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January 16th , 2025

THROUGH ONLINE FILING- PAY NOTICE

California Labor and Workforce Development Agency
Private Attorneys General Act - Amended Filing

Re: JORGE MOLINA V. FIELD FRESH FOODS INCORPORATED.

Dear California Labor and Workforce Development Agency and FIELD FRESH FOODS, INC (collectively, "Employers"). Please note that JOSE GARAY, APLC represents the interests of JORGE MOLINA ("Claimant") and files its PAGA/LWDA notice on behalf of Claimant, the State of California, and Aggrieved Employees as Private Attorney General.

The purpose of this correspondence is to notify you that the Complainant intends to seek penalties, on behalf of himself and all other aggrieved employees, against his Employers pursuant to the Private Advocates General Act of 2004 ("PAGA"), Labor Code sections 2698 *et seq.* Claimants and works for Employers as non-exempt warehouse employees. Claimant and Aggrieved Employees are covered employees and Employers are covered employers pursuant to Labor Code § 2100 *et. seq.* This letter is sent in compliance with California Labor Code § 2699.3.

Claimant also includes within the definition of "Employers(s)" any entity contracted by FIELD FRESH FOODS, INCORPORATED to secure, locate, recruit (i.e., temporary, permanent, seasonal) any person to perform work of any kind. These entities are liable as employers or joint employers and are liable pursuant to Labor Code § 2100(f) which states:

"Employers" means a person who directly or indirectly, or through an agent or any other person, including through the services of an outside Employers, temporary service or employment agency or similar entity, employs or exercises control over the wages, hours or working conditions of 100 or more employees in a single warehouse distribution center or 1,000 or more employees at one or more warehouse distribution centers in the state. For purposes of this definition, all employees of an Employers commonly controlled group, as that term is defined in [Section 25105 of the Revenue and Taxation Code](#), shall be counted in determining the number of employees employed at a single warehouse distribution center or at one or more warehouse distribution centers in the state.

This correspondence serves as Claimants' written notice by online filing with the Labor and Workforce Development Agency ("LWDA") and by certified mail to the Employers of the specific provisions of the Labor Code alleged to have been violated, including the facts and theories to support the alleged violations, as required by Labor Code § 2699.3(a)(1). The specific provisions of the Labor Code alleged to have been violated are as follows: Labor Code sections 201, 202, 203, 204, 206, 210, 226, 226.3, 226.7, 510, 512, 558, 558.5, 1174, 1174.5, 1194, 1197,

1197.1, 1198, 1400 *et. seq.*, 2100 – 2112, 2800 - 2802, the Industrial Welfare Commission Wage Orders (“IWC Wage Order”), Cal/OSHA, and/or the California’s Health and Safety Code as it relates to the claims alleged herein.

The claims made on behalf of Claimant, the State of California, and Aggrieved Employees are based upon the following facts and theories:

1. FAILURE TO PAY FOR ALL TIME WORKED AT CORRECT RATES OF PAY, INCLUDING MINIMUM WAGES, STRAIGHT-TIME WAGES, AND OVERTIME COMPENSATION

Employers has engaged in numerous unlawful practices which resulted in the failure to pay Claimant and Aggrieved Employees for all time worked at the correct rates of pay, including minimum wages, straight-time wages, and overtime compensation.

First, Employers regularly required Claimant and other Aggrieved Employees to work off-the-clock to complete their duties and responsibilities. This off-the-clock work included, amongst other things, requiring Claimant and other Aggrieved Employees to: (1) respond to Employers and work-related requests and perform work while clocked out for purported meal breaks; (2) perform work before clocking in for the start of their shift; (3) perform work after clocking out for the end of their shift; and (4) perform work during meal periods. Claimant and other Aggrieved Employees were not compensated for this off-the-clock work, resulting in a failure to pay minimum wages and straight-time wages. Moreover, this off-the-clock work typically caused Claimant and other Aggrieved Employees to work more than eight (8) hours in a day and forty (40) hours in a week, resulting in a failure to pay overtime compensation. Employers required Claimant and Aggrieved Employees to engage in post and preliminary work and to work off-the-clock during meal periods to meet their assigned quotas.

Second, Employers also failed to accurately record the actual time he and other Aggrieved Employees, which resulted in Employers’ failure to pay for all hours worked, including minimum wages, straight-time wages, premium, overtime wages, sick pay, premium pay, bonus pay, and vacation pay.

Finally, and as a matter of policy and/or practice, Employers failed to pay overtime to Claimant and other Aggrieved Employees for the correct legal rate all overtime hours worked based on regular rates of pay including premium pay rates when applicable. Employers also failed to factor non-discretionary bonus pay into the regular rate of pay for Claimant and other Aggrieved Employees.

As a result of the foregoing practices, Employers has failed to pay Claimant and other Aggrieved Employees for all wages earned at the correct rates of pay, including non-discretionary bonus pay, minimum wages, straight-time wages, and overtime compensation. Accordingly, Employers violated the applicable IWC Wage Order and California Labor Code sections 204, 510, 1194, 1197, 1197.1 and 1198. Claimant, for himself and other Aggrieved Employees, will therefore seek PAGA default penalties; penalties pursuant to paragraph (20)(A) of the applicable IWC Wage

Order; penalties pursuant to California Labor Code sections 558, 1197.1, and 1199; and attorneys' fees and costs.

2. FAILURE TO PROVIDE MEAL PERIODS:

Employers failed to provide Claimant and other Aggrieved Employees with legally compliant 30-minute meal periods. Employers required Claimant and other Aggrieved Employees to work more than five (5) hours per day but did not provide uninterrupted 30-minute meal periods. Further, Claimant and other Aggrieved Employees were not provided with a second uninterrupted 30-minute meal period when they worked over ten (10) hours per day. Employers regularly required Claimant and other Aggrieved Employees to work through their first and second meal periods, to take their first meal period after their fifth (5th) hour of work, and/or to take their second meal period after their tenth (10th) hour of work. On the occasions that Claimant and other Aggrieved Employees did take a meal period, their meal periods were frequently interrupted, cut short, and/or were "working meal periods." Moreover, Claimant and Aggrieved Employees were not credited with time on task even though they were required to be on call or on standby during meal periods in violation of Labor Code § 2103.

Employers' excessive quotas, policies, practices, and procedures were responsible for the violations alleged above and prevented Claimant and other Aggrieved Employees from taking timely, complete and duty-free meal periods because, among other reasons: (1) Employers did not have legally-compliant policies regarding the provision and timing of meal periods or systematically disregarded its own purported meal period policies; (2) Employers' management at various levels, affecting all hourly-non-exempt employees, failed and refused to implement and enforce legally compliant meal period policies and practices; (3) Employers failed to adequately inform and train Claimant and other Aggrieved Employees regarding their right to take timely, uninterrupted, and duty-free meal periods; (4) Employers failed to adequately inform and train Claimant and other Aggrieved Employees about their right to premium wages for non-compliant meal periods; (5) Employers failed to ensure that there was adequate staffing to allow Claimant and other Aggrieved Employees to take timely, uninterrupted, and duty-free meal periods; (6) Employers required Claimant and other Aggrieved Employees to remain on-call and respond to work-related requests at all times, including during meal periods, which included responding to in-person oral interruptions; and, (7) Employers' policy and culture prevented Claimant and other Aggrieved Employees from taking timely, uninterrupted, and duty-free meal periods because of the priority placed on meeting unlawful quota and production demands and/or completing job requirements over employees' right to receive timely, uninterrupted, and duty-free meal periods.

Aggrieved Employees were adversely and unlawfully impacted by Employers' meal period policies which discouraged them from taking legal breaks to meet Employers' quota requirements.

As such, Employers' policies and practices prevented employees from complying with California's meal period laws pursuant to California Labor Code § 2102 which states, "*An employee shall not be required to meet a quota that prevents compliance with meal or rest periods, use of bathroom facilities, including reasonable travel time to and from bathroom facilities, or occupational health and safety laws in the Labor Code or division standards. An Employers shall not take adverse employment action against an employee for failure to meet a quota that does not*

allow a worker to comply with meal and rest periods, or occupational health and safety laws in the Labor Code or division standards, or for failure to meet a quota that has not been disclosed to the employee pursuant to § 2101.”

Claimant and other Aggrieved Employees did not receive an extra hour of wages at their regular rate of pay for missed meal periods as required under California law. Accordingly, Employers violated the applicable IWC Wage Order and California Labor Code sections 226.7(a), 512(a), 1198, and 2100 - 2112.

Claimant, for himself and other Aggrieved Employees, will therefore seek PAGA default penalties pursuant to Labor Code § 2699; penalties pursuant to paragraph (20)(A) of the applicable IWC Wage Order; California Labor Code sections 226.3, 558, 1197.1, and 1199 penalties; and attorneys’ fees and costs.

3. FAILURE TO PROVIDE REST PERIODS:

Employers failed to authorize and permit Claimant and other Aggrieved Employees from taking legal 10-minute rest periods. Employers required Claimant and other Aggrieved Employees to work through rest periods or to remain on call or to standby for quota updates or quota related communications verbally or through radios or cell phones. Claimant and other Aggrieved Employees were not provided with uninterrupted, duty-free rest periods when they worked more than four (4) hours or a major fraction thereof. Further, Claimant and other Aggrieved Employees were not provided with a second uninterrupted, duty-free rest period when they worked more than six (6) hours in a day, or a third uninterrupted, duty-free rest period after working more than ten (10) hours in day. In the rare event that a rest period was taken, it was frequently interrupted or cut short. Moreover, Claimant and other Aggrieved Employees were never completely relieved of duty as required by *Augustus v. ABM Security Services, Inc.*, 2 Cal.5th 257 (2016).

Employers’ excessive quotas, policies, practices, and procedures were responsible for the violations alleged above and prevented Claimant and other Aggrieved Employees from taking timely, complete, and duty-free rest periods because, among other reasons: (1) Employers did not have legally-compliant policies regarding the provision and timing of rest periods or systematically disregarded its own purported rest period policies; (2) Employers’ management at various levels, affecting all hourly-non-exempt warehouse employees, failed and refused to implement and enforce legally compliant rest period policies and practices and instead aggressively pushed aggrieved employees to meet excessive quotas; (3) Employers failed to adequately inform and train managers, leads, supervisors and foreman and Aggrieved Employees regarding their right to take timely, uninterrupted, and duty-free rest periods; (4) Employers failed to adequately inform and train Claimant and other Aggrieved Employees about their right to premium wages for non-compliant rest periods; (5) Employers failed to ensure that there was adequate staffing (except to utilize staffing agencies to replace employees who failed to meet quota) to allow Claimant and other Aggrieved Employees to take timely, uninterrupted, and duty-free rest periods; (6) Employers required Claimant and other Aggrieved Employees to remain on-call and respond to work-related requests at all times, including during rest periods, recovery periods, and meal periods, which included responding to in-person oral interruptions; and, (7) Employers’ policy and

culture prevented Claimant and other Aggrieved Employees from taking timely, uninterrupted, and duty-free rest periods because of the priority placed on completing quotas, production demands, and other job requirements over the employees' right to receive legal rest periods. Furthermore, Aggrieved Employees were adversely impacted by Employers' meal and rest period policies which discouraged them from taking legal breaks to meet Employers' quota requirements. Employers in fact enforced silent quotas which adversely impacted Aggrieved Employees rights under Labor Code § 2102, and which prevented them from complying with California's rest, meal, and recovery period laws.

As such, Employers' policies and practices prevented employees from complying with California's Labor Code § 226.7 legal right to rest, recovery and meal period laws all in violation of California Labor Code § 2102 which states, "*An employee shall not be required to meet a quota that prevents compliance with meal or rest periods, use of bathroom facilities, including reasonable travel time to and from bathroom facilities, or occupational health and safety laws in the Labor Code or division standards. An Employers shall not take adverse employment action against an employee for failure to meet a quota that does not allow a worker to comply with meal and rest periods, or occupational health and safety laws in the Labor Code or division standards, or for failure to meet a quota that has not been disclosed to the employee pursuant to § 2101.*"

Claimant and other Aggrieved Employees did not receive an extra hour of wages at their regular rate of pay for the missed rest periods as required under California law. Accordingly, Employers violated the applicable IWC Wage Order and California Labor Code sections 226.7(a), 1198, and 2100 *et seq.*

Claimant, for himself and other Aggrieved Employees, will therefore seek PAGA default penalties pursuant to Labor Code § 2699; penalties pursuant to paragraph (20)(A) of the applicable IWC Wage Order; California Labor Code sections 226.3, 558, 1197.1, and 1199 penalties; and attorneys' fees and costs.

4. FAILURE TO PROVIDE RECOVERY PERIODS:

Employers failed to provide recovery periods when requested by Aggrieved Employees or pay premium wages when a recovery period was not provided as required by Labor Code § 226.7. Employers in fact discouraged recovery periods and pressured Aggrieved Employees to utilize meal and rest period time as recovery periods and use of bathroom facility time. If Aggrieved Employees complained or did not accede to Employers' unlawful policies, they were verbally reprimanded, written up negatively for performance, ranked as unproductive or ranked in low quartiles targeted for termination, terminated, and/or adversely impacted by Employers' quota requirements in violation of Labor Code § 2102.

5. FAILURE TO TIMELY PAY WAGES DURING EMPLOYMENT.

The Employers failed to timely pay Mr. Molina and other Aggrieved Employees all wages earned each pay period including, *inter alia*, overtime compensation, straight-time wages, and meal and rest period premiums. Accordingly, Employers violated California Labor Code § 204(a).

Claimant, for himself and other Aggrieved Employees, will therefore seek PAGA penalties pursuant to Labor Code § 2699; penalties pursuant to California Labor Code sections 210 and 1199; and attorneys' fees and costs.

6. FAILURE TO PAY ALL WAGES DUE TO SEPARATED EMPLOYEES.

As to each pay period, Employers failed to timely pay all wages earned because Claimant and other Aggrieved Employees were not paid all the wages they were owed including, inter alia, overtime compensation, straight-time wages, and meal and rest period premiums. Accordingly, Employers violated California Labor Code § 201(a), 202(a) and 203(a).

Claimant, for himself and other Aggrieved Employees, will therefore seek PAGA default penalties pursuant to Labor Code § 2699; penalties pursuant to California Labor Code sections 210 and 1199; and attorneys' fees and costs.

7. FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS.

As a result of the practices described above, the Employers issued inaccurate wage statements to Mr. Molina and other Aggrieved Employees that failed to include the actual hours worked, the name and address of the legal employing entity, and the correct rates of pay. Accordingly, Employers violated California Labor Code § 226(a).

Claimant, for himself and other Aggrieved Employees, will therefore seek PAGA default penalties; penalties pursuant to California Labor Code § 226.3; and attorneys' fees and costs.

8. FAILURE TO MAINTAIN ACCURATE RECORDS.

Employers failed to maintain accurate records relating to Claimant and other Aggrieved Employees' work periods, meal periods, rest periods, recovery periods, and/or total daily hours worked, and total hours worked per payroll period. Accordingly, Employers violated the applicable IWC Wage Order and California Labor Code sections 1198.5 and 1174(d). Employers' illegal and detrimental time rounding policy caused Claimant and other Aggrieved Employees' compensable work time to be improperly recorded, depriving them of their full compensation. These failures also caused Aggrieved Employees to receive sick pay, bonus pay, vacation pay, and premium pay below the lawful rate.

Claimant, for himself and other Aggrieved Employees, will therefore seek PAGA default penalties pursuant to Labor Code § 2699; penalties pursuant to paragraph (20)(A) of the applicable IWC Wage Order; California Labor Code § 1174.5 penalties; and attorneys' fees and costs.

9. FAILURE TO REIMBURSE NECESSARY EXPENDITURES.

California Labor Code sections 2800 and 2802 require an Employers to reimburse its employees for all necessary expenditures incurred by the employee in direct consequence of the discharge of her or her job duties or in direct consequence of her or her obedience to the directions of the Employers. The applicable IWC Wage Order requires Employers to provide employees with

the tools or equipment necessary for the performance of their job. During the relevant time period, Claimant and other Aggrieved Employees incurred necessary business-related expenses and costs that Employers did not fully reimburse. These costs include but are not limited to the use of Claimant and other Aggrieved Employees' personal cell phones to send and receive messages and calls with supervisors to communicate their duties and the scope of work. Aggrieved Employees were also required to purchase items such as box cutters and other sundry tools for the benefit of Employers without reimbursement. Accordingly, Employers violated IWC Order No. 5 and California Labor Code sections 2800 and 2802.

Claimant, for himself and other Aggrieved Employees, will therefore seek PAGA default penalties pursuant to Labor Code § 2699; penalties pursuant to paragraph (20)(A) of the applicable IWC Wage Order; and attorneys' fees and costs.

10. FAILURE TO PAY VACATION TIME.

Pursuant to California Labor Code § 227.3, "[W]henver a contract of employment or Employers policy provides for paid vacations, and an employee is terminated without having taken off her vested vacation time, all vested vacation shall be paid to him as wages at her final rate in accordance with such contract of employment or Employers policy respecting eligibility or time served." During the relevant time period, Employers failed to pay Claimant and other Aggrieved Employees for all earned and unused and accrued vacation time at their final rate of pay at the time of termination of their employment. Accordingly, Employers violated California Labor Code § 227.3.

Claimant, for himself and other Aggrieved Employees, will therefore seek PAGA default penalties pursuant to Labor Code § 2699; California Labor Code § 227 penalties; and attorneys' fees and costs.

11. VIOLATION OF LABOR CODES 226, 1198.5, 432, 2104: FAILURE TO PROVIDE PERSONNEL FILE & QUOTA DESCRIPTION

Employers were served with a valid request for Claimants' personnel file and Employers failed to provide Claimants' complete personnel file and failed to disclose Claimants' written quota description pursuant to Labor Code §§ 226, 1198.5, 432, and 2104. A request for Claimants' personnel file and quota description was submitted timely and more than 21 days passed, and Employers failed to comply with the requests.

12. VIOLATION OF CALIFORNIA'S WAREHOUSE QUOTA LAWS

Employers knew or should have known it imposed systematic quota and production demands on Claimants and other Aggrieved Employees which violated the rights of employees pursuant to Labor Code sections 2100 et. seq. Employers had a duty to ensure its production demands/quotas did not prevent Claimants' and other Aggrieved Employees' from complying with laws pertaining to meal periods, rest periods, bathroom breaks, and/or expose them to safety or OSHA hazards. Employers is a "covered Employer", and its warehouse employees are "covered employees."

Employers implements quotas as defined in Labor Code § 2100(h) and subjects Claimant and Aggrieved Employees to adverse employment action as defined in Labor Code § 2102 which states:

“An employee shall not be required to meet a quota that prevents compliance with meal or rest periods, use of bathroom facilities, including reasonable travel time to and from bathroom facilities, or occupational health and safety laws in the Labor Code or division standards. An Employers shall not take adverse employment action against an employee for failure to meet a quota that does not allow a worker to comply with meal and rest periods, or occupational health and safety laws in the Labor Code or division standards, or for failure to meet a quota that has not been disclosed to the employee pursuant to [Section 2101](#).”

Furthermore, Employers willfully, knowingly and intentionally failed to establish quotas that did not harm Claimants and Aggrieved Employees all to increase Employers’ profits without concern for employee safety. Employers, in fact, tracked meals, rest, and recovery periods that were not provided and did nothing to change its policies and practices. Employers also restricted and monitored the use of bathroom facilities and charged the time employees used the bathroom against their quota. In other words, employees who did not wait to use the restroom during meal or rest periods or before or after their shift, were penalized for not meeting quota either through reprimands, warnings, and termination. Employers maintained a point system designed to prevent employees from complying with California law as alleged in this notice and systematically used to punish employees. Furthermore, Employers prevented compliance with California’s meal and rest breaks laws and failed to consider meal and rest breaks as productive time when Claimant and Aggrieved Employees were required to remain on call in violation of Labor Code § 2103(b).

Claimants and other Aggrieved Employees were not permitted to take compliant breaks, including recovery periods when requested, due to Employers’ unlawful policy and practice to favor production goals over employee rights. Consequently, Claimants and other Aggrieved Employees were not authorized or permitted to take breaks, including first, second, and third rest breaks and Employers’ policies prevented Aggrieved Employees from taking compliant breaks as required by California law.

Furthermore, Employers did not provide to each employee a written description of each quota the employee works under, maintained secret (undisclosed) quotas, and failed to provide written disclosures each and every time quotas changed either seasonally, daily, hourly, weekly, and/or monthly. This includes the number of tasks to be performed or materials that must be produced or handled within a time period, and any potential adverse employment action that could result from failing to meet the quota. This information has not been given by Employers to all new employees when hired commencing January 1, 2022, to the present.

Employers failed to produce Claimant’s written quota disclosure upon written request pursuant to Labor Code sections 2100-2112 and failed to provide written disclosures to new hires since January 1, 2022, and to current employees each time the quota changed. Employers has a policy and practice of taking adverse employment action against Aggrieved Employees for failing to meet a quota that does not allow a worker to comply with meal and rest periods, or occupational

health and safety laws in the Labor Code or division standards, or for failure to meet a quota that has not been disclosed to the employee pursuant to Labor Code § 2101.

Employers have been previously sued for many of the violations alleged herein, and rather than change its policies, it continues to violate the law intentionally and willfully. In fact, Employers have been the subject of OSHA investigations and DIR investigations and have been fined and rather than comply with authorities and the state it continues to violate California's quota and labor laws.

13. VIOLATION OF CALIFORNIA'S HEAT & TEMPERATURE ILLNESS PREVENTION LAWS.

Employers failed to maintain adequate temperatures which created excessive heat or humidity exposing Claimants and Aggrieved Employees to temperature related hazards. Employers failed to maintain a comfortable working environment.

On June 20, 2024, the Occupational Safety and Health Standards Board approved California Code of Regulations, Title 8, [section 3396](#), "Heat Illness Prevention in Indoor Places of Employment". This standard applies to most workplaces where the indoor temperature reaches 82°F. It establishes required safety measures for indoor workplaces to prevent worker exposure to risk of heat illness. This standard went into effect on July 23, 2024. Employers have failed to comply with the mandates of the new OSHA regulations.

The IWC Wage Orders require temperature to be maintained at comfortable levels. Section 15 of the Wage Orders states the following:

15. Temperature

(A) The temperature maintained in each work area shall provide reasonable comfort consistent with industry-wide standards for the nature of the process and the work performed.

(B) If excessive heat or humidity is created by the work process, the Employers shall take all feasible means to reduce such excessive heat or humidity to a degree providing reasonable comfort. Where the nature of the employment requires a temperature of less than 60 (degrees), a heated room shall be provided to which employees may retire for warmth, and such room shall be maintained at not less than 60 degrees.

(C) A temperature of not less than 68(degrees) shall be maintained in the toilet rooms, resting rooms, and change rooms during hours of use.

(D) Federal and State energy guidelines shall prevail over any conflicting provision of this section.

Pursuant to Section 15(b), Defendant has and have always had an affirmative duty to prevent and reduce excessive heat or humidity created by the work environment, location, department or any other area of work that creates excessive heat and where employees are exposed to heat illness thereby requiring safety measures including, but not limited, to recovery periods. Defendant, however, has no written policy regarding preventative measures as required by California law or as required by Labor Code § 226.7.

Sincerely



José R. Garay, Esq.
JOSÉ GARAY, APLC

EMPLOYERS NOTICE PROVIDED BY CERTIFIED MAIL (RETURN RECEIPT REQUESTED)

FIELD FRESH FOODS, INCORPORATED.

Agent

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Individual
EMELIO E CASTANEDA
14805 S SAN PEDRO
GARDENA, CA 90248