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Attorneys for Plaintiff and the aggrieved employees

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF KERN**

KANDICE NEWLEN, an individual, on
behalf of herself and others similarly situated

PLAINTIFF,

v.

RLH FIRE PROTECTION, INC.; and DOES
1 thru 50, inclusive,

DEFENDANTS.

CASE NO. BCV-21-102503-DRZ

**[Amended as a matter of right, pursuant to
Labor Code § 2699.3(a)(2)(C)]**

**SECOND AMENDED
REPRESENTATIVE ACTION
COMPLAINT**

1. Penalties Pursuant to Labor Code §2699,
et seq.

1 Plaintiff KANDICE NEWLEN, on behalf of herself, and the people of the State of
2 California and as an “aggrieved employee” under Labor Code Private Attorneys General Act of
3 2004, §2699, *et seq.* (hereafter “PAGA”), complains of Defendant RLH FIRE PROTECTION,
4 INC. (“Defendant”) and each of them, as follows:

5 **I.**

6 **INTRODUCTION**

7 1. This is a Representative Action, pursuant to Labor Code §2699, *et seq.*, on behalf
8 of the following individuals:

9 All non-exempt employees who are employed or have been
10 employed by RLH FIRE PROTECTION, INC., in the State of
11 California who worked one or more pay periods since one (1) year
12 prior to the date of Plaintiff’s notice letters to the Labor &
13 Workforce Development Agency (“LWDA”) and continuing to the
14 present plus any additional time during which the statutes of
15 limitation for the causes of action herein were tolled pursuant to
16 Emergency Rule 9 of the California Rules of Court, the ‘Emergency
17 Rules Related to COVID-19’. (“aggrieved employees”)

18 2. Any limitations period referenced in this complaint is extended pursuant to
19 Emergency Rule 9 (a) of the “Emergency Rules Related to COVID-19,” Appendix I to the
20 California Rules of Court, adopted effective April 6, 2020, which provides that the statutes of
21 limitation that exceed 180 days for civil actions are tolled from April 6, 2020 until October 1, 2020
22 [“Notwithstanding any other law, the statutes of limitations and repose for civil causes of action
23 that exceed 180 days are tolled from April 6, 2020 until October 1, 2020.”] Any reference to the
24 relevant time period or statute of limitations referenced in this complaint is extended into the past
25 by the number of days in which this tolling was in effect.

26 3. For at least one (1) year prior to the date of the letters sent to the Labor Workforce
27 and Development Agency (“LWDA”) and Defendant on October 25, 2021 and January 17, 2024
28 giving notice of this claim pursuant to PAGA and continuing to the present, Defendant has failed
to properly comply with Labor Code §§ 201, 202, 203, 204, 210, 226, 226.3, 226.7, 510, 512,
1174, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 1199, and IWC Wage Order 16.

4. Plaintiff and all aggrieved employees were not paid minimum wage for each hour

1 worked or part thereof during which they were required to perform acts at the direction and for the
2 benefit of Defendant.

3 5. Defendant has had a consistent policy of failing to pay wages and/or overtime to
4 Plaintiff and all aggrieved employees. Plaintiff and the aggrieved employees were not paid at the
5 proper overtime rate for each and every hour worked at the direction and benefit of Defendant.

6 6. Defendant failed to apprise Plaintiff and the aggrieved employees of their rights
7 associated with rest periods and failed to provide compliant rest periods. Defendant maintained a
8 consistent policy of failing to provide Plaintiff and the aggrieved employees with rest breaks of
9 not less than ten (10) minutes per four (4) hour work period or major fraction thereof. Plaintiff
10 and the aggrieved employees are required to work four hour increments (or major fractions thereof)
11 without being provided with a ten (10) minute rest period. Further, Plaintiff and the aggrieved
12 employees were not compensated with one (1) hour of wages at the regular rate of compensation
13 for each missed rest period in violation of *Ferra* and California law. Very recently, on July 15,
14 2021, in *Ferra v. Loews Hollywood Hotel, LLC*, the California Supreme Court set forth the formula
15 for calculating the one extra hour of premium pay that employees are owed if an employer fails to
16 provide a compliant meal period or rest break. Specifically, the Court held that those premium
17 payments must include the hourly value of any nondiscretionary earnings (such as a
18 nondiscretionary bonuses), and cannot simply be paid at an employee's base hourly rate.
19 Defendant has had a consistent policy of paying rest period premiums at the base rate and not the
20 blended rate as required by California state wage and hour laws.

21 7. Defendant failed to apprise Plaintiff and the aggrieved employees of their rights associated
22 with meal periods, failed to record meal periods, and failed to provide compliant meal periods. In addition,
23 Defendant has had a consistent policy and practice of: (1) failing to provide Plaintiff and the aggrieved
24 employees with compliant meal periods and (2) failing to pay Plaintiff and all aggrieved employees one (1)
25 hour of pay at the employees' regular rate of compensation for each workday that a compliant meal period
26 was not provided. As explained above, *Ferra* set forth the formula for calculating the one extra hour of
27 premium pay that employees are owed if an employer fails to provide a compliant meal period or rest break.
28 Specifically, the Court held that those premium payments must include the hourly value of any

1 nondiscretionary earnings (such as a nondiscretionary bonuses), and cannot simply be paid at an
2 employee's base hourly rate. Here, when meal period premiums are provided, Defendant has had a
3 consistent policy of paying meal period premiums at the base rate and not the blended rate in violation of
4 California state wage and hour laws.

5 8. Defendant failed to pay Plaintiff and aggrieved employees all wages for a biweekly
6 payroll period within seven (7) calendar days following the close of the payroll period. Plaintiff
7 and all aggrieved employees were paid after the seventh (7th) day following the close of the payroll
8 period.

9 9. Defendant has failed to issue Plaintiff and the aggrieved employees accurate
10 itemized wage statements that show all applicable hourly rates in effect during the pay period and
11 the corresponding number of hours worked at each hourly rate by the employee. Further, Plaintiff
12 and the aggrieved employees are issued itemized wage statements that do not accurately include
13 rest period premiums as a result of the claims alleged herein and when they do, they are not at the
14 accurate rate.

15 10. Defendant has also failed to maintain employee payroll and personnel records as to
16 Plaintiff and the aggrieved employees as required by California law, and failed to provide such
17 records upon request.

18 11. Defendant has failed to pay all wages due at the time of termination or resignation
19 to Plaintiff and the aggrieved employees.

20 12. Plaintiff, on behalf of herself and all aggrieved employees presently or formerly
21 employed by Defendant during the liability period, brings this representative action pursuant to
22 Labor Code § 2699, *et seq.*, seeking penalties for Defendant's violation of Labor Code §§ 201,
23 202, 203, 204, 210, 226, 226.3, 226.7, 510, 512, 1174, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198,
24 1198.5, 1199, and Wage Order 16-2001.

25 **II.**

26 **JURISDICTION AND VENUE**

27 13. This Court has subject matter jurisdiction over all causes of action asserted herein
28 pursuant to Article VI, § 10 of the California Constitution and California Code of Civil Procedure

1 § 410.10 by virtue of the fact that this is a civil action in which the matter in controversy, exclusive
2 of interest, exceeds \$25,000, and because each cause of action asserted arises under the laws of the
3 State of California or is subject to adjudication in the courts of the State of California.

4 14. This Court has personal jurisdiction over Defendant because Defendant has caused
5 injuries in the County of Kern and the State of California through their acts, and by their violation
6 of the California Labor Code, California state common law.

7 15. At all times set forth herein, Defendant is and was, based upon information and
8 belief, a California corporation doing business in Kern County and in the State of California with
9 its California address at 4300 Stine Rd BLDG 800 Bakersfield, CA 93313. At all relevant times,
10 Defendant employed Plaintiff in the State of California.

11 16. Venue as to each Defendant is proper in this judicial district, pursuant to Code of
12 Civil Procedure § 395. Defendant operates within California and does business within Kern
13 County. The unlawful acts alleged herein have a direct effect on Plaintiff and all aggrieved
14 employees within the State of California and the county of Kern.

15 **III.**

16 **PARTIES**

17 **A. PLAINTIFF**

18 17. Plaintiff KANDICE NEWLEN is a resident of California.

19 18. Upon information and belief, Plaintiff and all aggrieved employees are covered by
20 California Industrial Welfare Commission Occupational Wage Order No. 16-2001 (Title 8 Cal.
21 Code of Regs. § 11160.)

22 19. Plaintiff and all aggrieved employees as defined in her notice letters to the LWDA
23 are “aggrieved employees” within the meaning of Labor Code § 2699, *et seq.* (see Labor Code
24 §2699(c).)

25 **B. DEFENDANTS**

26 20. Defendant RLH FIRE PROTECTION, INC. is believed to be a California
27 corporation operating within the State of California. Defendant’s corporate address is believed to
28 be 4300 Stine Rd BLDG 800 Bakersfield, CA 93313. Upon information and belief, Defendant

1 employed Plaintiff and similarly situated persons as hourly employees within California.
2 Defendant has done and does business throughout the State of California.

3 21. The true names and capacities, whether individual, corporate, associate, or
4 otherwise, of Defendants sued herein as DOES 1 to 50, inclusive, are currently unknown to
5 Plaintiff, who therefore sues Defendants by such fictitious names under Code of Civil Procedure
6 § 474. Plaintiff is informed and believes, and based thereon alleges, that each of the Defendants
7 designated herein as a DOE is legally responsible in some manner for the unlawful acts referred
8 to herein. Plaintiff will seek leave of court to amend this Complaint to reflect the true names and
9 capacities of the Defendants designated hereinafter as DOES when such identities become known.

10 22. Plaintiff is informed and believes, and based thereon alleges, that each Defendant
11 acted in all respects pertinent to this action as the agent of the other Defendants, carried out a joint
12 scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendant are
13 legally attributable to the other Defendants. Furthermore, Defendants in all respects acted as the
14 employer and/or joint employer of Plaintiff and the aggrieved employees.

15 23. Furthermore, Defendants acted in all respects as the employers or joint employers
16 of the aggrieved employees. Defendants, and each of them, exercised control over the wages, hours
17 or working conditions of the aggrieved employees, or suffered or permitted the aggrieved
18 employees to work, or engaged, thereby creating a common law employment relationship, with
19 the aggrieved employees. Therefore, Defendants, and each of them, employed or jointly employed
20 the aggrieved employees.

21 IV.

22 FACTUAL BACKGROUND

23 24. Plaintiff and the aggrieved employees are, and at all times pertinent hereto, have
24 been classified as non-exempt employees by Defendant. Defendant hires employees who work as
25 hourly employees and are paid on an hourly basis.

26 25. Upon information and belief, Plaintiff and the aggrieved employees are covered by
27 California Industrial Welfare Commission Occupational Wage Order No. 16-2001 (Title 8 Cal.
28 Code of Regs. § 11160).

26. On a regular and consistent basis, for all aggrieved employees employed by Defendant, Defendant has failed to comply with Labor Code §§ 201, 202, 203, 204, 210, 226, 226.3, 226.7, 510, 512, 1174, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 1199, and IWC Wage Order 16 as alleged herein.

V.

FIRST CAUSE OF ACTION

PLAINTIFF AND ALL AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS
FOR PENALTIES PURSUANT TO LABOR CODE § 2699, ET SEQ. FOR VIOLATIONS
OF LABOR CODE §§ 201, 202, 203, 204, 210, 226, 226.3, 226.7, 510, 512, 1174, 1182.12,
1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 1199 AND IWC WAGE ORDER 16

27. Plaintiff, on behalf of herself and the aggrieved employees, realleges and incorporates by reference all previous paragraphs.

28. Plaintiff brings this representative action on behalf of herself and the State of California as well as on behalf of a group of aggrieved employees defined as: All non-exempt employees who are employed or have been employed by RLH FIRE PROTECTION, INC., in the State of California who worked one or more pay periods since one (1) year prior to the date of this letter and continuing to the present plus any additional time during which the statutes of limitation for the causes of action herein were tolled pursuant to Emergency Rule 9 of the California Rules of Court, the ‘Emergency Rules Related to COVID-19’. (“aggrieved employees”)

29. For at least one (1) year prior to the date of the letters sent to the LWDA and Defendant on October 25, 2021 and January 17, 2024 giving notice of this claim pursuant to PAGA and continuing to the present, Defendant has violated Labor Code §§ 1182.12, 1194, 1194.2, 1197, 1197.1, and 1198. These statutes provide that it is unlawful for an employer to suffer or permit a California employee to work without paying wages at the proper minimum wage for all time worked. At all times material hereto, “hours worked” included “the time during which an employee is subject to the control of an employer and includes all the time the employee is suffered or permitted to work, whether or not required to do so.”

30. Plaintiff and all aggrieved employees were not paid minimum wage for each hour

1 worked or part thereof during which they were required to perform acts at the direction and for the
2 benefit of Defendant.

3 31. For at least one (1) year prior to the date of the letters sent to the LWDA and
4 Defendant on October 25, 2021 and January 17, 2024 giving notice of this claim pursuant to PAGA
5 and continuing to the present, Defendant has violated Labor Code §§ 510, 1194, 1194.2, 1198, and
6 1199. Labor Code §§ 1194 and 1199 require an employer to pay its employees the legal minimum
7 wage and the legal overtime compensation applicable. Labor Code § 510(a) states that eight hours
8 of labor constitutes a day's work and any work in excess of eight hours in one workday and any
9 work in excess of 40 hours in any one workweek must be compensated at the rate of no less than
10 one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours
11 in one day shall be compensated at the rate of no less than twice the regular rate of pay.

12 32. Defendant has had a consistent policy of failing to pay wages and/or overtime to
13 Plaintiff and all aggrieved employees. Plaintiff and the aggrieved employees were not paid at the
14 proper overtime rate for each and every hour worked at the direction and benefit of Defendant.

15 33. For at least one (1) year prior to the date of the letters sent to the LWDA and
16 Defendant on October 25, 2021 and January 17, 2024 giving notice of this claim pursuant to PAGA
17 and continuing to the present, Defendant violated Labor Code §§ 226.7, 1198 and IWC Wage
18 Order 16, which require an employer to provide rest periods or to pay an additional one (1) hour
19 of wages for each rest period the employer fails to provide. Employees are entitled to a ten (10)
20 minute rest break for every four (4) hours worked or major fraction thereof.

21 34. Defendant failed to maintain a policy informing Plaintiff and the aggrieved
22 employees of this right.

23 35. Defendant maintained a consistent policy of failing to provide Plaintiff and the
24 aggrieved employees with rest breaks of not less than ten (10) minutes per four (4) hour work
25 period or major fraction thereof. Plaintiff and the aggrieved employees have been required to work
26 four-hour increments (or major fractions thereof) without being provided with compliant ten (10)
27 minute rest periods.

28 36. Plaintiff and the aggrieved employees were not compensated with one (1) hour of

1 wages at the regular rate of compensation for each missed rest period.

2 37. For at least one (1) year prior to the date of the letters sent to the LWDA and
3 Defendant on October 25, 2021 and January 17, 2024 giving notice of this claim pursuant to PAGA
4 and continuing to the present, Defendant failed to provide compliant meal periods in accordance
5 with Labor Code §§ 226.7, 512, and 1198. These statutes require an employer to pay an additional hour
6 of compensation for each meal period the employer fails to provide. Employees are entitled to a first meal
7 period of at least thirty (30) minutes for shifts over five (5) hours, to be provided within the first five (5)
8 hours of the shift, and a second meal period of at least thirty (30) minutes for shifts over ten (10) hours. If
9 an employee is entitled to a second meal period, it must be provided after no more than ten (10) hours of
10 work. Defendant failed to maintain a policy informing Plaintiff and the aggrieved employees of these rights.
11 Likewise, the Wage Orders (16-2001) state that: A employer may not employ an employee for a work
12 period of more than ten (10) hours per day without providing the employee with a second meal period of
13 not less than thirty (30) minutes, except that if the total hours worked is no more than twelve (12) hours, the
14 second meal period may be waived by mutual consent of the employer and the employee only if the first
15 meal period was not waived.

16 38. Defendant failed to apprise Plaintiff and the aggrieved employees of their rights associated
17 with meal periods, failed to record meal periods, and failed to provide compliant meal periods. In addition,
18 Defendant has had a consistent policy and practice of: (1) failing to provide Plaintiff and the aggrieved
19 employees with compliant meal periods and (2) failing to pay Plaintiff and all aggrieved employees one (1)
20 hour of pay at the employees' regular rate of compensation for each workday that a compliant meal period
21 was not provided. Defendant also has had a consistent policy of paying meal period premiums at the base
22 rate and not the blended rate.

23 39. For at least one (1) year prior to the date of the letters sent to the LWDA and
24 Defendant on October 25, 2021 and January 17, 2024 giving notice of this claim pursuant to PAGA
25 and continuing to the present, Defendant failed to pay Plaintiff and aggrieved employees all wages
26 for a biweekly payroll period within seven (7) calendar days following the close of the payroll
27 period in violation of Labor Code §§ 204(d) and 210. Plaintiff and all aggrieved employees were
28 paid after the seventh (7th) day following the close of the payroll period in violation of these

1 statutes.

2 40. For at least one (1) year prior to the date of the letters sent to the LWDA and
3 Defendant on October 25, 2021 and January 17, 2024 giving notice of this claim pursuant to PAGA
4 and continuing to the present, Defendant violated Labor Code §226(a). Labor Code §226(a)
5 requires that every employer shall semimonthly or at the time of each payment of wages, furnish
6 each of his or her employees, an accurate itemized statement in writing showing all applicable
7 hourly rates in effect during the pay period and the corresponding number of hours worked at each
8 hourly rate by the employee. Sections 226(a)(9). Labor Code § 226.3 further provides that “any
9 employer who violates subdivision (a) of Section 226 shall be subject to a civil penalty in the
10 amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and
11 one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, for which
12 the employer fails to provide the employee a wage deduction statement or fails to keep the records
13 required in subdivision (a) of Section 226.”

14 41. Plaintiff and the aggrieved employees are issued wage statements that do not
15 include all applicable hourly rates in effect during the pay period and the corresponding number
16 of hours worked at each hourly rate by the employee in violation of the Labor Code.

17 42. Further, Plaintiff and the aggrieved employees are issued wage statements that do
18 not include rest premiums as a result of the claims alleged above and when they do, they are not
19 at the accurate rate.

20 43. For at least one (1) year prior to the date of the letters sent to the LWDA and
21 Defendant on October 25, 2021 and January 17, 2024 giving notice of this claim pursuant to PAGA
22 and continuing to the present, Defendant violated Labor Code § 1174. Labor Code § 1174 requires
23 California employers to preserve and keep all employee payroll records for at least three years and to keep
24 a record of the names and addresses of all current employees. Labor Code §226(f) states that an employer
25 who willfully fails to maintain proper payroll records is subject to a civil penalty of \$750. Labor Code
26 §226(h) also provides that an employee may bring forth an action for injunctive relief and is entitled to an
27 award of costs and reasonable attorneys’ fees.

28 44. Defendant has failed maintain records required by Labor Code § 1174 as to Plaintiff and

1 the aggrieved employees, and failed to provide personnel and payroll records upon request under Labor
2 Code § 226(c) and 1198.5.

3 45. For at least one (1) year prior to the date of the letters sent to the LWDA and
4 Defendant on October 25, 2021 and January 17, 2024 giving notice of this claim pursuant to PAGA
5 and continuing to the present, Defendant violated Labor Code § 203.

6 46. Numerous aggrieved employees including the Plaintiff are no longer employed by
7 Defendant. They were either fired or quit Defendant's employ.

8 47. Defendant's failure to pay wages, as alleged above was willful in that Defendant
9 knew wages to be due but failed to pay them, thus entitling Plaintiff and the aggrieved employees
10 to penalties under Labor Code § 203, which provides that an employee's wages shall continue as
11 a penalty until paid for a period of up to thirty (30) days from the time they were due.

12 48. As a result of the acts alleged above, Plaintiff seeks penalties under Labor Code
13 §2699, *et seq.* use of Defendant's violation of Labor Code §§ 201, 202, 203, 204, 210, 226, 226.3,
14 226.7, 510, 512, 1174, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, and 1199; Wage Order
15 16-2001; and California Code of Regulations, Title 8, Section 11160, which call for civil penalties.

16 49. For each such penalty, Plaintiff and the aggrieved employees are entitled to
17 penalties in an amount to be shown at trial, subject to the following formula:

18 a. \$100 for the initial violation per employee per pay period.

19 b. \$200 for each subsequent violation per employee per pay period.

20 50. These penalties shall be allocated seventy-five percent (75%) to the LWDA and
21 twenty-five percent (25%) to the affected employees.

22 51. Pursuant to Labor Code § 2699.3(a)(1), Plaintiff uploaded notice letters to the
23 LWDA¹ and mailed a letter by certified mail to each of the Defendant's entity addresses, as
24 proscribed by the Code on October 25, 2021 and January 17, 2024, describing Defendant's conduct
25 in violation of Labor Code §§ 201, 202, 203, 204, 210, 226, 226.3, 226.7, 510, 512, 1174, 1182.12,
26 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 1199, and IWC Wage Order 16. (*see* Exhibits "1" and

27 ¹ Plaintiff electronically filed a PAGA Claim Notice to the LWDA, via the State of California
28 Labor and Workforce Development Agency / Department of Industrial Relations website
(<https://dir.tfaforms.net/308>).

“4”) Plaintiff obtained an e-filing confirmation from the LWDA confirming receipt of the notices (see Exhibits “2” and “5”) and a signed green return receipt by Defendant indicating that it also received Plaintiff’s notice (see Exhibit “3”).

52. As no letter evidencing the LWDA’s intention to investigate was received by Plaintiff’s Counsel within sixty-five (65) calendar days, Plaintiff is entitled to commence a civil action as though the LWDA had not chosen to investigate pursuant to Labor Code §2699.3(a)(2)(A). Plaintiff will also provide the LWDA with a filed-stamped copy of the Second Amended Representative Action Complaint immediately.

RELIEF REQUESTED

WHEREFORE, Plaintiff prays for the following relief:

1. For penalties under Labor Code §2699, *et seq.* for Plaintiff and all other aggrieved employees for Defendant’s violation of Labor Code §§ 201, 202, 203, 204, 210, 226, 226.3, 226.7, 510, 512, 1174, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 1199, and IWC Wage Order 16-2001.
2. An award providing for payment of costs of suit;
3. An award of attorneys’ fees; and
4. Such other and further relief as this Court may deem proper and just.

DATED: June 10, 2024

KINGSLEY SZAMET & LY

By: _____

Liane Katzenstein Ly

Attorneys for Plaintiff and the aggrieved employees

EXHIBIT "1"

KINGSLEY & KINGSLEY

| L A W Y E R S |

October 25, 2021

LABOR & WORKFORCE DEVELOPMENT AGENCY
Attn. PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612
Via Electronic Submission: <https://dir.tfaforms.net/308>

RLH FIRE PROTECTION, INC.
4300 Stine Rd BLDG 800
Bakersfield, CA 93313
Via USPS Certified Mail # 7020 0640 0002 1439 8295

RLH FIRE PROTECTION, INC.
PO Box 42470
Bakersfield, CA 93384
Via USPS Certified Mail # 7020 0640 0002 1439 8301

Re: KANDICE NEWLEN v. RLH FIRE PROTECTION, INC.
California Labor Code § 2699 Penalties

Gentlepersons:

This office represents KANDICE NEWLEN (“Plaintiff”) and a proposed group of current and former employees working for RLH FIRE PROTECTION, INC. (“Defendant”) in the State of California. The purpose of this letter is to comply with the Private Attorneys General Act of 2004, pursuant to California Labor Code § 2698, *et. seq.* We herein set forth the facts and theories of California Labor Code violations which we allege Defendant engaged in with respect to Plaintiff and all of Defendant’s aggrieved employees.

Plaintiff wishes to bring a representative action on behalf of herself and the State of California as well as on behalf of a group of aggrieved employees defined as: All non-exempt employees who are employed or have been employed by RLH FIRE PROTECTION, INC., in the State of California who worked one or more pay periods since one (1) year prior to the date of this letter and continuing to the present plus any additional time during which the statutes of limitation for the causes of action herein were tolled pursuant to Emergency Rule 9 of the California Rules of Court, the ‘Emergency Rules Related to COVID-19’. (“aggrieved employees”).

Any limitations period referenced in this letter is extended pursuant to Emergency Rule 9 (a) of the “Emergency Rules Related to COVID-19,” Appendix I to the California Rules of Court, adopted effective April 6, 2020, which provides that the statutes of limitation that exceed 180 days for civil actions are tolled from April 6, 2020 until October 1, 2020 [“Notwithstanding any other law, the statutes of limitations and repose for civil causes of action that exceed 180 days are tolled from April 6, 2020 until October 1, 2020.”] Any reference to the relevant time period or statute of

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California Labor Code §2699 Penalties

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limitations referenced in this letter is extended into the past by the number of days in which this tolling was in effect.

Pursuant to Labor Code § 226.7 and Wage Order 16-2001, Defendant failed to provide Plaintiff and the aggrieved employees with rest breaks of not less than ten (10) minutes per four (4) hour work period or major fraction thereof. Defendant failed to maintain a policy informing Plaintiff and the aggrieved employees of this right. Plaintiff and all aggrieved employees have been required to work four-hour increments (or major fractions thereof) without being provided with a ten (10) minute rest period. As such, Defendant failed to provide Plaintiff and all aggrieved employees with compliant rest periods.

Further, Plaintiff and the aggrieved employees were not compensated with one (1) hour of wages at the regular rate of compensation for each missed rest period in violation of *Ferra*. Very recently, on July 15, 2021, in *Ferra v. Loews Hollywood Hotel, LLC*, the California Supreme Court set forth the formula for calculating the one extra hour of premium pay that employees are owed if an employer fails to provide a compliant meal period or rest break. Specifically, the Court held that those premium payments must include the hourly value of any nondiscretionary earnings (such as a nondiscretionary bonuses), and cannot simply be paid at an employee's base hourly rate. Here, Defendant has had a consistent policy of paying rest period premiums at the base rate and not the blended rate in violation of Labor Code §§ 226.7.

Defendant has failed to comply with Industrial Welfare Commission ("IWC") Wage Order 16-2001 and Labor Code § 226(a) by failing to issue Plaintiff and all aggrieved employees accurate itemized wage statements that show all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. Further, Plaintiff and all aggrieved employees are issued itemized wage statements that do not accurately include rest period premiums as a result of the claims alleged herein and when they do, they are not at the accurate rate.

Labor Code § 203 provides that if "an employer willfully fails to pay...any wages of an employee who is discharged or who quits, 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 therefor is commenced; but the wages shall not continue for more than 30 days." Here, Plaintiff and all aggrieved employees were not paid all wages due upon their separation from Defendant's employ. As such, Plaintiff is an aggrieved employee and Defendant failed to pay Plaintiff and all aggrieved employees all wages due at the time of termination or within seventy-two (72) hours of their resignation, and have failed to pay those sums for thirty (30) days thereafter in violation of Labor Code §203.

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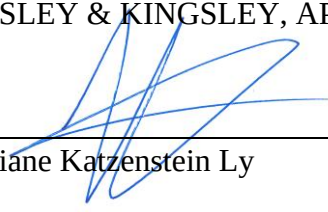
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LABOR & WORKFORCE DEVELOPMENT AGENCY
California Labor Code §2699 Penalties
October 25, 2021
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We are constrained to move forward with the filing of this complaint alleging causes of action pursuant to Labor Code §§ 201, 202, 203, 226(a), and 226.7 with or without the PAGA claim. Thus, any action by the LWDA would not resolve the entirety of the case, and the interest of judicial economy will be served by allowing the case to proceed as a cohesive whole.

Very truly yours,

KINGSLEY & KINGSLEY, APC

By: 
Liane Katzenstein Ly

LKL/km

CC: Abramson Labor Group 3580 Wilshire Blvd., Ste 1260 Los Angeles, CA 90010-2513 via Electronic Mail
Transmission: wza@abramsonlabor.com; dani@abramsonlabor.com

EXHIBIT "2"



State of California

Labor and Workforce Development Agency /
Department of Industrial Relations

Private Attorneys General Act (PAGA) - Filing

New PAGA Claim Notice

Your Information (Person Who is Filing)

Your First Name *

Liane

Your Last Name *

Ly

Firm Name (if any) *

Kingsley & Kingsley, APC

(Enter "in pro per" if you are representing yourself)

Your Email Address *

Service@kingsleykingsley

Your Street Name, Number and Suite/Apt *

16133 Ventura Blvd., Suite

Your Mobile Phone Number

8189908300

Your City *

Encino

Your Work Phone Number

Your State *

California

Your Zip/Postal Code *

91436

Plaintiff Information

Plaintiff/Aggrieved Employee Name *

Kandice Newlen

Plaintiff/Aggrieved Employee Occupation *

Non-exempt employee

[Add Additional Plaintiffs](#)

Employer Information

Employer Entity Type

Please select...

Employer Name *

RLH Fire Protection, Inc.

Maximum 80 Character Limit

Employer Street Name, Number and Suite/Apt *

4300 Stine Rd Bldg 800

Employer City *

Bakersfield

Employer State *

Employer Zip/Postal Code *

California

93313

Employer Industry *

Employer Industry for "Other" *

Other

Fire Protection Services

Add additional defendants

☒ Add any entity other than an individual

Add an individual/sole proprietor employer

Additional Employer Information (Corporation/General Partnership)

Employer Entity Type

Please select...

Employer Name *

RLH Fire Protection, Inc.

Maximum 80 Character Limit

Employer Street Name, Number and Suite/Apt *

PO Box 42470

Employer City *

Bakersfield

Employer State *

California

Employer Zip/Postal Code *

93384

Employer Industry *

Other

Employer Industry for "Other" *

Fire Protection Services

[Add Additional Employers](#)

Notice General Information

Estimated Number of Employees Impacted by Violations *

50

Notice Violations - Check All that Apply *

Child Labor - Specify Ages

Child Labor

Misclassification Employee Classified as Contractor

Misclassification NonExempt Classified as Exempt

Minimum Wage

Overtime

Not paid for all hours worked

☒ **Not paid wages due on termination**

Other Unpaid Wages

Tips or Gratuities

Payment or Reimbursement of Employee Expenses

Improper Form of Payment Including NSF Checks

Kickbacks

☒ **Meal and Rest Breaks**

Sick Leave

Lactation Accommodation (Labor Code 1030-1033)

Not providing required time off, other

Pay Discrimination on basis of sex, (Labor Code 1197.5)

No Wage Statements

☒ **Improper or Incomplete Wage Statements**

Other Notice or Posting or Recordkeeping

Public Works (Labor Code 1720 - 1815)

Apprenticeship (Labor Code 3070 - 3098)

Occupational Safety and Health (Labor Code 6300 et seq)

No Workers' Compensation

Licensing, Registration, or Permit

Unfair Immigration Activities

Agricultural Labor Relations

Industrial Homework

Retaliation for Protected Status or Activity (Specify)

Other

PAGA Claim Type - Check All that Apply *

☒ **Notice asserts one or more Labor Code violations listed in Labor Code 2699.5- not curable subject to 2699.3(a)**

Notice asserts one or more OSHA violations subject to requirements of 2699.3(b)

Includes one or more violations not listed in Labor Code 2699.5 - curable subject to 2699.3(c)

Filing Fee

A filing fee of \$75 is required to file a new PAGA claim notice.

IFP

I wish to claim In Forma Pauperis and am attaching a Confidential Request to Waive Court Fees (Judicial Council Court Form FW-001) or similar form to this submission.

Billing information**Billing First Name ***

Eric

Billing Last Name *

Kingsley

Billing Email *

Service@kingsleykingsley

Billing Phone

8189908300

Billing Street Name, Number and Suite/Apt *

16133 Ventura Blvd., Suite 1200

Billing City *

Encino

Billing State *

California

Billing Zip/Postal Code *

91436

Credit Card Type ***Credit Card Number *****CVV Number *****Credit Card Expiration Month ***

mm

Credit Card Expiration Year *

yyyy

Notice and Other Attachments**PAGA Claim Notice (must be a .pdf) ***

Choose File



LWDA Letter - RLH Fire...

Other Attachment - (if any) (must be a .pdf)

Choose File

no file selected

[Add Another Attachment](#)

Should you have questions regarding this online form, please contact PAGAInfo@dir.ca.gov

IMPORTANT NOTICE OF REDACTION RESPONSIBILITY: All filers must redact: Social Security or taxpayer identification numbers; personal addresses, personal telephone numbers, personal email addresses, dates of birth; names of minor children; & financial account numbers. This requirement applies to all documents, including attachments.

☒ I understand that, if I file, I must comply with the redaction rules consistent with this notice.

[Previous Page](#)[Submit](#)

Thank you. If you provided an email address with your submission, a confirmation regarding your submission will be emailed to you. Otherwise, you can search for the case to verify that your submission was properly received.

[Click Here](#) to Search Case

From: LWDA DO NOT REPLY lwdadonotreply@dir.ca.gov
Subject: Thank you for submission of your PAGA Case.
Date: Oct 25, 2021 at 2:52:40 PM
To: Service Email service@kingsleykingsley.com

External Email!

10/25/2021

LWDA Case No. LWDA-CM-849787-21

Law Firm : Kingsley & Kingsley, APC

Plaintiff Name : Kandice Newlen

Employer: RLH Fire Protection, Inc.

Filing Fee : \$75.00

IFP Claimed : No

Item submitted: Initial PAGA Notice

Thank you for your submission to the Labor and Workforce Development Agency.
Please make a note of the LWDA Case No. above as you may need this number
for future reference when filing any subsequent documents for this Case.

If you have questions or concerns regarding this submission or your case, please
send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: https://nam10.safelinks.protection.outlook.com/?url=http%3A%2F%2Flabor.ca.gov%2FPrivate_Attorneys_General_Act.htm&data=04%7C01%7CKimberly%40kingsleykingsley.com%7C0d0b262b3dd94533432308d99801c206%7C121a7875dbeb4c0fb25c5baf6c6ac7a5%7C0%7C0%7C637707955598816113%7CUnknown%7CTWFPbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTil6lk1haWwiLCJXVCi6Mn0%3D%7C1000&sdata=

ebQ%2BmtQ26dksUSWH07LqWcpEpTFPsPUhmBTclF3rfuw%3D&reserved
=0

From: LWDA DO NOT REPLY lwdadonotreply@dir.ca.gov
Subject: State of California - Department of Industrial Relations Customer
Receipt / Purchase Confirmation
Date: Oct 25, 2021 at 2:52:53 PM
To: Service Email service@kingsleykingsley.com

External Email!

Thank you for your payment.

Order Information

Merchant: State of California - Department of Industrial Relations

Case Number: LWDA-CM-849787-21

Order Number: ORD-000140086

Total:\$75.00

Card Type: 

Date: 10/25/2021

Billing Information

Name: Eric Kingsley

Email: service@kingsleykingsley.com

Billing Address:

16133 Ventura Blvd., Suite 1200

Encino, California

91436

EXHIBIT "3"

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

RLH Fire Protection, Inc.
4300 Stine Rd BLDG 800
Bakersfield, CA 93313



9590 9402 6094 0125 0624 56

2. Article Number (Transfer from service label)

020 0640 0002 1439 8295

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *21/501019*☒ Agent☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

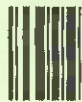
- D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☒ No

3. Service Type

- | | |
|--|---|
| ☐ Adult Signature | ☐ Priority Mail Express® |
| ☐ Adult Signature Restricted Delivery | ☐ Registered Mail™ |
| ☒ Certified Mail® | ☐ Registered Mail Restricted Delivery |
| ☐ Certified Mail Restricted Delivery | ☒ Return Receipt for Merchandise |
| ☐ Collect on Delivery | ☐ Signature Confirmation™ |
| ☐ Collect on Delivery Restricted Delivery | ☐ Signature Confirmation Restricted Delivery |
| ☐ Insured Mail | |
| ☐ Insured Mail Restricted Delivery (over \$500) | |

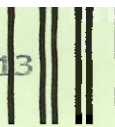
Domestic Return Receipt

USPS TRACKING#



BAKOTA CLARETTA CA 913

US OCT 20 21 PM 5 L



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

9590 9402 6094 0125 0624 56

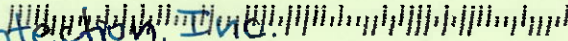
United States
Postal Service

• Sender: Please print your name, address, and ZIP+4® in this box •

KINGSLEY & KINGSLEY
16133 VENTURA BL., #1200
ENCINO, CA 91436

PAGA Letter

RLH Fire Protection, Inc.



USPS TRACKING#



SANTA CLARITA CA 913

NOV 2021 PM 5 L

9590 9402 6094 0125 0613 74

United States
Postal Service

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4® in this box•

*KINGSLEY & KINGSLEY
16133 VENTURA BL., #1200
ENCINO, CA 91436*

PAGA Letter

RLH Fire Protection, Inc.

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

RLH Fire Protection, Inc.
PO Box 42470
Bakersfield, CA 93304



9590 9402 6094 0125 0613 74

2. Article Number (Transfer from service label)

020 0640 0002 1439 8301

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY**A. Signature**

X  ☐ Agent
☐ Addressee

B. Received by (Printed Name)**C. Date of Delivery**

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☒ No

3. Service Type

- | | |
|--|---|
| ☐ Adult Signature | ☐ Priority Mail Express® |
| ☐ Adult Signature Restricted Delivery | ☐ Registered Mail™ |
| ☒ Certified Mail® | ☐ Registered Mail Restricted Delivery |
| ☐ Certified Mail Restricted Delivery | ☒ Return Receipt for Merchandise |
| ☐ Collect on Delivery | ☐ Signature Confirmation™ |
| ☐ Collect on Delivery Restricted Delivery | ☐ Signature Confirmation Restricted Delivery |
| ☐ Insured Mail | |
| ☐ Insured Mail Restricted Delivery (over \$500) | |

Domestic Return Receipt

EXHIBIT "4"

KINGSLEY & KINGSLEY

| L A W Y E R S |

January 17, 2024

LABOR & WORKFORCE DEVELOPMENT AGENCY
Attn. PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612
Via Electronic Submission: <https://dir.tfaforms.net/310>

RLH FIRE PROTECTION, INC.
c/o Sagaser, Watkins & Wieland PC
Ian B. Wieland
ian@sw2law.com
Charles P. Hamamjian
charles@sw2law.com
David G. Litman
david@sw2law.com
Tristan Matthews
tristan@sw2law.com
5260 N. Palm Ave., Ste. 400
Fresno, CA 93704
Via Electronic Mail Transmission

Re: Supplemental PAGA Notice Letter
KANDICE NEWLEN v. RLH FIRE PROTECTION, INC.
California Labor Code § 2699 Penalties

Gentlepersons:

This office represents KANDICE NEWLEN (“Plaintiff”) and a proposed group of current and former employees working for RLH FIRE PROTECTION, INC. (“Defendant”) in the State of California. This letter shall serve as a supplement to Plaintiff’s PAGA letter sent on October 25, 2021. The purpose of this letter is to comply with the Private Attorneys General Act of 2004, pursuant to California Labor Code § 2698, *et. seq.* We herein set forth the facts and theories of California Labor Code violations which we allege Defendant engaged in with respect to Plaintiff and all of Defendant’s aggrieved employees.

Plaintiff wishes to bring a representative action on behalf of herself and the State of California as well as on behalf of a group of aggrieved employees defined as: All non-exempt employees who are employed or have been employed by RLH FIRE PROTECTION, INC., in the State of California who worked one or more pay periods since one (1) year prior to the date of this letter and continuing to the present plus any additional time during which the statutes of limitation for the causes of action herein were tolled pursuant to Emergency Rule 9 of the California Rules of Court, the ‘Emergency Rules Related to COVID-19’. (“aggrieved employees”).

LABOR & WORKFORCE DEVELOPMENT AGENCY

California Labor Code §2699 Penalties

January 17, 2024

Page 2 of 5

Any limitations period referenced in this letter is extended pursuant to Emergency Rule 9 (a) of the “Emergency Rules Related to COVID-19,” Appendix I to the California Rules of Court, adopted effective April 6, 2020, which provides that the statutes of limitation that exceed 180 days for civil actions are tolled from April 6, 2020 until October 1, 2020 [“Notwithstanding any other law, the statutes of limitations and repose for civil causes of action that exceed 180 days are tolled from April 6, 2020 until October 1, 2020.”] Any reference to the relevant time period or statute of limitations referenced in this letter is extended into the past by the number of days in which this tolling was in effect.

Defendant has violated Labor Code §§ 1182.12, 1194, 1194.2, 1197, 1197.1, and 1198. Pursuant to these statutes, it is unlawful for an employer to suffer or permit a California employee to work without paying wages at the proper minimum wage for all time worked. At all times material hereto, “hours worked” included “the time during which an employee is subject to the control of an employer and includes all the time the employee is suffered or permitted to work, whether or not required to do so.” Plaintiff and all aggrieved employees were not paid minimum wage for each hour worked or part thereof during which they were required to perform acts at the direction and for the benefit of Defendant.

Defendant has violated Labor Code §§ 510, 1194, 1194.2, 1198, and 1199. Labor Code §§ 1194 and 1199 require an employer to pay its employees the legal minimum wage and the legal overtime compensation applicable. Labor Code § 510(a) states that eight hours of labor constitutes a day’s work and any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek must be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay.

Here, Defendant has had a consistent policy of failing to pay wages and/or overtime to Plaintiff and all aggrieved employees. Plaintiff and the aggrieved employees were not paid at the proper overtime rate for each and every hour worked at the direction and benefit of Defendant.

Pursuant to Labor Code § 226.7, 1198, and Wage Order 16-2001, Defendant failed to provide Plaintiff and the aggrieved employees with rest breaks of not less than ten (10) minutes per four (4) hour work period or major fraction thereof. Defendant failed to maintain a policy informing Plaintiff and the aggrieved employees of this right. Plaintiff and all aggrieved employees have been required to work four-hour increments (or major fractions thereof) without being provided with a ten (10) minute rest period. As such, Defendant failed to provide Plaintiff and all aggrieved employees with compliant rest periods.

Further, Plaintiff and the aggrieved employees were not compensated with one (1) hour of wages at the regular rate of compensation for each missed rest period in violation of *Ferra*. Very recently, on July 15, 2021, in *Ferra v. Loews Hollywood Hotel, LLC*, the California Supreme Court set forth the formula for calculating the one extra hour of premium pay that employees are owed if an

LABOR & WORKFORCE DEVELOPMENT AGENCY

California Labor Code §2699 Penalties

January 17, 2024

Page 3 of 5

employer fails to provide a compliant meal period or rest break. Specifically, the Court held that those premium payments must include the hourly value of any nondiscretionary earnings (such as a nondiscretionary bonuses), and cannot simply be paid at an employee's base hourly rate. Here, Defendant has had a consistent policy of paying rest period premiums at the base rate and not the blended rate in violation of Labor Code §§ 226.7.

Additionally, Labor Code §§ 226.7, 512, and 1198 require an employer to pay an additional hour of compensation for each meal period the employer fails to provide. Employees are entitled to a first meal period of at least thirty (30) minutes for shifts over five (5) hours, to be provided within the first five (5) hours of the shift, and a second meal period of at least thirty (30) minutes for shifts over ten (10) hours. If an employee is entitled to a second meal period, it must be provided after no more than ten (10) hours of work. Defendant failed to maintain a policy informing Plaintiff and the aggrieved employees of these rights. Likewise, the Wage Orders (16-2001) state that: A employer may not employ an employee for a work period of more than ten (10) hours per day without providing the employee with a second meal period of not less than thirty (30) minutes, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived. Pursuant to Labor Code § 226.7(c), if an employer fails to provide an employee with a lawful meal period, the employer must pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that a thirty (30) minute uninterrupted meal period was not provided, was not provided in full, or was not provided in a timely manner.

Here, Defendant failed to apprise Plaintiff and the aggrieved employees of their rights associated with meal periods, failed to record meal periods, and failed to provide compliant meal periods. In addition, Defendant has had a consistent policy and practice of: (1) failing to provide Plaintiff and the aggrieved employees with compliant meal periods and (2) failing to pay Plaintiff and all aggrieved employees one (1) hour of pay at the employees' regular rate of compensation for each workday that a compliant meal period was not provided.

As explained above, *Ferra* set forth the formula for calculating the one extra hour of premium pay that employees are owed if an employer fails to provide a compliant meal period or rest break. Specifically, the Court held that those premium payments must include the hourly value of any nondiscretionary earnings (such as a nondiscretionary bonuses), and cannot simply be paid at an employee's base hourly rate. Here, when meal period premiums are provided, Defendant has had a consistent policy of paying meal period premiums at the base rate and not the blended rate in violation of Labor Code §§ 226.7 and 512.

Defendant failed to pay Plaintiff and aggrieved employees all wages for a biweekly payroll period within seven (7) calendar days following the close of the payroll period in violation of Labor Code §§ 204(d) and 210. Plaintiff and all aggrieved employees were paid after the seventh (7th) day following the close of the payroll period in violation of these statutes.

Labor Code §§226(a)(2) and (9) requires that every employer shall semimonthly or at the time of each payment of wages, furnish each of his or her employees, an accurate itemized statement in

LABOR & WORKFORCE DEVELOPMENT AGENCY

California Labor Code §2699 Penalties

January 17, 2024

Page 4 of 5

writing showing the total hours worked by the employee and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. Labor Code §226.3 further provides that “any employer who violates subdivision (a) of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage deduction statement or fails to keep the records required in subdivision (a) of Section 226.” Defendant has failed to comply with Industrial Welfare Commission (“IWC”) Wage Order 16-2001 and Labor Code § 226(a) by failing to issue Plaintiff and all aggrieved employees accurate itemized wage statements that show all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. Further, Plaintiff and all aggrieved employees are issued itemized wage statements that do not accurately include rest period premiums as a result of the claims alleged herein and when they do, they are not at the accurate rate.

Additionally, Labor Code § 1174 requires California employers to preserve and keep all employee payroll records for at least three years and to keep a record of the names and addresses of all current employees. Labor Code §226(f) states that an employer who willfully fails to maintain proper payroll records is subject to a civil penalty of \$750. Labor Code §226(h) also provides that an employee may bring forth an action for injunctive relief and is entitled to an award of costs and reasonable attorneys’ fees. Defendant has failed maintain records required by Labor Code § 1174 as to Plaintiff and the aggrieved employees.

Labor Code § 203 provides that if “an employer willfully fails to pay...any wages of an employee who is discharged or who quits, 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 therefor is commenced; but the wages shall not continue for more than 30 days.” Here, Plaintiff and all aggrieved employees were not paid all wages due upon their separation from Defendant’s employ. As such, Plaintiff is an aggrieved employee and Defendant failed to pay Plaintiff and all aggrieved employees all wages due at the time of termination or within seventy-two (72) hours of their resignation, and have failed to pay those sums for thirty (30) days thereafter in violation of Labor Code §203.

Under Labor Code § 2699.3(c)(2)(A), Defendant may cure the alleged violations within thirty-three (33) calendar days of the postmark date of this notice and within that period, give notice by certified mail if the alleged violation is cured, including a description of actions taken.

We are constrained to move forward with the filing of this complaint alleging causes of action pursuant to Labor Code §§ 201, 202, 203, 204, 210, 226, 226.3, 226.7, 510, 512, 1174, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1199, and IWC Wage Order 16 with or without the PAGA claim. Thus, any action by the LWDA would not resolve the entirety of the case, and the interest of judicial economy will be served by allowing the case to proceed as a cohesive whole.

LABOR & WORKFORCE DEVELOPMENT AGENCY

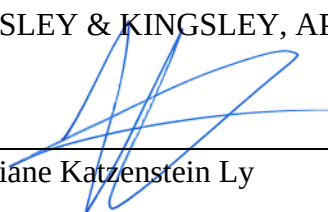
California Labor Code §2699 Penalties

January 17, 2024

Page 5 of 5

Very truly yours,

KINGSLEY & KINGSLEY, APC

By: 

Liane Katzenstein Ly

LKL/km

CC: Abramson Labor Group 11846 Ventura Blvd., Suite 100, Studio City, CA 91604 via Electronic Mail
Transmission: wza@abramsonlabor.com

EXHIBIT "5"



Private Attorneys General Act (PAGA) – Filing

Amended PAGA Claim Notice

PAGA Number (LWDA-CM-) : *

Please enter only the eight digit number after "LWDA-CM-" in the following format, "XXXXXX-XX".
[Search for PAGA Case number](#)

Your Information (Attorney or Employee – Whoever is Filing)

Your First Name *

Your Last Name *

Your Email Address *

Your Street Name, Number and Suite/Apt *

Your Mobile Phone Number

Your City *

Your Work Phone Number

Your State *

Your Zip/Postal Code *

Amended Notice Detail

Please provide the details of the amendments to the original notice. *

- ☒ Adding additional claims
- ☐ Adding additional corporate defendants
- ☐ Adding additional Individual/Sole proprietor defendants
- ☐ Adding additional plaintiffs
- ☐ Other (please specify)

Notice Violations – Check All that Apply *

- ☐ Child Labor
- ☐ Misclassification Employee Classified as Contractor
- ☐ Misclassification NonExempt Classified as Exempt
- ☒ Minimum Wage
- ☒ Overtime
- ☐ Not paid for all hours worked
- ☐ Not paid wages due on termination
- ☐ Other Unpaid Wages
- ☐ Tips or Gratuities
- ☐ Payment or Reimbursement of Employee Expenses
- ☐ Improper Form of Payment Including NSF Checks
- ☐ Kickbacks
- ☒ Meal and Rest Breaks
- ☐ Sick Leave
- ☐ Lactation Accommodation (Labor Code 1030–1033)
- ☐ Not providing required time off, other
- ☐ Pay Discrimination on basis of sex, (Labor Code 1197.5)
- ☐ No Wage Statements
- ☐ Improper or Incomplete Wage Statements
- ☐ Other Notice or Posting or Recordkeeping
- ☐ Public Works (Labor Code 1720 – 1815)
- ☐ Apprenticeship (Labor Code 3070 – 3098)
- ☐ Occupational Safety and Health (Labor Code 6300 et seq)
- ☐ No Workers' Compensation
- ☐ Licensing, Registration, or Permit
- ☐ Unfair Immigration Activities
- ☐ Agricultural Labor Relations
- ☐ Industrial Homework
- ☐ Retaliation for Protected Status or Activity (Specify)
- ☒ Other

Child Labor – Specify Ages

Provide Details of Other Violation *

Violation of Labor Code sections 204 and 210

Other(Maybe Multiple)

☒ Other Violation

Provide Details of Other Violation *

Violation of Labor Code sections 1174 and 226

Other(Maybe Multiple)

☐ Other Violation

PAGA Claim Type – Check All that Apply *

PAGA Claim Type – Check All that Apply *

- ☒ Notice asserts one or more Labor Code violations listed in Labor Code 2699.5– not curable subject to 2699.3(a)
- ☐ Notice asserts one or more OSHA violations subject to requirements of 2699.3(b)
- ☐ Includes one or more violations not listed in Labor Code 2699.5 – curable subject to 2699.3(c)

Amended Notice

Amended Notice *

Amended LW...-17-2024.pdf

Other Attachment (if any) (must be a .pdf)

No file chosen

[Add Another Attachment](#)

Should you have questions regarding this online form, please contact PAGAInfo@dir.ca.gov

IMPORTANT NOTICE OF REDACTION RESPONSIBILITY: All filers must redact: Social Security or taxpayer identification numbers; personal addresses, personal telephone numbers, personal email addresses, dates of birth; names of minor children; & financial account numbers. This requirement applies to all documents, including attachments.

☒ I understand that, if I file, I must comply with the redaction rules consistent with this notice.

[Previous Page](#)

[Submit](#)

Thank you. If you provided an email address with your submission, a confirmation regarding your submission will be emailed to you. Otherwise, you can search for the case to verify that your submission was properly received.

[Click Here](#) to Search Case

From: DIR PAGA Unit <lwdadonotreply@dir.ca.gov>
Sent: Wednesday, January 17, 2024 4:54 PM
To: Service Email
Subject: Thank you for your Amended PAGA Claim Notice Submission.

External Email!

01/17/2024 04:53:30 PM

Thank you for your submission to the Labor and Workforce Development Agency.

Item submitted: Amended PAGA Claim Notice

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website:

https://nam10.safelinks.protection.outlook.com/?url=http%3A%2F%2Flabor.ca.gov%2FPrivate_Attorneys_General_Act.htm&data=05%7C02%7CKimberly%40kingsleykingsley.com%7C68e38d074f4e4c4421ae08dc17bfeede%7C121a7875dbeb4c0fb25c5baf6c6ac7a5%7C1%7C0%7C638411360335301822%7CUnknown%7CTWFpbGZsb3d8eyJWlloiMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6IjEhaWwiLCJXVCi6Mn0%3D%7C3000%7C%7C%7C&sdata=a8d1Kwbl7fOuc6ALy4z6WhxVjdND1pswKFB6w2JkxW8%3D&reserved=0