

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: Monica Bachner

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

ZEBULON NEFF, on behalf of the State
of California, as a private attorney
general,

Plaintiff,

vs.

OAKHURST INDUSTRIES, INC., a
California Corporation; and Does 1 through
50, Inclusive,

Defendants.

Case No. 21STCV21110

REPRESENTATIVE ACTION
COMPLAINT FOR:

1. Civil Penalties Pursuant to Labor Code
§ 2699, *et seq.* for violations of Labor
Code §§ 201, 202, 203, 204 *et seq.*, 210, 221,
226(a), 226.7, 246, 351, 510, 512,
558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802,
California Code of Regulations, Title 8,
Section 11040, Subdivision 5(A)-(B).

1 Plaintiff Zebulon Neff (“PLAINTIFF”), on behalf of the people of the State of
2 California and as an “aggrieved employee” acting as a private attorney general under the Labor
3 Code Private Attorney General Act of 2004, § 2699, *et seq.* (“PAGA”) only, alleges on
4 information and belief, except for his own acts and knowledge which are based on personal
5 knowledge, the following:

6 **INTRODUCTION**

7 1. PLAINTIFF brings this action against Defendant Oakhurst Industries, Inc.
8 (referred to as “DEFENDANT”) seeking only to recover PAGA civil penalties for himself, and
9 on behalf of all current and former aggrieved employees that worked for DEFENDANT.
10 PLAINTIFF does **not seek to recover anything other than penalties as permitted by**
11 **California Labor Code § 2699**. To the extent that statutory violations are mentioned for wage
12 violations, PLAINTIFF does not seek underlying general and/or special damages for those
13 violations, but simply the civil penalties permitted by California Labor Code § 2699.

14 2. California has enacted the PAGA to permit individuals to bring an action on
15 behalf of himself and on behalf of others for PAGA penalties *only*, which is the precise and sole
16 nature of this action.

17 3. Accordingly, PLAINTIFF seeks to obtain all applicable relief for
18 DEFENDANT’s violations under PAGA and solely for the relief as permitted by PAGA – that
19 is, penalties and any other relief the Court deems proper pursuant to the PAGA. Nothing in this
20 complaint should be construed as attempting to obtain any relief that would not be available in
21 a PAGA-only action.

22 **THE PARTIES**

23 4. Defendant Oakhurst Industries, Inc. (“DEFENDANT”) is a Corporation that at
24 all relevant times mentioned herein conducted and continues to conduct substantial and regular
25 business throughout California.

26 5. DEFENDANT was founded in 1981. The Company's line of business includes the
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1 manufacturing of fresh and frozen bread, bread-type rolls, cakes, pies, and other perishable
2 bakery products.

3 6. PLAINTIFF was employed by DEFENDANT in California as a non-exempt
4 employee entitled to overtime pay and meal and rest periods from July of 2019 to July of 2020.
5 PLAINTIFF was at all times relevant mentioned herein classified by DEFENDANT as a non-
6 exempt employee entitled to be paid minimum and overtime wages and provided meal and rest
7 periods.

8 7. PLAINTIFF, and such persons that may be added from time to time who satisfy
9 the requirements and exhaust the administrative procedures under the Private Attorney General
10 Act, brings this Representative Action on behalf of the State of California with respect to
11 himself and all individuals who are or previously were employed by DEFENDANT in
12 California and who were classified as non exempt employees ("AGGRIEVED EMPLOYEES")
13 during the time period of March 4, 2020 until a date as determined by the Court (the "PAGA
14 PERIOD").

15 8. PLAINTIFF, on behalf of himself and all AGGRIEVED EMPLOYEES presently
16 or formerly employed by DEFENDANT during the PAGA PERIOD, brings this representative
17 action pursuant to Labor Code § 2699, *et seq.* seeking fixed civil penalties for DEFENDANT's
18 violation of California Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 221, 226(a), 226.7, 246,
19 351, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations,
20 Title 8, Section 11040, Subdivision 5(A)-(B), and the applicable Wage Order(s). Based upon
21 the foregoing, PLAINTIFF and all AGGRIEVED EMPLOYEES are aggrieved employees
22 within the meaning of Labor Code § 2699, *et seq.*

23 9. The true names and capacities, whether individual, corporate, subsidiary,
24 partnership, associate or otherwise of defendants DOES 1 through 50, inclusive, are presently
25 unknown to PLAINTIFF who therefore sues these Defendants by such fictitious names pursuant
26 to Cal. Civ. Proc. Code § 474. PLAINTIFF will seek leave to amend this Complaint to allege
27 the true names and capacities of Does 1 through 50, inclusive, when they are ascertained.
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1 PLAINTIFF is informed and believes, and based upon that information and belief alleges, that
2 the Defendants named in this Complaint, including DOES 1 through 50, inclusive, are
3 responsible in some manner for one or more of the events and happenings that proximately
4 caused the injuries and damages hereinafter alleged.

5 10. The agents, servants and/or employees of the Defendants and each of them acting
6 on behalf of the Defendants acted within the course and scope of his, her or its authority as the
7 agent, servant and/or employee of the Defendants, and personally participated in the conduct
8 alleged herein on behalf of the Defendants with respect to the conduct alleged herein.
9 Consequently, the acts of each Defendant are legally attributable to the other Defendants and
10 all Defendants are jointly and severally liable to PLAINTIFF and the AGGRIEVED
11 EMPLOYEES, for the loss sustained as a proximate result of the conduct of the Defendants'
12 agents, servants and/or employees.

13 14 THE CONDUCT

15 11. During the PAGA PERIOD, DEFENDANT failed to accurately record and pay
16 PLAINTIFF and other AGGRIEVED EMPLOYEES for the actual amount of time these
17 employees worked. Pursuant to the Industrial Welfare Commission Wage Orders,
18 DEFENDANT is required to pay PLAINTIFF and other AGGRIEVED EMPLOYEES for all
19 time worked, meaning the time during which an employee was subject to the control of an
20 employer, including all the time the employee was permitted or suffered to permit this work.
21 DEFENDANT required these employees to work off the clock without paying them for all the
22 time they were under DEFENDANT's control. DEFENDANT, as a matter of established
23 company policy and procedure, administered a uniform practice of rounding the actual time
24 worked and recorded by PLAINTIFF and the AGGRIEVED EMPLOYEES, always to the
25 benefit of DEFENDANT, so that during the course of their employment, PLAINTIFF and the
26 AGGRIEVED EMPLOYEES were paid less than they would have been paid had they been paid
27 for actual recorded time rather than "rounded" time. DEFENDANT's policy and practice not
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1 to pay PLAINTIFF and other AGGRIEVED EMPLOYEES for all time worked, is evidenced
2 by DEFENDANT's business records. Additionally, DEFENDANT required PLAINTIFF to
3 work while clocked out during what was supposed to be PLAINTIFF's off-duty meal break.
4 PLAINTIFF was from time to time interrupted by work assignments. As a result, PLAINTIFF
5 and other AGGRIEVED EMPLOYEES forfeited minimum wage and overtime compensation
6 by working without their time being accurately recorded and without compensation at the
7 applicable minimum wage and overtime rates. To the extent that the time worked off the clock
8 did not qualify for overtime premium payment, DEFENDANT failed to pay minimum wages
9 for the time worked off-the-clock in violation of Cal. Lab. Code §§ 1194, 1197, and 1197.1.

10 12. State and federal law provides that employees must be paid overtime at one-and-
11 one-half times their "regular rate of pay." PLAINTIFF and other AGGRIEVED EMPLOYEES
12 were compensated at an hourly rate plus incentive pay that was tied to specific elements of an
13 employee's performance.

14 13. The second component of PLAINTIFF's and other AGGRIEVED EMPLOYEES'
15 compensation was DEFENDANT's non-discretionary incentive program that paid PLAINTIFF
16 and other AGGRIEVED EMPLOYEES incentive wages based on their performance for
17 DEFENDANT. The non-discretionary incentive program provided all employees paid on an
18 hourly basis with incentive compensation when the employees met the various performance
19 goals set by DEFENDANT. However, when calculating the regular rate of pay in order to pay
20 overtime to PLAINTIFF and other AGGRIEVED EMPLOYEES, DEFENDANT failed to
21 include the incentive compensation as part of the employees' "regular rate of pay" for purposes
22 of calculating overtime pay. Management and supervisors described the incentive program to
23 potential and new employees as part of the compensation package. As a matter of law, the
24 incentive compensation received by PLAINTIFF and other AGGRIEVED EMPLOYEES must
25 be included in the "regular rate of pay." The failure to do so has resulted in a underpayment of
26 overtime compensation to PLAINTIFF and other AGGRIEVED EMPLOYEES by
27 DEFENDANT.

1 14. In violation of the applicable sections of the California Labor Code and the
2 requirements of the Industrial Welfare Commission ("IWC") Wage Order, DEFENDANT
3 intentionally and knowingly failed to compensate PLAINTIFF and the other AGGRIEVED
4 EMPLOYEES at the correct rate of pay for all overtime worked. This policy and practice of
5 DEFENDANT is intended to purposefully avoid the payment of the correct overtime
6 compensation as required by California law which allowed DEFENDANT to illegally profit and
7 gain an unfair advantage over competitors who complied with the law. To the extent equitable
8 tolling operates to toll claims by the AGGRIEVED EMPLOYEES against DEFENDANT, the
9 PAGA PERIOD should be adjusted accordingly.

10 15. As a result of their rigorous work schedules, PLAINTIFF and other
11 AGGRIEVED EMPLOYEES were from time to time unable to take off duty meal breaks and
12 were not fully relieved of duty for meal periods. PLAINTIFF and other AGGRIEVED
13 EMPLOYEES were from time to time required to perform work as ordered by DEFENDANT
14 for more than five (5) hours during a shift without receiving an off-duty meal break. Further,
15 DEFENDANT failed to provide PLAINTIFF and AGGRIEVED EMPLOYEES with a second
16 off-duty meal period from time to time in which these employees were required by
17 DEFENDANT to work ten (10) hours of work. PLAINTIFF and the other AGGRIEVED
18 EMPLOYEES therefore forfeited meal breaks without additional compensation and in
19 accordance with DEFENDANT's corporate policy and practice.

20 16. During the PAGA PERIOD, PLAINTIFF and other AGGRIEVED EMPLOYEES
21 were from time to time also required to work in excess of four (4) hours without being provided
22 ten (10) minute rest periods. Further, these employees were denied their first rest periods of at
23 least ten (10) minutes for some shifts worked of at least two (2) to four (4) hours, a first and
24 second rest period of at least ten (10) minutes for some shifts worked of between six (6) and
25 eight (8) hours, and a first, second and third rest period of at least ten (10) minutes for some
26 shifts worked of ten (10) hours or more from time to time. PLAINTIFF and other
27 AGGRIEVED EMPLOYEES were also not provided with one hour wages in lieu thereof. As
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1 a result of their rigorous work schedules, PLAINTIFF and other AGGRIEVED EMPLOYEES
2 were periodically denied their proper rest periods by DEFENDANT and DEFENDANT's
3 managers. Additionally, the applicable California Wage Order requires employers to provide
4 employees with off-duty rest periods, which the California Supreme Court defined as time
5 during which an employee is relieved from all work related duties and free from employer
6 control. In so doing, the Court held that the requirement under California law that employers
7 authorize and permit all employees to take rest period means that employers must relieve
8 employees of all duties and relinquish control over how employees spend their time which
9 includes control over the locations where employees may take their rest period. Employers
10 cannot impose controls that prohibit an employee from taking a brief walk - five minutes out,
11 five minutes back. Here, DEFENDANT's policy restricted PLAINTIFF and other
12 AGGRIEVED EMPLOYEES from unconstrained walks and was unlawful based on
13 DEFENDANT's rule which stated PLAINTIFF and other AGGRIEVED EMPLOYEES could
14 not leave the work premises during their rest period.

15 17. DEFENDANT underpaid sick pay wages to PLAINTIFF and other AGGRIEVED
16 EMPLOYEES by failing to pay such wages at the regular rate of pay. Specifically, PLAINTIFF
17 and other non-exempt employees earned non-discretionary remuneration, including but not
18 limited to, incentives, shift differential pay, and bonuses. Rather than pay sick pay at the regular
19 rate of pay, DEFENDANT underpaid sick pay to PLAINTIFF and other AGGRIEVED
20 EMPLOYEES their base rates of pay.

21 18. Cal. Lab. Code § 204 provides that "[a]ll wages. . . earned by any person in any
22 employment are due and payable twice during each calendar month, on days designated in
23 advance by the employer as the regular paydays." Further, Cal. Lab. Code § 204(d) expressly
24 requires employers to pay employees all wages owed within seven (7) days of the close of the
25 payroll period. DEFENDANT from time to time failed to pay PLAINTIFF and other
26 AGGRIEVED EMPLOYEES all wages owed to them within seven (7) days of the close of the
27 payroll period.

1 19. Pursuant to Cal. Lab. Code Section 221, “It shall be unlawful for any employer
2 to collect or receive from an employee any part of wages theretofore paid by said employer to
3 said employee.” DEFENDANT failed to pay all compensation due to PLAINTIFF and other
4 AGGRIEVED EMPLOYEES, made unlawful deductions from compensation payable to
5 PLAINTIFF and AGGRIEVED EMPLOYEES, failed to disclose all aspects of the deductions
6 from compensation payable to PLAINTIFF and AGGRIEVED EMPLOYEES, and thereby
7 failed to pay these employees all wages due at each applicable pay period and upon termination.

8 20. Cal. Lab. Code § 226 provides that every employer shall furnish each of his or her
9 employees with an accurate itemized wage statement in writing showing, among other things,
10 gross wages earned and all applicable hourly rates in effect during the pay period and the
11 corresponding amount of time worked at each hourly rate. DEFENDANT from time to time
12 failed to provide to PLAINTIFF and the AGGRIEVED EMPLOYEES wage statements that
13 identify the correct gross and net wages earned, the applicable number of hours worked and
14 rates of pay. Specifically, PLAINTIFF and AGGRIEVED EMPLOYEES were paid on an
15 hourly basis. As such, the wage statements should reflect all applicable hourly rates during the
16 pay period and the total hours worked, and the applicable pay period in which the wages were
17 earned pursuant to California Labor Code Section 226(a). The wage statements DEFENDANT
18 provided to PLAINTIFF and other AGGRIEVED EMPLOYEES failed to identify such
19 information. More specifically, the wage statements failed to identify the accurate total hours
20 worked each pay period. When the hours shown on the wage statements were added up, they
21 did not equal the actual total hours worked during the pay period. Aside, from the violations
22 listed above in this paragraph, DEFENDANT failed to issue to PLAINTIFF and other
23 AGGRIEVED EMPLOYEES an itemized wage statement that lists all the requirements under
24 California Labor Code 226 *et seq.*

25 21. DEFENDANT intentionally and knowingly failed to reimburse and indemnify
26 PLAINTIFF and the other AGGRIEVED EMPLOYEES for required business expenses
27 incurred by the PLAINTIFF and other AGGRIEVED EMPLOYEES in direct consequence of
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1 discharging their duties on behalf of DEFENDANT. Under California Labor Code Section
2 2802, employers are required to indemnify employees for all expenses incurred in the course
3 and scope of their employment. Cal. Lab. Code § 2802 expressly states that "an employer shall
4 indemnify his or her employee for all necessary expenditures or losses incurred by the employee
5 in direct consequence of the discharge of his or her duties, or of his or her obedience to the
6 directions of the employer, even though unlawful, unless the employee, at the time of obeying
7 the directions, believed them to be unlawful."

8 22. In the course of their employment PLAINTIFF and other AGGRIEVED
9 EMPLOYEES as a business expense, were required by DEFENDANT to use their own personal
10 cellular phones as a result of and in furtherance of their job duties as employees for
11 DEFENDANT but were not reimbursed or indemnified by DEFENDANT for the cost
12 associated with the use of their personal cellular phones for DEFENDANT's benefit. As a
13 result, in the course of their employment with DEFENDANT, PLAINTIFF and other
14 AGGRIEVED EMPLOYEES incurred unreimbursed business expenses which included, but
15 were not limited to, costs related to the use of their personal cellular phones all on behalf of and
16 for the benefit of DEFENDANT.

17 23. By reason of this conduct applicable to PLAINTIFF and all AGGRIEVED
18 EMPLOYEES, DEFENDANT engaged in a company-wide policy and procedure which failed
19 to accurately calculate and record the correct overtime rate for the overtime worked by
20 PLAINTIFF and other AGGRIEVED EMPLOYEES. The proper calculation of these
21 employees' overtime hour rates is the DEFENDANT's burden. As a result of DEFENDANT's
22 intentional disregard of the obligation to meet this burden, DEFENDANT failed to properly
23 calculate and/or pay all required overtime compensation for work performed by the
24 AGGRIEVED EMPLOYEES and violated the California Labor Code and regulations
25 promulgated thereunder as herein alleged.

26 24. All of the conduct and violations alleged herein occurred during the PAGA
27 PERIOD. To the extent that any of the conduct and violations alleged herein did not affect
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1 PLAINTIFF during the PAGA PERIOD, PLAINTIFF seeks penalties for those violations that
2 affected other AGGRIEVED EMPLOYEES pursuant to *Carrington v. Starbucks Corp.* 2018
3 AJDAR 12157 (Certified for Publication 12/19/18).

4
5 **JURISDICTION AND VENUE**

6 25. This Court has jurisdiction over this Action pursuant to California Code of Civil
7 Procedure, Section 410.10.

8 26. Venue is proper in this Court pursuant to California Code of Civil Procedure,
9 Sections 395 and 395.5, because DEFENDANT (i) currently maintains and at all relevant times
10 maintained offices and facilities in this County and/or conducts substantial business in this
11 County, and (ii) committed the wrongful conduct herein alleged in this County against
12 PLAINTIFF and the AGGRIEVED EMPLOYEES.

13 **FIRST CAUSE OF ACTION**

14 **For Violation of the Private Attorneys General Act**

15 **[Cal. Lab. Code §§ 2698, *et seq.*]**

16 **(By PLAINTIFF and Against All Defendants)**

17 27. PLAINTIFF realleges and incorporates by this reference, as though fully set
18 forth herein, the prior paragraphs of this Complaint.

19 28. PAGA is a mechanism by which the State of California itself can enforce state
20 labor laws through the employee suing under the PAGA who do so as the proxy or agent of
21 the state's labor law enforcement agencies. An action to recover civil penalties under
22 PAGA is fundamentally a law enforcement action designed to protect the public and not to
23 benefit private parties. The purpose of the PAGA is not to recover damages or restitution,
24 but to create a means of "deputizing" citizens as private attorneys general to enforce the
25 Labor Code. In enacting PAGA, the California Legislature specified that "it was ... in the
26 public interest to allow aggrieved employees, acting as private attorneys general to recover
27 civil penalties for Labor Code violations ..." Stats. 2003, ch. 906, § 1. Accordingly, PAGA
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1 claims cannot be subject to arbitration.

2 29. PLAINTIFF, and such persons that may be added from time to time who
3 satisfy the requirements and exhaust the administrative procedures under the Private
4 Attorney General Act, brings this Representative Action on behalf of the State of California
5 with respect to himself and all individuals who are or previously were employed by
6 DEFENDANT in California and who were classified as non exempt employees
7 (“AGGRIEVED EMPLOYEES”) during the time period of March 4, 2020 until a date as
8 determined by the Court (the "PAGA PERIOD").

9 30. On March 4, 2021, PLAINTIFF gave written notice by electronic mail to the
10 Labor and Workforce Development Agency (the "Agency") and by certified mail to the
11 employer of the specific provisions of this code alleged to have been violated as required by
12 Labor Code § 2699.3. See **Exhibit #1**, attached hereto and incorporated by this reference
13 herein. The statutory waiting period for PLAINTIFF to add these allegations to the
14 Complaint has expired. As a result, pursuant to Section 2699.3, PLAINTIFF may now
15 commence a representative civil action under PAGA pursuant to Section 2699 as the proxy
16 of the State of California with respect to all AGGRIEVED EMPLOYEES as herein defined.

17 31. The policies, acts and practices heretofore described were and are an unlawful
18 business act or practice because DEFENDANT (a) failed to provide PLAINTIFF and the
19 other AGGRIEVED EMPLOYEES accurate itemized wage statements, (b) failed to
20 properly record and provide legally required meal and rest periods, (c) failed to pay
21 minimum wages, (d) failed to pay overtime wages and sick pay wages, (e) failed to
22 reimburse employees for required expenses, and (f) failed to provide wages when due, all in
23 violation of the applicable Labor Code sections listed in Labor Code §§ 201, 202, 203, 204
24 *et seq.*, 210, 221, 226(a), 226.7, 246, 351, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198,
25 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), and the
26 applicable Wage Order(s), and thereby gives rise to civil penalties as a result of such
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1 conduct.¹ PLAINTIFF hereby seeks recovery of only civil penalties as prescribed by the
2 Labor Code Private Attorney General Act of 2004 as the representative of the State of
3 California for the illegal conduct perpetrated on PLAINTIFF and the other AGGRIEVED
4 EMPLOYEES.

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6 **PRAYER FOR RELIEF**

7 WHEREFORE, PLAINTIFF prays for judgment against each Defendant, jointly and
8 severally, as follows:

9 1. On behalf of the State of California and with respect to all AGGRIEVED
10 EMPLOYEES:

11 A) Recovery of civil penalties as prescribed by the Labor Code Private
12 Attorneys General Act of 2004; and,

13 B) An award of attorneys' fees and cost of suit, as allowable under the
14 law, including, but not limited to, pursuant to Labor Code §2699.

15 Dated: June 4, 2021 BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP
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17
18 By: /s/ Norman Blumenthal
19 Norman B. Blumenthal
20 Attorneys for Plaintiff
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27 ¹Plaintiff specifically excludes and/or does not allege any claims under California Labor
28 Code §558(a)(3).

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EXHIBIT 1

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

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WRITERS EXT:

1004

March 11, 2021

CA2196

VIA ONLINE FILING TO LWDA AND CERTIFIED MAIL TO DEFENDANT

Labor and Workforce Development Agency
Online Filing

Oakhurst Industries, Inc.
Certified Mail #70203160000068263428
Jonathan Freund
2050 Tubeway Ave.
Commerce, CA 90040

Re: Notice Of Violations Of California Labor Code Sections §§ 201, 202, 203, 204 *et seq.*, 210, 221, 226(a), 226.7, 233, 246, 351, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), Violation of Applicable Industrial Welfare Commission Wage Order(s), and Pursuant To California Labor Code Section 2699.5.

Dear Sir/Madam:

“Aggrieved Employees” refers to all individuals who are or previously were employed by Defendant Oakhurst Industries, Inc. in California and classified as non-exempt employees during the time period of March 11, 2020 until a date as determined by the Court. Our offices represent Plaintiff Zebulon Neff (“Plaintiff”), and other Aggrieved Employees in a lawsuit against Defendant Oakhurst Industries, Inc. (“Defendant”). Plaintiff was employed by Defendant in California as a Warehouse Associate from July of 2019 to July of 2020 and classified as a non-exempt employee entitled to the legally required meal and rest breaks and payment for all time worked under Defendant’s control. Defendant, however, unlawfully failed to record and pay Plaintiff and other Aggrieved Employees for, including but not limited to, all of their time worked, including minimum and overtime wages, for all of their missed meal and rest breaks, and for all of their time spent working off the clock. Moreover, when Defendant required Plaintiff and Aggrieved Employees to report for work, but “furnished less than half said employee’s usual or scheduled day’s work,” Defendant violated Cal. Code Regs., tit. 8 § 11040, subd. 5(A) by failing to pay Plaintiff and Aggrieved Employees for at least two (2) hours’ worth of work at their regular rate of pay. In addition, when Defendant required Plaintiff and Aggrieved Employees to respond to and engage in additional work, this resulted in a second reporting for work in a single workday, and Defendant failed to pay these employees reporting time pay as required by Cal. Code Regs., tit. 8, § 11040, subd. 5(B). Further, Defendant failed to advise Plaintiff and the other Aggrieved Employees of their right to take separately and hourly paid duty-free ten (10)

minute rest periods. *See Vaquero v. Stoneledge Furniture, LLC*, 9 Cal. App. 5th 98, 110 (2017). Additionally, pursuant to Labor Code § 204 *et seq.*, Defendant failed to timely provide Plaintiff and other Aggrieved Employees with their wages. Plaintiff further contends that Defendant failed to provide accurate wage statements to him, and other Aggrieved Employees, in violation of California Labor Code section 226(a). Additionally, Plaintiff contends that Defendant failed to comply with Industrial Wage Order 7(A)(3) in that Defendant failed to keep time records showing when Plaintiff began and ended each shift and meal period. Plaintiff and other Aggrieved Employees perform tasks that reasonably permit sitting, and a seat would not interfere with their performance of any of their tasks that may require them to stand. Defendant failed to provide Plaintiff and other Aggrieved Employees with suitable seats. Said conduct, in addition to the foregoing, as well as the conduct alleged in the incorporated Complaint, violates Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 226(a), 226.7, 246, 351, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), Violation of the applicable Industrial Welfare Commission Wage Order(s), and is therefore actionable under California Labor Code section 2699.3.

A true and correct copy of the Complaint by Plaintiff against Defendant, which (i) identifies the alleged violations, (ii) details the facts and theories which support the alleged violations, (iii) details the specific work performed by Plaintiff, (iii) sets forth the people/entities, dates, classifications, violations, events, and actions which are at issue to the extent known to Plaintiff, and (iv) sets forth the illegal practices used by Defendant, is attached hereto. This information provides notice to the Labor and Workforce Development Agency of the facts and theories supporting the alleged violations for the agency's reference. Plaintiff therefore incorporates the allegations of the attached Complaint into this letter as if fully set forth herein. If the agency needs any further information, please do not hesitate to ask.

This notice is provided to enable Plaintiff to proceed with the Complaint against Defendant as authorized by California Labor Code section 2699, *et seq.* The filing fee of \$75 was paid online to the LWDA. The lawsuit consists of other Aggrieved Employees. As counsel, our intention is to vigorously prosecute the claims as alleged in the Complaint, and to procure civil penalties as provided by the Private Attorney General Statue of 2004 on behalf of Plaintiff and all Aggrieved Employees. Your earliest response to this notice is appreciated. If you have any questions of concerns, please do not hesitate to contact me at the above number and address.

Respectfully,

/s/ Nicholas J. De Blouw

Nicholas J. De Blouw, Esq.