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<u>ELECTRONICALLY FILED</u>

Attn: PAGA Administrator
Labor and Workforce Development Agency
1515 Clay Street, Suite 801
Oakland, California 94612
https://dir.tfaforms.net/308

<u>VIA CERTIFIED MAIL</u>

Premier Packing of California Inc.
c/o Agent for Service of Process
Attn: Paul W. Moncrief
16 W Gabilan Street
Salinas, CA 93901

Ocean Mist Foods, LLC
Ocean Mist Harvesting, LLC
Ocean Mist Organic, Inc.
c/o Agent for Service of Process
Attn: Timothy J. Baldwin
333 Salinas Street
Salinas, CA 93901

Desert Mist Farms
Desert Mist Farms, LLC
c/o Agent for Service of Process
Attn: Jeffrey R. Percy
52-300 Enterprise Way
Coachella, CA 92236

California Artichoke and Vegetable
Growers Corporation dba Ocean Mist Farms
c/o Agent for Service of Process
Attn: Timothy J. Baldwin
333 Salinas Street
Salinas, CA 93901

Re: *Antonio de Jesus Galindo Ramirez v. Premier Packing of California Inc., et al.*
Notice Regarding Private Attorneys General Act of 2004 Claim

To Whom It May Concern:

This letter is being sent to inform you that Mr. Antonio de Jesus Galindo Ramirez hereby amends his prior May 8, 2025 notification of intent to pursue civil penalties pursuant to section 2699.3 of the California Labor Code Private Attorneys General Act of 2004 (“PAGA” or “the Act”) (Lab. Code § 2698 *et seq*.), on behalf of all non-exempt aggrieved employees employed by Premier Packing of California Inc. (“Premier Packing”), Desert Mist Farms and Desert Mist Farms, LLC (“Desert Mist”), and Ocean Mist Foods, LLC, Ocean Mist Harvesting, LLC, and

Ocean Mist Organic, Inc. ("Ocean Mist") (collectively "Defendants"), in California during the statutory period. Mr. Galindo Ramirez amends his prior notice to put California Artichoke and Vegetable Growers Corporation dba Ocean Mist Farms on notice that it is also responsible for the Labor Code violations alleged to have been committed below by the Defendants identified above.

Premier Packing specializes in sourcing farm labor and is headquartered in Indio, California but has satellite offices along the Central California Coast, Mexicali and Central Mexico. Mr. Galindo Ramirez was employed by Premier Packing and was assigned to work at Desert Mist and Ocean Mist facilities in California from approximately January of 2023 through January 13, 2025. Pursuant to California law, Premier Packing has at all relevant times been Mr. Galindo Ramirez's employer during the statutory period.

Ocean Mist[1] is the largest grower of fresh artichokes in North America. Farming artichokes year-round in three ideal California growing regions: Castroville, Oxnard and Coachella. Ocean Mist Farms to become the largest grower of fresh artichokes in the U.S. Today, they grow artichokes plus 30 other fresh vegetables. Ocean Mist is jointly responsible for the Labor Code violations alleged to have been committed below by Defendants as it shared, controlled, or oversaw Mr. Galindo Ramirez's work by, for example, supervising the quality of worked performed by Mr. Galindo Ramirez.

On information and belief, Desert Mist grows produce such as brussels sprouts in the Coachella Valley and other desert areas. Desert Mist is jointly responsible for the Labor Code violations alleged to have been committed below by Defendants as it shared, controlled, or oversaw Mr. Galindo Ramirez's work by, for example, supervising the quality of worked performed by Mr. Galindo Ramirez.

In her representative action, Mr. Galindo Ramirez will seek civil penalties pursuant to PAGA as a result of Defendants' failure to: (1) compensate for all hours worked, including overtime (Lab. Code §§ 204, 510, 1194, 1197, 1198); (2) provide proper meal periods and/or premium pay for non-compliant meal periods (Lab. Code §§ 226.7, 512, 558, 1198, 1199); (3) provide proper rest periods and/or premium pay for non-compliant rest periods (Lab. Code §§ 226.7, 558, 1197, 1198, 1199); (4) provide paid sick time payment for sick leave (Lab. Code §§ 246, 248.2, 248.5); (5) indemnify for business expenses (Lab. Code § 2802);(6) furnish complete and accurate itemized wage statements (Lab. Code § 226(a)); and (7) timely pay all wages due within the time permitted upon separation of employment (Lab. Code §§ 201-203).

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[1] California Artichoke and Vegetable Growers Corporation dba Ocean Mist Farms falls within this grouping of "Ocean Mist."

FAILURE TO PAY HOURLY AND OVERTIME WAGES
(Labor Code §§ 204, 510, 1194, 1197, 1198, and 2699)

Labor Code section 204 states that "all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period."

Pursuant to Labor Code section 510, non-exempt employees are entitled to 1.5 times their hourly rate of pay for any work performed in excess of 8 hours in a day or any work performed in excess of 40 hours per week, and twice their regular hourly rate for any work performed past 12 hours in one day or past 8 hours on the seventh consecutive day.

Labor Code section 1194(a) states, "Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees, and costs of suit."

Labor Code section 1197 states, in pertinent part, "The minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than minimum wage so fixed is unlawful."

Labor Code section 1198 states, in pertinent part, "The employment of any employee… under conditions of labor prohibited by the [Wage Order] is unlawful."

In relevant part, Section 2 of the applicable Wage Order states that, "Hours worked means the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work."

In relevant part, Section 4 of the applicable Wage Order states that, "Every 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 conjunction, the provisions of the applicable Wage Order and Labor Code require employers to pay non-exempt employees no less than their agreed upon or statutorily mandated wage rates for all hours worked, including hours spent working "off-the-clock" when the employer knows or reasonably should know that employees are working during those hours. *Morillion v. Royal Packing Co*. (2000) 22 Cal.4th 575, 585.

Upon information and belief, during Mr. Galindo Ramirez's employment, Defendants failed and fail to compensate him and aggrieved employees for all hours worked and overtime hours worked after eight hours in a day and/or after forty hours in a week. For example, Mr.

Galindo Ramirez and aggrieved employees do not have any means to clock in or out of their shifts. Rather, the supervisor writes down the hours worked by Mr. Galindo Ramirez and aggrieved employees. Mr. Galindo Ramirez and aggrieved employees are required to park their cars and walk 10-20 minutes before reaching the "clock in" area, where they meet their supervisor. Once Mr. Galindo Ramirez and aggrieved employees reach the "clock in" area, they have to wait an additional 10 minutes of uncompensated time for the supervisor to complete roll call. If Mr. Galindo Ramirez and aggrieved employees work over 8 hours or their walk time to and from the supervisor goes over 8 hours, they are only paid 8 hours. In addition, Mr. Galindo Ramirez and aggrieved employees are sometimes required to work at two locations in one day. However, they are not compensated for the travel time between facilities. As such, Mr. Galindo Ramirez and aggrieved employees are not paid for all time under which they are subject to the control of Defendants.

Moreover, Upon information and belief, during Galindo Ramirez's employment, Defendants also failed and fail to compensate him and aggrieved employees for all hours worked and overtime hours worked after eight hours in a day and/or after forty hours in a week due to Defendants' policy and practice of rounding the time worked by non-exempt employees in Defendants' favor such that Mr. Galindo Ramirez and other non-exempt employees were not paid for all time actually worked. As mentioned in the preceding paragraph, the supervisors on site write down the hours worked by employees. However, the supervisors, round all hours to the quarter hour, irrespective of what time the employees actually work. As such, Mr. Galindo Ramirez and aggrieved employees are not paid for all time under which they are subject to the control of Defendants.

Accordingly, Mr. Galindo Ramirez, on behalf of himself and aggrieved employees, will pursue civil penalties and all available remedies to the extent allowed by law for the alleged violations.

FAILURE TO PROVIDE MEAL PERIODS

(Labor Code §§ 226.7, 512(a), 558, 1198, 2699, and the "Meal Periods" Section of the Applicable Wage Order)

Labor Code section 226.7(b) states, in pertinent part, "An employer shall not require an employee to work during meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission"

Labor Code section 226.7(c), provides that if an employer fails to provide an employee a meal period in accordance with statute or an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each work day that the meal period is not provided.

Labor Code section 512(a) states, in pertinent part, "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… [a]n employer may not employ an employee for a work period of more than ten hours per day without providing the employee with a second meal period of not less than thirty minutes, except that if the total hours worked is no more than twelve hours, the second meal period may be waived by mutual consent of the employer and employee only if the first meal period was not waived."

Labor Code section 1198 states, in pertinent part, "The employment of any employee… under conditions of labor prohibited by the [Wage Order] is unlawful."

In relevant part, Section 2 of the applicable Wage Order states that, "Hours worked means the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work."

Section 11 of the applicable Wage Order provides that:

(A) No 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 an "on-duty" meal period and counted as time worked. An "on-duty" meal period shall be permitted only when the nature of the work prevents an employee from being relieved of all duty and when by written agreement between the parties an on-the-job paid meal period is agreed to. The written agreement shall state that the employee may, in writing, revoke the agreement at any time.

(B) 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 employer's regular rate of compensation for each workday that the meal period is not provided.

Upon information and belief, Defendants failed and fail to provide Mr. Galindo Ramirez and aggrieved employees with compliant thirty minute off-duty meal periods for work periods and failed to pay them premium wages at their regular rates of pay thereto. For example, Mr. Galindo Ramirez often had to take short meal periods. Specifically, Mr. Galindo Ramirez and aggrieved employees take their meal periods at the direction of the lead and are required to be back at their work area within 30 minutes. These meal periods are late by reason of the unaccounted for time in which employees have to talk to their "clock in" area at the beginning of their shifts. Given the latter, employees' meal periods are short in time.

Accordingly, Mr. Galindo Ramirez, on behalf of himself and aggrieved employees, will pursue civil penalties and all available remedies to the extent allowed by law for the alleged violations.

FAILURE TO PROVIDE REST PERIODS

(Labor Code §§ 226.7, 1197, 1198, 2699, and the "Rest Periods" Section of the Applicable Wage Order)

Labor Code section 1198 states, in pertinent part, "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(b) states, in pertinent part, "An employer shall not require an employee to work during meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission."

Pursuant to *Augustus v. ABM Security Services, Inc.*, (2017) 2 Cal.5th 257, 260, "[d]uring required rest periods, employers must relieve their employees of all duties and relinquish any control over how employees spend their break time."

Labor Code section 226.7(c), provides that if an employer fails to provide an employee a rest period in accordance with statute or an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each work day that the meal period is not provided.

Section 12 of the applicable Wage Order provides that:

(A) Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle each work period. The authorized rest period shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof.

(B) 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 compensations for each workday that the rest period is not provided.

Upon information and belief, Defendants' policies and practices failed and fail to provide Mr. Galindo Ramirez and aggrieved employees with off-duty rest periods of at least ten minutes for each four hour work period, or major fraction thereof, and failed and fail to pay them a premium wage at their regular rates of pay on workdays they failed to provide them with an opportunity to take rest periods. For example, as mentioned above, Defendants do not take into account the time

Mr.. Galindo Ramirez and other employees have to spend walking to and from the “clock in” area. Thus, when employees are scheduled to work 10 hour shifts, they are entitled to a third rest period, which they do not receive.

Accordingly, Mr. Galindo Ramirez, on behalf of himself and aggrieved employees, will pursue civil penalties and all available remedies to the extent allowed by law for the alleged violations.

FAILURE TO PROVIDE PAYMENT FOR SICK LEAVE

(Labor Code §§ 246, 248.5, 2699)

Labor Code section 246(a)(1) provides that an employee who, on or after July 1, 2015, works in California for the same employer for 30 or more days within a year from the commencement of employment is entitled to paid sick days.

Labor Code section 246(b)(1) provides that an employee shall accrue paid sick days at the rate of not less than one hour per every 30 hours worked, beginning at the commencement of employment, subject to the use and accrual limitations set forth in this section.

Labor Code section 246(n) provides that an employer shall provide payment for sick leave taken by an employee no later than the payday for the next regular payroll period after the sick leave was taken.

Labor Code section 248.5(a)(2) states that if paid sick days were unlawfully withheld, the dollar amount of paid sick days withheld from the employee multiplied by three, or two hundred fifty dollars ($250), whichever amount is greater, but not to exceed an aggregate penalty of four thousand dollars ($4,000), shall be included in the administrative penalty.

Upon information and belief, Mr. Galindo Ramirez and aggrieved employees accrued sick time throughout their employment, but Defendants failed to properly accrue and compensate them for all vested sick time earned at the correct accrual rates in accordance with their employment contracts and/or Defendants policies when they sought sick leave. For example, Mr. Galindo Ramirez started working for Defendants in January of 2023 and did not take sick time. Yet, according to his December 2024 wage statement, he had only earned 6 hours of sick time despite not taking any sick time.

Accordingly, Mr. Galindo Ramirez, on behalf of aggrieved employees, will pursue civil penalties and all available remedies to the extent allowed by law for the alleged violations.

FAILURE TO REIMBURSE BUSINESS EXPENSES
(Labor Code § 2802)

In pertinent part, Labor Code section 2802(a) states that, "An employer shall indemnify his or her employee(s) for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her duties. At relevant times during the statutory period, Defendants required Mr. Galindo Ramirez and aggrieved employees to incur business expenses which Defendants failed and/or refused to reimburse them for. For example, Mr. Galindo Ramirez and aggrieved employees were and are required to use their own vehicles when required to work at multiple facilities in one day, without compensation.

Accordingly, Mr. Galindo Ramirez, on behalf of himself and aggrieved employees, will pursue civil penalties and all available remedies to the extent allowed by law for the alleged violations.

FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS
(Labor Code §§ 226, 226.3, and 2699)

Labor Code section 226(a) requires an employer to provide an employee with an accurate itemized wage statement that shows: (1) gross wages earned; (2) total hours worked by the employee; (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 pay; (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 rate by the employee.

For violations of Labor Code section 226(a), Labor Code section 226.3 imposes a civil penalty on any employer that violates section 226(a) in the amount of $250.00 per employee per violation in an initial citation and $1,000.00 per employee for each subsequent violation. The civil penalties provided for in Labor Code section 226.3 are in addition to any other penalty provided by law.

Mr. Galindo Ramirez and aggrieved employees were and continue to be furnished with inaccurate itemized wage statements during the statutory period. For example, Mr. Galindo Ramirez's January 9, 2025 wage statement shows a pay period of October 10, 2024 to January 5, 2025 when the correct dates should be December 20, 2024 to January 5, 2025. Additionally, as a result of the alleged violations discussed above, Defendants furnished wage statements that failed to correctly show, among other items: (1) gross wages earned, (2) all deductions, and (3) net wages earned. Accordingly, Mr. Galindo Ramirez on behalf of himself and other aggrieved employees, will seek to recover available civil penalties for violations of Labor Code 226(a).

FAILURE TO TIMELY PAY WAGES UPON SEPARATION OF EMPLOYMENT
(Labor Code §§ 201, 202, 203, and 2699)

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

Labor Code section 202 states, in pertinent part, "If 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."

Labor Code section 203 provides that an employee's wages shall continue as a penalty from when they first become due at the same rate until paid for up to 30 days when an employer willfully fails to timely pay all earned and unpaid wages in accordance with Labor Code section 201 or 202.

Upon information and belief, Defendants willfully failed and fail to provide aggrieved employees all wages due and owed upon separation of employment. By furnishing aggrieved employees with a final check that failed to include all earned and owed wages and meal and rest period premiums – as described above, Defendants violated Labor Code sections 201 or 202.

Accordingly, Mr. Galindo Ramirez on behalf of himself and aggrieved employees, will pursue civil penalties and all available remedies to the extent allowed by law for the alleged violations.

CIVIL PENALTIES FOR VIOLATION OF THE LABOR CODE AND IWC WAGE ORDERS
(Labor Code § 558)

Labor Code section 558 subjects any employer or other person acting on behalf of an employer who violates Part 2, Chapter 1, of the Labor Code (Labor Code §§ 500-558), or any provision regulating the hours and days in any IWC Wage Order, to a civil penalty in the amount of $50 for any initial violation for each pay period in which an employee is underpaid, and $100 for each subsequent violation.

As set forth above, Defendants failed to pay all overtime compensation and provide Mr. Galindo Ramirez and aggrieved employees compliant meal periods and/or rest periods and failed to pay premium wages owed. Accordingly, Mr. Galindo Ramirez, on behalf of aggrieved employees, will seek to recover civil penalties under Labor Code section 558.

CONCLUSION

The allegations set forth herein are supported by, among other things, records and documents from Mr. Galindo Ramirez's employment with Defendants, including wage statements and Mr. Galindo Ramirez's confirmation of Defendants' unlawful practices and policies. As a result of the foregoing violations, Mr. Galindo Ramirez is entitled to file a Complaint and invoke the protections of the Act. Mr. Galindo Ramirez has placed Defendants on notice by mailing a certified copy of this notice to its corporate headquarters and/or authorized agents.

Very truly yours,

BOUCHER LLP

By: ______________________________
Alexander Gamez, Esq.

cc via email:
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