GRAINNE CALLAN
ESQ

June 3, 2025

By Electronic Filing and Certified Mail (Return Receipt Requested) to:

Labor and Workforce Development Agency
Attn. PAGA Administrator
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102

RE: Notice of Labor Code Violations Pursuant to the Private Attorneys General Act (PAGA)
Employee: Alejandro Munguia Ramirez
Employer: Oldcastle APG West, Inc.
LWDA-

Dear PAGA Administrator:

This office has been retained by Alejandro Munguia Ramirez (Mr. Munguia) to notify the California Labor and Workforce Development Agency (LWDA) of alleged violations of the California Labor Code by his former employer, Oldcastle APG West, Inc. ("Oldcastle") and its manager, [redacted] Mr. Munguia intends to seek penalties for violations of the California Labor Code, which are recoverable under California Labor Code §§ 2698 *et seq*., and the Labor Code Private Attorneys General Act of 2004 ("PAGA").

Mr. Munguia seeks penalties on behalf of the State of California and other current and former aggrieved employees who either reside in California or performed work for Defendants in California during the time period from June 3, 2024, to present, and who, as a result of Oldcastle's violations of the California Labor Code, were denied the lawful use of their accrued paid sick leave, did not receive all their earned wages, or were provided with non-compliant wage statements. This letter is sent in compliance with the reporting requirements of California Labor Code § 2699.3.

Oldcastle is a Colorado Corporation with its principal place of business in Phoenix, Arizona located at 4720 E. Cotton Gin Loop, Suite 200, Phoenix, AZ 85040. According to the filing with the California Secretary of State the agent for service of process is CSC-Lawyers Incorporating Service located at 2710 Gateway Oaks Drive, Sacramento, CA

Mr. Munguia was hired as a Controller for Oldcastle on or around November 6, 2023, with a start date of November 21, 2023. He was coded to the Calstone Admin Plant, which Oldcastle acquired on March 30, 2022. Oldcastle provided Mr. Munguia with the April 2021 Calstone Company Employee Handbook for its employment policies. Throughout his employment, Mr. Munguia consistently performed his duties satisfactorily and received positive feedback until after May 13, 2024. It was only after he attempted to use his paid sick leave that Mr. Mungia's performance suddenly became an issue for Oldcastle.

Oldcastle had an unwritten flexible work-from-home policy, and Mr. Munguia occasionally worked from home without incident. In March 2024, Mr. Munguia even worked from home in [redacted] from March 18-31, 2024, with approval from [redacted] ("[redacted] the Controller for Oldcastle.

The workplace issues began after May 13, 2024, when Mr. Munguia first informed Oldcastle and the other defendants of his intent to take time off for a medical situation. Specifically, during the week of May 13, 2024, Mr. Munguia informed the defendants of his need for Paid Time Off (PTO) to tend to his wife's medical situation. This request was denied by the defendants, and [redacted] explicitly told Mr. Munguia he would have to postpone any medical care.

On or about May 20, 2024, Mr. Munguia again requested permission to use his PTO, explaining that his wife was pregnant and experiencing complications, needing to see her OBGYN during Memorial Day week. This meeting included [redacted] and [redacted] Oldcastle's Human Resources Manager. While [redacted] stated there was no issue with working from home abroad, she indicated it was Mr. Munguia's manager's decision to permit or deny the use of the paid sick leave. [redacted] again denied the request. When Mr. Munguia asked if he could use PTO the following week, [redacted] responded that he was not comfortable with "this [redacted] thing". Mr. Munguia offered to shorten his paid sick leave request or change the dates as a reasonable accommodation, but [redacted] offered no alternatives.

Concurrently with these denials, on May 20, 2024, the defendants presented Mr. Munguia with a Performance Improvement Action Form ("PIAF"). The PIAF lacked facts, objections, or solutions, but listed consequences such as termination or suspension, none of which had been previously addressed with Mr. Munguia in a coaching or verbal warning. Mr. Munguia requested a copy of the allegations, which was not provided to him prior to his termination. Notably, the PIAF provided to Mr. Munguia *post-termination* included a grievance that allegedly occurred four days *after* the PIAF was presented to and signed by Mr. Munguia. The alleged violations were not specified in the employee handbook as actual violations or grounds for immediate termination.

On or about June 3, 2024, Mr. Munguia logged in remotely at 8:30 a.m. for a company meeting. At 11:00 a.m., [redacted] called Mr. Munguia and asked if he was planning to appear at the meeting in person, despite knowing Mr. Munguia was using his PTO in [redacted] Mr. Munguia reminded [redacted] that he was accompanying his wife to a medical appointment and using the company's work-from-home policy between appointments. [redacted] became visibly incensed, falsely accusing Mr. Munguia of missing a mandatory "in-person" meeting, a requirement of which Mr. Munguia had not been informed until that moment. [redacted] abruptly ended the call, reiterating that he had not received any written PTO requests, and refused to take Mr. Munguia's calls for the rest of the day. Fearing for his job due to [redacted] unreasonable behavior, Mr. Munguia returned to the workplace as quickly as he could. As a result, Mr. Munguia and his wife were only able to attend one medical appointment, forcing them to cancel the remaining appointments and further delaying Mrs. Munguia's necessary medical treatments.

On or about June 4, 2024, Mr. Munguia arrived at the Tracy plant. [redacted] and [redacted] set up a Zoom meeting and informed Mr. Munguia he was suspended until further notice. On or about June 10, 2024, [redacted] and [redacted] notified Mr. Munguia that they "found more things" and would call with a decision the next day, which they did not.

On or about June 12, 2024, [redacted] directed Mr. Munguia to appear at the Tracy plant on June 13, 2024, at 11:00 a.m., where [redacted] and [redacted] terminated Mr. Munguia during this meeting.

At the time of his termination, during the pay period of May 16-31, 2024, Mr. Munguia had accrued 80 hours of PTO, which increased to 86.67 hours in the following pay period. However, his wage statement dated June 28, 2024, inexplicably deducted 65 hours from his paid time off accrual, even though he only used 2 hours for one doctor's visit and no additional PTO was requested. As of the filing of the complaint, Mr. Munguia had not yet received all earned wages.

Defendants have violated and/or continue to violate, among other provisions of the California Labor Code and applicable wage law, California Labor Code §§: 246.5, 201-204, 210, 226(a)(1)-(9), and 233.

Waiting Time Penalties (Cal. Labor Code §§ 201-203): California Labor Code §§ 201, 202 and 203 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 hours thereafter, unless the employee has given seventy-two 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. Mr. Munguia and other aggrieved employees were not paid all the wages they were owed upon discharge or resignation by Defendants. The defendants willfully failed to pay all compensation due promptly upon discharge, including accrued wages and other compensation, in violation of Labor Code §§ 201 and 203.

California Labor Code § 210 provides additional penalties for failure to pay an employee's wages, including Paid Time Off that combines vacation and sick leave. This is generally considered earned wages that must be paid out upon termination. Mr. Munguia and others were not properly paid their earned wages at the time of termination.

California law has strict requirements regarding workers' pay stubs. Specifically, employers must issue wage statements to their employees that accurately include nine distinct pieces of information. See Cal. Lab. Code § 226(a)(l)-(9). Failure to comply with just one of the nine requirements triggers an employer's liability. Additionally, the California Wage Statement Statute provides that workers issued non-compliant wage statements may recover $50 for the initial pay period in which a violation occurs and $100 for each subsequent pay period, up to a maximum of $4,000.00. See Cal. Lab. Code§ 226 (e)(l). The defendants failed to provide Mr. Munguia and other aggrieved employees with timely and accurate wage statements by failing to include required information such as gross wages earned, total hours worked, deductions made, net wages earned, pay period dates, employee name/ID, employer name/address, and applicable hourly rates with corresponding hours worked.

California Labor Code § 246.5 ensures that employees have the right to use accrued paid sick days for specific health-related reasons for themselves or family members, and explicitly states that an employer 'shall not deny an employee the right to use accrued sick days' nor 'require as a condition of using paid sick days that the employee search for or find a replacement'. Despite these clear mandates, Oldcastle's policy, as outlined in the Calstone employment handbook, improperly required PTO to be 'scheduled and approved by the employee's manager two weeks in advance' and granted the manager 'the right to deny a PTO request that has been submitted because of workload or coverage needs'. This policy is in direct violation of Labor Code § 246.5, as it allowed for the denial of earned sick leave based on the employer's operational needs, which is prohibited by law. Here, the defendants applied this unlawful policy by repeatedly denying Mr. Munguia's requests to use his accrued sick leave. Mr. Munguia and other Oldcastle employees were subjected to unlawful conditions as a precursor to even use their accrued paid sick leave.

Further, an employer cannot discharge, threaten to discharge, demote, suspend, or discriminate against an employee for using or attempting to use accrued sick days, or for filing a complaint related to paid sick leave. All of which Oldcastle did here. Further, there is a rebuttable presumption of unlawful retaliation if an employer takes adverse action against an employee within 30 days of the employee opposing a policy, act, or practice that is prohibited. Mr. Mungia was terminated within days of using his accrued paid sick leave creating the rebuttable presumption of Oldcastle's retaliation.

California Labor Code § 233 requires employers to allow employees to use a portion of their accrued and available paid sick leave to care for a sick family member under the same conditions and policies that apply to the employee's use of sick leave for their own illness. Given that Oldcastle's policy requiring two-week advance manager approval and allowing denial for workload or coverage needs was already unlawful for personal sick leave, its application to Mr. Munguia's requests for kin care for his pregnant wife compounded the violation. Here, the defendants repeatedly denied Mr. Munguia's requests to use his accrued sick leave to care for his wife, who was experiencing medical complications during her pregnancy, despite him having sufficient accrued leave and providing adequate notice. This section also prohibits discrimination and retaliation against an employee for using kin care leave. Mr. Munguia and other Oldcastle employees were subjected to unlawful conditions as a precursor to even use their accrued paid sick leave.

Oldcastle's unlawful actions were taken against Mr. Munguia in retaliation for engaging in protected activity, specifically attempting to use his accumulated PTO beginning May 13, 2024. The defendants ultimately terminated his employment under the false and pretextual claim of "substandard work," disregarding Mr. Munguia's consistent positive feedback from [redacted]

On behalf of all aggrieved employees, Mr. Munguia seeks all applicable penalties related to these violations of the California Labor Code pursuant to PAGA. If you have any questions or require any additional information, please do not hesitate to contact us. My direct dial is (408) 982-6224 and my email address Grainne.Callan@callanlawoffice.com. Thank for your attention to this matter.

Sincerely,

Grainne M. Callan, Esq.
Attorney for Alejandro Munguia Ramirez

cc:
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