

SEP 01 2022

Nicholas J. Ferraro (State Bar No. 306528)
Lauren N. Vega (State Bar No. 306525)
Elida M. Espinoza (State Bar No. 314001)
Ferraro Vega Employment Lawyers, Inc.
3160 Camino del Rio South, Suite 308
San Diego, California 92108
(619) 693-7727 main / (619) 350-6855 facsimile
lauren@ferrarovega.com / nick@ferrarovega.com

Attorneys for Plaintiff Charlie McElhanon

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO**

CHARLIE MCELHANON, as an individual
and on behalf of all others similarly situated,

Plaintiff,

vs.

MCLANE/SUNEAST, INC.; and DOES 1
through 50, inclusive,

Defendants.

Case No. CIV SB 2219102

REPRESENTATIVE ACTION COMPLAINT

1. Wage Statement Violations
2. Recordkeeping Violations



1 Plaintiff CHARLIE MCELHANON (“Plaintiff”), individually as the State of California’s
2 designated proxy under the Private Attorneys General Act (“PAGA”), and on behalf of other current
3 and former aggrieved employees, brings this representative action against Defendant
4 MCLANE/SUNEAST, INC.; and DOES 1 through 50 (collectively, “Defendants”), alleging as
5 follows:

6 **INTRODUCTION**

7 1. This case is filed by Plaintiff, an aggrieved employee, seeking civil penalties against
8 Defendants for violations of the California Labor Code.

9 2. In connection with Plaintiff’s employment and the employment of others within the
10 State of California, Defendants committed numerous systemic Labor Code violations for which
11 Plaintiff now seeks to receive civil penalties pursuant to Labor Code § 2698 *et seq.*

12 **JURISDICTION & VENUE**

13 3. Jurisdiction of this action is proper in this Court under Article VI, Section 10 of the
14 California Constitution.

15 4. Plaintiff is informed and believes that his *individual* PAGA claims do not arise to the
16 necessary amount in controversy to implicate traditional jurisdiction under 28 U.S.C. section 1332(a)
17 or jurisdiction under the Class Action Fairness Act.

18 5. Venue as to each defendant is proper in this judicial district because Defendants
19 employed Plaintiff and aggrieved employees in this county, and committed some of the alleged
20 Labor Code violations in this county.

21 **PARTIES**

22 6. Plaintiff worked for Defendants from December 2021 to March 2022 as an hourly,
23 non-exempt employee.

24 7. Defendant MCLANE/SUNEAST, INC. does business and employs aggrieved
25 employees throughout California, including in San Bernardino County.

26 8. The true names and capacities, whether individual, corporate, or otherwise, of the
27 parties sued as DOES 1 through 50, are presently uncertain to Plaintiff, who sues them by such
28 fictitious names under Code of Civil Procedure section 474. Plaintiff is informed, believes, and

1 alleges that each of the fictitiously-named defendants is responsible in some manner for the acts and
2 omissions alleged herein.

3 9. Plaintiff is informed, believes, and alleges that all defendants in this action are
4 employers and/or joint employers and part of an integrated employer enterprise, as each defendant
5 exercises control over the wages, hours, and working conditions of Plaintiff and the aggrieved
6 employees, suffers and permits them to work, and engages the workforce creating a common law
7 employment relationship. Additionally, all defendants have common ownership, common
8 management, interrelationship of operations, and centralized control over labor relations and are
9 therefore part of an integrated enterprise and thus jointly and severally responsible for the acts and
10 omissions alleged herein.

11 10. Plaintiff is informed, believes, and alleges that each defendant acted in all respects
12 pertinent to this action as an alter-ego, agent, servant, joint employer, joint venturer, co-conspirator,
13 partner, in an integrated enterprise, or in some other capacity on behalf of all other co-defendants,
14 such that the acts and omissions of each defendant are legally attributable to all others.

15 11. Plaintiff is informed, believes, and alleges that the above-mentioned defendants
16 violated and/or caused to be violated Labor Code and IWC Wage Order provisions and/or regulating
17 minimum wages and days of work and other provisions of the Labor Code with respect to the
18 aggrieved employees. As a result, they may be held personally liable under Labor Code sections
19 558, 558.1, and 1197.1. (*See, e.g., Atempa v. Pedrazzani* (2018) 27 Cal. App. 5th 809.)

20 **PAGA ALLEGATIONS**

21 12. Plaintiff seeks to recover civil penalties as an individual aggrieved employee, on
22 behalf of the State of California and the “aggrieved employees,” defined as follows:

23 All current and former employees [1] who worked for Defendants in the
24 State of California during the one-year period preceding the date of this
25 notice through the current date and the date of final judgement in any
26 pending action (the “aggrieved employees” and the “PAGA Period”), and
27 [2] whose wage statements reflect one or more of the following
28 categories:

- (i) Break Time Pay, Training, Containers, Missed Load Differential, and Load Miles, and/or functionally equivalent earnings; and/or
- (ii) piece rate earnings, rest and recovery period earnings, and/or non-productive time earnings.

13. The State of California, via the Labor and Workforce Development Agency (“LWDA”), is the real party in interest in this action with respect to the PAGA claims. (*Kim v. Reins Int’l California, Inc.* (2020) 9 Cal. 5th 73, 81 [The “government entity on whose behalf the plaintiff files suit is always the real party in interest.”])

14. Plaintiff is an “aggrieved employee” because Plaintiff was employed by Defendants and personally experienced one or more of the alleged violations. Therefore, Plaintiff is properly suited to act on behalf of the State of California and collect civil penalties for violations committed against all other current and former aggrieved employees of Defendants. (*See, e.g., Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal. App. 5th 745, 751 [“PAGA allows an “aggrieved employee”—a person affected by one Labor Code violation committed by an employer—to pursue penalties for all the Labor Code violations committed by that employer.”])

15. “Notwithstanding any other provision of law, any provision of this code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency or any of its departments, divisions, commissions, boards, agencies, or employees, for a violation of this code, may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees pursuant to the procedures specified in Section 2699.3.” (Labor Code § 2699(a)).

16. On **June 24, 2022**, Plaintiff gave written notice by online filing with the LWDA and by certified mail to Defendants of the specific provisions of the Labor Code alleged to have been violated, including the facts and theories to support the alleged violations (the “PAGA Notice”). Plaintiff paid the requisite filing fee to the LWDA. A copy of the amended PAGA Notice is attached hereto as **Exhibit 1** and incorporated by reference.

1 17. Within 33 calendar days of the postmark date of the notice sent by Plaintiff,
2 Defendants did not give written notice by certified mail to Plaintiff providing a description of any
3 actions taken to cure the alleged violations.

4 18. Now that at least 65 days have passed from Plaintiff notifying Defendants of these
5 violations, without any notice of cure from Defendants or notice from the LWDA of its intent to
6 investigate the alleged allegations and issue the appropriate citations to Defendant, Plaintiff
7 exhausted all prerequisites and commences this civil action under Labor Code § 2699.

8 19. Any allegations regarding violations of the IWC Wage Orders are enforceable as
9 violations of Labor Code section 1198, which states: “[t]he employment of any employee for longer
10 hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.”

11 **GENERAL ALLEGATIONS**

12 20. The facts and theories as set forth in the PAGA Notice (Exhibit 1) are incorporated
13 herein by reference as though fully set forth herein.

14 21. Plaintiff worked for Defendants as a Truck Driver until March 2022. Throughout his
15 employment, Plaintiff was a non-exempt employee who was paid hourly wages as well as on a
16 piece-rate basis.

17 22. Defendants failed in their affirmative obligation to provide accurate itemized wage
18 statements to Plaintiff and aggrieved employees each pay period. Defendants issued wage statements
19 to Plaintiff and, on information and belief, other aggrieved employees, that fail to list all applicable
20 information required by the Labor Code section 226.

21 23. Specifically, Defendants violated Labor Code section 226(a)(3) and/or (9) by failing
22 to include the number of piece-rate units earned and the applicable pieced-rate in effect, all
23 applicable hourly rates in effect during the pay period, and the number of hours worked at each
24 hourly rate by the employee.

25 24. Defendants also violated Labor Code section 226.2(a)(2) to the extent that any of the
26 piece-rate earnings categories allow compensation for rest and recovery periods or non-productive
27 time.

1 25. Plaintiff's and the aggrieved employees' pay statements list gross amounts in the
2 Earnings column, without corresponding information in the Rate and/or Hours/Units column,
3 resulting in a facial violation of Labor Code section 226(a) and 226.2, to the extent those earning
4 categories fall within the latter statute.

5 26. Plaintiff and the aggrieved employees cannot promptly and easily determine from the
6 wage statements alone, the rates paid or earned, and for which hours or units, without reference to
7 other documents and information.

8 27. Defendants' wage statement violations are significant because they sowed confusion
9 among Plaintiff and the aggrieved employees with respect to what amounts were owed and paid, at
10 what rates, the number of hours worked, and how those amounts were calculated.

11 28. Defendants' wage statement violations were knowing and intentional as a matter of
12 law with respect to Plaintiff and aggrieved employees given that the legal obligation was not
13 disputed, the wage statement and wage laws are clear and unambiguous as written, and because
14 Defendants nevertheless failed to comply despite the means and ability to do so.

15 29. Plaintiff is informed, believes, and alleges that Defendants' acts and omissions have
16 knowingly and intentionally caused harm to Plaintiff and the aggrieved employees.

17 30. Because of the violations set forth in this Complaint Defendants violated Labor Code
18 section 1174 and the IWC Wage Orders by failing to maintain records showing accurate daily hours
19 worked at the corresponding wage rate, and the wages paid to each employee.

20 31. Plaintiff is informed, believes, and alleges that Defendants have engaged in systemic
21 violations of the Labor Code and IWC Wage Orders by maintaining practices, policies, and customs
22 that are inconsistent with their obligations under California law.

23 **FIRST CAUSE OF ACTION**

24 **WAGE STATEMENT VIOLATIONS**

25 **Labor Code §§ 226, 226.2, 226.3**

26 32. Plaintiff incorporates all outside paragraphs of this Complaint as if set forth herein.

27 33. Labor Code section 226.3 provides: "Any employer who violates subdivision (a) of
28 Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per

1 employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each
2 violation in a subsequent citation, for which the employer fails to provide the employee a wage
3 deduction statement or fails to keep the records required in subdivision (a) of Section 226. The civil
4 penalties provided for in this section are in addition to any other penalty provided by law.”

5 34. Defendants knowingly and intentionally failed in their affirmative obligation provide
6 accurate itemized wage statements to Plaintiff and aggrieved employees in violation of Labor Code
7 sections 226 and 226.2(a)(2).

8 35. Labor Code § 226(a)(3) and (9) requires McLane/Suneast to issue wage statements to
9 Plaintiff and aggrieved employees showing the total number of piece-rate units earned and any
10 applicable piece rate if the employee is paid on a piece rate basis, and all applicable hourly rates in
11 effect during the pay period and the corresponding number of hours worked at each hourly rate by
12 the employee.

13 36. Labor Code § 226.2(a)(2) requires McLane/Suneast to issue wage statements to
14 Plaintiff and aggrieved employees compensated on a piece-rate basis during any pay period showing
15 the total hours of compensable rest and recovery periods with the rate of compensation and, for other
16 nonproductive time, the total hours of other nonproductive time with the rate of compensation.

17 37. As illustrative examples of Plaintiff’s wage statements:

- 18 a. Plaintiff’s wage statement for the pay period of 12/19/2021 to 01/01/2022
19 contains an earning category for “Break Time Pay.”
20 b. Plaintiff’s wage statement for the pay period of 01/02/2022 to 01/15/2022
21 contains earning categories for “Break Time Pay,” “Training,” “Containers,” and
22 “Load Miles.”
23 c. Plaintiff’s wage statement for the pay period of 01/16/2022 to 01/29/2022
24 contains earning categories for “Break Time Pay” and “Missed Load
25 Differential.”

26 38. The violations alleged in this cause of action occur on other wage statements issued to
27 Plaintiff, and are not limited to the three above-mentioned illustrative examples.
28

1 39. For the aforementioned wage statements, McLane/Suneast did not list the
2 compensable rate in effect under the “Rate” column on the wage statements.

3 40. Additionally, for these wage statements, McLane/Suneast did not list the applicable
4 hours or units under the “Hrs/Unts” column.

5 41. These violations occurred as part of McLane/Suneast’s systemic practice of issuing
6 similarly formatted wage statements to Plaintiff and aggrieved employees, whereby McLane/Suneast
7 omitted the required information with respect to Break Time Pay, Training, Containers, Missed Load
8 Differential, Load Miles, and/or functionally equivalent earnings, and for other piece-rate earnings,
9 rest and recovery period earnings, nonproductive time earnings, and/or hourly wages that must be
10 stated on employee wage statements with the number of piece-rate units earned or total applicable
11 hours, along with the corresponding piece or rate of compensation in effect for each respective
12 earnings, as applicable.

13 42. To the extent one or more of the earnings categories represent piece rate earnings, the
14 wage statements issued to Plaintiff and aggrieved employees do not state the total number of piece-
15 rate units earned and any applicable piece rate in violation of Labor Code § 226(a)(3).

16 43. To the extent one or more of the earnings categories represent hourly earnings, the
17 wage statements issued to Plaintiff and aggrieved employees do not state all applicable hourly rates
18 in effect during the pay period and the corresponding number of hours worked at each hourly rate by
19 the employee in violation of Labor Code § 226(a)(9).

20 44. To the extent one or more of the earnings categories are for employees compensated
21 on a piece-rate basis during a pay period, the wage statements issued to Plaintiff and aggrieved
22 employees do not state the total hours of compensable rest and recovery periods or the rate of
23 compensation, in violation of Labor Code §§226, 226.2(a)(2)(A).

24 45. To the extent one or more of the earnings categories are for employees compensated
25 on a piece-rate basis during a pay period and the earnings are for other nonproductive time, the wage
26 statements issued to Plaintiff and aggrieved employees do not state the total hours of other
27 nonproductive time or the rate of compensation, in violation of Labor Code §§226, 226.2(a)(2)(B).

46. Defendants knowingly and intentionally failed in their affirmative obligation provide accurate itemized wage statements to Plaintiff and aggrieved employees resulting in injury to Plaintiff and aggrieved employees. Specifically, the wage statements issued to Plaintiff and aggrieved employees did not accurately state each pay period all of the information required by Labor Code §§ 226(a)(3), (9) and 226.2(a)(2).

47. Defendants' unlawful acts and omissions deprived Plaintiff and aggrieved employees of accurate itemized wage statements, causing confusion and concealing the precise amount of compensation earned.

48. As a result, Defendants violated the Labor Code and IWC Wage Orders and are liable to Plaintiff, the aggrieved employees, and the State of California for civil penalties as required by Labor Code sections 226.3 and 2699(a) and (f)(2), in addition to interest, attorneys' fees, and costs to the extent permitted by law, including under Labor Code section 2699(g).

SECOND CAUSE OF ACTION

RECORDKEEPING VIOLATIONS

Labor Code § 1174

49. Plaintiff incorporates all outside paragraphs of this Complaint as if set forth herein.

50. Labor Code section 1174 provides: “Every person employing labor in this state shall: ... (d) Keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept in accordance with rules established for this purpose by the commission, but in any case shall be kept on file for not less than three years.”

51. Labor Code section 1174.5 provides: “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 ..., shall be subject to a civil penalty of five hundred dollars (\$500).”

52. Defendants willfully failed in their affirmative obligation to maintain accurate records showing the hours worked daily and wages paid to the aggrieved employees, in violation of Labor Code sections 1174, 1198 and the IWC Wage Orders (the “Records” sections of the applicable orders).

53. As a result, Defendants violated the Labor Code and are liable to Plaintiff, the aggrieved employees, and the State of California for civil penalties as required by Labor Code section 1174.5, in addition to attorneys' fees, costs, and interest to the extent permitted by law, including under Labor Code section 2699(g).

PRAYER FOR RELIEF

Plaintiff prays for judgment as follows:

- a. For an award of all civil penalties under the Labor Code section 2698 *et seq.*;
- b. For an award of reasonable attorneys' fees and costs of suit, including expert fees, to the extent permitted by law, including under Labor Code section 2699(g);
- c. For any recoverable pre- and post-judgment interest; and
- d. For such other relief the Court deems just and proper.

Dated: August 31, 2022

Ferraro Vega Employment Lawyers, Inc.

Nicholas J. Ferraro

 Nicholas J. Ferraro
 Attorney for Plaintiff Charlie McElhanon

Exhibit 1

FERRARO VEGA

SAN DIEGO EMPLOYMENT LAWYERS

Nicholas J. Ferraro
nick@ferrarovega.com
Lauren N. Vega
lauren@ferrarovega.com

ATTORNEYS AT LAW
3160 Camino del Rio South, Suite 308
San Diego, California 92108

Telephone: 619-693-7727
Facsimile: 619-350-6855
www.ferrarovega.com

June 24, 2022

NOTICE OF LABOR CODE VIOLATIONS
CALIFORNIA LABOR CODE SECTIONS 2698 *et seq.*

VIA EMAIL & CERTIFIED U.S. MAIL
- *Electronic Return Receipt* -

McLane/Suneast, Inc.
4747 McLane Parkway
Temple, TX 76504

- *PAGA Notice & Filing Fee* -
Submitted electronically to the California
Labor and Workforce Development
Agency on **06/24/2022**

Dear Labor Enforcement Officer and Company Representatives:

This letter serves as written notice on behalf of CHARLIE MCELHANON, JR. (“Claimant”), and all other similarly situated “aggrieved employees” under California Labor Code section 2699.3 against MCLANE/SUNEAST, INC., along with any other related employer entities, including those who may be later added upon further investigation (collectively, “Defendants”).

If the California Labor and Workforce Development Agency (“LWDA”) does not investigate the facts, allegations, and violations set forth in this notice within the statutorily prescribed period under Labor Code section 2699.3, Claimant shall seek and recover civil penalties as a proxy and agent of the State of California on behalf of all other aggrieved employees under the California Private Attorneys General Act (“PAGA”).

“PAGA allows an ‘aggrieved employee’—a person affected by at least one Labor Code violation committed by an employer—to pursue penalties for all the Labor Code violations committed by that employer.” *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal. App. 5th 745, 751; *see also Kim v. Reins International California, Inc.* (2020) 9 Cal. 73, 79.

FACTUAL STATEMENT

Defendants employ aggrieved employees like Claimant in the State of California. Claimant and the other aggrieved employees were at all times entitled to wage and hour protections under the California Labor Code and IWC Wage Orders. Claimant worked for Defendants from December 2021 through March 2022. Claimant worked as a truck driver.

Through this notice, Claimant informs the LWDA of the Labor Code violations set forth herein. The aggrieved employees who Claimant seeks to represent include the following individuals:

All current and former employees who worked for Defendants in the State of California during one-year period preceding the date of this notice through the current date and the date of final judgment in any pending action (the “aggrieved employees” and the “PAGA Period”) whose wage statements reflect sums without the corresponding piece-rate and/or hourly rate in effect for those earnings. These earnings categories include, but are not limited to, Break Time Pay, Training, Containers, Missed Load Differential, and Load Miles, among others.

Claimant seeks all recoverable civil penalties for Defendants’ violations and reserves the right to supplement this notice as further investigation is completed and further facts, witnesses, and violations are uncovered. Claimant reserves the right to expand or narrow the definition of the “aggrieved employees” in the forthcoming civil action.

Non-Compliant Wage Statements
Violation of Labor Code §§ 226, 226.2, 226.3

Defendants violated Labor Code sections 226(a) and 226.2(a) with respect to Claimant and other aggrieved employees by failing to furnish itemized wage statements each pay period that accurately list the information required by Labor Code sections 226(a)(3) and (9) and 226.2(a)(2)(A).

Labor Code section 226(a) requires an employer to furnish wage statements to employees semimonthly or at the time of each payment of wages, “an accurate itemized statement in writing” showing, in relevant part, (3) the number of piece-rate units earned and applicable piece rate in effect and (9) all applicable hourly rates in effect during the pay period and the number of hours worked at each hourly rate by the employee.

Labor Code sections 226.2(a)(2)(A) and (B), state that wage statements for employees compensated on a piece-rate-basis must specify the total hours of compensable rest and recovery periods and other non-productive time, the applicable rates of compensation, and the gross wages paid for those periods.

As illustrated below on Claimant’s wage statements, by failing to list all applicable hourly and/or piece-rates in effect during the pay period, Defendants violated Labor Code section 226(a)(3) and/or (9) as well as Labor Code section 226.2(a)(2), to the extent any of these earnings categories compensate for rest and recovery periods or other non-productive time.

HOURS AND EARNINGS						TAXES		
Description	Rate	Current Hrs/Units	Current Earnings	YTD Hrs/Units	YTD Earnings	Description	Current	YTD
Break Time Pay			237.60		482.12	Fed Withholding	0.00	514.13
Containers	0.093212	3,325.00	309.93		1,796.72	Fed MED/EE	82.70	134.36
Driver Hours	14.000000	129.15	1,808.10	260.79	3,651.06	Fed OASDI/EE	353.60	574.50
Load Miles	0.460244	491.00	225.98		1,365.42	CA Withholding	0.00	224.90
Training			50.00		50.00	CA OASDI/EE	62.74	101.89
Containers			127.78		0.00			
Load Miles			97.56		0.00			
Sign-on bonus			2,000.00		2,000.00			
Containers	0.093211	3,986.00	371.54		0.00			
Containers	0.160164	792.00	126.85		0.00			
Load Miles	0.460231	519.00	238.86		0.00			
Load Miles	0.576700	189.00	108.99		0.00			
Unpaid Time		8.00	0.00	8.00	0.00			
CONTINUED ON NEXT PAGE						TOTAL:	499.04	1,549.78

Image 1: Claimant's Wage Statement for Pay Period of 01/02/2022 to 01/15/2022

HOURS AND EARNINGS						TAXES		
Description	Rate	Current Hrs/Units	Current Earnings	YTD Hrs/Units	YTD Earnings	Description	Current	YTD
Break Time Pay			172.80		654.92	Fed Withholding	392.81	906.94
Containers	0.093211	2,370.00	220.91		2,526.85	Fed MED/EE	43.67	178.03
Missed Load Differential			325.02		325.02	Fed OASDI/EE	186.71	761.21
Driver Hours	14.000000	103.32	1,446.48	364.11	5,097.54	CA Withholding	168.49	393.39
Load Miles	0.460200	372.00	171.20		1,878.11	CA OASDI/EE	33.08	134.97
Unpaid Time		8.00	0.00	16.00	0.00			
Containers	0.093213	5,463.00	509.22		0.00			
Load Miles	0.460229	742.00	341.49		0.00			
Sign-on bonus			0.00		2,000.00			
Training			0.00		50.00			
CONTINUED ON NEXT PAGE						TOTAL:	824.76	2,374.54

Image 2: Claimant's Wage Statement for Pay Period of 01/16/2022 to 01/29/2022

As illustrated in the above wage statement, Defendants list gross amounts in the Earnings column, without corresponding information in the Rate and/or Hours/Units column, resulting in a facial violation of Labor Code section 226(a) and 226.2, to the extent those earnings categories fall within the latter statute.

Claimant and other aggrieved employees cannot promptly and easily determine from the wage statement alone the rates paid or earned, and for which hours or units, without reference to other documents or information. Indeed, these wage statement violations are significant because they sowed confusion among Claimant and other aggrieved employees with respect to what amounts were owed and paid, at what rates, the number of hours worked, and how those amounts were calculated.

Thus, Claimant may recover civil penalties on behalf of himself, the State of California and the aggrieved employees as provided under Labor Code sections 226.3 (\$250/\$1,000), to the extent permitted by law, and/or 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Attorneys' Fees and Costs **Labor Code § 2699(g)**

Claimant was compelled to retain the services of counsel to file this court action to protect Claimant's individual interests, the interests of other aggrieved employees, and the State of California. Claimant has thereby incurred, and will continue to incur, attorneys' fees and costs, which are recoverable on all PAGA causes of action under Labor Code section 2699(g).

**Notice of Demand for Defendants
to Change Policies and Practices**

Claimant intends to pursue legal action against Defendants based on the violations set forth in this notice. Defendants are hereby notified that any attempt to resolve this case must be conducted in coordination with Claimant's counsel to protect the interests of Claimant, the aggrieved employees, and the State of California via the LWDA. Any and all settlements releasing liability require Court approval in connection with Claimant and their counsel to fully release liability and resolve the claims alleged in this notice. *See Tipton-Whittingham v. City of Los Angeles* (2004) 34 Cal.4th 604, 608 (citing *Graham v. Daimler-Chrysler Corp.* (2004) 34 Cal. 4th 553 (authorizing an award of catalyst attorneys' fees)).

As the PAGA representative, Claimant has a duty to file this case at the earliest opportunity. Defendants may contact Claimant's counsel with any questions regarding this letter or the forthcoming lawsuit.

CONCLUSION

If the LWDA does not pursue enforcement, Claimant will bring representative claims on behalf of the State of California and the aggrieved employees seeking all recoverable civil penalties for violations of the Labor Code and the IWC Wage Orders, along with attorneys' fees, costs, interest, and other appropriate relief.

Thank you for your attention to this matter.

Sincerely,



Nicholas J. Ferraro

Cc Claimant
 Lauren N. Vega, Esq.