

Thomas D. Rutledge
Attorney-at-Law
16956 Via de Santa Fe, Suite 1847
Rancho Santa Fe, California 92091-4606
Telephone: (619) 886-7224
thomasrutledgelaw@gmail.com

February 25, 2025

File No. 771

VIA INTERNET UPLOAD

Department of Industrial Relations
Labor Workforce Development Agency
455 Golden Gate Avenue, 10th Floor
Accounting Unit
San Francisco, California 94102

VIA CERTIFIED MAIL (HAND RECEIPT REQUESTED) (9589071052701973068209)

President
ABM Aviation, Inc./ABM Industries Incorporated
14141 Southwest Freeway, Suite 425
Sugar Land, Texas 77478

Re: *Davila-Felix, et al. v. ABM Aviation, Inc., et al.*
LWDA Case No. LWDA-CM-994306-23
Case No.: 37-2024-00002748-CU-OE-CTL

Sir or Madam:

A. LWDA Case No. LWDA-CM-994306-23.

As to LWDA Case No. LWDA-CM-994306-23, this letter shall serve as an amended notice pursuant to the California Private Attorney General Act (PAGA), California Labor Code Section 2699, *et seq.*, regarding Plaintiff Laura Davila-Felix's original notice sent on November 14, 2023. This amendment generally adds new Plaintiffs: Gerardo Pastrana and George Guerrero.

The foregoing Plaintiffs worked for the Defendants during the PAGA period from October 25, 2022 to the present and suffered at least one Labor Code violation as alleged in the operative complaint on file with the Superior Court of California for the County of San Diego (accessed at <https://odyroa.sdcourt.ca.gov>) under SDSC case number 37-2024-00002748-CU-OE-CTL, the allegations of which are incorporated by reference as though set forth herein. Thus, these Plaintiffs have standing under the relation back doctrine.

B. Notice of New PAGA Complainants.

This letter shall also serve as new notice (i.e., a new PAGA filing with a new case number) pursuant to the PAGA regarding claims for Gerardo Pastrana and George Guerrero. These aggrieved employees seek the same remedies as the foregoing Plaintiffs based on the facts and circumstances identified below.

In addition, Plaintiffs Gerardo Pastrana and George Guerrero allege the Defendants wrongfully terminated them because they refused to sign false paperwork their employer asked them to sign, they threatened to report Defendants to governmental authorities, engaged in collective activity, and otherwise exercised rights protected under both state and federal law. Plaintiffs contend that their refusal to comply with unlawful directives and their intent to expose Defendants' misconduct constituted protected activities under statutes such as the California Labor Code (e.g., §§ 96, 98.6, 1102.5) and the National Labor Relations Act. As a direct result of these protected actions, Plaintiffs allege they were subjected to retaliation in the form of wrongful termination, causing them to suffer significant economic loss, emotional distress, and damage to their professional reputations.

I. FACTS & NATURE OF THE DISPUTE.

This is a representative action seeking penalties for Defendants' violations of various California Labor Code provisions. The details of our client's claims are discussed in the operative complaint on file with the Superior Court of California for the County of San Diego (accessed at <https://odyroa.sdcourt.ca.gov>) under SDSC case number 37-2024-00002748-CU-OE-CTL.

II. § 2699, ET SEQ., LABOR CODE VIOLATIONS.

Plaintiffs have numerous legal claims against the abovementioned parties. In particular, Defendants failed to pay Plaintiffs and their fellow aggrieved employees all wages earned, issued Plaintiffs and their fellow aggrieved employees inaccurate wage statements, failed to reimburse its employees for work related expenses, failed to pay premium pay for missed meal and rest breaks or noncompliant meal and rest breaks, among other Labor Code violations. Further investigation and formal discovery will likely uncover other claims and additional facts supporting the liability.

The details of Plaintiffs' Labor Code § 2699 claims are discussed in this letter and in the operative complaint on file with the Superior Court of California for the County of San Diego (accessed at <https://odyroa.sdcourt.ca.gov>) under SDSC case number 37-2024-00002748-CU-OE-CTL, the allegations of which are incorporated by reference as though set forth herein. Pursuant to *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal.App.5th 745 and its progeny, Plaintiffs intend to recover penalties for every Labor Code provision of which they can show evidence of violations including but not limited to the

Labor Code provisions cited in the draft complaint provided previously and Labor Code subdivision (k) of Section 96, Sections 98.6, 201.5, 201.7, 203.1, 203.5, 204a, 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, 224, 227, 227.3, 230, 230.1, 230.2, 230.3, 230.4, 230.7, 230.8, and 231, subdivision (c) of Section 232, subdivision (c) of Section 232.5, Sections 233, 234, 245-249, 351, 353, and 403, subdivision (b) of Section 404, Sections 432, 432.2, 432.5, 432.7, 435, 450, 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, 1153, 1194, 1197.5, 1198 via the applicable Wage Order, subdivision (b) of Section 1198.3, 1198.5, Sections 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, 1700.47, 1735, 1777.5, 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 3073.6, 6310, 6311, and 6399.7 and the applicable Wage Order.

III. CONCLUSION.

Please take notice this letter is intended to exhaust the pre-litigation requirements set forth under California Labor Code §§ 2699, *et seq.* By law, an employee alleging a violation of one of the above referenced sections must notify his or her employer and the Labor and Workforce Development Agency (LWDA) before he or she can invoke the provisions of § 2699, *et seq.*, by seeking redress in court. (Labor Code § 2699.3(a)(1).) The LWDA must then notify the employer and the employee within the time required by statute regarding whether it intends to investigate the alleged violation. (Labor Code § 2699.3(a)(2)(B).) If the LWDA advises it will not investigate, or if no notice is provided within the time required by statute, the employee may file a lawsuit invoking the provisions under Labor Code § 2699. (Labor Code §2699.3(a)(2)(A).) It is the intention of this office to file a civil complaint and to bring the appropriate claims under Labor Code § 2699 seeking the remedies for the Labor Code violations referenced in this letter and its enclosure should your office not address these matters within the proscribed time.

We write this letter subject to and without waiver of Plaintiffs' rights and remedies, all of which they expressly reserve. This letter is not an express statement of all facts and circumstances concerning this matter.

Very truly yours,

/s/Thomas D. Rutledge
Thomas D. Rutledge

Cc: Laurie Caroline Davila-Felix (via e-mail)
Elmer Davila (via e-mail)
Norma Magana (via e-mail)
Maria Felipe Suchite (via e-mail)
Gerardo Pastrana (via e-mail)
George Guerrero (via e-mail)
Matthew C. Lewis, Esquire (via e-mail)