

SULLIVAN & YAECKEL

LAW GROUP

A PROFESSIONAL CORPORATION

2330 THIRD AVENUE
SAN DIEGO, CALIFORNIA 92101

PHONE 619-702-6760
FACSIMILE 619-702-6761

April 29, 2025

Labor and Workforce Development Agency
Attn. PAGA Administrator

Submitted Via Online Filing

Re: **Tylor Hicks v. La Mesa R. V. Center, Inc.; Van Up, LLC;
and Jason J. Kimbrell**
Our File No.: 7406

Dear Administrator:

Please allow this correspondence to serve as “written notice,” as required by California Labor Code section 2699.3(a)(1), of the specific provisions of the California Labor Code believed to have been violated by La Mesa R. V. Center, Inc.; Van Up, LLC; and Jason Kimbrell (hereinafter collectively referred to as “LMRVC”), in the above referenced matter. This “written notice” is filed on behalf of Mr. Hicks, and all current and former employees employed by LMRVC. Thank you for your assistance and instruction on this issue.

Please Note: In providing said notice, Plaintiff intends to proceed in a “representative capacity only.” Plaintiff is not seeking any individual relief. This is consistent with recent California Court of Appeal precedent. See *Balderas v Fresh Start Harvesting, Inc.* (2024) 101 Cal.App.5th 533; *Rodriguez v. Packers Sanitation Services Ltd., LLC* (2025) 109 Cal.App.5th 69. However, Plaintiff is also aware of a potentially conflicting Court of Appeal Opinion in *Leeper v. Shipt, Inc.* (2024) 107 Cal.App.5th 1001. The *Leeper* Court required a PAGA Plaintiff to proceed on a representative and individual basis. Accordingly, Plaintiff has also provided notice herein of individual labor code violations experienced by Plaintiff. Plaintiff will pursue penalties for these individual violations only in the event that future precedent, or a ruling from the Court, requires that Plaintiff proceed in an individual and representative basis.

The California Court of Appeal recently confirmed (in *Atempa v. Pedrazzani* and *Usher v. White*) that under CA Labor Code section 558, PAGA penalties can be levied on individual owners, officers, and agents of the business for violations of California minimum wage and overtime laws. Pursuant to section 558, this includes violations of sections: 203, 226, 226.7, 1193.6, 1194, and 2802. Jason J. Kimbrell is listed as Secretary, Chief Executive Officer, and Director on La Mesa

R. V. Center, Inc.'s, Statement of Information filed with the California Secretary of State's office. (Please See **Exhibit A**). In this capacity Mr. Kimbrell is exercising substantial discretionary authority over decisions that determine LMRVC corporate policies and practices. These policies and practices are a direct cause of Labor Code Violations experienced by Plaintiff and other aggrieved employees.

The specific provisions alleged to have been violated by LMRVC are as follows:

CALIFORNIA LABOR CODE SECTIONS 204, 226, 226(a)(1), 226(a)(5), 226(a)(8) and 2802, as well as IWC Wage Order 7, and any other applicable wage orders, codified as Title 8, California Code of Regulations, section 11070 *et seq.*

Facts and theories supporting the allegations: Our client, Mr. Hicks worked for LMRVC as an employee from approximately February 6, 2012 through the current date.

Throughout the term of Mr. Hicks's employment, LMRVC required Mr. Hicks and all other employees to experience actions illegal under the California Labor Code, including the following:

- **Failure to Properly Pay All Commissions**

LMRVC failed to timely pay all commissions, in violation of Labor Code 204. Mr. Hicks was not paid all commissions duly owed to him while he was employed at LMRVC. More Specifically LMRVC failed to correctly calculate commissions owed pursuant to its own pay plans. Additionally, LMRVC failed to compensate Mr. Hicks and other employees for commissions earned on vehicles under manufacturer rebate. As of this date Mr. Hicks still has not been paid said commissions.

Wage Statement Violations

- LMRVC violated Labor Code sections 226(a)(1) and 226(a)(5) by failing to furnish an accurate showing of the net wages earned by Mr. Hicks and other employees. More Specifically, LMRVC failed to accurately identify all applicable non-discretionary payments owed to Mr. Hicks (including commissions) resulting in inaccurate representations of both "gross" and "net wages". More specifically, Van Up, LLC acting in its capacity as a "co-employer" of La Mesa R. V. Center, Inc., and Jason Kimbrell also failed to accurately identify non-discretionary payments (including commissions) it made to Mr. Hicks and other employees.
- LMRVC violated Labor Code section 226(a)(8) by failing to provide an accurate showing of the name and address of the legal entity that is the employer as it does not include all entities acting as Mr. Hicks employer at LMRVC. Additionally, "LA MESA R V CENTER INC & SUBSIDIARIES" is listed on Mr. Hicks Wage Statement as his employer (See **Exhibit B**), however "LA MESA R V CENTER INC & SUBSIDIARIES" is not listed with the California Secretary of State as a business entity, nor is it listed as a recognized D.B.A. with the San Diego County Records Office. (See **Exhibit C**).

Failure to Provide Compliant Expense Reimbursement Payments

- LMRVC failed to provide compliant expense reimbursement payments in violation of, *inter alia*, Labor Code section 2802, by failing to provide payments for expenses incurred by Mr. Hicks, and other employees, including expenses for cell-phone costs and necessary work supplies.

To confirm, LMRVC is a "person" as defined within California Labor Code section 18.

Again, thank you for your assistance and instruction throughout this matter. Should you have any questions or comments, please do not hesitate to contact the undersigned.

Very Truly Yours,



Eric K. Yaeckel, Esq.

cc: *Via Certified U.S. Mail*

Jason J. Kimbrell

Agent of Service of Process for

La Mesa R. V. Center, Inc.

7430 Copley Park Pl

San Diego, CA 92111-1122

UNITED STATES CORPORATION AGENTS, INC.

Agent of Service of Process for

Van Up LLC

500 N Brand Blvd. Ste. 890

Glendale, CA 91203

Jason J. Kimbrell

7430 Copley Park Pl

San Diego, CA 92111-1122

Jason J. Kimbrell

7836 N. Invergordon Pl

Scottsdale, AZ 85253-3121

Exhibit A



BA20241185785



STATE OF CALIFORNIA
Office of the Secretary of State
STATEMENT OF INFORMATION
CORPORATION

California Secretary of State
1500 11th Street
Sacramento, California 95814
(916) 657-5448

For Office Use Only

-FILED-

File No.: BA20241185785

Date Filed: 6/24/2024

B2835-7928 06/24/2024 11:06 AM Received by California Secretary of State

Entity Details			
Corporation Name	LA MESA R. V. CENTER, INC.		
Entity No.	0654168		
Formed In	CALIFORNIA		
Street Address of Principal Office of Corporation			
Principal Address	7430 COPLEY PARK PL SAN DIEGO, CA 92111-1122		
Mailing Address of Corporation			
Mailing Address	7430 COPLEY PARK PL SAN DIEGO, CA 92111-1122		
Attention			
Street Address of California Office of Corporation			
Street Address of California Office	7430 COPLEY PARK PL SAN DIEGO, CA 92111-1122		
Officers			
Officer Name	Officer Address	Position(s)	
JASON J KIMBRELL	7430 COPLEY PARK PL SAN DIEGO, CA 92111-1122	Chief Executive Officer, Secretary	
JAMES R KIMBRELL	7430 COPLEY PARK PL SAN DIEGO, CA 92111-1122	Chief Financial Officer	
Additional Officers			
Officer Name	Officer Address	Position	Stated Position
None Entered			
Directors			
Director Name	Director Address		
JAMES R KIMBRELL	7430 COPLEY PARK PL SAN DIEGO, CA 92111-1122		
JASON J KIMBRELL	7430 COPLEY PARK PL SAN DIEGO, CA 92111-1122		
James R. Kimbrell	7430 Copley Park Place San Diego, CA 92111		
+ Jason J Kimbrell	7430 COPLEY PARK PL SAN DIEGO, CA 92111-1122		
The number of vacancies on Board of Directors is: 0			
Agent for Service of Process			
Agent Name	JASON J KIMBRELL		
Agent Address	7430 COPLEY PARK PL SAN DIEGO, CA 92111-1122		
Type of Business			

Type of Business	RECREATIONAL VEHICLE SALES AND SERVICE
Email Notifications Opt-in Email Notifications	No, I do NOT want to receive entity notifications via email. I prefer notifications by USPS mail.
Labor Judgment No Officer or Director of this Corporation has an outstanding final judgment issued by the Division of Labor Standards Enforcement or a court of law, for which no appeal therefrom is pending, for the violation of any wage order or provision of the Labor Code.	
Electronic Signature ☒ By signing, I affirm that the information herein is true and correct and that I am authorized by California law to sign. <u>James R Kimbrell</u> Signature	<u>06/24/2024</u> Date

Exhibit B

Earnings Statement

HICKS, TYLOR JACOB

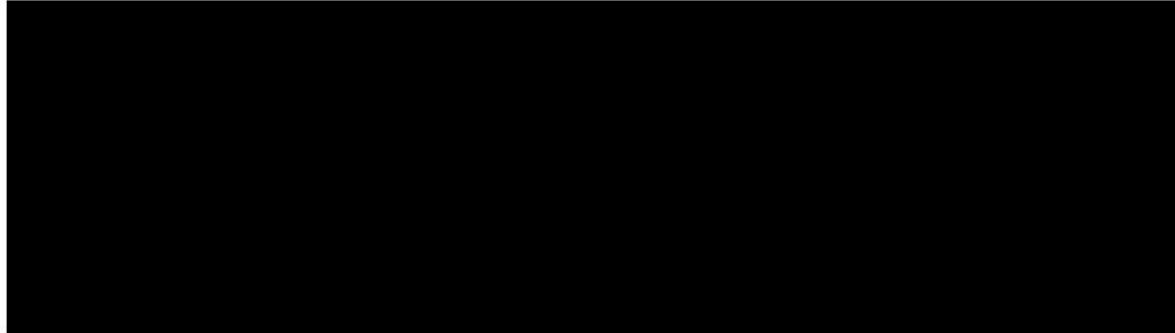
Pay Date: 02/09/2024
Period Start: 01/16/2024
Period End: 01/31/2024

Company: 0YW54 - LA MESA R V CENTER INC & SUBSIDIARI ES
7430 COPLEY PARK PL
SAN DIEGO CA 92111

Emp #: B178
Dept: S321M - SALES MGR-SAN DIEGO
Pay Basis: Commission

	Rate	Hours/Units	Current Period	Year To Date
Earnings				
Comm Mgr			7777.72	20090.50
Gross		0.00	7777.72	20090.50

W/H Taxes



Net Pay 4756.41 12505.56 Voucher No. 537727954DD

Net Pay Distribution

Direct Deposit Net Check 4756.41 12505.56 A/C:8251

Employee Benefits, Allowances, and Other

Current Period	Year To Date	YTD Taken	Available
		40.00	0.00 40.00

Sick Full Time Hours **

**Accruals balances are accurate as of processing 02/8/2024 12:46 pm

Voucher No. 537727954DD

LA MESA R V CENTER INC & SUBSIDIARI ES
7525 W MCDOWELL RD
PHOENIX, AZ 85035

DATE: 02/09/2024

Dept: S321M

Net Pay: 4756.41

Four Thousand Seven Hundred Fifty Six And 41/100 Dollars

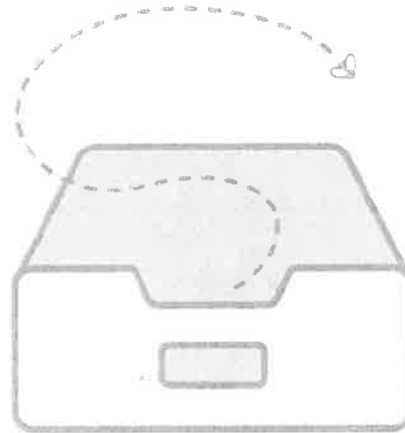
HICKS, TYLOR JACOB

For Record Purposes Only
****NON-NEGOTIABLE****

Exhibit C

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indirectly from reliance on the accuracy, reliability, or timeliness of the information that is provided. All such information is provided "as is." To order certified copies or certificates of status, (1) locate an entity using the search; (2) select Request Certificate in the right-hand detail drawer; and (3) complete your request online.

LA MESA R V CENTER INC & SUBSIDIAR [Advanced](#) ▼

No results were found for "LA MESA R
V CENTER INC & SUBSIDIARIES"

Try your search again with different filters or a
different search term.