employees to utilize their own personal vehicles or obtain alternate transportation to carry out company business, but failed to reimburse them for all costs of travel, including mileage. For example, as stated, Defendants required other similarly situated employees to drive to and attend an orientation session at a warehouse in San Jose, but were not reimbursed for their travel or mileage to and from the training. Although Defendants required other similarly situated employees to use their own personal vehicles or obtain alternate transportation to complete their work-related duties, Defendants never reimbursed them for their travel expenses. Additionally, as stated, Defendants had a company-wide policy of requiring other similarly situated employees to travel to medical facilities on their own time and using their personal vehicles or alternate transportation to obtain mandatory drug testing and/or physical examinations, but did not reimburse them for their travel expenses, including mileage.

Second, during the relevant time period, Defendants, on a company-wide basis, required that Mr. Archuleta and other similarly situated employees use their own personal cellular phones and/or cellular data to carry out their job duties, but failed to reimburse them for the costs of their work-related cellular phone expenses. Mr. Archuleta and other similarly situated employees were required to use their personal cellular phones to complete their work-related tasks, such as discussing tasks with supervisors or taking photos of food product and sending them to his supervisor. Mr. Archuleta would spend approximately 1-2 hours per week texting or speaking with his supervisors on his personal cellular phone. Although Defendants required Mr. Archuleta and other similarly situated employees to utilize their personal cellular phones to carry out their work-related responsibilities, Defendants to reimburse them for this cost.

Third, Defendants, on a company-wide basis, required Mr. Archuleta and other similarly situated employees to report to work wearing clean uniforms, including uniform vests emblazoned with Defendants' logo, while simultaneously failing to provide employees with an adequate number of those uniforms in relation to their scheduled shifts and for the tasks they were required to perform. For example, Mr. Archuleta worked five (5) days per week but was provided only one (1) uniform vest. This forced Mr. Archuleta and other similarly situated employees to clean their uniforms frequently and incur expenses for doing so. Due to the nature of their work of food processing, Mr. Archuleta's and other similarly situated employees' uniforms would become stained and/or acquire an unpleasant odor, and Mr. Archuleta and other similarly situated employees would be required to wash these uniforms multiple times per week.

Fourth, Defendants, on a company-wide basis, mandated that Mr. Archuleta and other similarly situated employees purchase special safety shoes such as steel-toed boots, which they

were required to wear while at work. Mr. Archuleta and other similarly situated employees purchased steel-toed boots to wear inside Defendants' facilities but were not reimbursed fully for these costs. Moreover, Mr. Archuleta and other similarly situated employees were required to spend time in the freezer areas of the warehouse to pull products. Throughout his employment, Mr. Archuleta was ultimately required to purchase 4-5 sweaters as protective wear, spending a total of approximately \$100.00. Since Defendants did not provide an adequate number of uniform components or protective wear to employees, Mr. Archuleta and other similarly situated employees were required to purchase additional items, including shirts, sweaters, and/or jackets, and were not reimbursed for this cost.

Defendants could have provided Mr. Archuleta and other similarly situated employees with the actual tools for use on the job, such as company vehicles and company phones to be used for fulfilling work-related tasks, as well as an adequate number of uniforms and access to laundering services, and protective wear. Or, Defendants could have reimbursed employees for the costs of their mileage, travel, cellular phone usage, uniform and uniform maintenance expenses, and protective gear. Instead, Defendants passed these operating costs off onto Mr. Archuleta and other similarly situated employees.

Thus, Defendants had, and continue to have, a company-wide policy and/or practice of not reimbursing employees for expenses necessarily incurred in violation of California Labor Code section 2802.

Violation of California Labor Code §§ 6401 and 6403 – Failure to Provide Safety Devices and Safeguards

California Labor Code section 6401 provides that employers must furnish and use safety devices and safeguards, and adopt and use practices, means, methods, operations, and processes which are reasonably adequate to render the employment and place of employment safe and healthy. California Labor Code Section 6401 further provides that an employer must do everything reasonably necessary to protect the life, safety and health of its employees. California Labor Code section 6403(a) requires that employers provide and use safety devices and safeguards reasonably adequate to render the employment and place of employment safe.

Defendants, on a company-wide basis, failed to provide Mr. Archuleta and other similarly situated employees with personal protective equipment, such as sweaters, steel-toed boots, and reflective vests, to keep them safe in the workplace. Despite the fact that Defendants required employees to wear certain personal protective equipment, including sweaters, steel-toed boots, and reflective vests, Defendants failed to provide such reasonably necessary equipment to Mr. Archuleta and other similarly situated employees to keep them safe.

Defendants' failure to provide Mr. Archuleta and other similarly situated employees with safety devices and safeguards, including personal protective equipment, for the workplace violates Labor Code sections 6401 and 6403.

Wage Orders 1, 3, 4, 7, 8, 9, 13 and 14, Section -7- Records

Section 7 sets out the requirements for the maintenance of employee records by an employer. Subsection (A) requires employers to “keep accurate information with respect to each employee” regarding identification information, including their “[f]ull name, home address, occupation and social security number,” “[time records showing when the employee begins and ends each work period,” “[m]eal periods,” and [t]otal hours worked in the payroll period and applicable rates of pay.”

Subsection (B) requires an employer to provide accurate, itemized statements showing deductions and the dates of the pay period. Subsection (C) requires such records to be kept for three (3) years and made available on request.

As discussed above, Defendants failed to incorporate the extra hours’ worth of work when Mr. Archuleta and other similarly situated employees worked through their entitled meal breaks without being paid premium wages. The extra hours’ worth of work at the applicable rate of pay was not disclosed on the itemized wage statements in violation of Wage Orders 1, 3, 4, 7, 8, 9, 13 and 14, Section 7 Records. Also, Defendants failed to record all meal periods as all meal periods were not provided.

Conclusion

As a consequence of Defendants’ violations of California Labor Code Sections 201, 202, 203, 221, 222.5, 226(a), 226.3, 226.7, 246, 432.6, 510, 512, 558, 1194, 2802, 6401, 6403, and Wage Orders 1, 3, 4, 7, 8, 9, 13 and 14, Sections 3, 7, 11 and 12, Mr. Archuleta seeks penalties for each violation as an individual and on behalf of all aggrieved employees against Defendants.

Sincerely,

Jackson Law, APC

/s/ Armond M. Jackson

Armond M. Jackson