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May 1, 2025

VIA ONLINE SUBMISSION

California Labor & Workforce Development Agency
ATTN: PAGA Administrator
(https://dir.govfa.net/418)

Subject: *Juan Villarreal Romero v. La Terra Fina USA, LLC*

Dear PAGA Administrator:

This office represents Juan Villarreal Romero in connection with his claims under the California Labor Code. Mr. Villarreal Romero was an employee of LA TERRA FINA USA, LLC ("LTF").

The employer may be contacted directly at the address below:

LA TERRA FINA USA, LLC
1300 ATLANTIC ST
UNION CITY, CA 94587

Mr. Villarreal Romero intends to seek civil penalties, attorneys' fees, costs, and other available relief for violations of the California Labor Code, which are recoverable under sections 2698, *et seq.*, the Labor Code Private Attorneys General Act of 2004 ("PAGA"). Mr. Villarreal Romero seeks relief on behalf of himself, the State of California, and other persons who are or were employed by LTF as a non-exempt, hourly paid employee in California and who received at least one wage statement ("aggrieved employees"). This letter is sent in compliance with the notice and reporting requirements of California Labor Code section 2699.3.

LTF employed Mr. Villarreal Romero as an hourly paid, non-exempt employee from approximately January 2024 to February 2025. Mr. Villarreal Romero worked for LTF as a Maintenance Mechanic at its facility in Union City, California. During his employment, Mr. Villarreal Romero typically worked ten (10) hours or more per day and five (5) days per week. At the time Mr. Villarreal Romero's employment with LTF ended, he earned approximately $47.84 per hour ($48.84 per hour for graveyard shifts). His job duties included, without limitation, facility and production equipment maintenance and repairs.

LTF has committed each of the following Labor Code violations against Mr. Villarreal Romero, the facts and theories of which follow, making him an "aggrieved employee" pursuant to California Labor Code section 2699(c)(1): [1]

LTF's Company-Wide and Uniform Payroll and HR Practices

LA TERRA FINA USA, LLC is a Delaware limited liability company and is a ready-made food company that manufactures dips and spreads for distribution to grocery stores and other retailers nationwide. Upon information and belief, LTF maintains a single, centralized Human Resources (HR) department at its corporate headquarters in Union City, California, for all non-exempt, hourly paid employees working for LTF in California, including Mr. Villarreal Romero and other aggrieved employees. At all relevant times, LTF issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Mr. Villarreal Romero and other aggrieved employees, regardless of their location or position.

Upon information and belief, LTF maintains a centralized Payroll department at its corporate headquarters in Union City, California, which processes payroll for all non-exempt, hourly paid employees working for LTF in California, including Mr. Villarreal Romero and other aggrieved employees. Further, LTF issues the same formatted wage statements in the same manner for all non-exempt, hourly paid employees working in California, including Mr. Villarreal Romero and other aggrieved employees, irrespective of their location, position, or manner in which each employee's employment ended. In other words, LTF utilized the same methods and formulas when calculating wages due to Mr. Villarreal Romero and other aggrieved employees in California.

Violation of California Labor Code §§ 510 and 1198 – Unpaid Overtime

California Labor Code sections 510 and 1198 and the applicable Industrial Welfare Commission ("IWC") Wage Order require employers to pay employees working more than eight (8) hours in day or more than forty (40) hours in a workweek at the rate of time-and-one-half (1 ½) times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek. The applicable IWC Wage Order further provides that employers are required to pay employees working more than twelve (12) hours in a day overtime compensation at a rate of two (2) times their regular rate of pay. An employee's regular rate of pay includes all remuneration for employment paid to, or on behalf of, the employee, including nondiscretionary bonuses and incentive pay.

LTF willfully failed to pay all overtime wages owed to Mr. Villarreal Romero and other aggrieved employees. During the relevant time period, Mr. Villarreal Romero and other aggrieved employees were not paid overtime premiums for all of the hours they worked in excess of eight (8) hours in a

[1] These facts, theories, and claims are based on Mr. Villarreal Romero's experience and counsel's review of those records currently available relating to Mr. Villarreal Romero's employment. Discovery conducted in litigation of wage and hour claims such as these often reveals additional claims that the aggrieved employee was not initially aware of (because the aggrieved employee was not aware of the law's requirements, the employer misinformed its employee of the law's requirements, or because the employer effectively hid the violations). Thus, Mr. Villarreal Romero reserves the right to supplement this letter with additional facts, theories, and claims if he becomes aware of them subsequent to the submission of this letter.

day, in excess of twelve (12) hours in a day, and/or in excess of forty (40) hours in a week, because all hours that they worked were not recorded.

First, during the relevant time period, LTF had, and continues to have, a company-wide policy and/or practice of discouraging and impeding employees from recording hours worked that were outside of their scheduled shifts in order to limit the amount of overtime employees could accrue. LTF's "Overtime" policy states, in part, "Employees may work overtime only with prior management authorization." As a result, LTF required Mr. Villarreal Romero and other aggrieved employees to perform various work-related tasks off-the-clock after their scheduled shifts and on their days off. For example, after the end of his shifts and on his days off, Mr. Villarreal Romero was required to speak to his manager or coworkers over the phone and text message about repair and maintenance questions for 15 minutes to 1 hour per instance, depending on the severity of the issue. However, Mr. Villarreal Romero was not allowed to record this time spent working. Thus, LTF failed to track all of the time Mr. Villarreal Romero and other aggrieved employees spent performing work-related tasks outside of their shifts, and Mr. Villarreal Romero and other aggrieved employees received no compensation for this time.

Second, LTF had, and continues to have, company-wide policies and/or practices of understaffing its facility while assigning heavy workloads, including pressuring employees to meet production quotas for the facility. The pressure to meet these productivity requirements resulted in Mr. Villarreal Romero and other aggrieved employees handling approximately 5-10 maintenance and repair jobs per shift. LTF's policies and/or practices resulted in a failure to provide Mr. Villarreal Romero and other aggrieved employees with adequate meal period coverage, such that there were too few employees on duty to handle the workload, i.e., completing the number of time-sensitive repairs and maintenance projects at the facility while keeping production running at capacity, and thus, Mr. Villarreal Romero and other aggrieved employees were not always afforded uninterrupted 30-minute meal periods during shifts when they were entitled to receive a meal period.

LTF also had a practice of failing to schedule meal periods, which further caused Mr. Villarreal Romero and other aggrieved employees to not be relieved of their duties for compliant meal periods. Additionally, LTF had, and continues to have, a company-wide policy and/or practice of requiring that Mr. Villarreal Romero and other aggrieved employees respond to their company-issued radios at all times, including during meal periods. As a result, LTF's management and coworkers contacted Mr. Villarreal Romero on his company-issued radio during meal periods to discuss work-related matters and to tell him to cut his meal periods short and return to work to help with various repair tasks. Thus, Mr. Villarreal Romero and other aggrieved employees worked through meal periods and/or had meal periods cut short or interrupted in order to handle their workloads and meet LTF's expectations. LTF did not compensate Mr. Villarreal Romero and other aggrieved employees for the time they spent working off the clock during unpaid meal periods.

LTF knew or should have known that as a result of these company-wide practices and/or policies, Mr. Villarreal Romero and other aggrieved employees were performing their assigned duties off-the-clock outside of their shifts and during meal periods, and were suffered or permitted to perform work for which they were not paid. Because Mr. Villarreal Romero and other aggrieved employees worked shifts of eight (8) hours or more a day, or forty (40) hours a week or more, some of this off-the-clock work qualified for overtime premium pay. Therefore, Mr. Villarreal Romero and other aggrieved employees were not paid overtime wages for all of the overtime hours they actually worked.

LTF's failure to pay Mr. Villarreal Romero and other aggrieved employees the balance of overtime compensation, as required by California law, violates the provisions of California Labor Code sections 510 and 1198. Mr. Villarreal Romero and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring LTF into compliance with the applicable IWC Wage Order and Labor Code sections 510 and 1198, pursuant to Labor Code sections 558 and/or 2699(a), (f), and (k).

Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 – Unpaid Minimum Wages

California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 require employers to pay employees the minimum wage fixed by the IWC. The payment of a lesser wage than the minimum so fixed is unlawful. Compensable work time is defined in IWC Wage Order No. 1-2001 as "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, whether or not required to do so." Cal. Code Regs. tit. 8, § 11010(2)(G) (defining "Hours Worked").

As set forth above, during the relevant time period, as a result of LTF's policy of limiting the amount of overtime employees could accrue, LTF required Mr. Villarreal Romero and other aggrieved employees to perform various work-related tasks while off-the-clock, including communicating with managers and coworkers over the phone and text message after their scheduled shifts and on their days off. As also stated, due to LTF's policies and/or practices of understaffing, assigning heavy workloads (including pressure to meet production quotas and other productivity requirements), failing to schedule meal periods, and requiring employees to respond to their company-issued radios during meal periods, Mr. Villarreal Romero and other aggrieved employees were impeded from taking all uninterrupted meal periods to which they were entitled and were required to work off-the-clock during meal periods, have their meal periods interrupted, and/or were otherwise not relieved of all duties during unpaid meal periods.

LTF did not pay at least minimum wages for all hours worked by Mr. Villarreal Romero and other aggrieved employees. To the extent that these off-the-clock hours did not qualify for overtime premium payment, LTF did not pay at least minimum wages for those hours worked off-the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198.

Accordingly, LTF regularly failed to pay at least minimum wages to Mr. Villarreal Romero and other aggrieved employees for all of the hours they worked in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Mr. Villarreal Romero and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring LTF into compliance with the applicable IWC Wage Order and Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198, pursuant to Labor Code sections 1197.1 and/or 2699(a), (f), and (k).

Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 – Failure to Provide Meal Periods

California Labor Code sections 226.7, 512(a), 516, and 1198, and the applicable IWC Wage Order require employers to provide meal periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. Pursuant to Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order, an employer may not require, cause or permit an employee to work for a period of more than five (5) hours per day without providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee. Under California law, first meal periods must start after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (2012). Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order also require employers to provide a second meal period of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1) additional hour of pay at the employee's regular rate, except that if the total hours worked is no more than twelve (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.

First, as stated, LTF had, and continues to have, company-wide policies and/or practices of understaffing its facility while assigning heavy workloads (including implementing production quotas and productivity requirements), resulting in a failure to provide Mr. Villarreal Romero and other aggrieved employees with adequate meal period coverage. Because LTF did not employ or staff a sufficient number of employees to meet the facility's productivity demands, there was no one available to relieve employees needing meal period coverage, and Mr. Villarreal Romero and other aggrieved employees were not always afforded timely, uninterrupted 30-minute meal periods during shifts when they were entitled to receive a meal period. Further, as stated, LTF had a company-wide practice and/or policy of failing to schedule meal periods, which further caused Mr. Villarreal Romero and other aggrieved employees to not be relieved of their duties for compliant meal periods.

Second, as also stated, LTF had a company-wide policy and/or practice of requiring that Mr. Villarreal Romero and other aggrieved employees respond to company-issued radios at all times, including during meal periods, in order to meet LTF's expectations. As a result, LTF's management and coworkers contacted Mr. Villarreal Romero and other aggrieved employees on their company-issued radios during meal periods to discuss work-related matters, resulting in noncompliant, interrupted meal periods.

LTF's practices and policies prevented Mr. Villarreal Romero and other aggrieved employees from taking all compliant meal periods to which they were entitled. As a result, Mr. Villarreal Romero and other aggrieved employees had to work through all or part of their meal periods, had their meal periods interrupted, and/or had to wait extended periods of time before taking meal periods. For example, as stated, Mr. Villarreal Romero often had his meal periods cut short by 10-15 minutes to return to work because there were not enough mechanics to address outstanding repair jobs. As a further example, Mr. Villarreal Romero frequently took his meal periods late, after the fifth hour of work, due to the lack of coverage while he was addressing an existing repair job.

Third, LTF did not provide Mr. Villarreal Romero and other aggrieved employees with second 30-minute meal periods on days that they worked in excess of 10 hours in one day. During his employment, Mr. Villarreal Romero regularly worked shifts in excess of ten (10) or more hours per day but was not always provided a second 30-minute meal period. Mr. Villarreal Romero and other aggrieved employees did not sign valid meal period waivers on days that they were entitled to meal periods and were not relieved of all duties.

At all times herein mentioned, LTF knew or should have known that, as a result of these policies, Mr. Villarreal Romero and other aggrieved employees were prevented from being relieved of all duties and required to perform some of their assigned duties during meal periods. LTF further knew or should have known that LTF did not pay Mr. Villarreal Romero and other aggrieved employees meal period premiums when meal periods were missed, shortened, interrupted, and/or late.

Furthermore, LTF engaged in a company-wide practice and/or policy of not paying all meal period premiums owed when compliant meal periods are not provided. Because of this practice and/or policy, Mr. Villarreal Romero and other aggrieved employees have not received premium pay for all missed, late, and interrupted meal periods.

Accordingly, LTF failed to provide all meal periods in violation of California Labor Code sections 226.7, 512(a), 516, and 1198. Mr. Villarreal Romero and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring LTF into compliance with the applicable IWC Wage Order and Labor Code sections 226.7, 512(a), 516, and 1198, pursuant to Labor Code sections 558 and/or 2699(a), (f), and (k).

Violation of California Labor Code §§ 226.7, 516, and 1198 – Failure to Authorize and Permit Rest Periods

California Labor Code sections 226.7, 516, and 1198, and the applicable IWC Wage Order require employers to provide rest periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC. The applicable IWC Wage Order provides that "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period" and that the "rest period time 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" unless the total daily work time is less than three and one-half (3 ½) hours.

To comply with its obligation to authorize and permit rest periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer must "relinquish any control over how employees spend their break time, and relieve their employees of all duties—including the obligation that an employee remain on call. A rest period, in short, must be a period of rest." *Augustus, et al. v. ABM Security Services, Inc*., 2 Cal. 5th 257, 273 (2016).

During the relevant time period, LTF regularly failed to authorize and permit Mr. Villarreal Romero and other aggrieved employees to take a ten (10) minute rest period per each four (4) hour period worked or major fraction thereof. As with meal periods, LTF's company-wide practices, including understaffing and assigning heavy workloads, including pressuring employees to meet productivity requirements, prevented Mr. Villarreal Romero and other aggrieved employees from being relieved of all duty to take rest periods. Additionally, LTF failed to schedule rest periods, which, coupled with LTF's failure to provide adequate rest period coverage, further led to Mr. Villarreal Romero and other aggrieved employees not being authorized and permitted to take rest periods.

In addition, LTF engaged in a company-wide policy and/or practice requiring that Mr. Villarreal Romero and other aggrieved employees respond to company-issued radios during rest periods to respond to work-related questions and repair requests, which prevented Mr. Villarreal Romero and other aggrieved employees from being able to uninterrupted take rest periods.

Furthermore, upon information and belief, during the relevant time period, LTF maintained a company-wide on-premises rest period policy, which effectively required that Mr. Villarreal Romero and other aggrieved employees remain on the work premises during their rest periods. Because Mr. Villarreal Romero and other aggrieved employees were restricted from leaving the premises during rest periods, they were denied the ability to use their rest periods freely for their own purposes, such as running personal errands. Thus, LTF effectively maintained control over Mr. Villarreal Romero and other aggrieved employees during rest periods.

As a result of LTF's practices and policies, Mr. Villarreal Romero and other aggrieved employees worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without receiving all uninterrupted rest periods to which they were entitled. For example, Mr. Villarreal Romero had to forgo nearly all of his rest periods altogether due to the lack of rest period coverage.

LTF has also engaged in a company-wide practice and/or policy of not paying rest period premiums owed when compliant rest periods are not authorized and permitted. Because of this practice and/or policy, Mr. Villarreal Romero and other aggrieved employees have not received premium pay for all missed rest periods.

Accordingly, LTF failed to authorize and permit all rest periods in violation of California Labor Code sections 226.7, 516, and 1198. Mr. Villarreal Romero and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring LTF into compliance with the applicable IWC Wage Order and Labor Code sections 226.7, 516, and 1198, pursuant to Labor Code sections 558 and/or 2699(a), (f), and (k).

Violation of California Labor Code §§ 226(a), 1174(d), and 1198 – Non-Compliant Wage Statements and Failure to Maintain Accurate Payroll Records

California Labor Code section 226(a) requires employers to make, keep and provide true, accurate, and complete employment records. LTF has not provided Mr. Villarreal Romero and other aggrieved employees with properly itemized wage statements. Labor Code section 226(e) provides that if an employer fails to comply with providing an employee with properly itemized wage statements as set forth in 226(a), then the employee is entitled to recover 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 to exceed $4,000. Further, Labor Code section 226.3 provides that any employer who violates section 226(a) shall be subject to a civil penalty in the amount of $250 per employee per violation in an initial citation and $1,000 per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage statement or fails to keep the required records pursuant to Section 226(a).

During the relevant time period, LTF has knowingly and intentionally provided Mr. Villarreal Romero and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. For example, LTF issued uniform wage statements to Mr. Villarreal Romero and other aggrieved employees that fail to correctly list: gross wages earned; total hours worked; net wages earned; and all applicable hourly rates in effect during the pay period, including rates of pay for overtime wages, and the corresponding number of hours worked at each hourly rate. Specifically, LTF violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

Because LTF did not record the time Mr. Villarreal Romero and other aggrieved employees spent working off-the-clock, LTF did not list the correct amount of gross wages and net wages earned by

Mr. Villarreal Romero and other aggrieved employees in compliance with section 226(a)(1) and section 226(a)(5), respectively. For the same reason, LTF failed to accurately list the total number of hours worked by Mr. Villarreal Romero and other aggrieved employees, in violation of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay period and the corresponding accurate number of hours worked at each hourly rate, in violation of section 226(a)(9). The wage statement deficiencies also include, among other things, failing to list the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; failing to list all deductions; failing to list the inclusive dates of the period for which aggrieved employees were paid; failing to list the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number; failing to list the name and address of the legal entity that is the employer; and/or failing to state all hours worked as a result of not recording or stating hours worked off-the-clock.

California Labor Code section 1174(d) provides that "[e]very person employing labor in this state shall . . . [k]eep a record showing the names and addresses of all employees employed and the ages of all minors" and "[k]eep, 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, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments . . . ." Labor Code section 1174.5 provides that employers are subject to a $500 civil penalty if they fail to maintain accurate and complete records as required by section 1174(d). During the relevant time period, and in violation of Labor Code section 1174(d), LTF willfully failed to maintain accurate payroll records for Mr. Villarreal Romero and other aggrieved employees showing the daily hours they worked and the wages paid thereto as a result of failing to record the off-the-clock hours that they worked.

California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Order. Section 1198 further provides that "[t]he employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful." Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period. During the relevant time period, LTF engaged in company-wide practices and/or policies of failing to record actual hours worked, and thereby failed to keep accurate records of work period and meal period start and end times for Mr. Villarreal Romero and other aggrieved employees, in violation of section 1198. Also, in light of LTF's failure to provide Mr. Villarreal Romero and other aggrieved employees with second 30-minute meal periods to which they were entitled, LTF kept no records of meal start and end times for second meal periods.

Because LTF failed to provide the correct net and gross wages earned, applicable rates of pay, and number of total hours worked on wage statements, Mr. Villarreal Romero and other aggrieved employees have been prevented from verifying, solely from information on the wage statements themselves, that they were paid correctly and in full. Instead, Mr. Villarreal Romero and other aggrieved employees have had to look to sources outside of the wage statements themselves and reconstruct time records to determine whether in fact they were paid correctly and the extent of underpayment, thereby causing them injury.

Mr. Villarreal Romero and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring LTF into compliance with the applicable IWC Wage Order and Labor Code sections 226(a), 1174(d), and 1198, pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f), and (k).

Violation of California Labor Code § 204 – Failure to Timely Pay Wages During Employment

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires 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. Alternatively, California Labor Code section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

During the relevant time period, LTF failed to pay Mr. Villarreal Romero and other aggrieved employees all wages due to them, including, but not limited to, overtime wages, minimum wages, and/or meal and rest period premiums, within any time period specified by California Labor Code section 204.

Mr. Villarreal Romero and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring LTF into compliance with Labor Code section 204, pursuant to Labor Code sections 210 and/or 2699(a), (f), and (k).

Violation of California Labor Code §§ 201 and 202 – Failure to Timely Pay Final Wages Upon Termination

California Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy two (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.

LTF willfully failed to pay Mr. Villarreal Romero and other aggrieved employees who are no longer employed by LTF all their earned wages, including, but not limited to, overtime wages, minimum wages, and/or meal and rest period premiums, either at the time of discharge, or within seventy-two (72) hours of their leaving LTF's employ.

Mr. Villarreal Romero and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring LTF into compliance with Labor Code sections 201 and 202, pursuant to Labor Code sections 256 and/or 2699(a), (f), and (k).

Violation of California Labor Code § 2802 – Unreimbursed Business Expenses

California Labor Code section 2802 requires employers to pay for all necessary expenditures and losses incurred by the employee in the performance of his or her job. The purpose of Labor Code section 2802 is to prevent employers from passing off their cost of doing business and operating expenses on to their employees. *Cochran v. Schwan's Home Service, Inc*., 228 Cal. App. 4th 1137, 1144 (2014). The applicable wage order, IWC Wage Order No. 1-2001, provides that: "[w]hen tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft."

First, during the relevant time period, LTF, on a company-wide basis, required Mr. Villarreal Romero and other aggrieved employees to use their personal mobile devices, including, but not limited to, cellular phones, and/or mobile data, to carry out their job duties, but failed to fully reimburse them for the costs of their work-related mobile device and/or mobile data expenses. For example, Mr. Villarreal Romero used his personal cellular phone to communicate with LTF's management regarding work-related matters, to photograph and send pictures of repairs, and to send repair-related documents as the company-provided tablets were often unreliable or not suitable for use. Although LTF required Mr. Villarreal Romero and other aggrieved employees to use their personal mobile devices and/or mobile data to carry out their work-related duties, LTF failed to fully reimburse them for their costs incurred.

Second, during the relevant time period, LTF had a company-wide policy of requiring Mr. Villarreal Romero and other aggrieved employees to utilize their own personal vehicles to carry out company business, but failed to reimburse them for all costs of travel, including mileage. For example, on at least four (4) occasions, LTF required Mr. Villarreal Romero to make an approximately 52-mile round trip to Oakland to attend trainings. Although LTF required Mr. Villarreal Romero and other aggrieved employees to utilize their own vehicles to carry out their work-related responsibilities, LTF did not reimburse them for their travel expenses.

LTF could have provided Mr. Villarreal Romero and other aggrieved employees with the actual equipment for use on the job, such as company mobile devices and company vehicles. Or, LTF could have reimbursed employees for the cost of their mobile device usage, travel expenses, and mileage. Instead, LTF passed these operating costs onto Mr. Villarreal Romero and other aggrieved employees. At all relevant times, Mr. Villarreal Romero did not earn at least two (2) times the minimum wage.

Thus, LTF had, and continues to have, a company-wide policy and/or practice of not reimbursing employees for expenses necessarily incurred in violation of California Labor Code section 2802. Mr. Villarreal Romero and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring LTF into compliance with the applicable IWC Wage Order and Labor Code section 2802, pursuant to Labor Code sections 2699(a), (f), and (k).

Violation of California Labor Code § 2810.5(a)(1)(A)-(C) – Failure to Provide Notice of Material Terms of Employment

California's Wage Theft Prevention Act was enacted to ensure that employers provide employees with basic information material to their employment relationship at the time of hiring, and to ensure that employees are given written and timely notice of any changes to basic information material to their employment. Codified at California Labor Code section 2810.5, the Wage Theft Prevention Act provides that at the time of hiring, an employer must provide written notice to employees of the rate(s) of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, the regular payday designated by the employer, and any allowances claims as part of the minimum wage, including meal or lodging allowances. Effective January 1, 2015, an employer's written notice pursuant to section 2810.5 must also include a statement that the employee may accrue and use sick leave; has a right to request and use accrued paid sick leave; may not be terminated or retaliated against for using or requesting the use of accrued paid sick leave; and has the right to file a complaint against an employer who retaliates.

On information and belief, LTF failed to provide Mr. Villarreal Romero and other aggrieved employees written notice that lists the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C). LTF's failure to provide Mr. Villarreal Romero and other aggrieved employees with written notice of basic information regarding their employment with LTF is in violation of Labor Code section 2810.5.

Mr. Villarreal Romero and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring LTF into compliance with Labor Code section 2810.5, pursuant to Labor Code sections 2699(a), (f), and (k).

California Labor Code § 558(a)

California Labor Code section 558(a) provides "[a]ny 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 . . . . (2) For each subsequent violation, one hundred dollars ($100) for each underpaid employee for each pay period for which the employee was underpaid . . . ." Labor Code section 558(c) provides that "[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law." LTF, at all relevant times, was an employer or person acting on behalf of an employer(s) who violated Mr. Villarreal Romero's and other aggrieved employees' rights by violating various sections of the California Labor Code.

Accordingly, Mr. Villarreal Romero seeks the remedies set forth in Labor Code section 558 for himself, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 1194.5, 2699(a), 2699(k), 2699.3(a), 2699.3(c), 2699.5, and 558, Mr. Villarreal Romero acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties and injunctive relief for himself, all other aggrieved employees, and the State of California against LTF for violations of California Labor Code sections 201, 202, 204, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5.

Therefore, on behalf of all aggrieved employees, Mr. Villarreal Romero seeks all applicable civil penalties related to these violations of the California Labor Code pursuant to PAGA.

Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

Sairah Budhwani
Capstone Law APC
1875 Century Park East, Suite 1000
Los Angeles, CA 90067
(310) 556-4811

Best Regards,

Sairah Budhwani

Copy: LA TERRA FINA USA, LLC (via U.S. Certified Mail)

Capstone Law, APC
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