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February 8, 2016

VIA CERTIFIED MAIL (w/ RETURN RECEIPT)

ATTN: PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612

Re: ***Frangie Motors, Inc./Toyota of SLO***

Notice of Labor Code Violations pursuant to Labor Code §2699.3(a)(1)

Dear PAGA Administrator:

This letter shall constitute the required written notification under Labor Code §2699.3(a)(1) of Labor Code violations alleged against Frangie Motors, Inc. dba Toyota of San Luis Obispo ("Toyota").

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 violations:

Violation	Facts and Theories
Labor Code sections 510 and 1194	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." Labor Code section 1194 provides: "Notwithstanding any agreement to work for a lesser wage, 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

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	the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees, and costs of suit." Toyota often engaged in practices that did not include all the hours worked by its employees, which resulted in their hours not being calculated for overtime pay. For example, Claimant and other non-exempt employees of Toyota ("Toyota Employees") regularly worked in excess of eight hours in one workday and in excess of 40 hours in one workweek, and were often not compensated with overtime pay. As a result of this practice, Labor Code sections 510 and 1194 were violated. Additionally, Toyota did not factor in non-discretionary bonuses when calculating the overtime rate for employees. By not adding in non-discretionary bonuses into an employee's regular rate of pay, Defendant paid Claimant and Toyota Employees less than required under California Law.
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." Toyota often engaged in practices that did not include all the hours worked by its employees, which resulted in their hours not being calculated for overtime pay. For example, Claimant and other Gate City Employees regularly worked in excess of eight hours in one workday and in excess of 40 hours in one workweek, and were often not compensated with overtime pay. As a result, all earned wages were not paid on the regular paydays.
Labor Code section 226	Labor Code § 226(a) provides: "Every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and

	only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee and, beginning July 1, 2013, if the employer is a temporary services employer as defined in Section 201.3, the rate of pay and the total hours worked for each temporary services assignment." Claimant and Toyota Employees' pay stubs do not state the number of regular hours of work, the number of overtime hours worked, or the rate of pay for regular and overtime hours. Therefore, Toyota failed to furnish accurate wage statements in violation of Labor Code section 226.
Labor Code sections 226.7 and 512	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 10th hour of work. If an employer fails to provide an employee meal 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 period is not provided. As discussed above, Claimant and other Toyota Employees typically worked shifts that were over 8 hours without receiving a requisite meal break. Moreover, Toyota Employees would frequently work in excess of 10 hours without a second meal break. Despite this, Toyota would require Claimant and other Toyota Employees to write that they took a meal break on their time-sheets, and/or sign a statement providing that they did so, when in fact they did not. Further, Claimant almost never took a second meal break when he worked over 10 hours, and did not ever waive his right to do so. As such, Toyota violated Labor Code sections 226.7 and 512.
Labor Code 226.7	Labor Code section 226.7 provides 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, or major fraction thereof. This means that an employer must provide 10 minutes net rest time for each four hour period worked by employees. If an employer fails to provide an employee 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 rest period is not provided. Claimant and other Toyota Employees did not receive rest breaks during their workday. Claimant and other Toyota Employees were too busy assisting customers during the day to take 10-minute rest breaks.
Labor Code sections 201, 202 and 203	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. Here, Toyota failed to pay all earned overtime wages, and premium wages for missed meal and rest periods to those employees who were discharge or who quit in violation of Labor Code section 201 and 202. Additionally, Toyota has not paid any of the continuation wages under Labor Code section 203.
Labor Code Section 2802	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. Examples of this enlarged responsibility include travel expenses. As part of their work, Claimant and other Toyota Employees had to use their personal cell phones. Despite this, Toyota would not reimburse Claimant and other Toyota Employees for any portion of their cell phones used to perform their job duties.
Labor Code 226 and 1174.5	Labor Code section 1174.5 states: "Any person employing labor who willfully fails to maintain the records required by subdivision (c) of Section 1174 or accurate and complete records required by subdivision (d) of Section 1174, or to allow any member of the commission or employees of the division to inspect records pursuant to subdivision (b) of Section 1174, shall be subject to a civil penalty of five hundred dollars (\$500)." As a result of the aforementioned practices, i.e. Toyota automatically deducting a 30-minute meal period from Toyota Employees' pay

	every day when such a meal break was not taken, Toyota willfully failed to maintain Claimants' and other Toyota Employees' accurate and complete employment records.
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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. Such as civil action will be pursued on behalf of Claimant and other Toyota Employees. 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.

Respectfully,

MAKAREM & ASSOCIATES, APLC

By: 
RANDI THOMPSON, Esq.

cc: **Frangie Motors, Inc.**
Agent for Service of Process: John S. Frangie
12350 Los Osos Valley Road
San Luis Obispo, California 93405

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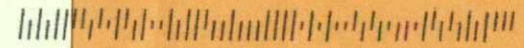
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