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January 21, 2025

VIA ELECTRONIC FILING

Labor & Workforce Development Agency

VIA CERTIFIED MAIL

AAA Quality Services, Inc.
321 E. Noble Ave
Farmersville, CA 93223
Defendant certified mail # 9589 0710 5270 2390 8664 54

VIA CERTIFIED MAIL

Agent for Service of Process
Sandra Theis
321 E. Noble Ave
Farmersville, CA 93223
Agent certified mail # 9589 0710 5270 2390 8664 54

VIA CERTIFIED MAIL

AAA Quality Services, Inc.
P.O. Box 535
Farmersville, CA 93223
Defendant certified mail # 9589 0710 5270 2390 8664 47

VIA CERTIFIED MAIL

Potter's Porta-Potties
321 E. Noble Ave
Farmersville, CA 93223
Defendant certified mail # 9589 0710 5270 2390 8664 54

Re: ***Christopher Kenison v. AAA Quality Services, Inc., Potter's Porta-Potties – Labor Code Violations of AAA Quality Services, Inc., Potter's Porta-Potties – Compliance Letter of California Labor Code § 2698 – Private Attorneys General Act***

Dear Sir or Madam:

This office represents Christopher Kenison ("Plaintiff"), a California employee of AAA Quality Services, Inc., Potter's Porta-Potties ("Defendants"). The purpose of this letter is to comply with the Private Attorneys General Act of 2004, pursuant to California Labor Code § 2698 *et seq.*

Our client worked for Defendants in Northern California. Herein we set forth the facts and theories of California Labor Code violations which we allege Defendant engaged in with respect to our client and Defendant's other California non-exempt employees.

Plaintiff began working for Defendants in or around February of 2024. While working for Defendant as a Operations Supervisor, Plaintiff was earning twenty-four dollars (\$24.00) per hour.

Plaintiff and Defendant's California employees were routinely unable, and not authorized to take their 10-minute rest periods and were also unable to take an uninterrupted 30-minute meal break for every shift they worked. Specifically, Plaintiff and Defendant's California employees were forced to continue working through their meal and rest breaks in order to assist Defendant's needs. Because of this, Plaintiff and Defendant's California employees were unable to take their required meal and rest breaks. Moreover, Defendants failed to pay premium wages of one hour's pay for each missed meal and rest break to Plaintiff and Defendant's California employees who were denied timely meal and rest breaks, in violation of Labor Code §§ 226.7, 512, and 558, and IWC Order No. 5-2001, Section 12.

Plaintiff and Defendant's California employees were asked to perform tasks while off the clock such as opening and closing the workspace to receive equipment, without being compensated for it. It took Plaintiff on the average of 30 minutes to complete these tasks. Moreover, Plaintiff and Defendant's California employees were asked to perform tasks prior to clocking in, without being compensated for it. It took Plaintiff on the average of 2 minutes to complete these tasks. Plaintiff and Defendant's California employees were instructed to work approximately 2-3 minutes after they had clocked out to finish their assignments. Plaintiff and Defendant's California employees were also required to use their work cell phone for work-related activities while off the clock, such as texting/calling supervisor/boss, texting/calling clients, texting/calling co-workers, without being compensated for it. It took Plaintiff on the average of 5-60 minutes to complete these tasks. Defendant did not compensate Plaintiff and Defendant's California employees if these tasks were completed outside of his regular work hours. These excess hours were not recorded on our client's and Defendant's California employees wage statements. Plaintiff and Defendant's California employees should have been compensated for that time, but he was not in violation of Labor Code Sections 510, 1194, and 1194.2. As a result, Plaintiff and Defendant's California employees were not paid for all hours worked including all straight time wages, and overtime wages. These failures to pay wages constitute violations of Labor Code § 510 and 1194.

Plaintiff, on behalf of himself and all other California employees of Defendant claims that Defendant has failed to pay all overtime wages due to non-exempt employees. Defendant pays their employees bonuses and commissions which are not included in the employees regular rate of pay for the purposes of computing the proper overtime rate. As a result, employees are not properly compensated for work performed in excess of eight (8) hours in a workday and work performed in excess of forty (40) hours in a workweek at a rate of no less than one and one-half times the regular rate of pay. These failures to pay all overtime wages constitute violations of Labor Code §§ 510, 1194, and 1194.2.

Plaintiff also claims that Defendant has failed to pay all overtime wages due to non-exempt employees. As a result, employees are not properly compensated for work performance in excess of eight (8) hours in a workday and work performed in excess of forty (40) hours in a workweek at a rate of no less than one and one-half times the regular rate of pay. Employees of Defendant regularly work in excess of eight (8) hours in a day or more than forty (40) hours per week and do not receive overtime compensation at a rate of one and one half of their regular rate. Plaintiff and Defendant's California employees were forced to work overtime and were not paid for all hours worked including all straight time wages, and overtime wages. These failures to pay all overtime wages constitute violations of Labor Code §§ 510, 1194, 1194.2.

Additionally, Labor Code Section 1194(a) states: "[n]otwithstanding 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 the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees, and costs of suit. Plaintiff and Defendant's California employees claim that Defendant engaged in "illegal rounding." This essentially means that the Defendant underpaid Plaintiff by rounding the time Plaintiff worked in violation of Labor Code Section 1194(a).

Defendant failed to issue Plaintiff and Defendant's California employees accurately itemized wage statements. As Defendant failed to compensate Plaintiff and Defendant's California employees with all wages due, as detailed above, their wage statements failed to accurately state all gross wages earned, in violation of Labor Code § 226(a)(1), total hours worked, in violation of Labor Code § 226(a)(2), net wages earned, in violation of Labor Code § 226(a)(5), and all applicable hourly rates during the pay period and the corresponding number of hours worked, in violation of Labor Code § 226(a)(9), as a result of Defendant's failure to pay all overtime wages due. Since the wage statements provided to Plaintiff failed to accurately reflect the total number of Plaintiff's worked hours, due to the time-shaving. These violations also violate Labor Code §§ 226(e) and 226.3 with respect to Plaintiff and Defendants' California employees.

Defendant knowingly and intentionally failed to provide Plaintiff and Defendant's California employees timely, accurate, itemized wage statements in accordance with Labor Code § 226 and keep accurate records as required by §1174(d). The statements provided to Plaintiff and Defendant's California employees, and the records maintained by Defendant, have not accurately

reflected actual gross wages earned, including pay for all hours worked, overtime, and meal/rest premiums, and total hour worked.

Our client further alleges that Defendants paid him and Defendant's California employees their final wages beyond the time frames set forth in Labor Code §§ 201 and 202. As they were not paid all wages due and owing throughout the course of their employment as a result of Defendant's failure to pay all premium wages as detailed above, at the time of their separation, they were not paid all final wages due and owing for the entirety of their employment. This violates Labor Code §§ 201-203.

Defendant pays Plaintiff and it's California employees on a bi-monthly basis and has failed to comply with Labor Code § 204(a) which holds that wages earned on a bi-monthly basis must be paid no later than ten calendar days following the close of the payroll period. Due to the violations described above, Plaintiff and Defendant's California employees did not receive all of their wages earned in a timely manner as required by Labor Code § 204(a)(b).

Defendant failed to reimburse Plaintiff and Defendant's California employees for the office supplies they purchased to perform work for Defendant such as, pens. Defendant also failed to reimburse Plaintiff and Defendant's California employees for their uniform maintenance. Defendant further failed to reimburse its California employees for using their personal cell phones for the benefit of Defendant. Labor Code section 2802 provides that "[a]n employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties." As such, Plaintiff and Defendant's California employees have incurred reasonable and necessary expenses in the course of their job duties, which were not reimbursed by Defendant, in violation of Labor Code § 2802.

Plaintiff further alleges that Defendant failed to comply with Wage Order §15.

Defendant failed to pay all wages earned to Plaintiff and Defendant's California employees as a result of the unlawful employment policies and practices herein. As a result of these practices, Plaintiff and Defendant's California employees were underpaid for hours worked, including overtime and penalty wages, and this underpayment resulted in a failure to pay all wages owed twice per month. Due to this failure, Defendant is liable under Labor Code § 210 for failure to pay wages as required by law.

We invite Defendant or its attorney(s) to contact our office to discuss this matter, including whether an early resolution of the claims can be reached.

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Our office awaits your response.

Very truly yours,

OTKUPMAN LAW FIRM

A handwritten signature in dark ink, appearing to be 'Roman Otkupman', is written over a horizontal line.

ROMAN OTKUPMAN