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June 13, 2025

VIA ONLINE SUBMISSION

Stewart Knox, Secretary
California Labor & Workforce
Development Agency
800 Capitol Mall, Suite 5000 (MIC-55)
Sacramento, CA 95814

VIA CERTIFIED MAIL

Earl Ising, Inc.
Attn: Legal Department
1226 Enterprise St.
Stockton, CA 95204

Earl Ising, Inc.
Attn: Legal Department
487 Preston Court
Livermore, CA 94551

FIRST AMENDED NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO CALIFORNIA LABOR CODE SECTION 2698, *ET SEQ.*

To: The California Labor and Workforce Development Agency; Earl Ising, Inc., doing business as Culligan Water

From: Javier Aparicio, on behalf of himself and all other current and former hourly nonexempt employees for violations of the California Labor Code

To Whom It May Concern:

Abramson Labor Group has been retained by former employee Javier Aparicio ("Mr. Aparicio") to seek compensation and all other available relief, including civil penalties on his behalf and on the behalf of all those similarly aggrieved (collectively with Mr. Aparicio, "Claimants") who have been injured by Earl Ising, Inc., doing business as Culligan Water's (collectively, "Culligan Water") violations of the California Labor Code. This First Amended Notice serves to amend Mr. Aparicio's original PAGA Notice dated March 25, 2025 and assigned case number 1088303-25. Mr. Aparicio, on behalf of himself and all other similarly aggrieved current and former hourly nonexempt employees of Culligan Water, intends to seek civil penalties, attorneys' fees, costs, and other available relief for violations of the California Labor Code, which are recoverable under sections 2698, *et seq.* of the Labor Code Private Attorneys General Act of 2004 ("PAGA").

Factual Statement:

Culligan Water is operating throughout California as a water purification delivery service provider to both commercial and residential customers, which includes delivery and repair of water softeners and water dispensers and delivery of single-use water bottles and filters.

Claimant Mr. Aparicio worked for Culligan Water as an hourly, nonexempt employee in the position of Technician/Driver, earning $35.00 per hour from approximately May 1, 2023 through the October 2, 2024. Mr. Aparicio, on behalf of himself and all other similarly aggrieved current and former employees in California in various positions, are or were engaged in water delivery and repair service for Culligan Water. As part of their employment with Culligan Water, Claimant and other hourly, nonexempt employees, collectively, "hourly nonexempt employees," are or were assigned to and required to suffer and permitted to work, some with and some without pay, while performing tasks collectively including, but not limited to, pre- and post-trip inspections of company truck accompanied by logging the inspections; loading and unloading the company truck with repair tools and products (5-gallon water jugs, filters, water bottles, and water softener salts) to be delivered to customers of Culligan Water; driving the truck from Culligan Water's facility to customers and back to Culligan Water's facility or from Claimants' homes to customers and back home; complying with Culligan Water's delivery window schedules; and fueling the company truck.

Claimant Mr. Aparicio regularly worked five (5) days per week for 7-10 hours or more hours per day. During the entire course of his employment, Culligan Water has failed to provide Mr. Aparicio and continues to fail to provide those similarly aggrieved with some overtime pay and compliant meal periods and rest breaks. Culligan Water has also failed to pay minimum wages to Mr. Aparicio and other hourly, nonexempt employees in violation of Labor Code sections 510, 1194, 1197, and 1182.12, and section 4 of IWC Wage Order No. 7-2001. As a consequence, Culligan Water has failed to comply with Labor Code sections 226.7, 510, and 512, and sections 3, 11, and 12 of all applicable Industrial Welfare Commission ("IWC") Wage Orders, including but not limited to, IWC Wage Order No. 7-2001. In violation of Labor Code sections 510, 1194, 1197, and 1182.12, Culligan Water has failed to compensate Claimants at a rate of one and one-half (1.5) times their regular rate for all hours worked over eight (8) hours per workday and the first eight (8) hours worked on the seventh day of a workweek and at two (2) times their regular rate for hours worked over twelve (12) hours per workday and eight (8) hours on the seventh day of a workweek.

Culligan Water has also failed and continues to fail to pay all wages owed every pay period in violation of Labor Code section 204. Likewise, Culligan Water has failed and continues to fail to provide timely, accurate wage statements to Mr. Aparicio and other aggrieved persons in violation of Labor Code section 226(a). With regard to those no longer employed by Culligan Water, including Mr. Aparicio, Culligan Water violated Labor Code section 203 by failing to timely pay all wages due upon separation. Culligan Water has failed and continues to fail to fully reimburse Claimants for all necessary, business-related expenses and losses they incurred, including, but not limited to, all costs incurred for the use of their personal cell phones, which were required to carry out their duties such as clocking in and out using the ADP smart phone application and for navigating to customers' locations during shifts, in violation of Labor Code section 2802. Mr. Aparicio is informed and believes that such violations are ongoing, systematic, and continuous. Mr. Aparicio intends to bring an action against Culligan Water under the Private Attorneys General Act ("PAGA") to recover wages and penalties as provided by California law.[1]

[1] Without limitation, Mr. Aparicio, if permitted, will seek any and all penalties otherwise capable of being collected by the Commission. This includes each provision as set forth in Labor Code section 2699.5 as follows:

Theories of Labor Code Violations and Remedies:

Claimant Mr. Aparicio was employed by Culligan Water from approximately May 1, 2023 through the October 2, 2024 as a Technician/Driver. For a period of at least four (4) years prior to March 2025, but for our purposes here, one (1) year prior, Culligan Water has violated and continues to violate the California Labor Code sections as detailed below.

Claimants also were at all times entitled to payment of **minimum wages**. Culligan Water has failed and continues to fail to pay Claimants minimum wages for all hours worked as required by Labor Code sections 510, 1194, and 1194.2 and section 4 of IWC Wage Order No. 7-2001. First, Claimants worked a substantial amount of time while off-the-clock—meaning they were not punched in for work or their recorded hours were reduced—and therefore, those working hours were not compensated. This off-the-clock time primarily occurred because Claimants were required to not track their drive time during their shifts from Culligan Water's facility to customers' locations and from customers' locations back to Culligan Water's facility. This off-the-clock time also occurred because Claimants sometimes started or ended their workdays by driving from their homes straight to Culligan Water's customers instead of stopping at one of Culligan Water's facilities first. Culligan Water instructed Claimants to clock in upon arriving at the customer and clock out upon departing from their last customer before driving straight home. Under California law, all of this uncompensated drive time is indeed compensable because Claimants were required to drive Culligan Water's truck filled with its products and tools and were under Culligan Water's control. Claimants' off-the-clock time was either never added or was reduced if recorded and, therefore, remains uncompensated. Accordingly, Claimants were not paid for that time spent working off the clock. Second, Defendant enforces practices that effectively require Claimants to perform work during their meal periods and rest breaks, the effects of which Defendant could have mitigated by better scheduling delivery windows when necessary and/or by increasing staff to complete jobs more quickly to allow Claimants to take rest breaks. However, Defendant instead chose to preserve its 2-hour delivery window policy and smaller-than-optimum staffing levels, which forced meal periods and rest breaks into noncompliance. With that, Culligan Water's corresponding failure to provide premium pay at the correct regular rate, if any premiums were paid at all, in lieu of compliant meal periods and rest breaks constitutes Culligan Water's failure to pay minimum wages and all hours worked every pay period and upon separation in violation of Labor Code sections 201, 202, 203, 204, 226(a), 510, 1182.12, 1194, and 1197. Culligan Water's failure to pay Claimants their meal period and rest break premiums for noncompliant meal periods and rest breaks, as explained in further detail below, also constitutes a failure to pay minimum wages to Claimants. Therefore, Claimants are entitled to recover wages and/or penalties as provided by Labor Code section 1197.1 and section 20 of IWC Wage Order No. 7-2001.

The provisions of subdivision (a) of Section 2699.3 apply to any alleged violation of the following provisions: subdivision (k) of Section 96, Sections 98.6, 201, 201.3, 201.5, 201.7, 202, 203, 203.1, 203.5, 204, 204a, 204b, 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, and 224, subdivision (a) of Section 226, Sections 226.7, 227, 227.3, 230, 230.1, 230.2, 230.3, 230A, 230.7, 230.8, and 231, subdivision (c) of Section 232, subdivision (c) of Section 232.5, Sections 233, 234, 351, 353, and 403, subdivision (b) of Section 404, Sections 432.2, 432.5, 432.7, 435, 450, 510, 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, and 1153, subdivisions (c) and (d) of Section 1174, Sections 1194, 1197, 1197.1, 1197.5, and 1198, subdivision (b) of Section 1198.3, Sections 1199, 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, and 1700.47, paragraphs (1), (2), and (3) of subdivision (a) of, and subdivision (e) of, Section 1701.4, subdivision (a) of Section 1701.5, Sections 1701.8, 1701.10, 1701.12, 1735, 1771, 1774, 1776, 1777.5, 1811, 1815, 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 3095, 6310, 6311, and 6399.7.

Claimants were at all times entitled to unpaid off-duty, uninterrupted **meal periods**. As explained in the preceding paragraph, Culligan Water failed to authorize and permit timely, full-length meal periods for Mr. Aparicio and all other similarly aggrieved employees as required by Labor Code sections 226.7 and 512 and section 11 of IWC Wage Order No. 7-2001. Mr. Aparicio and Claimants regularly missed their meal periods because of the company's policy of requiring Claimants to complete all deliveries and/or repairs within their given 2-hour windows first. On a daily basis, Mr. Aparicio and Claimants took their meal periods at the end of their shifts, which ultimately means their meal periods were late—past the end of the fifth hour, and therefore, Culligan Water owes Mr. Aparicio and Claimants an extra hour of pay for each shift. Nonetheless, Culligan Water did not compensate Claimants with an extra hour of pay at the regular rate for noncompliant meal periods for each workday on which they occurred. Accordingly, since Culligan Water required Mr. Aparicio and others similarly situated to work during their meal periods in violation of Labor Code sections 226.7(a) and 512, Claimants seek all available penalties as set forth in Labor Code sections 558, section 20 of IWC Wage Order No. 7-2001, and 2699(f).

Claimants were at all times entitled to take paid, off duty 10-minute **rest breaks**. However, for the same reasons cited in the preceding paragraph regarding meal periods, Culligan Water likewise failed to authorize and permit Mr. Aparicio and all other similarly aggrieved employees to take full-length, off-duty rest breaks as required by Labor Code sections 226.7 and section 12 of IWC Wage Order No. 7-2001. Claimants were not able to take their requisite number of 10-minutes rest breaks based on their shift duration; in fact, Claimants regularly worked through their rest breaks because of the company's policy of requiring Claimants to complete all deliveries and/or repairs within their given 2-hour windows first before taking any breaks. In other words, taking these rest breaks would have caused Claimants to miss some of their delivery windows, so Claimants forgo their rest breaks. Nonetheless, Culligan Water did not compensate Claimants with an extra hour of pay at the regular rate for noncompliant rest breaks for each workday on which they occurred. Therefore, Claimants are entitled to recover wages and/or penalties as provided by Labor Code section 558 and section 20 of IWC Wage Order No. 7-2001. Furthermore, since Culligan Water required their hourly nonexempt employees to perform work during rest periods in violation of Labor Code section 226.7(b), Claimants seek all available penalties set forth in Labor Code sections 558 and 2699.

At all times relevant herein, Claimants were entitled to the payment of **overtime**. That is, pursuant to Labor Code sections 510, 1194, 1197, and 1182.12, Culligan Water was required to compensate Claimants at a rate of one-and-one-half (1.5) times their regular rate for all hours worked over eight (8) hours per workday and the first eight (8) hours worked on the seventh day of a workweek and at two (2) times their regular rate for hours worked over twelve (12) hours per workday and eight (8) hours on the seventh day of a workweek. Mr. Aparicio and Claimants regularly worked overtime hours. Culligan Water has failed to and continues to fail to pay Claimants overtime wages owed for off-the-clock time worked that should have been compensated as overtime yet regularly required them to work these overtime hours without premium pay under Labor Code section 1194. In short, during the entire course of their employment, Culligan Water failed to provide Mr. Aparicio and continues to fail to provide all others similarly situated with all overtime pay in violation of 226.7, 510, and 512 and all applicable IWC Wage Orders, including but not limited to IWC Wage Order No. 7-2001, section 3.

Pursuant to Labor Code sections 201–203, Claimants who have since separated from Culligan Water, including Mr. Aparicio, were entitled to be paid all **wages owed upon separation** within the statutorily allotted time—immediately (resignation with notice and termination) or within 72 hours (resignation without notice). Claimants, including Mr. Aparicio, did not receive his final pay of all wages within the requisite time based on the circumstances of his separation nor did he receive all wages Culligan Water owed Mr. Aparicio based on Culligan Water's prior failings to pay all wages owed every pay period, including but not limited to minimum and overtime wages, and all meal and rest premiums owed, as explained above. On or about October 23, 2024, about three weeks following his termination on October 2, 2024, Culligan Water paid Mr. Aparicio via a paper check by mail for still only some of his wages. As such, Culligan Water did not pay Mr. Aparicio his final wages immediately upon termination as required by law, and the final check did not account for all wages owed to Mr. Aparicio.

Pursuant to IWC Wage Order No. 7-2001, employers are required to **keep and maintain accurate time records** showing when employees begin and end each work period. During the relevant time period, Culligan Water had a company-wide policy and engaged in a companywide practice of failing to record actual hours worked, thereby failing to keep accurate records of work period start and stop times for Claimants, in violation of section 1198. More specifically, Mr. Aparicio and Claimants did not record their drive time during their shifts when they originated from Defendants' facility to drive to customers' locations nor from customers' locations back to Defendants' facility; rather, Culligan Water's policy was to exclude this time from Claimants' total time worked. Because Culligan Water failed to record the actual hours worked and, therefore, the correct net and gross wages earned, applicable rates of pay, and number of total hours worked on Claimants' wage statements, Claimants have been prevented from verifying—solely from information on the wage statements themselves—that they were paid correctly and in full. Instead, Claimants have had to refer to other sources beyond their wage statements and reconstruct time records to determine whether in fact they were paid correctly and the extent to which they were underpaid, thereby causing them injury. Culligan Water's decision to fail to record this time was knowing and intentional because it was in the sole position to set forth and implement and enforce these companywide practices. Accordingly, Claimants are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f)–(g).

Claimants were at all times entitled to be provided timely and accurate **wage statements** from Culligan Water pursuant to Labor Code section 226. First, Mr. Aparicio's wage statements read "Earl Ising Inc" rather than the correct legal name of Defendant—Earl Ising, Inc.—with a comma and a period. Second, because Culligan Water failed to pay Claimants all of their meal period and rest break premiums for noncompliant meal periods and rest breaks and failed to pay Claimants minimum wages for all hours worked during their shifts and for all overtime wages due, Claimants' wage statements were inaccurate in reflecting meal period and rest break premiums owed, overtime and minimum wages, and all hours worked every pay period. As a consequence, Claimants' wage statements also do not reflect the accurate amount of net and gross wages owed. Accordingly, Claimants seek all available penalties as set forth in Labor Code sections 226(e) and 2699.

Finally, Claimants were entitled to be reimbursed by Culligan Water for all **necessary, business-related expenses** they incurred in executing their duties for Culligan Water. California Labor Code section 2802 provides that "An employer shall indemnify his or his employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or his duties, or of his or his obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful." Culligan Water, however, has failed to fully—if at all—reimburse Mr. Aparicio and Claimants for all necessary, business-related expenses and losses they incurred, including, but not limited to, all costs incurred for the use of Claimants' personal cell phones, which were required to carry out their duties such as clocking in and out using the ADP smart phone application and for navigating to customers' locations during shifts. Accordingly, Claimants are entitled to recover their unreimbursed expenditures and losses pursuant to Labor Code section 2802.

Culligan Water's uniform failure to pay overtime and minimum wages, failure to authorize and permit compliant full-length, off-duty rest breaks and meal periods or pay Claimants adequate premium compensation in lieu thereof, failure to furnish timely and accurate wage statements, failure to keep and maintain required records, and failure to timely pay all wages upon separation violate Labor Code sections 201, 202, 203, 204, 226(a), 226.3, 226.7, 510, 512, 1174.5, 1182.12, 1194, 1197, and 2802, and as such, penalties are recoverable as set forth in Labor Code sections 210, 1194, *et seq*., and 2699.

Claimants are entitled to recover unpaid wages, with interest, and are entitled to an award of attorneys' fees as permitted by Labor Code section 1194 and other penalties as permitted by Labor Code sections 210 and 2699.

Accordingly, Claimants seek the remedies set forth in the above-referenced Labor Code sections for themselves, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 2699(a), 2699.3(a), 2699.3(c), and 2699.5, Mr. Aparicio, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for themselves, all other aggrieved employees, and the State of California against Culligan Water for violations of California Labor Code sections 201, 202, 203, 204, 226(a), 226.3, 226.7, 510, 512(a), 1174(d), 1174.5, 1182.12, 1194, 1197, 1197.1, and 2802.

Should you require any additional information, please feel free to contact me.

Sincerely,

ABRAMSON LABOR GROUP

Cheryl Kenner

Cheryl A. Kenner