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February 29, 2016

24378

**VIA CERTIFIED MAIL (w/ RETURN RECEIPT)**

Attn: PAGA Administrator  
1515 Clay Street, Suite 801  
Oakland, California 94612

**Re: Ontario 947, Inc. - Notice of Labor Code Violations pursuant to Labor Code §2699.3(a)(1)**

Dear Secretary Lanier:

This letter shall constitute the required written notification under Labor Code §2699.3(a)(1) of Labor Code violations alleged against Ontario 947, Inc. Our client **Sunday Thompson** worked for Ontario 947, Inc. (d.b.a. IHOP Restaurant in Ontario, CA) as a non-exempt hourly employee. Claimant and other non-exempt employees were subject to several Labor Code violations by Ontario 947, Inc. The claimant hereby issues this Notice to both the LWDA and the employer in compliance with the notice requirements of Labor Code section 2699.3(a)(1).

The claimant hereby gives Notice of the following specific provisions of the Labor Code that have been violated and the facts and theories to support the alleged violation:

| Violation                        | Facts and Theories                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|----------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Labor Code sections 510 and 1194 | <p>Labor Code section 510 states: "Eight hours of labor constitutes a day's work. Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Labor Code section 1194 provides "any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees, and costs of suit."</p> <p>Here, Claimant and other non-exempt employees of Ontario 947, Inc. regularly worked in excess of eight hours in one workday and in excess of 40 hours in one workweek and were not paid one and a half times their pay rate. As a result of this practice, Labor Code sections 510 and 1194 were violated.</p> |

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| Labor Code section 204               | Labor Code section 204 states that “all wages . . . earned by any person in employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays.” As a result of the aforementioned practices, i.e. paying employees the regular pay for overtime hours, all earned wages were not paid on the regular paydays in violation of Labor Code section 204.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Labor Code section 226               | As a result of the aforementioned practices, Ontario 947, Inc. failed to furnish accurate itemized statements that accurately reported: all applicable hourly rates and total hours worked by the employee in violation of Labor Code section 226.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| Labor Code sections 226.7 and 512    | <p>Ontario 947, Inc. did not provide timely, compliant meal and rest periods. Labor Code sections 226.7 and 512 provide that no employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes. Under these provisions, a first meal period is required no later than the end of an employee’s fifth hour of work, and a second meal period no later than the end of an employee’s 10<sup>th</sup> hour of work. Labor Code section 226.7 further provide that employers shall authorize and permit employees to take rest periods at the rate of (10) minutes net rest time per four (4) hours of work. This means that an employer must provide 10 minutes net rest time per 4 hours or major fraction thereof. If an employer fails to provide an employee meal and/or rest periods in accordance with this law, the employer shall pay the employee one (1) hour of pay at the employee’s regular rate of compensation for each workday that the meal or rest period is not provided.</p> <p>Here, Claimant and other non-exempt employees of Ontario 947, Inc. frequently did not receive their meal break prior to the fifth hour of work. Claimant and other non-exempt employees were not provided with the opportunity to take a compliant meal break, free from interruptions because the restaurant would be extremely busy, and there were not enough staff members to ensure each person received a compliant break. Furthermore, even when Claimant and other non-exempt employees were able to begin their lunch period before the fifth hour worked, they were often interrupted during their meal.</p> |
| Labor Code sections 201, 202 and 203 | <p>Labor Code section 201 states that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately. Labor Code section 202 states that if an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting. In either case, if an employer willfully fails to pay in accordance with 201 and 202, any wages of an employee who is discharge or who quits shall continue as a penalty.</p> <p>Here, Ontario 947, Inc. has failed to pay all earned overtime wages and premium wages for missed meal and rest periods to those employees who were discharged or who quit in violation of Labor Code section 201 and 202.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |

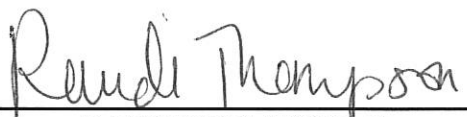
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|                         | Additionally, Ontario 947, Inc. has not paid any of the continuation wages under Labor Code section 203.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| Labor Code section 351  | <p>An employer cannot collect, take, or receive any gratuity given or left for an employee, or deduct any amount from wages due an employee on account of a gratuity given or left for an employee. Labor Code § 351</p> <p>Here, Ontario 947, Inc. instructed employees to input "\$0.00" for their tip reportings, in contravention with IRS policies as described on the IRS website. Claimant believes that by requiring employees to report "\$0.00," when in fact they had earned tips, Ontario 947, Inc. avoided paying all taxes due, but still deducted taxes as if tips were reported from employees' paychecks. In fact, 'direct tips' is listed as a 'deduction' on Claimant's pay stubs. When Claimant complained about this practice stating that she believed Ontario 947 was making unlawful deductions, she never received a response.</p> |
| Labor Code section 2802 | <p>Section 2802 of the California Labor Code compels employers to indemnify employees for all "necessary expenditures or losses incurred by the employee in direct consequences of the discharge of his or her duties, or of his or her obedience to the directions of the employer."</p> <p>Here, Ontario 947, Inc. failed to reimburse Claimant and other non-exempt employees for their necessary business expenses.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                 |

Please notify us within the required time period whether or not the Labor and Workforce Development Agency intends to investigate these alleged violations. **If no** such notice is received within 33 calendar days of the postmark date of this letter, we will proceed with a civil action for penalties pursuant to Labor Code § 2699. Please send the Notice to our office located at 11601 Wilshire Blvd., Suite 2440, Los Angeles, CA 90025.

Thank you for your attention to this matter.

Very Truly Yours,

**MAKAREM & ASSOCIATES, APLC**

By:   
 RANDI THOMPSON, Esq.

cc: **Siyavoush Soleimani**  
 Agent for Service of Process  
**Ontario 947, Inc.**  
 700 Sunset Blvd.  
 Hollywood, CA 90028

**(Certified Mail with Return Envelope)**

**CERTIFIED MAIL**



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