

February 17, 2025

**VIA ELECTRONIC SUBMISSION;
VIA CERTIFIED MAIL TO EMPLOYER**

California Labor and Workforce Development Agency
Attn: PAGA Administrator
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102

Fastenal Company
2001 Theurer Blvd P.O. Box 978
Winona, MN 55987

Re: Notice of Claim Under Private Attorneys General Act (“PAGA”)

Dear LWDA:

My firm represents Juan Manuel Vaca (“Plaintiff”) and all other aggrieved employees who intend to file an action against Fastenal Company (“Defendant” or “Fastenal”) in connection with Defendant’s violations of the California Labor Code. This letter shall serve as notice, and a request, pursuant to Labor Code section 2699.3, *et seq.* (“PAGA”), that the Labor and Workforce Development Agency (“LWDA”) investigate the violations by Defendant described herein against Plaintiff and other current and/or former employees. If LWDA does not intend to investigate the violations described herein, we respectfully request that the agency specifically notify our office of the same at your earliest possible opportunity.

Statement of Specific Provisions of the Labor Code Violated

Plaintiffs intend to prosecute a civil action against Defendant for violations of Labor Code sections 201-204 [failure to pay all wages upon termination], 226, subdivision (a) [failure to provide accurate wage statements], 226.7 [meal and rest breaks: failure to provide premium pay for meal and rest break violations, requiring employees to work during meal or rest break], 510 [overtime pay], 512 [failure to provide meal breaks], [226.8, subdivision (a) [misclassification as independent contractor], 515 [misclassification as exempt], 558 [unpaid wages penalties], 1194 [failure to pay overtime and/or minimum wage], and 1198 [failure to pay overtime].

Facts and Theories in Support of Violations

Defendant provides distribution services and is registered to do business in the State of California. Defendant employed Plaintiff from on or about December 27, 2022 to January 10, 2025. Plaintiff worked as driver.

Defendant paid Plaintiff a salary of \$52,000 per year and classified him as an exempt employee.

However, Plaintiff's job duties did not qualify him as an exempt employee as he was not primarily engaged in exempt administrative tasks or professional duties and did not regularly exercise discretion and independent judgment on the job. Specifically, driving an assigned route to pick up and deliver goods.

In the course of these duties, Plaintiff regularly worked overtime. However, because he Defendant classified Plaintiff as exempt from overtime, he was not paid these overtime hours. Further, Defendant willfully ignored California meal and rest break laws and instituted a policy where Plaintiff was not allowed rest breaks and frequently missed meal breaks or had meal breaks interrupted.

Plaintiff was also issued inaccurate wage statements, which failed to list: (1) all hours worked and the hourly rate; and (2) and premium pay for meal and rest break violations. Plaintiff is informed and believes, and on that basis alleges, that Defendant failed to notify other employees of their premium pay for each payroll period.

Failure to Provide Accurate Wage Statements

Pursuant to Labor Code section 226 ("Section 226"), subdivision (a), an employer is required to provide itemized wage statements. Plaintiff was issued inaccurate wage statements, which failed to list premium pay and all hours worked. Plaintiff is informed and believes, and on that basis alleges, that Defendant failed to notify other employees of their premium pay for each payroll period and their accurate total of hours worked.

Failure to Maintain Accurate Payroll Records

Pursuant to Labor Code section 1174, subdivision (d), an employer is required to keep payroll records showing the hours worked daily and wages paid to employees. Plaintiff is informed and believes, and on that basis alleges, that Defendant failed to maintain payroll records in compliance with this statute.

Labor Code section 1174.5 provides that any employer who fails to maintain accurate payroll records required by section 1174, subdivision (d), "shall be subject to a civil penalty of five hundred dollars (\$500)."

Penalties for Unpaid Wages

Pursuant to Labor Code section 558, subdivision (a), and employer who violates "any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty." (Lab. Code § 558, subd. (a).)

An employer's initial violation is subject to a "fifty dollar penalty (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages." (*Ibid.*) Thereafter, each subsequent violation is subject to a penalty of "one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages." (*Ibid.*)

Here, Defendant's personnel were not allowed meal or rest breaks and because they were misclassified as exempt, they were not paid meal or break premiums. Defendant is therefore liable for civil penalties under section 558, subdivision (a).

Unlawful Failure to Provide Uninterrupted Off-Duty Meal and Rest Periods

Plaintiff and similarly situated employees regularly worked in excess of five hours per day without being provided at least one half-hour meal period in which they were relieved of all duties. (Lab. Code §§ 226.7, 512; *see also* Industrial Welfare Commission Order No. 4-2001.) Plaintiff and similarly situated employees also regularly worked in excess of four hours without being provided at least a ten-minute rest period in which they were relieved of all their duties. (Lab. Code §§ 226.7, 512; *see also* Industrial Welfare Commission Order No. 4-2001.)

Throughout Plaintiff's employment, he was not able to take uninterrupted off-duty meal and rest periods in accordance with Labor Code. Defendant did not maintain a policy that ensured Plaintiff received requisite meal and rest periods. Furthermore, Defendant caused Plaintiff to miss meal and rest periods and failed to pay him the premium compensation mandated by Labor Code section 226.7, subdivisions (b)-(c). As a result of these Labor Code violations, Defendant is liable for civil penalties. (Lab. Code § 2698, *et seq.*)

Conclusion

As described above, Defendant has violated numerous wage and hour provisions of the Labor Code. As a result, Defendant is liable to Plaintiff and other current and former employees for civil penalties, attorney's fees, and costs, pursuant to Labor Code sections 201-204 [failure to pay all wages upon termination], 226, subdivision (a) [failure to provide accurate wage statements], 226.7 [meal and rest breaks: failure to provide premium pay for meal and rest break violations, requiring employees to work during meal or rest break], 510 [overtime pay], 512 [failure to provide meal breaks], [226.8, subdivision (a) [misclassification as independent contractor], 515 [misclassification as exempt], 558 [unpaid wages penalties], 1194 [failure to pay overtime and/or minimum wage], and 1198 [failure to pay overtime].

This letter shall serve as Plaintiff's notice pursuant to Labor Code section 2699.3 and we ask that LWDA conduct an investigation concerning the violations described herein. Alternatively, if LWDA does not intend to investigate these violations, we ask that it issue a notification letter to our office confirming the same so that we may proceed with our civil action asserting the PAGA claims described herein.



Please feel free to contact me if you have any questions or if you would like to discuss this matter further. Nothing in this letter is intended to be, or should be construed as, an admission against the interests of Plaintiff or other current or former employees of Defendant and shall not be construed as a waiver of their rights, remedies, claims, or defenses, all of which are expressly reserved.

Sincerely,

A handwritten signature in blue ink, appearing to read "Arash Sadat", with a long horizontal line extending to the right.

Arash Sadat

Sincerely,

cc: amayer@fastenal.com