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LABOR & WORKFORCE DEVELOPMENT AGENCY

October 24, 2013

VIA CERTIFIED U.S. MAIL

Douglas Hoffner
Acting Secretary
California Labor & Workforce Development Agency
800 Capital Mall, MIC-55
Sacramento, CA 95814

Re: **PSG Inc./Time Warner Cable**
California Labor Code section 2699, *et seq.* violations

Dear Mr. Hoffner:

I am writing on behalf of aggrieved former employees Wilson Rodriguez and Mario Sandres ("Complainants"). This notice is being made to the Labor & Workforce Development Agency pursuant to the requirement of Labor Code section 2699.3 in order to notify you that Complainants and other aggrieved employees suffered from one or more of the following Labor Code violations by their employer PSG Inc. and Time Warner Cable (collectively the "Employer"). Complainants and other aggrieved employees performed cable installations on behalf of the Employer for Time Warner clients throughout California. PSG Inc. is a subcontractor for Time Warner and Time Warner satisfies the criteria for a joint employer and is also subject to liability as the contractor.

Employer failed to provide its employees with meal periods in accordance with Labor Code Sections 512 and 226.7. Complainants were assigned installation jobs for Time Warner Cable customers throughout the day and were never informed that they were allowed to take an uninterrupted 30 minute meal period where they were fully relieved of all duties. Nor were these individuals paid an additional hour of pay in lieu thereof, in violation of Labor Code section 226.7.

Complainants regularly missed meal periods as they were forced to quickly eat in between jobs. This policy is illegal as employees are entitled to a meal period if they work more than 5 hours in a day. Additionally, employees would typically work over 6 hours into their shift but were only given a chance to "eat," which did not meet the legal requirements of a meal period in that employees did not get a full 30 minutes off duty because of work demands. Complainants and other aggrieved employees would also receive calls that they had to take while they were eating and could be fined by the Employer if they were late to a scheduled appointment. The fine, which was an illegal deduction, would be taken from their paid wages.

Similarly, Complainants and other aggrieved employees were not informed of their right to take, nor authorized and permitted to take, 10 minute rest breaks each day because of work demands and limited staffing. Nor were these individuals paid an additional hour of pay in lieu thereof, in violation of Labor Code section 226.7.

The Employer also failed to pay Complainants and other aggrieved employees for all hours worked in violation of Labor Code sections 201, 202, 203, 204, 223, 510, 1194 and 1198, and the IWC Wage Order No. 4, for time that these individuals spent working, including time spent on-call and waiting in between assigned jobs. Complainant and aggrieved employees attended workplace meetings, at least twice a week, with no compensation. Complainant and aggrieved employees were also required to wait around the warehouse for job assignments, sometimes for hours, with no compensation. In addition, if Complainants and other aggrieved employees had to return to a job to fix a purported problem with an installation, s/he would receive no additional compensation for returning. Instead, these individuals would be fined or penalized by the Employer and their compensation for the job would be reduced. Additionally, Employer required Complainants and other aggrieved employees to work without appropriate compensation, including the payment of at least minimum wage for such work time and failed to pay all overtime due in violation of Labor Code sections 201, 202, 203, 204, 223, 510, 1194, 1197 and 1198, and Industrial Welfare Commission ("IWC") Wage Order No. 4. These individuals were paid on a piece-rate basis for each job, regardless of how much time it took to perform the job. Often, job assignments would take hours to perform and the Complainants and other aggrieved employees will receive less than minimum wage for the time that they spent on the assignment. When coupled with the unlawful deductions that the Employer would often take from Complainants and other aggrieved employees wages for allegedly late jobs, incomplete jobs, complaints by customers or issues with service, at times, these employees would earn little or nothing for some assignments.

The Employer also failed to provide and/or reimburse Complainant and aggrieved employees for auto expenses and mileage, cellular telephones and other necessary business expenditures in violation of California Labor Code Section 2802. As a subterfuge to appear that auto related expenses were being reimbursed, a random portion of Complainants and other

aggrieved employees earned wages were allocated as "Auto" under Net Pay Adjustments. In addition, the Employer routinely made unlawful deductions from Complainants and other aggrieved employees' paychecks for impermissible reasons, such as customer satisfaction or an installation allegedly completed improperly. For example, if the customer called and had questions about how to use the remote control, or any piece of equipment, the installers received an unlawful deduction from their pay. If the installer had to go back to the client's premises, s/he would not be paid for the time spent to return and would receive an unlawful deduction. Employer allocates one hour per day for each job and if it takes the employee longer to complete a job, causing her/him to arrive late to the subsequent job, the employee received an unlawful deduction. The foregoing are examples of the systematic unlawful deductions imposed on Complainants and other aggrieved employees. Employer is prohibited from passing along the cost of doing business to Complainants and other aggrieved employees. The foregoing conduct is in violation of Labor Codes Sections 224, 450 and 2802.

California Labor Code section 226(a) provides that every employer shall furnish to each of its employees an accurate itemized wage statement in writing, showing, among other things, all applicable hourly rates in effect during the pay period and the corresponding correct number of hours worked at each hourly rate by the employee. The wage statement provides no breakdown for piecework compensation, including the number of jobs completed or units sold. The wage statement is permeated with unlawful and confusing deductions. Complainants and aggrieved employees have no way to determine if they have been compensated properly. Employer's wage statements fail to comply with this section of the Labor Code as they fail to list the true hours worked and all of the correct and applicable rates of pay in violation of Labor Code sections 223, 226, 510, 1194 and 1198. Nor do the statements list the number of piece-rate units earned and the rate for each unit paid on a piece-rate basis.

Complainants and all aggrieved employees who were separated from their employment with Employer, to whom Employer willfully failed to pay for all hours worked, as described herein, are entitled to up to thirty days of wages pursuant to California Labor Code sections 201, 202 and 203.

Employer also failed to comply with California Labor Code sections 226, 1174(d), 1198 and IWC Wage Order No. 4, by failing to keep accurate time records. These sections of the Labor Code and Wage Order require that the total daily hours worked be accurately recorded and paid. Employer failed to comply with these sections of the Labor Code and Wage Order by consistently not recording the hours that its employees spent working at their job site, including on-call time under the Employer's control and attending Employer meetings, and time spent on client installations and the travel time associated therewith.

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This letter sets forth the specific provisions of the California Labor Code and IWC Wage Order No. 4 that have been violated by the Employer and the facts and theories supporting those violations pursuant to California Labor Code section 2699.3.

Very truly yours,

GLEASON & FAVAROTE LLP



Brandyn Stedfield

cc: (via certified U.S. mail)

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