

March 6, 2025

Filed Via LWDA Website:

Labor Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

**Re: THAYER v. TSFC, INC.
Written Notice Under Labor Code § 2699.3**

Dear PAGA Administrator:

Please be advised that AMBER THAYER (hereafter referred to as “Claimant”) has retained our firm to represent her for her claims against her former employer, TSFC, INC. (hereafter referred to as “Defendant”).

This letter shall serve as Claimant’s written notice to the Labor and Workforce Development Agency of the Labor Code violations he claims Defendant committed against him and all other current and former non-exempt employees of Defendant in California. Claimant provides this written notice in accordance with the Labor Code Private Attorneys General Act of 2004 (“PAGA”), Labor Code 2698, et seq. Claimant desires to file a civil action to enforce her rights under the Labor Code and seek compensation accordingly.

Pursuant to Labor Code section 2699, and by way of this letter, Claimant also intends to represent all other current and former non-exempt employees of Defendant in California who have suffered at least one of the wage and hour violations described herein during their employment.

A copy of this letter, along with the \$75.00 filing fee will be submitted through the LWDA’s online portal for that purpose. Currently a letter is being delivered by certified mail to the Defendant in this matter.

FACTUAL BACKGROUND

The Employment Relationship:

Defendant provides private package delivery services in the State of California. Particularly, upon information and belief, Defendant supplements delivery jobs from nation-wide provider FedEx. In order to operate its business, Defendant hires logistics employees and drivers to load, drive, and unload packages across different routers in Southern California.

Defendant hired Claimant on or about July 31, 2020, as a driver. Claimant had to present herself at Defendant’s warehouse at 458 E Lambert Rd, Fullerton, CA 92835, pick get on the delivery truck and start driving through Defendant’s delivery routes. As the employment relationship progressed, Defendant had Claimant not only drive her routes but also train new drivers. Then, Defendant had also instructed Plaintiff to take on human resources responsibilities,

such as interviewing, onboarding, and managing paperwork pertaining to other employees. Lastly, Defendant had Claimant resume her fulltime driver responsibilities in November 2022.

Defendant terminated Claimant in March 7, 2024.

Claimant's Hours and Work Conditions:

Defendant paid Claimant and similarly situated employees on an hourly basis—at the end of Claimant's employment, \$20.50 per hour. Defendant schedule Claimant and similarly situated aggrieved employees for 40-hour-week shifts. However, Claimant would often work 12 hours a day during the high season. Claimant would also work 6 days a week during the high season. Defendant had expectations that Claimant and similarly situated aggrieved employees would complete a certain number of deliveries and other work tasks on a given day, and thus Claimant often worked through the required meal and rest periods.

Failure to Provide Legally Sufficient Meal Breaks:

Claimant and similarly situated aggrieved drivers would work for 8 hours or more without a 30-minute uninterrupted meal break period. Pertinently, Claimant would sometimes not be allowed to take a meal break at all. Otherwise, Defendant caused Claimant's meal breaks to be often interrupted, or Claimant would otherwise work during her meal periods in order to catch up to high workloads. Defendant did not offer a second meal break for days Claimant work over 10 hours. Pertinently, Defendant did not obtain a signed meal period waiver from Claimant.

Thus, Defendant denied Claimant and other non-exempt employees in California specific rights afforded to them under the California Labor Code and the applicable Industrial Welfare Commission Wage Order ("IWC Wage Order").

Failure to Authorize and Permit Legally Sufficient Rest Breaks:

Claimant and similarly situated aggrieved security officers would work more than 4-hour days, often up to 12 hours, for Defendant. However, Claimant and similarly situated employees were never told they were entitled to rest periods. Precisely, Claimant did not take, one, two, nor three rest periods during a given workday, as required.

Thus, Defendant denied Claimant and other non-exempt employees in California specific rights afforded to them under the California Labor Code and the applicable Industrial Welfare Commission Wage Order ("IWC Wage Order").

Failure to Provide Accurate Wage Statements:

Defendant did not provide Claimant and similarly situated employees with accurate itemized wage statements because, as discussed above, the wage statements did not include all owed meal and rest period premiums and the correct applicable rates of pay.

Failure to Pay All Wages at the time of Termination:

Because Defendant failed to compensate Claimant and similarly situated employees for all work performed, including missed meal and rest breaks premiums, Defendant did not pay Claimant and similarly situated employees all wages due and payable timely upon termination of employment.

On information and belief, Defendant does not pay all wages owed to other California employees, both exempt and non-exempt, by the times set forth by Labor Code section 201 and 202.

Failure to Pay All Wages in a Timely Fashion During the Course of Employment:

Because Defendant failed to appropriately compensate Claimant and similarly situated employees for all work performed and employee rights forsaken, including missed meal and rest breaks periods, Defendant did not pay all the wages they were due in a timely fashion in the course of employment.

FAILED TO PROVIDE LEGALLY COMPLIANT MEAL PERIODS

(Violation of Labor Code §§ 226.7, 512, 558, 1998, and
the "Meal Period" Sections of the Applicable IWC Wage Order)

Labor Code section 512(a) states: "An employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes, except that if the total work period per day of the employee is no more than six hours, the meal period may be waived by mutual consent of both the employer and employee. An employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes except that if the total hours worked is no more than 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."

Section (A) of the "Meal Period" provision of the applicable IWC Wage Order states, "[n]o employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, except that when a work period of not more than six (6) hours will complete the day's work the meal period may be waived by mutual consent of the employer and the employee. Unless the employee is relieved of all duty during a 30 minute meal period, the meal period shall be considered "on duty" meal period and counted as time worked." Section (8) states "If an employer fails to provide an employee a meal period in accordance with the applicable provisions of this Order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each work day that the meal period is not provided."

Pertinently, Labor Code section 1198 states "[t]he maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer

hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful."

Labor Code section 226.7 states: "(b) An employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health."

Consequently, Labor Code section 558 states: "(a) Any 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."

As set forth above, even though she always work at least 8 hours a day, Claimant would sometimes not be allowed to take a meal break at all. Otherwise, Defendant caused Claimant's meal breaks to be often interrupted, or Claimant would otherwise work during her meal periods in order to catch up to high workloads. Defendant did not offer a second meal break for days Claimant work over 10 hours. Pertinently, Defendant did not obtain a signed meal period waiver from Claimant. Consequently, Claimant and other current and former aggrieved employees would be entitled to receive one additional hour of pay at their regular rate of compensation for each day a compliant meal period was not provided.

Claimant seeks to pursue all available remedies, including recovery of wages, interest, attorney's fees and costs and penalties to the extent allowed by law on behalf of herself and other non-exempt current and former aggrieved employees of Defendant.

FAILED TO PROVIDE LEGALLY COMPLIANT REST PERIODS

(Violation of Labor Code §§ 226.7, 558, 1198, and
the "Rest Period" Sections of the Applicable IWC Wage Order)

Section (A) of the "Rest Periods" provision of applicable IWC Wage Order states, "Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minute net rest, time per four (4) hours or major fraction thereof. However, a rest period need not be authorized for employees whose total daily work time is less than three and one-half (3½) hours. Authorized rest period time shall be counted, as hours worked, for which there shall be no deduction from wages." Section (B) states "If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this Order, the employer shall pay the employee one (1) hour of pay

at the employee's regular rate of compensation for each work day that the rest period is not provided."

Labor Code section 1198 states "The maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful."

Labor Code section 226.7 states: "(b) An employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health."

Labor Code section 558 states: "(a) Any 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."

As set forth above, Defendant did not authorize and provide Claimant and similarly situated aggrieved employees with compliant rest periods. Further, Defendant never informed Claimant about her right to take uninterrupted rest breaks, and Claimant in fact never took proper rest breaks. Similarly, Defendant never obtained a waiver from Claimant regarding her rights to rest breaks. Consequently, Claimant and other current and former aggrieved employees would be entitled to receive one additional hour of pay at their regular rate of compensation for each day a compliant rest period was not provided.

Claimant seeks to pursue all available remedies, including recovery of wages, interest, attorney's fees and costs and penalties to the extent allowed by law on behalf of herself and other non-exempt current and former aggrieved employees of Defendant.

FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS

(Violation of Labor Code §§ 226(a), 226(e)(1), 226.2, 226.3, 1198, 2699 et seq., and the "Records" Section of the Applicable IWC Wage Order)

Labor Code section 226(a) states in pertinent part that every employer shall provide an accurate itemized statement in writing with respect to each one of its employees showing: 1) gross wages earned; 2) total hours worked by an employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission; (3) the number of piece rate units earned and any applicable piece rate if the employee is paid on a

piece-rate basis; (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item; (5) net wages earned; (6) the inclusive dates of the period for which the employee is paid; (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number; (8) the name and address of the legal entity that is the employer; and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

Further, Labor Code section 226.3 provides: "Any employer who violates subdivision (a) of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation for which the employer fails to provide the employee a wage deduction statement or fails to keep the records required in subdivision (a) of Section 226."

In addition, Labor Code section 226(e) imposes a penalty of the greater of all actual damages or \$50 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not exceeding an aggregate penalty of \$4,000, and Claimant is entitled to an award of costs and reasonable attorney's fees.

Also, Labor Code section 1198 states: "The maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful."

Pertinently, Section (B) of the "Records" provision of the applicable IWC Wage Order states that "[e]very employer shall semimonthly or at the time of each payment of wages furnish each employee, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately, an itemized statement in writing showing: (1) all deductions; (2) the inclusive dates of the period for which the employee is paid; (3) the name of the employee or the employee's social security number; and (4) the name of the employer, provided all deductions made on written orders of the employee may be aggregated and shown as one item."

Moreover, Labor Code section 226.2(a)(2) provides that for employees earning piece-rate compensation "[t]he itemized statement required by subdivision (a) of Section 226 shall, in addition to the other items specified in that subdivision, separately state the following, to which the provisions of Section 226 shall also be applicable:

(A) The total hours of compensable rest and recovery periods, the rate of compensation, and the gross wages paid for those periods during the pay period.

(B) Except for employers paying compensation for other nonproductive time in accordance with paragraph (7), the total hours of other nonproductive time, as determined under paragraph (5), the rate of compensation, and the gross wages paid for that time during the pay period.

Defendant failed to provide Claimant with accurate itemized wage statements complying with the requirements of Labor Code 226 and the applicable IWC Wage Order. Pertinently, Claimant and similarly aggrieved employees regularly worked more than 8 hours every day. Moreover, Defendant failed to provide compliant meal and rest periods or pay for required premiums in lieu of providing such complaint meal and rest periods.

Thus, because Defendant failed to compensate Claimant for all hours she was foregoing meal and rest breaks, Defendant failed to record and pay for all hours worked and failed to record and pay one additional hour of pay for each workday that the meal or rest or recovery period was not provided.

Consequently, Claimant will seek to pursue all available remedies, including those provided by PAGA, for these alleged violations on behalf of herself and other current and former aggrieved employees of Defendant including, but not limited to, penalties and attorney's fees and costs to the extent allowed by the law.

FAILURE TO MAINTAIN ACCURATE RECORDS

(Labor Code §§1174(d), 1174.5, 1198, 2699 et seq., and the “Records” Section of the applicable IWC Wage Order)

Labor Code section 1174(d) provides that an employer must 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 employees employed at the respective establishments. These records shall be kept on file for not less than three years. Labor Code section 1174.5 provides for a civil penalty of five hundred dollars (\$500) for an employer who willfully fails to maintain the records pursuant to Labor Code section 1174(d).

Further, Labor Code section 1198 states: "The maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful."

Pertinently, Sections (7)(A)(4) and (5) of the "Records" provision of the IWC Wage Order provides that employers “shall keep accurate information with respect to each employee,” including total wages paid each payroll period, total hours worked during the payroll period, and applicable rates of pay, as well as time records showing when each employee begins and ends each work period. The time records must also show meal periods, split shift intervals, and total daily hours worked.

In this case, Defendant failed to maintain records as set forth in section 1174 of the Labor Code and the “Records” section of the applicable IWC Wage Order including but not limited to, accurately recording total hours of compensable rest and recovery periods and applicable rates of pay. For instance, upon information and belief, Defendant’s records do not show with accuracy and requisite specificity when Claimant and similarly situated aggrieved employees took compliant meal periods or breaks during shifts or otherwise received compensation in lieu thereof.

Consequently, Claimant will seek to pursue all available remedies, including those provided by PAGA, for these violations on behalf of herself and other current and former aggrieved employees of Defendant, to the extent allowed by law.

**FAILURE TO TIMELY PAY WAGES DUE DURING THE COURSE OF
EMPLOYMENT AND UPON TERMINATION OF EMPLOYMENT**

(Violation of Labor Code §§ 201, 202, 203, 204, 210, 1198, 2699 et seq., and the "Minimum Wages" Section of the Applicable IWC Wage Order)

Labor Code section 201 states: "If an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately."

Further, Labor Code section 202 states "[i]f an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 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."

Furthermore, Labor Code section 203(a) states, in relevant part: "If an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.3, 201.5, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefore is commenced; but the wages shall not continue for more than 30 days."

In addition, Labor Code section 204(a) states, in pertinent part, "[a]ll wages . . . earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays."

Moreover, Labor Code section 210(a) imposes a civil penalty for violation of Labor Code section 204 of one hundred dollars (\$100) for the initial violation for each failure to pay each employee and two hundred dollars (\$200) for each subsequent violation, plus 25 percent of the amount unlawfully withheld.

Similarly, the "Minimum Wages" section of the applicable IWC Wage Order provides "[e]very employer shall pay to each employee, on the established payday for the period involved, not less than the applicable minimum wage for all hours worked in the payroll period, whether the remuneration is measured by time, piece, commission, or otherwise."

In this instance, Defendant failed to pay Claimant and similarly situated aggrieved employees all meal period and rest period premium wages due and owing during and upon termination of employment in March of 2024. Defendant willfully failed to pay all such premium wages when required by Sections 201 and 202 of the Labor Code. Therefore, Defendant owes waiting time penalties to all affected employees, including Claimant.

Consequently, Claimant will pursue all remedies for Defendant's failure to pay timely wages on behalf of herself and other current and former aggrieved employees, including recovery of wages, attorney's fees, costs, and penalties to the extent allowed by law.

CIVIL PENALTIES FOR VIOLATION OF THE LABOR CODE

(Labor Code §§ 558 and 1197.1)

Labor Code section 558 subjects any employer, or any other person acting on behalf of an employer, who violates or causes to be violated Part 2, Chapter 1, of the Labor Code (Labor Code §§ 500-558) or any provision regulating the hours and days of work in any IWC Wage Order to a civil penalty in the amount of fifty dollars (\$50) for any initial violation for each pay period in which an employee is underpaid in addition to an amount sufficient to recover underpaid wages, and one hundred dollars (\$100) for each subsequent violation, in addition to an amount sufficient to recover underpaid wages. Similarly, Labor Code section 1197.1 subjects any employer, and any other person acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or local law, or by an order of the commission, to a civil penalty of \$100 for any initial violation for each underpaid employee for each pay period for which the employee is underpaid, and a \$250 for each subsequent violation for the same specific offense for each underpaid employee for each pay period for which the employee is underpaid regardless of whether the initial violation is intentionally committed. The \$ 100/\$250 civil penalties shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section 203, which shall be payable directly to the employee.

As set forth above, Defendant underpaid Claimant and other aggrieved employees by failing to pay them all missed meal and rest period wages as well as all proper overtime wages as required by Labor Code sections 201, 202, 203, 204, 210, 226, 226.7, 510, 512, 1174, 1174.5, 1175, 1194, 1198, and the applicable sections of the IWC Wage Order. Consequently, Claimant will seek to pursue all available remedies, including those provided by PAGA, for these violations on behalf of herself and other current and former aggrieved employees, including those set forth under Labor Code sections 558 and 1197.1.

ATTORNEY'S FEES AND COSTS

(Labor Code §§ 218.5, 218.6, 226(e), 1194, 1194.2. and 2698, et seq.)

Labor Code Sections 218.5, 218.6, 226(e), 1194, and 1194.2 give employees the right to recover in a civil action the unpaid balance of the full amount of minimum wages, regular wages, overtime compensation, reimbursements, damages, liquidated damages and penalties, including interest thereon, reasonable attorney's fees, and costs of suit.

In addition, Labor Code sections 2698, et seq., among others, give employees the right to recover reasonable attorney's fees and costs, including any filing fee paid. Pursuant to Labor Code section 2698 et seq. employees are entitled to collect 35% of the penalty assessment. Consequently, Claimant will seek all available remedies, including those provided by PAGA. for

these violations on behalf of herself and other current and former aggrieved employees in California.

CONCLUSION

The facts and claims contained herein are based on the information available at the time of this writing. If Claimant becomes aware of additional claims, additional compensation owed and/or other violations to her or any other current and former employee of Defendant, he reserves the right to revise these facts and/or add any new claims by amending this written notice.

Sincerely,

Justin Hewgill, Esq.

TFSC, INC.
c/o Tom Freeman
Corporate Agent
2831 Birch Pl
Fullerton, CA 92835