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VIA EMAIL AT PAGAFilings@dir.ca.gov and CERTIFIED U.S. MAIL—RETURN RECEIPT
REQUESTED

October 4, 2022

Attention: PAGA Administrator
Acting Agency Secretary
California Labor & Workforce Development Agency
PAGAFilings@dir.ca.gov

Atlas Field Services, LLC
3900 Essex Lane, Ste 775
Houston, TX 77027
Attn: Human Resources Dept.

Craig Taylor
3900 Essex Lane, Ste 775
Houston, TX 77027

RE: Labor Code § 2699 Notice by Aggrieved Employee *Barry Black*

Dear PAGA Administrator and All Entities and Persons listed herein:

This constitutes statutory notice pursuant to Labor Code § 2699.3(a)(1) for purposes of bringing a claim under the Private Attorneys General Act (“PAGA”), Cal. Labor Code § 2699, *et seq.* Please consider this a request for the California Labor & Workforce Development Agency (“LWDA” or “Agency”) to take action against Atlas Field Services, LLC. (“Atlas”), and its agents, managers, and supervisors, including but not limited to Founder and President Craig Taylor, for violations of the California Labor Code described below (Collectively, “Defendants”). The aforementioned entities and individuals were aware of, complicit in, and actually caused the violations described below. I am writing on behalf of our client, Barry Black, an Aggrieved Employee represented by this law firm (hereinafter “Aggrieved Plaintiff”) who seeks to assert a

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PAGA claim on behalf of the State of California and all other current or former employees who have been employed by Atlas in California during the applicable limitations period.

Atlas is a health, safety, and environment company based in Houston, Texas that works independently and contracts with other companies to assign employees to work sites all over the United States, including in California. Aggrieved Plaintiff worked for Atlas in several different areas of California, under Atlas's contract with Pacific Gas and Electric Company (PG&E). Non-exempt employees performed vegetation management, arboreal, and inspection work.

This investigation request and notice of California Labor Code violations concerns the systematic failure by Defendants 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. Aggrieved Plaintiff also requests the Agency investigate Defendants for violation of the WARN Act, Labor Code §§ 1400 *et seq.*

At the core of Defendants' violations is the systematic failure to keep accurate time and payroll records; requiring, suffering or permitting employees to perform unpaid work outside their scheduled worktime; refusing to provide proper rest and meal periods or to provide premium wages in lieu thereof; failure to pay premium/overtime/double-time wages for all hours worked in excess of the overtime thresholds set forth in the Labor Code and Wage Orders; requiring employees to pay out-of-pocket for necessary work expenses without reimbursement; failing to provide accurate wage statements, and failing to pay of all wages owed upon separation from employment. In addition, Aggrieved Plaintiff is informed and believes that Defendants violated the WARN Act by, without limitation, terminating 50 or more employees in September, 2022, without any notice.

Liability under the Private Attorneys General Act (Cal. Labor Code §§ 2698 *et seq.*) ("PAGA") may be based on a wide variety of Labor Code predicate provisions, including but not limited to §§ 98.6, 201, 202, 203, 204, 205, 206, 208, 209, 212, 210, 213, 216, 218, 218.6, 221, 222, 223, 225, 226, 226.7, 227, 230, 231, 233, 234, 246, 510, 512, 1174, 1175, 1194, 1194.2, 1197, 1197.1, 1199, 1400 *et seq.*, 2673.1(a), IWC wage orders, 2699 *et seq.*, all of the provisions listed in Labor Code 2699.5 (including the penalty provisions related to these predicate provisions), and/or 2802 among others. Any violation of these or any other Labor Code provisions serves as the basis for a PAGA claim by an aggrieved employee on behalf of the state of California. Defendants and their agents, managers, and/or supervisors caused the violations described below by enforcing and carrying out their illegal policies.

The facts and theories giving rise to these violations are, without limitation, that Defendants failed to provide meal and rest periods to non-exempt employees. Rather, employees were required to work continuously during their shifts, without any breaks where they were relieved of all duties for the full statutory period. For example, Aggrieved Plaintiff was expected to eat while driving between locations, and was not authorized or permitted to cease the performance of work tasks in

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order to enjoy an off-duty meal or rest period in a suitable location. In addition, Defendants failed to pay Aggrieved Plaintiff overtime wages for hours over 8 in a day and/or 40 in a week. Defendants paid wages for those hours at the regular rate rather than at time-and-a-half. Furthermore, Defendants required Aggrieved Plaintiff to incur necessary business expenses out-of-pocket, such as cell phone use and a tablet computer, without reimbursement.

Lastly, Aggrieved Plaintiff is informed and believes that Defendants violated the WARN Act by, without limitation, terminating 50 or more employees in September, 2022, without any notice. Aggrieved Plaintiff was terminated in this manner on or about September 8, 2022. Aggrieved Plaintiff, and many of his similarly situated workers live out-of-state. Plaintiff is a resident of Illinois. Defendants terminated these workers by surprise, confiscating the work vehicles many of them had used as their only means of transportation within California. Further, despite these workers' years of loyal service, Defendants left many of them stranded at the Sacramento airport for days while they waited for their wages to be deposited, before they could purchase return flights to their home states of residence. Had Defendants given notice of these aggrieved workers' impending terminations, they could have made alternative arrangements to avoid such uncomfortable and degrading circumstances.

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 Plaintiff, 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) all timekeeping records, all rest and meal period records, all duty and responsibility records, all records with 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.

Further, pursuant to California Labor Code §§ 210, 558, 558.1, 1197.1, 2699(f) and other provisions of the Labor Code, please consider this a notice to Defendants; Affiliated Companies, and owners, supervisors, managers, agents and all other person acting on behalf of Defendants and Affiliated Companies, and the employers who caused to be violated any provision of the California Labor Code or Wage Orders governing hours and days of work. Defendants and their affiliated companies have complete authority to implement and carry out the illegal payroll policies at issue herein. These violations are a uniform policy applied to all non-exempt Atlas workers.

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Craig Taylor, as Founder and President of Atlas, is in charge of making major company decisions and managing the operations of the limited liability company. As such, these individuals were on notice, whether actual or constructive, of all of the violations described above, and failed to prevent or address them.

Aggrieved Plaintiff who worked for Defendants during the past year may be contacted through our office: Mallison & Martinez, Attorneys at Law, 1939 Harrison Street, Suite 730, Oakland, California 94612.

If no action is taken within 65 days, we will assume that we may pursue this action under the theories described above against the Defendants described above and their agents, owners and other liable persons and entities (pursuant to §210, 558, 1197.1, 2699(f) (and other provisions)).

Sincerely,

A handwritten signature in black ink, appearing to read "Dan Keller", with a stylized flourish at the end.

Dan Keller, Esq.

MALLISON & MARTINEZ