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VIA Certified Postal Mail

December 21, 2021

Labor and Workforce Development Agency
(via online submission)

ABM INDUSTRY GROUPS, LLC
14141 Southwest Freeway, Suite 477
Sugar Land, Texas 77478

FLOWERS BAKING CO. OF MODESTO, LLC
736 Mariposa Road.
Modesto, California 95354

RE: Labor Code §2699 Notice by Aggrieved Employee

This constitutes statutory notice pursuant to Labor Code § 2699.3(a)(1) for purposes of bringing a claim under the Private Attorneys General Act, Cal. Labor Code § 2699, et seq. Please consider this a request for the California Labor & Workforce Development Agency (“LWDA” or “Agency”) to take action against ABM INDUSTRY GROUPS, LLC and FLOWERS BAKING CO. OF MODESTO, LLC, and their agents, managers and supervisors (collectively “Defendants”), for violations of the California Labor Code described below. I am writing on behalf of Efren Linares, an aggrieved employee represented by this law firm (hereinafter “Aggrieved Plaintiff”) who seeks to assert a PAGA claim on behalf of the State of California and all other similarly situated current or former employees who have been employed by Defendants in California during the relevant time period. Specifically, this notice is given on behalf of the following category of aggrieved employees:

All non-exempt employees of ABM INDUSTRY GROUPS, LLC and/or FLOWERS BAKING CO. OF MODESTO, LLC who performed work in California for Defendants at any time after December 21, 2020.

PLEASE TAKE NOTICE THAT THIS IS ALSO 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 IWC 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 of customers of the facilities that 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 nonpayment 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 §§ 210, 558, 1197.1, and other provisions of the Labor Code, please consider this a notice to Defendants' 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. As used herein, "Defendants" refers to all liable persons and entities, including owners, supervisors, managers, agents, and any other person acting on behalf of Defendants who "caused" the violations at issue.

Defendant FLOWERS BAKING CO. OF MODESTO, LLC ("FLOWERS") operates a food production facility in Modesto, California, and contracts with ABM INDUSTRY GROUPS, LLC ("ABM") for the provision of janitorial services at said facility. In so doing, both of these Defendants jointly employed Aggrieved Plaintiff and similarly situated aggrieved employees herein. Plaintiff initially worked at FLOWERS' plant in the production department in or about 2014-2015. During that time, Plaintiff was formally employed by ABM but answered directly to FLOWERS. After that time period, in or about 2015, Plaintiff moved from production to performing custodial work, and began reporting directly to ABM. Throughout Plaintiff's employment by ABM and/or FLOWERS, ABM employees performed work inside the FLOWERS plant but were not considered actual employees of FLOWERS. Indeed, Plaintiff never received a paycheck listing FLOWERS as his employer.

This investigation request and notice of California Labor Code violations concerns the systematic failure by Defendants to pay all overtime hours worked (i.e., those over 8 in a workday and over 40 in a week) at the proper overtime wage rate of one-and-one-half times the regular rate of pay. This failure to pay overtime at the proper rate stems from Defendants' use of a shift differential pay system, whereunder aggrieved employees are paid multiple rates of pay (i.e., shift differentials). However, overtime pay rates are only calculated based on the lower, straight-time rate, instead of the mandated Regular Rate of Pay after factoring in the presence of hours worked under shift differentials.

Under this practice, Defendants have failed to pay current and former California 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 pay overtime wages for overtime hours worked, failing to provide accurate wage statements, and failing to pay all wages owed upon separation from employment. These violations are a uniform policy applied to all non-exempt employees of Defendants.

Liability under the Private Attorneys General Act (Cal. Labor Code §§ 2698 et seq.) ("PAGA") may be based on a wide variety of Labor Code provisions, including but not limited to §§ 201, 202, 203, 210, 216, 218, 218.6, 221, 223, 225, 226, 226.7, 510, 512, 1174, 1175, 1194, 1194.2, 1197, 1197.1 1199 and

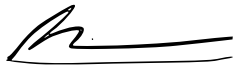
2673.1(a), IWC wage orders, 2699 et seq. and all of the provisions listed in Labor Code 2699.5 (including the penalty provisions related to these predicate provisions), among others. Any violation of these or any other Labor Code provisions serves as the basis for a PAGA claim by an aggrieved employee on behalf of themselves and other current and former employees.

The above provisions do not include all of the derivative penalties associated with the above provisions, which are listed throughout the Labor Code. If no action is taken within 60 days, we will assume that we may pursue this action under the theories described above against described entities above and their managers, agents, owners and other liable persons and entities (pursuant to §210, 558 and 1197.1 (and other provisions)).

Plaintiff may be contacted through our office: Mallison & Martinez Attorneys at Law, 1939 Harrison Street, Suite 730, Oakland, California 94612.

Sincerely,

MALLISON & MARTINEZ

A handwritten signature in black ink, appearing to read 'Stan Mallison', with a horizontal line underneath.

Stan Mallison, Esq.

Encls.