

MALLISON & MARTINEZ

ATTORNEYS AT LAW
1939 HARRISON STREET, SUITE 730
OAKLAND, CA 94612
TELEPHONE: (510) 832-9999
FACSIMILE: (510) 832-1101

STAN S. MALLISON*
HECTOR R. MARTINEZ
HEATHER M. HAMILTON
DANIEL C. KELLER
TANIA FONSECA
GONZALO QUEZADA

*MEMBER OF CA, NV & OR BAR

VIA U.S. CERTIFIED MAIL

October 4, 2022

R T Farm Labor, Inc
12899 Walnut Ave
Orosi, California 93647

Ricardo Trevino Jr.,
CEO R T Farms
Ricardo Gomez Trevino
Managing Director R T Farms
Harold Chuhlantseff
Chief Financial Officer R T Farm
12899 Walnut Ave
Orosi, California 93647

T&C Vineyards
10500 E Conejo Ave
Kingsburg, CA 93631

Labor and Workforce Development Agency
(via online submission)

RE: California Labor Code section 2699 (Private Attorneys General Act) Notice by Aggrieved Employee

Dear PAGA Administrator:

Our office represents Claudia Gonzalez Mondragon, Gustavo Gusman, and Alan Reyes ("Aggrieved Plaintiffs"). This constitutes statutory notice pursuant to Labor Code section 2699.3(a)(1) for purposes of bringing a claim under the Private Attorneys General Act ("PAGA"), Cal. Labor Code section 2699, et seq. Please consider this a request for the California Labor & Workforce Development

Agency (“LWDA” or “Agency”) to take action against R T FARM LABOR, INC., T&C Vineyards, and their agents, managers, supervisors, and/or owners – including, without limitation, T&C Vineyards and R T FARM LABOR, INC Chief Executive Officer Ricardo Trevino Jr., Chief Financial Officer Harold Chuhlantseff, and Managing Director Ricardo Gomez Trevino – (collectively “Individual Defendants”) for violations of the California Labor Code described below. On information and belief, the Individual Defendants had complete authority to implement and carry out the illegal wage and hour policies at issues herein. As such, the Individual Defendants were on notice, whether actual or constructive, of all of the violations described above, and failed to prevent or address them. Aggrieved Plaintiffs seeks to assert a PAGA claim on behalf of the State of California and all other current and/or former non-exempt agricultural workers who have been employed by Defendants in California.

Further, pursuant to, without limitation, California Labor Code sections 210, 558, 558.1, 1197.1, 2699(f) and other provisions of the Labor Code, please consider this a notice to Defendants and all other persons acting on behalf of Defendants and the employer – including, without limitation, T&C Vineyards and R T FARM LABOR, INC.’S Chief Executive Officer Ricardo Trevino Jr., Chief Financial Officer Harold Chuhlantseff, and Managing Director Ricardo Gomez Trevino – who controlled and caused to be violated any provision of the California Labor Code or Wage Orders during the relevant time period by making illegal policies, implementing illegal policies, or failing to correct illegal policies.

This investigation request and notice of California Labor Code violations concerns the systematic failure by R T FARM LABOR, INC. to pay current and former California non-exempt employees in conformance with provisions set out in the California Labor Code and in Wage Orders promulgated by the Industrial Welfare Commission. At the core of R T FARM LABOR, INC., violations is a policy of: systematically failing to pay piece-rate works for nonproductive time and rest periods separate from piece rate compensation, systematically failing to pay overtime wages for all hours worked by employees in excess of eight hours; systematically refusing to provide rest periods or to provide premium wages in lieu thereof, systematically refusing to provide meal periods or to provide premium wages in lieu thereof; systematically altering employee piece rate units to show less units than actually completed, systematically failing to provide accurate wage statements and systematically failing to pay of all wages owed upon separation from employment. These violations are a uniform policy applied to all non-exempt workers at R T FARM LABOR, INC.

Additional facts and allegations are set forth in Aggrieved Employees' complaint. Liability under the PAGA may be based on a wide variety of Labor Code predicate provisions, including but not limited to sections 201, 202, 203, 210, 216, 218, 218.6, 223, 225, 226, 226.2, 226.7, 510, 512, 2810.5, 6400, 6401, 6401.7, 6402, 6403, 6404, 1174, 1175, 1194, 1194.2, 1197, 1197.1, 1199, 2673.1(a), and 2802, Industrial Welfare Commission Wage Orders, sections 2699 et seq. and all of the provisions listed in Labor Code section 2699.5 (including the penalty provisions related to these predicate provisions), among others. Any violation of these or any other Labor Code provisions serve as the basis for a PAGA claim by an aggrieved employee on behalf of themselves and other current and former employees.

In particular, the policies described above, and the violations set forth below relate to all the non-exempt workers employed by R T FARM LABOR, INC. in California:

1. R T FARM LABOR, INC. failed to record and compensate piece-rate employees nonproductive time, failed to properly calculate and compensate for rest and recovery periods, and altered employees piece rate units in violation of Cal. Labor Code section 226.2 and Minimum Wage violations.
2. R T FARM LABOR, INC did not schedule or provide meal periods for non-exempt employees, which resulted in failure to provide or authorize and permit proper thirty-minute meal periods to which non-exempt employees are entitled, and failure to pay premium meal period wages in lieu of meal periods, in violation of Cal. Labor Code sections 226.7 and 512, Wage Orders and California case law.
4. R T FARM LABOR, INC subjected employees to employer control, or knowingly suffering or permitting them to work without compensating for all hours worked at Minimum Wage in violation of Labor Code section 1191 and when unpaid time exceeded the statute overtime thresholds, failed to pay the applicable premium rate in violation of Labor Code section 510, 1194, and applicable Wage Orders.
5. R T FARM LABOR, INC deducted wages from non-exempt employees' paychecks without their authorization or other legal authority for doing so in violation of Labor Code 224.
6. R T FARM LABOR, INC., failed to provide accurate wage statements that reflect actual hours worked and amounts earned as employees' wage statements failed to include the actual piece rate units completed and compensation for nonproductive time, and failed to properly calculate compensation for rest and recovery periods in violation of Labor Code §§ 226, 226.2, 1174, and applicable Wage Orders.
7. R T FARM LABOR, INC., failed to pay all wages earned (as described above) including unpaid minimum and overtime wages and failed to pay all additional wages in lieu of providing all meal and rest periods immediately or within 72 hours upon separation from employment.

The above provisions do not include all of the derivative penalties associated with the above provisions, which are listed throughout the Labor Code and are PAGA penalties.

Aggrieved Employees Claudia Gonzalez Mondragon, Gustavo Gusman, and Alan Reyes may be contacted through our office: Mallison & Martinez, Attorneys at Law, 1939 Harrison Street, Suite 730, Oakland, California 94612.

If no action is taken by the Agency within 65 days, we will assume that we may pursue this action under the theories described above against R T FARM LABOR, INC and the Individual Defendants described above and their managers, agents, owners, and other liable persons and entities (pursuant to, without limitation, Labor Code sections 210, 558, 1197.1, 2699(f) (and other provisions)).

PLEASE TAKE NOTICE THAT THIS IS ALSO A GENERAL LITIGATION PRESERVATION NOTICE to preserve all documents relating to all employees, including but not limited to all timekeeping and payroll records in paper form, native electronic form and any other format in which they are generated and maintained in the regular course of business; all databases and

computer or electronic systems that are used for timekeeping and payroll; all records and evidence in any way related to the facts and claims asserted in this letter; all records and evidence in any way related to claims of Aggrieved Plaintiffs, the state, and other current or former employees under the California Labor Code Private Attorney General (including underlying Labor Code and IWC orders), the California Government Code, and the Equal Employment Opportunity Act. These documents include but are not limited to all schedules (both current and former employees), all timekeeping records, all rest and meal period records, all duty and responsibility records, all records which include employee signatures or initials, all payroll records, all state or federal withholding records, all personnel files and other employment records, all records concerning the payment or non-payment of wages, or provision or non-provision of state mandated labor code protections, as well as all documents pertaining to harassment or discrimination against employees, all communications relating to these records and documents, and all emails relating to these records and documents.

Sincerely,

MALLISON & MARTINEZ

A handwritten signature in black ink, appearing to be 'GQ' or similar initials, written in a cursive style.

Gonzalo Quezada, Esq.