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June 17, 2025

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VIA ONLINE SUBMISSION TO LWDA

California Labor & Workforce Development Agency
Attn: PAGA Administrator
320 W. Fourth Street, Suite 450
Los Angeles, CA 90013

Re: *Denise Surles v. Eurest Services, Inc.*
Case No. LWDA-CM-1095124-25
Response to Notice of Labor Code Violations and PAGA Penalties

Dear LWDA Representative:

Please be advised that Fisher Phillips LLP represents Eurest Services, Inc. ("the Company") with respect to the above-captioned matter. Please direct all further correspondence regarding this matter to our attention at the address and/or e-mail listed above.

In our capacity as the Company's labor and employment counsel, we have been asked to respond to the April 28, 2025 correspondence that Manny Star of the Frontier Law Center submitted to the LWDA regarding the PAGA claims Denise Surles ("Claimant") is asserting on behalf of herself and other allegedly aggrieved employees.

The gravamen of Claimant's claims are that she and "other employees" were not compensated regular, overtime, and minimum wages for off-the-clock work and rounding of time taken for meal periods; were not compensated at least minimum wage for all time worked when allegedly charged a "COVID" surcharge that reduced their wages; were not provided compliant meal and rest periods or paid the requisite premium pay in lieu thereof; were not provided reimbursement for expenses incurred for work purposes; were not provided accurate wage statements; and were not timely paid wages. Claimant has asserted her intention to pursue a PAGA claim against the Company and submitted the April 28, 2025 letter (presumably) in an attempt to satisfy the administrative requirements of PAGA.

Claimant's April 28, 2025, letter, however, fails to satisfy the administrative requirements of PAGA, which are set forth in California Labor Code section 2699.3(a). Pursuant to Section 2699.3(a), a plaintiff must provide both the employer and the LWDA "the specific provisions of

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this code alleged to have been violated, including the facts and theories to support the alleged violation.” (Emphasis added). Further, the aggrieved employee must have personally suffered from each of the violations described and alleged in the notice. Cal. Lab. Code § 2699(c)(1). In interpreting this provision, courts have explained that “the Ninth Circuit requires an exceedingly detailed level of specificity for Section 2699.3(a)(1) to be satisfied.” *Soto v. Castlerock Farming & Transp. Inc.*, No. 09-cv- 0701, 2012 WL 1292519, at *8 (E.D. Cal. Apr. 16, 2012) (citing *Archila v. KFC U.S. Props., Inc.*, 420 Fed.App’x. 667, 699 (9th Cir. 2011)). In both *Soto* and *Archila*, the courts noted that LWDA letters lacking specific factual allegations are insufficient to exhaust the administrative requirements of PAGA because such letters do not adequately describe the “facts and theories” that serve as the basis of the purported PAGA violation. See *Soto, supra*, 2012 WL 1292519 at *8.

Here, Claimant’s letter fails to identify sufficient facts to allow the Company to investigate their claims. Among other deficiencies, Claimant has failed to include sufficient information to enable the Company to identify the other allegedly “aggrieved employees.” Claimant generally alludes to “aggrieved employees,” but fails to precisely define them and instead refer to them as “other aggrieved employees.” This ambiguous, unspecific language precludes the Company from curing, investigating, or responding to Claimant’s allegations.

Moreover, Claimant has not stated the number of potential violations, the dates and times of the violations, or any other information that would allow the Company to calculate an amount for which it could resolve any alleged deficiencies. Further, Claimant fails to define the relevant time period, adding to the Company’s inability to investigate these allegations.

Altogether, Claimant’s letter falls woefully short of the standard set forth in *Archila* and *Soto* as nothing in the letter permits the Company to appropriately review and respond to her allegations. Based on Claimant’s failure to comply with the administrative requirements of PAGA, we submit this letter to request that the LWDA notify Claimant and her counsel that they may not pursue representative action claims against the Company. Alternatively, we submit this to provide additional information to support their administrative complaint and to preserve the Company’s defenses in any civil complaint that may be filed.

Furthermore, Claimant lacks standing to bring such claims as alleged in her April 28, 2025 Letter. Pursuant to Labor Code section 2699(c)(1) an aggrieved employee is a person who was employed by the alleged violation and personally suffered from each of the violations alleged during the statutory period. Here, Claimant provides no facts to support her contention that she actually suffered from these alleged violations and instead makes boilerplate recitations of the law to be taken as facts. Claimant therefore lacks standing to bring such claims on behalf herself or other allegedly aggrieved employees.

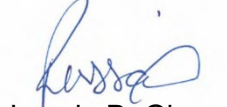
Finally, Claimant’s alleged claims are unmanageable. Courts are permitted to manage their dockets by, among other things, using a “vast variety of tools to efficiently manage PAGA claims.” *Estrada v. Royalty Carpet Mills, Inc.*, 15 Cal. 5th 582, 594 (2024). PAGA was recently amended to expand on the requirements of *Estrada* by permitting a court to limit claims and evidence where a case is not manageable. Cal. Lab. Code § 2699.3(p).

The facts and circumstances surrounding Claimant and the allegedly aggrieved employees’ employment with the Company differed vastly between jobs, roles, duties, and departments. The facts here are highly individualized and raise significant individualized inquiries regarding the claims alleged above. Where, as here, the showing required to rebut a presumption

will entail individualized proof on a widescale basis, the trial court may utilize its inherent authority to prevent duplicative evidence and limit remedies. There is no evidence presented that Claimant can adjudicate these claims on a representative basis given these issues of manageability. As such, Claimant's claims lack the manageability necessary to proceed on a representative basis.

The Company is unable to consider possible cure and related responses due to the insufficient notice provided by Claimant. Please do not hesitate to contact us with any questions you may have.

Sincerely,



Lonnie D. Giamela
Rassa L. Ahmadi
For FISHER & PHILLIPS LLP