

December 1, 2022

**NOTICE VIA ONLINE SUBMISSION**

California Labor and Workforce Development Agency ("LWDA")

**VIA CERTIFIED U.S. MAIL WITH RETURN RECEIPT**

Tesla, Inc.  
1 Tesla Road  
Austin, TX 78725

**Re: Notice pursuant to California Labor Code sections 2698, *et seq.*,  
the Private Attorneys General Act ("PAGA"), sent by Tammy  
Spears as a proposed Representative of the State of California**

Dear PAGA Administrator:

This letter shall serve as Tammy Spears's (hereafter "Claimant") Notice pursuant to the California Private Attorneys General Act of 2004 ("PAGA"), California Labor Code sections 2698, *et seq.* regarding PAGA claims against Tesla, Inc. (referred to herein as "the Employer").

Claimant and other aggrieved employees were subject to the same policies and practices alleged herein which impermissibly denied aggrieved employees their rights pursuant to the California Labor Code and caused violation of the Labor Code as set forth below. If the LWDA does not intend to investigate the alleged violations, Claimant intends to file a representative action for PAGA civil penalties. A copy of this notice is being sent to the Employer by certified mail at the address above.

///  
///  
///  
///  
///  
///  
///  
///  
///  
///  
///

## **FACTUAL STATEMENT**

Employer failed to pay Claimant and other female aggrieved employees the same wage as male employees for substantially similar work, as required by California Labor Code § 1195.5(a). Employer also failed to pay Claimant and aggrieved employees the same wage as employees of another race or ethnicity for substantially similar work, as required by California Labor Code § 1195.5(b). Substantially similar work comprises of work that is mostly similar in skill, effort, responsibility, and performed under similar working conditions. By failing to pay Claimant and aggrieved employees the same wage to employees engaging in substantially similar work within similar conditions on the basis of gender, race, and ethnicity, Employer has violated California Labor Code §§ 1195.5(a) and 1195.5(b).

For reasons set forth herein, Claimant alleges the following violations of the California Labor Code and the applicable IWC Wage Order on behalf of herself and all other aggrieved employees of Defendant. Claimant alleges that Defendant:

1. Failed to pay Claimant and other aggrieved employees the same wages as employees of the opposite gender for substantially similar work;
2. Failed to pay Claimant and other aggrieved employees the same wages as employees of another race or ethnicity for substantially similar work; and
3. Failed to produce all employment records.

Accordingly, Claimant now seeks civil penalties pursuant to the PAGA on behalf of the State of California based on the alleged violations of the California Labor Code.

### **FAILURE TO PAY THE SAME WAGE AS EMPLOYEES OF THE OPPOSITE GENDER** (Labor Code § 1197.5(a))

California Labor Code § 1197.5(a) provides in pertinent part: “An employer shall not pay any of its employees at wage rates less than the rates paid to employees of the opposite sex for substantially similar work, when viewed as a composite of skill, effort, and responsibility, and performed under similar working conditions ....”

Noncompliance subjects the employer to liability to the aggrieved employees in the amount of wages, with interest, of which the employee has been deprived by reason of the violation, and an additional equal amount as liquidated damages. Cal. Lab. Code § 1197.5(b). Labor Code § 1197.5(g) states that if the aggrieved employee files a civil action, costs and attorney’s fees may also be available, notwithstanding any agreement to work for a lesser wage.

Here, Employer violated Labor Code section 1197.5(a) by failing to pay Claimant and other current and former aggrieved employees the same wages earned by employees of the opposite sex for performing substantially similar work with substantially similar skill, effort, and responsibility under similar working conditions. Claimant, and on

information and belief, other female aggrieved employees of Employer were and are regularly paid less than their male counterparts who perform substantially the same work, and who perform at substantially the same skill level.

Accordingly, Claimant now seeks civil penalties pursuant to the PAGA on behalf of the State of California based on the alleged violations of the California Labor Code.

**FAILURE TO PAY THE SAME WAGE AS EMPLOYEES OF  
ANOTHER RACE OR ETHNICITY**  
(Labor Code §§ 1997.5(b))

California Labor Code § 1197.5(b) provides in pertinent part: “An employer shall not pay any of its employees at wage rates less than the rates paid to employees of another race or ethnicity for substantially similar work, when viewed as a composite of skill, effort, and responsibility, and performed under similar working conditions ....”

Here, the Employer violated Labor Code section 1197.5(b) by failing to pay Claimant and other aggrieved current and former employees the same wages as employees of another race or ethnicity for substantially similar work using substantially similar skill, effort, and responsibility under similar working conditions. Claimant, and on information and belief, other aggrieved employees, regularly were and are paid less than those of another race or ethnicity who perform substantially the same work, and who perform at substantially the same skill level.

Accordingly, Claimant now seeks civil penalties pursuant to the PAGA on behalf of the State of California based on the alleged violations of the California Labor Code.

**FAILURE TO PRODUCE ALL EMPLOYMENT RECORDS**  
(Violation of §§ 226, 1198.5 and the “Records” section of the applicable IWC Wage Order)

Labor Code § 226(c) states in pertinent part that: “An employer who receives a written or oral request to inspect or receive a copy of records pursuant to subdivision (b) pertaining to a current or former employee shall comply with the request as soon as practicable, but no later than 21 calendar days from the date of the request.”

Labor Code § 1198.5(b)(1) states in pertinent part that: “The employer shall make the contents of those personnel records available for inspection to the current or former employee, or his or her representative, at reasonable intervals and at reasonable times, but not later than 30 calendar days from the date the employer receives a written request, unless the current or former employee, or his or her representative, and the employer agree in writing to a date beyond 30 calendar days to inspect the records, and the agreed-upon date does not exceed 35 calendar days from the employer’s receipt of the written request.”

The “Records” Section of applicable IWC Wage Order states: “Every employer shall keep accurate information with respect to each employee including the following: ... (3) Time records showing when the employee begins and ends each work period. Meal periods, split shift intervals and total daily hours worked shall also be recorded. Meal periods during which operations cease and authorized rest periods need not be recorded.”

The Employer was required to provide Claimant her entire personnel file, including her time records, upon request. However, Employer has failed to do so and only produced Claimant's wage statements.

Accordingly, Claimant now seeks civil penalties pursuant to the PAGA on behalf of the State of California based on the alleged violations of the California Labor Code.

**ATTORNEY'S FEES, COSTS, INTEREST AND PENALTIES**

(Labor Code §§ 1197.5 and 2699, *et seq.*)

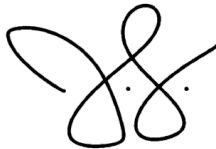
Labor Code section 1197.5(b) states that noncompliance subjects the employer to liability to the aggrieved employees in the amount of wages, with interest, of which the employee has been deprived by reason of the violation, and an additional equal amount as liquidated damages. Labor Code § 1197.5(g) states that if the aggrieved employee files a civil action, costs and attorney's fees may also be available, notwithstanding any agreement to work for a lesser wage.

**CONCLUSION**

Employer violated multiple California Labor Code sections as set forth herein. Claimant will pursue all remedies on behalf of herself and other aggrieved employees, including recovery of attorney's fees, costs, and penalties to the extent allowed by law. The facts and claims contained herein are based on the information available at the time of this writing. Therefore, if through discovery and/or expert review, Claimant becomes aware of additional claims, she reserves the right to revise these facts and/or add any new claims by amending the claim letter or by adding applicable causes of action in the complaint.

Should you have any questions, please feel free to contact me at your convenience.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jonathan M. Lebe', with a stylized flourish at the end.

Jonathan M. Lebe, Esq.

Attorney for Tammy Spears,

As a Proposed Representative of the State of California