

RIGHETTI • GLUGOSKI, P.C.
ATTORNEYS AT LAW

December 21, 2022

Via Certified Mail & Online Submission to LWDA

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

THE PERMANENTE MEDICAL GROUP, INC.
1950 FRANKLIN STREET 20TH FLOOR
OAKLAND, CA 94612

c/o AGENT FOR SERVICE, KAREN A HALL
THE PERMANENTE MEDICAL GROUP, INC.
1950 FRANKLIN STREET 20TH FLOOR
OAKLAND, CA 94612

Re: Susan Tinney v. The Permanente Medical Group, et al.
Notice Of Violations Pursuant To California Labor Code Section 2698, et seq.

Dear Sir or Madame:

Please allow this correspondence to serve as “written notice,” as required by California Labor Code section 2699.3, of the specific provisions of the California Labor Code believed to have been violated by The Permanente Medical Group, Inc., a California corporation (“Kaiser”).

This office has been retained by Susan Tinney (“Ms. Tinney”) to pursue this Labor Code Private Attorney General Act (“PAGA”) representative action (Cal. Labor Code §§ 2698, *et seq.*) against her current employer Kaiser for violations of California Labor Code section 2802, as further explained below.

At all times, Ms. Tinney was/is employed in California by Kaiser. Ms. Tinney wishes to pursue this action on behalf of herself and other similarly situated aggrieved employees of Kaiser who have worked for Kaiser within the applicable statutory period in the State of California as described below.

Ms. Tinney will testify to the following salient facts:

On August 12, 2011, Kaiser hired Susan Tinney as a full-time employee. Since her hire, Ms. Tinney held the position of “Registered Nurse.” At all times during her employment with Kaiser, Ms. Tinney has lived and worked in the State of California.

At all relevant times, from approximately the time that the COVID-19 virus was first announced in the United States in March 2020 to the present, Kaiser has required Ms. Tinney and other aggrieved employees to work from his home, requiring her work location to be in the home s/he lives in. And, Kaiser has never reimbursed Ms. Tinney and other similarly situated aggrieved employees for the expenses incurred in working from home while performing duties for Kaiser since March 2020 -- and has only recently began reimbursing aggrieved employees a portion of home office expenses since April 2022.

In addition, Ms. Tinney contends that Kaiser failed to provide accurate, itemized, wage statements in writing to all similarly situated California employees, in violation of California Labor Code section 226(a).

Said conduct, in addition to the forgoing, violated each Labor Code section as set forth in California Labor Code section 2699.5.

Even though Kaiser has required and continues to require Ms. Tinney and other similarly situated aggrieved employees to provide a home office, from which most, if not all, work must be completed, Kaiser has a policy and practice of not reimbursing these employees for all of the expenses incurred in providing and maintaining the home office Kaiser requires.

Kaiser does not reimburse Ms. Tinney and similarly situated aggrieved employees for internet expenses, equipment such as computers to perform work for Kaiser, travel expense for required business-related trips, telephone/cell phone expenses, electricity, water, gas, garbage, the reasonable value of home office space and stationery. Kaiser has not reimbursed any of Ms. Tinney’s and other aggrieved employees for the home office expenses they incurred.

Though Ms. Tinney has incurred necessary business expenses in providing and maintaining her home office, Kaiser has never fully reimbursed her in any way for these necessary business expenses. These necessary business expenses include such things as desk, chair, and other items related to the specific workspace, office space/rent, telephone/cell phone charges, utilities such as electricity, gas, garbage service and water; and stationery. Kaiser has had and continues to have a policy and practice of not reimbursing current and former similarly situated aggrieved employees, including Ms. Tinney, for the above expenses.

As a result, Kaiser has violated and continues to violate California Labor Code section 2802, by knowingly failing to reimburse Ms. Tinney and its current and former exempt and non-exempt employees similarly situated for necessary business expenditures they incurred.

Kaiser must repay Ms. Tinney and other aggrieved similarly situated current and former non-exempt employees, along with penalties, interest, attorney fees, costs, and penalties.

I. Kaiser fails to reimburse necessary business expenses, violating California Labor Code section 2802.

“An employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful.” (Cal. Labor Code § 2802(a).)

California Labor Code section 2802(c) provides: “For purposes of this section, the term “necessary expenditures or losses” shall include all reasonable costs, including, but not limited to, attorney’s fees incurred by the employee enforcing the rights granted by this section.”

As explained above, Kaiser required Ms. Tinney and other similarly situated current and former employees (exempt and non-exempt) to incur necessary business expenses while working from home, but failed to reimburse those necessary business expenses, such as internet expenses, equipment such as computers to perform work for Kaiser, travel expense required for business-related trips, telephone/cell phone expenses, desk, chair, and other items related to the specific workspace; office space/rent; utilities such as electricity, gas, garbage service and water; and stationery.

Kaiser has had and continues to have a policy and practice of not fully reimbursing Ms. Tinney and its current and former aggrieved employees similarly situated to Ms. Tinney for the above reimbursable expenses.

Because Kaiser has failed and continues to fail to reimburse these necessary business expenses to Ms. Tinney and to its similarly situated current and former employees, and for its failure to pay interest under California Labor Code section 2802(b), Kaiser has violated California Labor Code section 2802.

II. Kaiser fails to furnish to its California employees the accurate itemized wage statement in writing as required by California Labor Code 226(a).

California Labor Code section 226(a) provides: “An employer, semimonthly or at the time of each payment of wages, shall furnish to his or her employee, either as a detachable part of the check, draft, or voucher paying the employee’s wages, or separately if wages are paid by personal check or cash, an accurate itemized statement in writing. . .”

As explained above, Kaiser does not provide the required wage statement in writing to Ms. Tinney and other similarly situated California employees in violation of Labor Code section 226(a).

Conclusion

Ms. Tinney contends that Kaiser caused violations of the California Labor Code and/or provisions of the applicable Industrial Welfare Commission Orders as specified hereinabove and

in California Labor Code section 558 and is therefore liable for civil penalties set forth within that section and as authorized by California Labor Code section 2699(a). Kaiser's conduct further violated each applicable Labor Code section as set forth in California Labor Code section 2699.5. This notice is provided to enable Ms. Tinney to proceed as deputized attorney general in the State of California as authorized by California Labor Code section 2698, et seq. on behalf of herself and other current and former similarly situated aggrieved employees. California Labor Code section 2699.3(a) permits an aggrieved employee to bring a civil action to recover civil penalties for violations of the California Labor Code sections alleged herein, which are each enumerated in California Labor Code section 2699.5.

California Labor Code section 2699(f)(2) provides: "the civil penalty is one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation." Ms. Tinney may recover these penalties and the greater penalties of \$250 per pay period for Kaiser's violations of California Labor Code sections 2802.

The purpose of this letter is to satisfy the requirement created by Labor Code § 2699 prior to seeking penalties allowed by law for the aforementioned statutory violations. We look forward to a determination of whether the Labor Workforce Development Agency intends to take any action in reference to these claims. We kindly ask that you respond to this notice according to the timeframe contemplated by the Labor Code.

Ms. Tinney seeks to recover these penalties on behalf of himself and all other aggrieved former and current and former similarly situated aggrieved California employees of Kaiser for violations of California Labor Code sections 2802. Further, Ms. Tinney will seek such penalties in a representative action, and also seeks recovery of attorney fees, costs, and interest.

Thank you for your assistance in this matter. Should you have any questions or comments, please do not hesitate to contact my office.

Kind regards,

RIGHETTI GLUGOSKI, P.C.

/s/ Matthew Righetti

Attorneys for Ms. Tinney and similarly situated aggrieved employees