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VIA ONLINE SUBMISSION

March 26, 2025

VIA ONLINE SUBMISSION

California Labor & Workforce Development Agency
ATTN: PAGA Administrator
(<https://dir.tfaforms.net/198>)

Subject: *Javier Anaya v. Valley Fruit and Produce*

Dear PAGA Administrator:

This office represents Javier Anaya (hereinafter Mr. Anaya) in connection with claims referenced herein under the California Labor Code. Mr. Anaya was an employee of Valley Fruit and Produce (hereinafter “VALLEY FRUIT”).

The employer may be contacted directly at the addresses below:

746 S Alameda St
Los Angeles, CA 90021

1601 E. Olympic Blvd. Bldg. 300, Suites 300-307
Los Angeles, CA 90021

Mr. Anaya intends to seek civil penalties, attorney’s fees, costs, and other available relief for violations of the California Labor Code, which are recoverable under sections 2698, *et seq.*, the Labor Code Private Attorneys General Act of 2004 (“PAGA”). Mr. Anaya seeks relief in an individual capacity from the State of California and other persons who are or were employed by VALLEY FRUIT as a non-exempt, hourly-paid employee in California and who received at least one wage statement (“aggrieved employees”). This letter is sent in compliance with the notice and reporting requirements of California Labor Code section 2699.3.

VALLEY FRUIT employed Mr. Anaya as an hourly, non-exempt Dump Truck Driver from September 30, 2021, to August 16, 2022. Mr. Anaya was terminated on August 16, 2022. Throughout this term of employment, Mr. Anaya was a non-exempt, hourly employee. Mr. Anaya typically worked 40 hours per week with overtime. Mr. Anaya’s regular rate of pay was \$27.50 per hour.

VALLEY FRUIT committed one or more of the following Labor Code violations with respect to Mr. Anaya, the facts and theories of which follow, and was and is an “aggrieved employee,” pursuant to California Labor Code section 2699(c):¹

VALLEY FRUIT’s Company-Wide and Uniform Payroll and HR Practices

Upon information and belief, VALLEY FRUIT maintains a single, centralized Human Resources (HR) department for all non-exempt, hourly-paid employees working in California, including Mr. Anaya and other aggrieved employees.

At all relevant times, VALLEY FRUIT issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly-paid employees in California, including Mr. Anaya and other aggrieved employees, regardless of their location or position.

Upon information and belief, VALLEY FRUIT maintains a centralized Payroll department that processes payroll for all non-exempt, hourly-paid employees working in California, including Mr. Anaya and other aggrieved employees. Further, VALLEY FRUIT issues the same formatted wage statements in the same manner for all non-exempt, hourly-paid employees working in California, including Mr. Anaya and other aggrieved employees, irrespective of their location, position, or manner in which each employee’s employment ended. In other words, VALLEY FRUIT utilized the same methods and formulas when calculating wages due to Mr. Anaya and other aggrieved employees in California, wherein liability and exposure will be substantial.

Violation of California Labor Code §§ 226.7, 512(a) and 1198 – Failure to Provide Meal Periods

California Labor Code Sections 226.7, 512(a), 1198 and the applicable IWC Wage Order require employers to provide meal and rest breaks and to pay an employee one (1) additional hour of pay at the employee’s regular rate for each workday that a meal or rest period is not provided. Pursuant to Labor Code Sections 226.7 and 512(a) and the applicable IWC Wage Order, an employer may not require, cause or permit an employee to work for a period of more than five (5) hours per day without providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee. Under California law, first meal periods must start after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (Cal. 2012). Labor Code Sections 226.7 and 512(a) and the applicable IWC Wage Order also require employers to provide a second meal break of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1) additional hour of pay at the employee’s regular rate, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

¹ These facts, theories, and claims are based on direct experience and counsel’s review of currently available employment records. Discovery conducted in litigation of wage and hour claims such as these often reveals additional claims of which the aggrieved employee was not initially aware (because the aggrieved employee was not aware of the law’s requirements, the employer misinformed its employees of the law’s requirements, or because the employer effectively hid the violations.) If additional facts, theories, and claims are discovered subsequent to the submission of this letter, the right to supplement this letter with the same is hereby reserved.

VALLEY FRUIT maintained a company-wide, unlawful written meal break policy insofar as it failed to state the timing of when meal breaks must occur. Under California law, first meal periods must start after no more than five hours of work, and employees must be permitted to complete their meal breaks without interruption. *Brinker*, 53 Cal. 4th at 1041-1042. VALLEY FRUIT's written meal break policy is facially non-compliant and in violation of Labor Code sections 226.7 and 512 and the applicable IWC Wage Order because it fails to specify the proper timing of breaks and provide that meal breaks are to be completed in an uninterrupted fashion. Alternatively, VALLEY FRUIT failed to sufficiently promulgate compliant meal break policies or failed to reasonably adhere to those written policies. As a result of VALLEY FRUIT's company-wide non-compliant meal period policy, Mr. Anaya and other aggrieved employees were denied timely meal periods within the first five (5) hours of work.

VALLEY FRUIT had, and continues to have, a company-wide policy and/or practice of neglecting its obligations to provide Mr. Anaya and other aggrieved employees with timely, uninterrupted meal periods to which they were entitled. VALLEY FRUIT discouraged and impeded Mr. Anaya and other aggrieved employees from taking timely meal breaks. As a result of VALLEY FRUIT's practices and/or policies and the resultant failure to adhere to a meal period schedule, Mr. Anaya and other aggrieved employees missed their meal periods altogether, had to have their meal periods interrupted to return to work, and/or waited extended periods of time before taking meal periods.

VALLEY FRUIT neglected its obligation to provide meal breaks to Mr. Anaya and other aggrieved employees, by either not permitting its employees to take meal breaks in the first instance, or alternatively, by requiring them to continue to perform one or more job duties throughout the time allotted for their meal breaks whether or not they were on or off the clock.

On information and belief, VALLEY FRUIT did not pay Mr. Anaya and other aggrieved employees meal period premium wages when they were missed, late, short, and/or interrupted.

Accordingly, VALLEY FRUIT failed to provide all meal periods, in violation of California Labor Code Sections 226.7, 512(a), and 1198. Mr. Anaya and other aggrieved employees are entitled to penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code Sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7 and 1198 – Failure to Provide Rest Periods

California Labor Code Section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC. The applicable IWC Wage Order provides that “[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period” and that the “rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof” unless the total daily work time is less than three and one-half (3½) hours.

To comply with its obligation to provide rest periods under California Labor Code Section 226.7 and the applicable IWC Wage Order, an employer must “relinquish any control over how employees spend their break time and relieve their employees of all duties — including the obligation that an employee remain on call. A rest period, in short, must be a period of rest.” *Augustus, et al. v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 269-270 (2016).

VALLEY FRUIT maintained a company-wide, unlawful written rest break policy insofar as it failed to state the timing of when rest breaks must occur. As a result, Mr. Anaya and other aggrieved employees would work shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without receiving all ten (10) minute rest periods to which they were entitled. VALLEY FRUIT's written rest break policy is facially non-compliant and in violation of Labor Code sections 226.7 and 512 and the applicable IWC Wage Order because it fails to specify the proper timing of breaks and provide that rest breaks are to be completed in an uninterrupted fashion. Alternatively, VALLEY FRUIT failed to sufficiently promulgate compliant rest break policies or fail to reasonably adhere to those written policies. As a result of VALLEY FRUIT's company-wide non-compliant rest period policy, Mr. Anaya and other aggrieved employees were denied timely rest periods as required by California law.

VALLEY FRUIT had, and continues to have, a company-wide policy and/or practice of neglecting its obligations to provide Mr. Anaya and other aggrieved employees with timely, uninterrupted rest periods to which they were entitled. VALLEY FRUIT discouraged and impeded Mr. Anaya and other aggrieved employees from taking timely rest breaks. As a result of VALLEY FRUIT's practices and/or policies and the resultant failure to adhere to a rest period schedule, Mr. Anaya and other aggrieved employees missed their rest periods altogether, had to have their rest periods interrupted to return to work, and/or waited extended periods of time before taking rest periods.

VALLEY FRUIT neglected its obligation to provide rest breaks to Mr. Anaya and other aggrieved employees, by either not permitting its employees to take rest breaks in the first instance, or alternatively, by requiring them to continue to perform one or more job duties throughout their shifts without any rest periods being provided where they were relieved of all duties.

On information and belief, VALLEY FRUIT did not pay Mr. Anaya and other aggrieved employees rest period premium wages when they were missed, late, short, and/or interrupted.

Accordingly, VALLEY FRUIT failed to provide all rest periods in violation of California Labor Code Sections 226.7, 512(a), and 1198. Mr. Anaya and other aggrieved employees are entitled to penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code Sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 510 and 1198 – Unpaid Overtime

California Labor Code sections 510 and 1198 and the applicable Industrial Welfare Commission ("IWC") Wage Order require employers to pay employees working more than eight (8) hours in a day or more than forty (40) hours in a workweek at the rate of time-and-one-half (1½) times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek. The applicable IWC Wage Order further provides that employers are required to pay employees working more than twelve (12) hours in a day overtime compensation at a rate of two (2) times their regular rate of pay. An employee's regular rate of pay includes all remuneration for employment paid to, or on behalf of, the employee, including nondiscretionary bonuses and incentive pay.

VALLEY FRUIT willfully failed to pay all overtime wages owed to Mr. Anaya and other aggrieved employees. During the relevant time period, Mr. Anaya and other aggrieved employees were not paid overtime premiums for all of the hours they worked in excess of eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40) hours in a week, because all hours that they worked were not recorded.

Mr. Anaya worked approximately 2 overtime hours per week during his employment. However, VALLEY FRUIT only paid Mr. Anaya regular pay instead of one and one-half times his regular rate.

Mr. Anaya and other aggrieved employees sometimes worked shifts of eight (8) hours a day or more or forty (40) hours a week or more; some of this off-the-clock work qualified for overtime premium pay. However, Mr. Anaya and other aggrieved employees were not paid overtime wages for all of the overtime hours they worked. Instead, they were merely paid at their regular rate of pay for these overtime hours.

VALLEY FRUIT's failure to pay Mr. Anaya and other aggrieved employees the balance of overtime compensation, as required by California law, violates the provisions of California Labor Code sections 510 and 1198.

Mr. Anaya and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code Sections 558, 1194, and/or 2699(a), (f)-(g).

Violation of California Labor Code § 204 – Failure to Timely Pay Wages During Employment

California Labor Code Section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code Section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. Alternatively, California Labor Code Section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

During the relevant time period, VALLEY FRUIT company failed to pay Mr. Anaya and other aggrieved employees all wages due to them, including, but not limited to, overtime wages, minimum wages, reporting time pay, and meal and rest period premium wages, within any time period specified by California Labor Code Section 204.

Mr. Anaya and other aggrieved employees are entitled to recover penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code Sections 210 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226(a), 1174(d), and 1198 – Non-Compliant Wage Statements and Failure to Maintain Accurate Payroll Records

California Labor Code Section 226(a) requires employers to make, keep, and provide true, accurate, and complete employment records. VALLEY FRUIT has not provided Mr. Anaya and other aggrieved employees with properly itemized wage statements. Labor Code Section 226(e) provides that if an employer fails to comply with providing an employee with properly itemized wage statements as set forth in Section 226(a), then the employee is entitled to recover the greater of all actual damages or \$50.00 for the initial pay period in which a

violation occurs and \$100.00 per employee for each violation in a subsequent pay period, not to exceed \$4,000. Further, Labor Code Section 226.3 provides that any employer who violates Section 226(a) shall be subject to a civil penalty in the amount of \$250.00 per employee per violation in an initial citation and \$1,000.00 per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage statement or fails to keep the required records pursuant to Section 226(a).

During the relevant time period, VALLEY FRUIT has knowingly and intentionally provided Mr. Anaya and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. VALLEY FRUIT issued uniform wage statements to Mr. Anaya and other aggrieved employees that fail to correctly list one or more of the following: gross wages earned; total hours worked; net wages earned; and all applicable hourly rates in effect during the pay period, including overtime rates of pay, and the corresponding number of hours worked at each hourly rate, the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, all deductions from wages, the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, the inclusive dates of the period for which Mr. Anaya and aggrieved employees were paid, the name and address of the legal entity that is the employer, available sick time and/or all hours worked as a result of not recording or stating the hours they worked off-the-clock.

California Labor Code Section 1174(d) provides that “[e]very person employing labor in this state shall ... [k]eep a record showing the names and addresses of all employees employed and the ages of all minors” and “[k]eep, 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...” Labor Code Section 1174.5 provides that employers are subject to a \$500.00 civil penalty if they fail to maintain accurate and complete records as required by Section 1174(d). During the relevant time period, and in violation of Labor Code Section 1174(d), VALLEY FRUIT willfully failed to maintain accurate payroll records for Mr. Anaya and other aggrieved employees showing the daily hours they worked, and the wages paid thereto as a result of failing to record the off-the-clock hours that they worked.

California Labor Code Section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Orders. Section 1198 further provides that “[t]he employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.”

Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period. During the relevant time period, VALLEY FRUIT failed, on a company-wide basis, to keep accurate records of meal period start and stop times for Mr. Anaya and other aggrieved employees in violation of Section 1198.

Because VALLEY FRUIT failed to provide all required categories of information required to be included on wage statements, Mr. Anaya and other aggrieved employees have been prevented from verifying, solely from the information on the wage statements themselves, that they were paid correctly and in full. Instead, Mr. Anaya and other aggrieved employees have had to look to sources outside of the wage statements themselves and reconstruct time records to determine whether, in fact, they were paid correctly and the extent of underpayment, thereby causing them injury.

Mr. Anaya and/or other aggrieved employees are entitled to recover penalties, attorney's fees, costs, and interest thereon pursuant to Labor Code Sections 226(e), 226.3, 1174.5, and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 201, 202, and 203 – Failure to Timely Pay Final Wages Upon Termination

California Labor Code Sections 201, 202, and 203 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

VALLEY FRUIT willfully failed to pay Mr. Anaya and other aggrieved employees who are no longer employed by VALLEY FRUIT all their earned wages, including, but not limited to, overtime wages, minimum wages, meal and rest period premium wages, and reporting time pay, either at the time of discharge, or within seventy-two (72) hours of their leaving VALLEY FRUIT's employ in violation of California Labor Code Sections 201, 202, and 203.

Mr. Anaya and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and Labor Code Sections 201, 202, and 203.

California Labor Code § 558(a): PAGA Civil Penalties

California Labor Code Section 558(a) provides "[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$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. (2) For each subsequent violation, 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." Labor Code Section 558(c) provides that "[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law." VALLEY FRUIT, at all relevant times, was an employer or person acting on behalf of an employer(s) who violated Mr. Anaya's and other aggrieved employees' rights by violating various sections of the California Labor Code.

Accordingly, Mr. Anaya seeks the remedies set forth in Labor Code Section 558 in an individual capacity, for the State of California, and for all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code Sections 2699(a), 2699.3(a) and 2699.3(c), 2699.5 and 558, Mr. Anaya, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties, individually, on behalf of all other aggrieved employees, and on behalf of the State of California against VALLEY FRUIT for violations of California Labor Code Sections 201, 202, 203, 204, 221, 223, 224, 226(a), 226.7, 510, 512(a), 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802 and any other relevant Labor Code provision indicated herein.

Therefore, on behalf of all aggrieved employees, Mr. Anaya seeks all applicable penalties related to these violations of the California Labor Code pursuant to PAGA.

Re: ***Tony Doles v. VALLEY FRUIT AND PRODUCE***

March 26, 2025

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Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

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Best Regards,

Peter J. Horton

Copy: Valley Fruit and Produce