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January 30, 2025

VIA ONLINE SUBMISSION

Stewart Knox, Secretary
California Labor & Workforce
Development Agency
800 Capitol Mall, Suite 5000 (MIC-55)
Sacramento, CA 95814

VIA CERTIFIED MAIL

BC2 Environmental, LLC
Attn: Legal Department
1150 W. Trenton Ave.
Orange, CA 92867

**NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO CALIFORNIA LABOR CODE
SECTION 2698, ET SEQ.**

To: The California Labor and Workforce Development Agency; BC2 Environmental, LLC

From: Nicolas Spinella, on behalf of himself and all other current and former hourly nonexempt employees for violations of the California Labor Code

To Whom It May Concern:

Abramson Labor Group has been retained by former employee Nicolas Spinella ("Mr. Spinella") to seek compensation and all other available relief, including civil penalties on his behalf and on the behalf of all those similarly aggrieved (collectively with Mr. Spinella, "Claimants") who have been injured by BC2 Environmental, LLC's ("BC2 Environmental") violations of the California Labor Code. Mr. Spinella, on behalf of himself and all other similarly aggrieved current and former hourly nonexempt employees of BC2 Environmental, intends to seek civil penalties, attorneys' fees, costs, and other available relief for violations of the California Labor Code, which are recoverable under sections 2698, *et seq.* of the Labor Code Private Attorneys General Act of 2004 ("PAGA").

Factual Statement:

BC2 Environmental is operating through California as a company offer customers a broad range of environmental and geotechnical drilling services, including groundwater and vapor well installation, direct push sampling and groundwater monitoring.

Claimant Mr. Spinella works for BC2 Environmental as an hourly, nonexempt employee in the position of Driller Helper, earning \$22.00 per hour from approximately October 9, 2023 through May 16, 2024. Mr. Spinella, on behalf of himself and all other similarly aggrieved current and former employees in California in various positions, are or were engaged in providing environmental and geotechnical drilling services. As part of their employment with BC2 Environmental, Claimant and other hourly, nonexempt employees, collectively, “hourly nonexempt employees,” are or were assigned to and required to suffer and permitted to work, some with and some without pay, while performing tasks collectively including, but not limited to, meeting with crew; carpooling in the company vehicle to and from the day’s jobsite; setting up the jobsite; working with Drillers and Drillers’ Helpers; and loading up the items needed for the next workday.

Claimant Mr. Spinella regularly worked five (5) days per week for 10-14 hours or more hours per day. During the entire course of his employment, BC2 Environmental failed to provide Mr. Spinella and continues to fail to provide those similarly aggrieved with some overtime pay and compliant meal periods and rest breaks. BC2 Environmental has also failed to pay minimum wages to Mr. Spinella and other hourly, nonexempt employees in violation of Labor Code sections 510, 1194, 1197, and 1182.12, and section 4 of IWC Wage Order No. 16-2001. As a consequence, BC2 Environmental has failed to comply with Labor Code sections 226.7, 510, and 512, and sections 3, 11, and 12 of all applicable Industrial Welfare Commission (“IWC”) Wage Orders, including but not limited to, IWC Wage Order No. 16-2001. In violation of Labor Code sections 510, 1194, 1197, and 1182.12, BC2 Environmental has failed to compensate Claimants at a rate of one and one-half (1.5) times their regular rate for all hours worked over eight (8) hours per workday and the first eight (8) hours worked on the seventh day of a workweek and at two (2) times their regular rate for hours worked over twelve (12) hours per workday and eight (8) hours on the seventh day of a workweek.

BC2 Environmental has also failed and continues to fail to pay all wages owed every pay period in violation of Labor Code section 204. Likewise, BC2 Environmental has failed and continues to fail to keep accurate time records of Claimants’ time worked and has failed to provide timely, accurate wage statements to Mr. Spinella and other aggrieved persons in violation of Labor Code section 226(a). With regard to those no longer employed by BC2 Environmental, including Mr. Spinella, BC2 Environmental has violated Labor Code section 203 by failing to pay all wages due upon separation. BC2 Environmental has failed and continues to fail to fully reimburse Claimants for all necessary, business-related expenses and losses they incurred, including, but not limited to, all costs incurred for cell phone expenses and laundering clothing, both of which were required to carry out their duties, in violation of Labor Code section 2802. Mr. Spinella is informed and believes that such violations are ongoing, systematic, and continuous. Mr. Spinella intends to bring an action against BC2 Environmental under the Private Attorneys General Act (“PAGA”) to recover wages and penalties as provided by California law.¹

¹ Without limitation, Mr. Spinella, if permitted, will seek any and all penalties otherwise capable of being collected by the Commission. This includes each provision as set forth in Labor Code section 2699.5 as follows:

The provisions of subdivision (a) of Section 2699.3 apply to any alleged violation of the following provisions: subdivision (k) of Section 96, Sections 98.6, 201, 201.3, 201.5, 201.7, 202, 203, 203.1, 203.5, 204, 204a, 204b, 204.1, 204.2, 205, 205.5, 206, 206.5, 208, 209, and 212, subdivision (d) of Section 213, Sections 221, 222, 222.5, 223, and 224, subdivision (a) of Section 226, Sections 226.7, 227, 227.3, 230, 230.1, 230.2, 230.3, 230A, 230.7, 230.8, and 231, subdivision (c) of Section 232, subdivision (c) of Section 232.5, Sections 233, 234, 351, 353,

Theories of Labor Code Violations and Remedies:

Claimant Mr. Spinella was employed by BC2 Environmental from approximately October 9, 2023 through May 16, 2024 as a Driller Helper. For a period of at least four (4) years prior to January 2025, but for our purposes here, one (1) year prior, BC2 Environmental has violated and continues to violate the California Labor Code sections as detailed below.

Claimants also were at all times entitled to payment of **minimum wages**. BC2 Environmental has failed and continues to fail to pay Claimants minimum wages for all hours worked as required by Labor Code sections 510, 1194, and 1194.2 and section 4 of IWC Wage Order No. 16-2001. First, Claimants worked a substantial amount of time while off-the-clock—meaning they were not punched in for work—and therefore, those working hours were not recorded and then compensated. This off-the-clock time primarily occurred because Claimants regularly (1) upon arrival at the yard but before clocking in at the start of their shifts, started performing compensable work at the request of other employees; (2) ended their shifts by performing work for an extended period of time that needed to be completed that day to get ready for the next day; and (3) for auto-deductions of 60 minutes for “phantom meal periods (described in the next paragraph).” Claimants’ off-the-clock time was never subsequently added and, therefore, uncompensated as was the 60-minute phantom meal period time deductions. Accordingly, Claimants were not paid for that time spent working off the clock. Second, Defendant enforces practices that effectively require Claimants to perform work during their meal periods and rest breaks, the effects of which Defendant could have mitigated by increasing staff to provide coverage so Claimants can take meal periods and rest breaks truly off-duty. However, Defendant instead chose to preserve smaller-than-optimum staffing levels, which forced meal periods and rest breaks into noncompliance. With that, BC2 Environmental’s corresponding failure to provide premium pay at the correct regular rate, if any premiums were paid at all, in lieu of compliant meal periods and rest breaks constitutes BC2 Environmental’s failure to pay minimum wages and all hours worked every pay period and upon separation in violation of Labor Code sections 201, 202, 203, 204, 226(a), 510, 1182.12, 1194, and 1197. BC2 Environmental’s failure to pay Claimants their meal period and rest break premiums for noncompliant meal periods and rest breaks, as explained in further detail below, also constitutes a failure to pay minimum wages to Claimants. Therefore, Claimants are entitled to recover wages and/or penalties as provided by Labor Code section 1197.1 and section 20 of IWC Wage Order No. 16-2001.

Claimants were at all times entitled to unpaid, timely, off-duty, uninterrupted **meal periods**. As explained in the preceding paragraph, BC2 Environmental failed to authorize and permit timely, full-length meal periods for Mr. Spinella and all other similarly aggrieved employees as required by Labor Code sections 226.7 and 512 and section 11 of IWC Wage Order No. 16-2001. Mr. Spinella and Claimants’ meal periods were noncompliant because they regularly missed their entire meal periods because of the need to timely complete the day’s workload. Even though they missed their meal periods and did not clock out for them, Claimants were instructed to report on the timekeeping system that they received a meal period (without indicating a duration) to avoid getting in trouble. The reason they would have gotten in trouble was because the failure to report no meal period taken would potentially trigger a meal period premium. As

and 403, subdivision (b) of Section 404, Sections 432.2, 432.5, 432.7, 435, 450, 510, 511, 512, 513, 551, 552, 601, 602, 603, 604, 750, 751.8, 800, 850, 851, 851.5, 852, 921, 922, 923, 970, 973, 976, 1021, 1021.5, 1025, 1026, 1101, 1102, 1102.5, and 1153, subdivisions (c) and (d) of Section 1174, Sections 1194, 1197, 1197.1, 1197.5, and 1198, subdivision (b) of Section 1198.3, Sections 1199, 1199.5, 1290, 1292, 1293, 1293.1, 1294, 1294.1, 1294.5, 1296, 1297, 1298, 1301, 1308, 1308.1, 1308.7, 1309, 1309.5, 1391, 1391.1, 1391.2, 1392, 1683, and 1695, subdivision (a) of Section 1695.5, Sections 1695.55, 1695.6, 1695.7, 1695.8, 1695.9, 1696, 1696.5, 1696.6, 1697.1, 1700.25, 1700.26, 1700.31, 1700.32, 1700.40, and 1700.47, paragraphs (1), (2), and (3) of subdivision (a) of, and subdivision (e) of, Section 1701.4, subdivision (a) of Section 1701.5, Sections 1701.8, 1701.10, 1701.12, 1735, 1771, 1774, 1776, 1777.5, 1811, 1815, 2651., and 2673, subdivision (a) of Section 2673.1, Sections 2695.2, 2800, 2801, 2802, 2806, and 2810, subdivision (b) of Section 2929, and Sections 3095, 6310, 6311, and 6399.7.

a result, upon information and belief, BC2 Environmental auto-deducted 60 minutes from Claimants' total hours worked for "phantom" meal periods. Additionally but to a lesser extent, Claimants took their meal periods late—after the end of the fifth hour—to avoid an inconvenient stoppage in the drilling work in progress. Nonetheless, BC2 Environmental did not compensate Claimants with an extra hour of pay at the regular rate for noncompliant meal periods for each workday on which they occurred. Accordingly, since BC2 Environmental required Mr. Spinella and others similarly situated to work during their meal periods in violation of Labor Code sections 226.7(a) and 512, Claimants seek all available penalties as set forth in Labor Code sections 558, section 20 of IWC Wage Order No. 16-2001, and 2699(f).

Claimants were at all times entitled to take paid, off duty 10-minute **rest breaks**. However, for the same reasons cited in the preceding paragraph regarding meal periods, BC2 Environmental likewise failed to authorize and permit Mr. Spinella and all other similarly aggrieved employees to take full-length, off-duty rest breaks as required by Labor Code sections 226.7 and section 12 of IWC Wage Order No. 16-2001. Claimants were not able to take their requisite number of 10-minutes rest breaks based on their shift duration. More specifically, Mr. Spinella and Claimants' rest breaks were noncompliant because they were required to completely forego at least one of their rest breaks each shift because of the need to timely complete the day's workload. Nonetheless, BC2 Environmental did not compensate Claimants with an extra hour of pay at the regular rate for noncompliant rest breaks for each workday on which they occurred. Therefore, Claimants are entitled to recover wages and/or penalties as provided by Labor Code section 558 and section 20 of IWC Wage Order No. 16-2001. Furthermore, since BC2 Environmental required their hourly nonexempt employees to perform work during rest periods in violation of Labor Code section 226.7(b), Claimants seek all available penalties set forth in Labor Code sections 558 and 2699.

At all times relevant herein, Claimants were entitled to the payment of **overtime**. That is, pursuant to Labor Code sections 510, 1194, 1197, and 1182.12, BC2 Environmental was required to compensate Claimants at a rate of one-and-one-half (1.5) times their regular rate for all hours worked over eight (8) hours per workday and the first eight (8) hours worked on the seventh day of a workweek and at two (2) times their regular rate for hours worked over twelve (12) hours per workday and eight (8) hours on the seventh day of a workweek. Mr. Spinella and Claimants regularly worked overtime hours. BC2 Environmental has failed to and continues to fail to pay Claimants overtime wages owed for off-the-clock time worked that should have been compensated as overtime, yet regularly required them to work these overtime hours without premium pay under Labor Code section 1194. In short, during the entire course of their employment, BC2 Environmental failed to provide Mr. Spinella and continues to fail to provide all others similarly situated with all overtime pay in violation of 226.7, 510, and 512 and all applicable IWC Wage Orders, including but not limited to IWC Wage Order No. 16-2001, section 3.

Pursuant to Labor Code sections 201–203, Claimants who have since separated from BC2 Environmental, including Mr. Spinella, were entitled to be paid all **wages owed upon separation** within the statutorily allotted time—immediately (resignation with notice and termination) or within seventy-two (72) hours (resignation without notice). Claimants, including Mr. Spinella, did not receive his final pay of all wages immediately upon being terminated nor did he receive the wages BC2 Environmental did pay based on BC2 Environmental's prior failings to pay all wages owed every pay period, including but not limited to minimum wage, overtime, and meal and rest premiums owed and for all hours worked, as explained above. BC2 Environmental paid Mr. Spinella his final wages by mail at least four days following his termination.

Pursuant to IWC Wage Order No. 16-2001, employers are required to keep **accurate time records** showing when employees begin and end each work period, including meal periods. During the relevant time period, BC2 Environmental had a company-wide policy and engaged in a companywide practice of failing to record actual hours worked by failing to require Claimants to record their meal period start and stop times when Claimants reported that they took their meal periods on the timekeeping system when they didn't actually take a meal period. Upon information and belief, BC2 Environmental auto-deducted 60

minutes for these “phantom” meal periods, thereby reducing Claimants total hours worked, some of which may have qualified as overtime. Therefore, BC2 Environmental failed to keep accurate records of work period start and stop times for Claimants, in violation of section 1198. More specifically, Mr. Spinella and Claimants did not record their meal periods—neither the duration nor the start and stop times; rather, BC2 Environmental auto-deducted 60 minutes for meal periods from their total time worked. Because BC2 Environmental failed to provide the actual hours worked and, therefore, the correct net and gross wages earned, applicable rates of pay, and number of total hours worked on Claimants’ wage statements, Claimants have been prevented from verifying—solely from information on the wage statements themselves—that they were paid correctly and in full. Instead, Claimants have had to refer to other sources beyond their wage statements and reconstruct time records to determine whether in fact they were paid correctly and the extent to which they were underpaid, thereby causing them injury. BC2 Environmental’s decision to fail to record this time was knowing and intentional because it was in the sole position to set forth and implement and enforce these companywide practices. Accordingly, Claimants are entitled to recover civil penalties, attorneys’ fees, costs, and interest thereon pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f)–(g).

Claimants were at all times entitled to be provided timely and accurate **wage statements** from BC2 Environmental pursuant to Labor Code section 226. Because BC2 Environmental failed to pay Claimants minimum wages for all hours worked before, during, and after their shifts and for all overtime wages due, Claimants’ wage statements were inaccurate in reflecting overtime and minimum wages, and all hours worked every pay period. As a consequence, Claimants’ wage statements also do not reflect the accurate amount of net and gross wages owed. Accordingly, Claimants seek all available penalties as set forth in Labor Code sections 226(e) and 2699.

Finally, Claimants were entitled to be reimbursed by BC2 Environmental for all necessary, **business-related expenses** they incurred in executing their duties for BC2 Environmental. California Labor Code section 2802 provides that “An employer shall indemnify his or his employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or his duties, or of his or his obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful.” BC2 Environmental, however, has failed to fully reimburse Mr. Spinella and Claimants for all necessary, business-related expenses and losses they incurred, including, but not limited to, all costs incurred for the expenses for (1) the use of their personal cell phones required to communicate with other staff and supervisors and (2) laundry expenses to separately launder oily, greasy clothing when BC2 Environmental didn’t provide such services. Accordingly, Claimants are entitled to recover their unreimbursed expenditures and losses pursuant to Labor Code section 2802.

BC2 Environmental’s uniform failure to pay minimum and overtime wages, failure to keep accurate time records, failure to furnish timely and accurate wage statements, and failure to reimburse all necessary, business-related expenses violate Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512, 1174, 1182.12, 1194, 1197, and 2802, and as such, penalties are recoverable as set forth in Labor Code sections 210, 1194, *et seq.*, and 2699.

Claimants are entitled to recover unpaid wages, with interest, and are entitled to an award of attorneys’ fees as permitted by Labor Code section 1194, other penalties as permitted by Labor Code sections 210 and 2699, and waiting time penalties for former employees pursuant to Labor Code section 203.

Accordingly, Claimants seek the remedies set forth in the above-referenced Labor Code sections for themselves, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 2699(a), 2699.3(a), 2699.3(c), and 2699.5, Mr. Spinella, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for themselves, all other aggrieved employees, and the State of California against BC2 Environmental for

violations of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1182.12, 1194, 1197, 1197.1, and 2802.

Should you require any additional information, please feel free to contact me.

Sincerely,

ABRAMSON LABOR GROUP

A handwritten signature in black ink that reads "Cheryl Kenner". The script is fluid and cursive, with the first name "Cheryl" and last name "Kenner" clearly distinguishable.

Cheryl A. Kenner