

MALLISON & MARTINEZ
ATTORNEYS AT LAW
1939 HARRISON STREET, SUITE 730
OAKLAND, CA 94612
TELEPHONE: (510) 832-9999
FACSIMILE: (510) 832-1101

STAN S. MALLISON*
HECTOR R. MARTINEZ
MATTHEW TURNBULL
LILIANA GARCIA
JUAN GAMBOA
HEATHER HAMILTON

*MEMBER OF CA, NV & OR BAR

VIA ELECTRONIC SUBMISSION & U.S. CERTIFIED MAIL

May 7, 2021

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

Tri-City Autowash, Inc.
Attn: Mallikarjuna Rao Boppana
or Agent for Service of Process
41946 Christy Street
Fremont, CA 94538

Autopia Car Wash - Fremont
Attn: Management
37505 Dusterberry Way
Fremont, CA 94536

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

Dear PAGA Administrator and all Entities and Persons addressed above:

My office represents MARICELA DIAZ and JOSE R. ALVARADO. 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 Tri-City Autowash, Inc. doing business as Autopia Car Wash, their agents, managers and

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Letter to PAGA Administrator, Tri-City Autowash, Inc. dba Autopia Car Wash

Re: Labor Code section 2699 Notice by Aggrieved Employees Maricela Diaz and Jose R. Alvarado

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supervisors, including owner, President and CEO (collectively “Defendants”), for violations of the California Labor Code described below. MARICELA DIAZ and JOSE R. ALVARADO seek 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 Tri-City Autowash, Inc. and their owners, supervisors, managers, agents and all other person acting on behalf of Defendants and the employer who caused to be violated any provision of the California Labor Code or Wage Orders governing hours and days of work.

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 compensate all work performed by non-exempt employees and failing to relieve employees of their job duties to comply with meal and rest period laws.

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

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The violations set forth below in this notice relate to all non-exempt employees employed by Tri-City Autowash, Inc. doing business as Autopia Car Wash to perform work 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 clocked out for meal periods, and otherwise suffering or permitting employees to perform unpaid work outside their paid work time.
2. 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 226.7, 512, and Wage Orders and California case law. Defendants did not relieve Aggrieved Employees and other employees of all duties in order to satisfy their obligation to provide complete, uninterrupted, and timely rest periods. Defendants do not schedule or provide rest periods for non-exempt carwash employees and require them to stay at their workstations throughout their shifts as customers approach the car wash for services consistently throughout work shifts.
3. 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 Employees and other employees of all duties in order to satisfy their obligation to provide complete, uninterrupted, and timely thirty-minute meal periods. This resulted in employees working straight through their shifts without a lawful meal period. Defendants do not schedule or provide meal periods for non-exempt carwash employees and required them to stay at their workstations when there is high customer traffic, resulting in late, missed, or short meal breaks.
4. Failure to keep accurate time records and failure to provide accurate wage statements. Defendants systematically failed to pay all wages earned (as described above) including unpaid minimum wages and failed to pay all additional wages in lieu of providing all rest and meal periods.
5. 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 wages and failed to pay all additional wages in lieu of providing all rest and meal periods.
6. Failure to provide employee records in violation of Labor Code section 226. Defendants failed to provide personnel and payroll records for MARICELA DIAZ and JOSE R. ALVARADO and other aggrieved employees. On January 27, 2021, Aggrieved Employees sent records requests to Defendants at the addresses listed above, and to date, have not received a response.

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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 Employees MARICELA DIAZ and JOSE R. ALVARADO 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

A handwritten signature in dark ink, appearing to be 'Liliana Garcia', written in a cursive style.

Liliana Garcia, Esq.

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Mallison & Martinez
Attorneys at Law
730
1939 Harrison Street
Oakland CA 94612

C016

SHIP AUTOPIA CAR WASH - FREMONT
TO: ATTN: MANAGEMENT
37505 DUSTERBERRY WAY
FREMONT CA 94536-4908

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Mallison & Martinez
Attorneys at Law
730
1939 Harrison Street
Oakland CA 94612

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SHIP
TO:

TRI-CITY AUTOWASH, INC.
ATTN: MALLIKARJUNA RAO BOPPANA
OR AGENT FOR SERVICE OF PROCESS
41946 CHRISTY ST
FREMONT CA 94538-3159

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Tri-City Autowash, Inc.

Street and Apt. No., or PO Box No.

41946 Christy Street

City, State, ZIP+4®

Fremont, CA 94538

PS Form 3800, April 2015 PSN 7530-02-000-9047

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Postage

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Sent To

Autopia Car Wash - Fremont

Street and Apt. No., or PO Box No.

37505 Dusterberry Way

City, State, ZIP+4®

Fremont, CA 94536

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