

April 5, 2021

Filed Electronically

Department of Industrial Relations
Accounting Unit
455 Golden Gate Avenue, 10th Floor
San Francisco, CA 94102

Re: **Notice Letter of Keith Luper on Behalf of Himself and Aggrieved Employees
under California Labor Code Section 2699.3**

Employer: D.R. Horton Inc.
1341 Horton Circle
Arlington, Texas 76011

Dear Representative:

This letter constitutes notice under Labor Code section 2699.3 (the “PAGA Notice”). It is submitted online with the Labor and Workforce Development Agency (“LWDA”) and accompanied by the \$75 filing fee required under Labor Code section 2699.3, subdivision (a)(1)(B). Copies of the PAGA Notice are sent via certified mail to the employer listed above.

The PAGA Notice involves Keith Luper (“Employee”) and other aggrieved employees who were employed by D.R. Horton (“Employer”). Employee seeks to represent all persons who were employed by Employer and suffered one or more of the alleged Labor Code violations committed by Employer (i.e., other aggrieved employees), as described below.

Employee had been an employee of Employer since 2003, working for a number of years as a Customer Service Representative. Employee was a salaried, non-exempt employee, but he was not paid for all the time he worked. He was only permitted to record eight hours per day on his time records, yet Employer often required him to work additional time without compensation to complete his job duties. Specifically, Employee’s shift was scheduled from 7:00 a.m. to 4:00 p.m., but Employee was required to perform additional uncompensated work traveling, at sites, and at home coordinating repair work via computer. Every fifth week, Employee was required to be on-call at the

conclusion of his shift for all seven days in the week. The on-call periods were from 4:00 p.m. to 7:00 a.m., a period during which Employee was required to handle emergencies. During the on-call duty, Employer required Employee to field emergency calls, coordinate emergency work, and, when necessary, travel to an emergency site within 25 minutes of receiving a call. Employee was required to be within 20 miles of the job sites while working on-call duty and answer phone calls immediately. Employer would often include construction sites as far as 40 miles away from Employee's home and still expect him to be at the site within the 25-minute deadline. Employee was only allowed to submit time for the travel to the emergency site; Employer did not compensate Employee for the on-call work time or the time Employee spent on the phone fielding emergency calls.

Aggrieved employees performed off-the-clock work for which they were not paid for, including but not limited to work performed beyond eight hours that Employer did not permit aggrieved employees to keep track of and on-call time, so the aggrieved employees were not paid owed regular/minimum wages for all time worked. Employee is informed and believes, and therefore alleges, that Employer violated Labor Code sections 1194 and 1197 and the applicable Wage Orders, entitling the aggrieved employees to damages under the Labor Code, including, without limitation, Sections 1194 and 1194.2. Employer is also liable for civil penalties under Labor Code sections 558, 1197.1, and 2699.

Aggrieved employees performed off-the-clock work for which they were not paid for, including but not limited to work performed beyond eight hours that Employer did not permit aggrieved employees to keep track of and on-call time, so the aggrieved employees were not paid owed overtime wages for working over eight hours in a workday, over forty hours in a workweek, over twelve hours in a workday, the first eight hours on the seventh consecutive workday in a workweek, and/or over eight hours on the seventh consecutive workday in a workweek. Employee is informed and believes, and therefore alleges, that Employer violated Labor Code sections 510, 1194, and the applicable Wage Orders, entitling the aggrieved employees to damages under the Labor Code. Employer is also liable for civil penalties under Labor Code sections 558 and 2699.

Aggrieved employees performed off-the-clock work for which they were not paid for, including but not limited to work performed beyond eight hours that Employer did not permit aggrieved employees to keep track of and on-call time. As a result, the aggrieved employees' wage statements did not accurately show all of the information required under Labor Code section 226, subdivision (a), including the gross wages earned, the total hours worked by the employee, the net wages earned, and the rates of pay at which wages should have been paid. Employee is informed and believes, and therefore alleges, that the aggrieved employees are entitled to penalties under Labor Code section 226, subdivision (e). Employer is also liable for civil penalties under Labor Code sections 226.3, 558, and 2699.

Aggrieved employees performed off-the-clock work for which they were not paid for, including but not limited to work performed beyond eight hours that Employer did not permit aggrieved employees to keep track of and on-call time. Those wages were not timely paid to aggrieved employees upon separation. Employee is informed and believes, and therefore alleges, that Employer violated Labor Code sections 201, 202, and 203, entitling the aggrieved employees to

waiting-time penalties under Labor Code section 203, subdivision (a). Employer is also liable for civil penalties under Labor Code sections 558 and 2699.

In accordance with Labor Code section 2699.3, subdivision (a)(2)(A), please notify us within 60 calendar days of the postmarked date of the PAGA Notice as to whether the LWDA intends to investigate the violations alleged above. Our understanding is that if we do not receive a notice within 65 calendar days of the postmarked date of the PAGA Notice, Employee may commence a civil action against Employer, on behalf of himself and other aggrieved employees, under Labor Code section 2699.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Michael C. Robinson', with a long horizontal line extending to the right.

Michael C. Robinson

MCR:mby

cc: D.R. Horton (via U.S. Certified Mail, Return Receipt Requested)