CALIFORNIA UNITED
EMPLOYMENT LAW GROUP

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RE: Edgar Mendieta Caseres v. Creative Outdoor Environments, Inc. et al.

Dear Representative:

This office represents **Edgar Mendieta Caseres ("Mr. Caseres")** with respect to his claims under the California Labor Code against **Creative Outdoor Environments, Inc.** and, pursuant California Labor Code § 558.1, its individual directors, officers, owners and/or managing agents, **Eugene Edward Seus**, **Hanna Seus**, and **Randy Stephans** (**collectively, the** "**Employer**"). This letter is being sent simultaneously to Employer by certified mail.

Employer employed Mr. Caseres from approximately February 6, 2024 to February 2025 as an hourly, non-exempt employee. During his employment with Employer, Mr. Caseres was employed as a Gardener at Employer's location at Lathrop, California. Employer is a full-service landscaping company.

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Mr. Caseres intends to seek penalties for violations of the California Labor Code which are recoverable under California Labor Code section 2698, *et seq*., the Private Attorneys General Act of 2004 ("**PAGA**"). Mr. Caseres is seeking penalties on behalf of himself and in a representative capacity on behalf of the State of California and all current and former non-exempt employees of Employer ("**Aggrieved Employees**"). This letter is being sent in compliance with California Labor Code section 2699.3.

As detailed below, Employer violated several of California's wage and hour laws during Mr. Caseres's employment, including but not limited to violations of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 227.3, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 2800, 2802, and 6300, *et seq.,* and the Industrial Welfare Commission Wage Orders ("IWC Wage Order") including the applicable IWC Wage Orders. The claims made on behalf of Mr. Caseres and Aggrieved Employees are based upon the following facts and theories:

1. FAILURE TO PAY FOR ALL TIME WORKED AT CORRECT RATES OF PAY, INCLUDING MINIMUM WAGES, STRAIGHT TIME WAGES, AND OVERTIME COMPENSATION

Employer has engaged in numerous unlawful practices which resulted in the failure to pay Mr. Caseres and Aggrieved Employees for all time worked at the correct rates of pay, including minimum wages, straight time wages, and overtime compensation.

First, Employer regularly required Mr. Caseres and Aggrieved Employees to work more than eight (8) hours in a day or forty (40) hours in a workweek, but failed to pay them overtime compensation for such work. Employer also failed to provide Mr. Caseres and Aggrieved Employees with adequate training as to the payment of overtime compensation, all in an effort to keep its workers uninformed as to their legal right to overtime compensation. In addition, Employer regularly required Mr. Caseres and Aggrieved Employees to work off-the-clock in order to complete their duties and responsibilities. This off-the-clock work included, amongst other things, requiring Mr. Caseres and Aggrieved Employees to: (1) respond to Employer and work-related requests and perform work while clocked out for purported meal breaks; (2) perform work before clocking in for the start of their shift; and (3) perform work after clocking out for the end of their shift. Mr. Caseres and Aggrieved Employees were not compensated for this off-the-clock work, resulting in a failure to pay minimum wages and straight time wages. Moreover, this off-the-clock work typically caused Mr. Caseres and Aggrieved Employees to work more than eight (8) hours in a day and forty (40) hours in week, resulting in a failure to pay overtime compensation.

In addition to requiring Mr. Caseres and Aggrieved Employees to perform work off-the-clock without compensation, Employer also systematically underpaid wages to Mr. Caseres and Aggrieved Employees, including minimum wages, straight time wages and overtime wages. Employer also failed to accurately record the actual time worked by Mr. Caseres and Aggrieved Employees, which resulted in a failure to pay Mr. Caseres and Aggrieved Employees for all hours actually worked, including minimum wages, straight time wages and overtime wages. Finally, and as a matter of policy and/or practice, Employer failed to pay overtime to Mr. Caseres and Aggrieved Employees for all overtime hours worked based on regular rates of pay correctly calculated to include all applicable remuneration.

As a result of the foregoing practices, Employer has failed to pay Mr. Caseres and Aggrieved Employees for all wages earned at the correct rates of pay, including minimum wages, straight time wages, and overtime compensation. Accordingly, Employer violated IWC Wage Order No. 16-2001 and California Labor Code sections 204, 510, 1194, 1197, 1197.1 and 1198.

Mr. Caseres and Aggrieved Employees will therefore seek unpaid wages; PAGA default penalties; penalties pursuant to California Labor Code sections 558, 1197.1, and 1199; compensation pursuant to Labor Code Section 1194; and attorneys' fees and costs.

2. FAILURE TO PROVIDE MEAL PERIODS AND PAY MEAL PERIOD PREMIUMS

Employer failed to provide Mr. Caseres and Aggrieved Employees with legally compliant 30-minute meal periods. Mr. Caseres and Aggrieved Employees were required by Employer to work more than five (5) hours per day, but were not provided with uninterrupted 30-minute meal periods. Further, Mr. Caseres and Aggrieved Employees were not provided with a second uninterrupted 30-minute meal period when they worked over ten (10) hours per day. Employer regularly required Mr. Caseres and Aggrieved Employees to work through their first and second meal periods, to take their first meal period after their fifth (5th) hour of work, and/or to take their second meal periods after their tenth (10th) hour of work. On the occasions that Mr. Caseres and Aggrieved Employees did take a meal period, their meal periods were frequently interrupted or cut short.

Employer's policies, practices, and procedures were responsible for the violations alleged above and prevented Mr. Caseres and other Aggrieved Employees from taking timely, complete and duty-free meal periods because, amongst other reasons: (1) Employer did not have legally compliant policies regarding the provision and timing of meal periods or systematically disregarded its own purported meal period policies; (2) Employer's management at various levels, affecting all hourly-non-exempt employees, failed and refused to implement and enforce legally compliant meal period policies and practices; (3) Employer failed to adequately inform and train Mr. Caseres and other Aggrieved Employees regarding their right to take timely, uninterrupted, and duty-free meal periods; (4) Employer failed to adequately inform and train Mr. Caseres and other Aggrieved Employees about their right to premium wages for non-compliant meal periods; (5) Employer failed to ensure that there was adequate staffing to allow Mr. Caseres and other Aggrieved Employees to take timely, uninterrupted, and duty-free meal periods; (6) Employer required Mr. Caseres and other Aggrieved Employees to remain on-call and respond to work-related requests at all times, including during meal periods, which were frequently delayed until near the end of the shift, lasted only 10 to 20 minutes, and were often interrupted by supervisors with work-related instructions; and (7) Employer's policy and culture prevented Mr. Caseres and other Aggrieved Employees from taking timely, uninterrupted, and duty-free meal periods because of the priority placed on completing job requirements over employees right to receive timely, uninterrupted, and duty-free meal periods.

Mr. Caseres and Aggrieved Employees did not receive an extra hour of wages at their regular rate of pay for the meal periods which were not provided to them in compliance with California law.

Accordingly, Employer violated IWC Wage Order No. 16-2001 and California Labor Code sections 226.7, 512(a) and 1198.

Mr. Caseres and Aggrieved Employees will therefore seek PAGA default penalties pursuant to

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Labor Code section 2699; penalties pursuant to California Labor Code sections 558 and 1199; and attorneys' fees and costs.

3. FAILURE TO AUTHORIZE AND PERMIT REST PERIODS AND PAY REST PERIOD PREMIUMS

Employer failed to authorize and permit Mr. Caseres and Aggrieved Employees take legally compliant 10-minute rest periods. Employer required Mr. Caseres and Aggrieved Employees to work through rest periods. Mr. Caseres and Aggrieved Employees were not provided with uninterrupted, duty-free rest periods when they worked more than four (4) hours or a major fraction thereof. Further, Mr. Caseres and Aggrieved Employees were not provided with a second uninterrupted, duty-free rest period when they worked more than six (6) hours in a day, or a third uninterrupted, duty-free rest period after working more than ten (10) hours in day. In the rare event that a rest period was taken, it was frequently interrupted or cut short. Moreover, Mr. Caseres and Aggrieved Employees were not completely relieved of duty as required by *Augustus v. ABM Security Services, Inc.,* 2 Cal.5th 257 (2016).

Employer's policies, practices, and procedures were responsible for the violations alleged above and prevented Mr. Caseres and other Aggrieved Employees from taking timely and complete rest periods because, amongst other reasons: (1) Employer did not have legally compliant policies regarding the provision and timing of rest periods or systematically disregarded its own purported rest period policies; (2) Employer's management at various levels, affecting all hourly-non-exempt employees, failed and refused to implement and enforce legally compliant rest period policies and practices; (3) Employer failed to adequately inform and train Mr. Caseres and other Aggrieved Employees regarding their right to take timely, uninterrupted, and duty-free rest periods; (4) Employer failed to adequately inform and train Mr. Caseres and other Aggrieved Employees about their right to premium wages for non-compliant rest periods; (5) Employer failed to ensure that there was adequate staffing to allow Mr. Caseres and other Aggrieved Employees to take timely, uninterrupted, and duty-free rest periods; (6) Employer required Mr. Caseres and other Aggrieved Employees to remain on-call and respond to work-related requests at all times, including during rest periods, which were not authorized or permitted as a matter of policy and practice, and during which employees were expressly instructed not to stop working; and (7) Employer's policy and culture prevented Mr. Caseres and other Aggrieved Employees from taking timely, uninterrupted, and duty-free rest periods because of the priority placed on completing job requirements over employees right to receive rest periods.

Mr. Caseres and Aggrieved Employees did not receive an extra hour of wages at their regular rate of pay for the rest periods which were not provided to them in compliance with California law.

Accordingly, Employer violated IWC Wage Order No. 16-2001 and California Labor Code sections 226.7, and 1198.

Mr. Caseres and Aggrieved Employees will therefore seek PAGA default penalties pursuant to Labor Code section 2699; California Labor Code sections 558 and 1199 penalties; and attorneys' fees and costs.

4. FAILURE TO TIMELY PAY WAGES DURING EMPLOYMENT

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As to each pay period, Employer has failed to timely pay all wages earned because Mr. Caseres and Aggrieved Employees were not paid all the wages they were owed including, *inter alia,* overtime compensation, straight time wages, minimum wages, and meal and rest period premiums. Accordingly, Employer violated California Labor Code section 204(a).

Mr. Caseres and Aggrieved Employees will therefore seek PAGA default penalties pursuant to Labor Code section 2699; penalties pursuant to California Labor Code sections 210 and 1199; and attorneys' fees and costs.

5. FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS

As a result of the practices described above, the wage statements provided to Mr. Caseres and Aggrieved Employees failed to include the actual hours worked, the actual gross wages earned, and the correct rates of pay. Accordingly, Employer violated California Labor Code section 226(a).

Mr. Caseres and Aggrieved Employees will therefore seek PAGA default penalties; penalties pursuant to California Labor Code section 226.3; and attorneys' fees and costs.

6. FAILURE TO MAINTAIN ACCURATE RECORDS

Employer has failed to maintain accurate records relating to Mr. Caseres and Aggrieved Employees' work periods, meal periods, total daily hours worked, and total hours worked per payroll period. Accordingly, Employer violated IWC Wage Order No. 16-2001 and California Labor Code sections 1198.5 and 1174(d).

Mr. Caseres and Aggrieved Employees will therefore seek PAGA default penalties pursuant to Labor Code section 2699; California Labor Code section 1174.5 penalties; and attorneys' fees and costs.

7. FAILURE TO REIMBURSE NECESSARY EXPENDITURES

California Labor Code sections 2800 and 2802 require an employer to reimburse its employees for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her job duties or in direct consequence of his or her obedience to the directions of the employer. IWC Wage Order No. 16-2001 requires employers to provide employees with the tools or equipment necessary for the performance of their job. During the relevant time period, Mr. Caseres and Aggrieved Employees incurred necessary business-related expenses and costs that were not fully reimbursed by Employer. These costs include, but are not limited to, the purchase of four pairs of work boots required for landscaping and gardening duties.

Accordingly, Employer violated IWC Order No. 16-2001 and California Labor Code sections 2800 and 2802.

Mr. Caseres and Aggrieved Employees will therefore seek PAGA default penalties pursuant to Labor Code section 2699; and attorneys' fees and costs.

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8. FAILURE TO PAY VACATION TIME

Pursuant to California Labor Code section 227.3, ". . .whenever a contract of employment or employer policy provides for paid vacations, and an employee is terminated without having taken off his vested vacation time, all vested vacation shall be paid to him as wages at his final rate in accordance with such contract of employment or employer policy respecting eligibility or time served." During the relevant time period, Employer failed to pay Mr. Caseres and other Aggrieved Employees for all earned and unused and accrued vacation time at their final rate of pay at the time of termination of their employment. Accordingly, Employer has violated California Labor Code section 227.3.

Mr. Caseres and Aggrieved Employees will therefore seek PAGA default penalties pursuant to Labor Code section 2699; and attorneys' fees and costs.

9. FAILURE TO TIMELY PAY ALL WAGES UPON TERMINATION OF EMPLOYMENT

Upon the termination of employment, Mr. Caseres and Aggrieved Employees were not paid all wages due to them within twenty-four (24) hours or even within seventy-two (72) hours for those who resigned. Specifically, as a result of Employer's practices of requiring Mr. Caseres and Aggrieved Employees to work off-the-clock without compensation, failing to pay proper overtime compensation, failure to properly calculate regular rates, and failure to accurately record all hours actually worked, Employer failed to pay Mr. Caseres and Aggrieved Employees for all straight time wage, minimum wages and overtime compensation owed to them upon termination of their employment. Employer also failed to pay Mr. Caseres and Aggrieved Employees for meal period premiums, rest period premiums, and accrued vacation time they were owed, amongst other wages. Accordingly, Employer violated California Labor Code sections 201 and 202.

Mr. Caseres and Aggrieved Employees will therefore seek PAGA default penalties pursuant to Labor Code section 2699; penalties pursuant to California Labor Code sections 203, 1199, and 2699(f)(2); and attorneys' fees and costs.

Therefore, on behalf of himself, the State of California and all Aggrieved Employees, Mr. Caseres may seek all applicable penalties related to these violations of the California Labor Code pursuant to PAGA. If you have any questions or require additional information, please do not hesitate to contact us. Thank you for your attention to this matter.

Sincerely,

California United Law Group, P.C.

By: *Jared Sohn*

Jared R. Sohn, Esq.
Managing Attorney