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July 31, 2025

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Oakland, CA 94612
**(*Via Online Submission*)**

Leapday Enterprise Inc. dba McDonald's
7043 W. Pershing Court
Visalia, CA 93291
**(*Via Certified Mail, Return Receipt Requested*)**
**#9489 0090 0027 6620 2441 72**

Matthew Delph
Agent for Service of Process for Leapday
Enterprise Inc. dba McDonald's
7043 W. Pershing Court
Visalia, CA 93291
**(*Via Certified Mail, Return Receipt Requested*)**
**#9489 0090 0027 6620 2441 65**

Re: ***Joshua Velez, et al v. Leapday Enterprise Inc. dba McDonald's***
**Notice of Labor Code Violations and PAGA Penalties**

To Whom It May Concern:

Please be advised that my office have been retained by Joshua Velez and Curtis Lee McDonald III ("Mr. Velez", Mr. McDonald III, or "Employees") to pursue a Labor Code Private Attorneys General Act of 2004 ("PAGA") representative action (Cal. Lab. Code §§ 2699, *et seq.*) against Employees' former employers, Leapday Enterprise Inc. dba McDonald's ("Employers"). The purpose of this letter are to comply with PAGA and set forth the facts and theories of California Labor Code violations which we allege Employers engaged in with respect to Employees and potentially all of Employers' Aggrieved Employees.

Mr. Velez and Mr. McDonald wish to pursue this action on behalf of themselves as Aggrieved Employees, on behalf of the State of California, as well as on behalf of potentially all other persons who worked for Leapday Enterprise Inc. dba McDonald's in California as a non-exempt or hourly-paid Employees at any time within the applicable statutory period (hereafter, the "Aggrieved Employees").

Employees and the Aggrieved Employees, or some of them, suffered the Labor Code violations described below.

**<u>Mr. Velez and Mr. McDonald's Employment with Leapday Enterprise Inc. dba McDonald's</u>**

Leapday Enterprise Inc. dba McDonald's are a franchise specializing in fast food meals. Employee worked as a manager. Mr. Velez's primary job function was to manage the store by providing other employees their daily tasks and balance the registers by counting the store money, among other tasks. Mr. McDonald's primary job function was to cook meals and assist customers at the cash register, among other tasks. In performing Employees' duties, Employees were regularly required to perform work (off-the-clock), without compensation, including but not limited to performing job-related tasks in lieu of taking a meal period. Due to understaffing and high workloads, Employees were also frequently deprived of an opportunity to take legally compliant meal and rest breaks, including because the few meal and rest breaks they took were often cut short or interrupted.

Employers failed to provide Employees and other Aggrieved Employees with the meal and rest break premiums as required by the Labor Code, and Employees do not recall ever receiving any meal and rest break premiums. Additionally, Mr. Velez necessarily incurred business-related expenses, including but not limited to personal cell phone usage and personal vehicle usage but Employers failed to reimburse such business-related expenses. Mr. McDonald necessarily incurred business-related expenses, including but not limited to personal cellphone usage to communicate with coworkers and supervisors, but Employers failed to reimburse such business-related expenses These are just non-exhaustive examples of the facts and theories the Employees asserts, which are described in more detail below.

Employers own/owned and operate/operated an industry, business, and establishment within the State of California. As such and based upon all the facts and circumstances incident to Employers' business in California, Employers are subject to the California Labor Code, Wage Orders issued by the Industrial Welfare Commission ("IWC"), and the California Business & Professions Code.

Mr. Velez is a resident of Bakersfield, California who worked for Employers in Kern County, California as an hourly-paid, non-exempt Employees from approximately November 2023 to approximately April 2025. Mr. McDonald is a resident of Bakersfield, California who worked for Employers in Kern County, California as an hourly-paid, non-exempt Employees from approximately May 2023 to approximately April 2025.

During Employees' employment for Employers, Employers paid Employees an hourly wage and classified Employees as non-exempt from overtime. Employers typically scheduled Employees to work at least four days in a workweek and at least eight hours per day, but Employees also worked more than eight hours in a workday and more than forty (40) hours in a workweek.

Throughout Employees' employment, Employers failed to pay for all hours worked (including minimum, straight time, and overtime wages), failed to provide Employees with legally compliant meal periods, failed to authorize and permit Employees to take rest periods, failed to timely pay all final wages to Employees when Employers terminated Employees' employment, failed to furnish accurate wage statements to Employees, and failed to indemnify Employees for business expenditures,. As discussed below, Employees' experience working for Employers was typical and illustrative.

**<u>Failure to Pay for All Hours Worked, Including Minimum, Straight, and Overtime Wages</u>**

Under California law, an employer must pay for all hours worked by an Employees. "Hours worked" are the time during which an Employees are subject to the control of an employer and includes all the time the Employees are suffered or permitted to work, whether or not required to do so.

In addition, Labor Code § 510 provides that employees in California shall not be employed more than eight hours in any workday or forty (40) hours in a workweek unless they receive additional compensation beyond their regular wages in amounts specified by law.

Labor Code §§ 1194 and 1198 also provide that employees in California shall not be employed more than eight hours in any workday unless they receive additional compensation beyond their regular wages in amounts specified by law. Additionally, Labor Code § 1198 states that the employment of an Employees for longer hours than those fixed by the IWC are unlawful.

Throughout the statutory period, Employers maintained a policy and practice of not paying Employees and the Aggrieved Employees, or some of them, for all hours worked, including minimum, straight time, and overtime wages. Employers at time required Employees and the Aggrieved Employees, or some of them, to work "off-the-clock," uncompensated, by, for example, requiring Employees and the Aggrieved Employees to perform work during uncompensated meal periods and rest periods including but not limited to manage the store, cook meals, or assist customers at the cash register. Some of this unpaid work should have been paid at the overtime rate. California Labor Code § 510 requires that employers compensate employees 1.5 times their regular rate of pay when employees work over eight hours per day, 40 hours per week, or when employees work up to eight hours on any seventh day of a workweek. Employers failed to properly calculate Employees' regular rate of pay when paying overtime, by failing to include all compensation in Employees' overtime calculations, including hours worked off-the-clock. In failing to pay for all hours worked, Employers also failed to maintain accurate records of the hours Employees and the Aggrieved Employees, or some of them, worked.

As a result, Employers are liable to Employees and the Aggrieved Employees, or some of them, for the civil penalties provided for in Labor Code §§ 210, 1197.1, and 2699(f)(2) for failing to pay for all hours worked, including minimum, straight time, and overtime wages.

**Failure to Provide Meal Periods**

Under California law, employers have an affirmative obligation to relieve employees of all duty in order to take their first 30-minute, duty-free meal periods no later than the start of sixth hour of work in a workday, and to allow employees to take their second 30-minute, duty-free meal period no later than the start of the eleventh hour of work in the workday. Further, employees are entitled to be paid one hour of additional wages for each workday they were not provided with all required meal period(s). Despite these legal requirements, Employers at times wrongfully failed to provide Employees and the Aggrieved Employees, or some of them, with their legally mandated 30-minute, uninterrupted, and duty-free meal period in a manner required by law (and also including but not limited to failing at times to provide Plaintiff, the Class, and the Aggrieved Employees, or some of them, the opportunity to leave the work premises to take meal periods). For example, Employees were frequently deprived of an opportunity to take legally compliant meal breaks, including because the very few meal breaks they could take were often cut short or interrupted. Employers required that Employees and others to manage the store, cook meals, or assist customers at the cash registerin lieu of taking a meal period.

Employers also continued to assert control over Employees and the Aggrieved Employees, or some of them, by, among other things, requiring, pressuring, or encouraging them to perform work tasks which could not be completed without working in lieu of taking mandatory meal periods, or by denying Employees and the Aggrieved Employees, or some of them, permission to take a meal period under the conditions required by law, and without properly compensating Employees and the Aggrieved Employees, or some of them, for meal periods that were not provided as required by law. Employers also did not inform Employees of Employees' right to, nor permitted Employees to take, all of Employees' second meal periods when Employees worked at least ten hours of work in a workday and otherwise unlawfully pressured Employees to waive such breaks. Accordingly, Employers at times failed to provide meal periods to Employees and the Aggrieved Employees, or some of them, in compliance with California law.

Employees and the Aggrieved Employees, or some of them, are thus entitled to be paid one hour of additional wages for each workday they were not provided with all required meal period(s). Employers, however, at times failed to pay Employees and the Aggrieved Employees, or some of them, the additional wages to which they were entitled for meal periods that were not provided. Employees does not recall ever receiving any meal and rest break premiums.

As a result, Employers are liable to Employees and the Aggrieved Employees, or some of them, for the civil penalties provided for in Labor Code §§ 210 and 2699(f)(2) for failing to provide meal periods and pay meal period premium wages.

**Failure to Authorize and Permit Rest Periods**

Employers are required by California law to authorize and permit breaks of ten uninterrupted minutes for each four hours of work or major fraction of four hours (i.e., more than two hours). Thus, for example, if an Employees' work time are six hours and ten minutes, the Employees are entitled to two rest breaks. Each failure to authorize rest breaks as so required are itself a violation of California's rest break laws.

Throughout the statutory period, Employers at times have wrongfully failed to authorize and permit Employees and the Aggrieved Employees, or some of them, to take legally compliant rest periods in a manner required by law. Employers at times required Employees and the Aggrieved Employees, or some of them, to work in excess of four consecutive hours a day without Employers' authorizing and permitting Employees to take a 10-minute, uninterrupted, duty-free rest period for every four hours of work (or major fraction of four hours), or without compensating Employees and the Aggrieved Employees, or some of them, for rest periods that were not authorized or permitted.

Instead, Employers at times continued to assert control over Employees and the Aggrieved Employees, or some of them, by requiring, pressuring, or encouraging them to perform work tasks which could not be completed without working in lieu of taking mandatory rest periods, or at times by denying Employees and the Aggrieved Employees, or some of them, permission to take a rest period. For example, at times, it was impossible for Employees and others to take rest breaks due in order to manage the store, cook meals, or assist customers at the cash register. Supervisors required that Employees and others stay readily available to answer any and all phone calls from Supervisors and to assist customers as needed.

Accordingly, Employers at times failed to authorize and permit Employees and the Aggrieved Employees, or some of them, to take rest periods in compliance with California law. Employees and the Aggrieved Employees, or some of them, are thus entitled to be paid one hour of additional wages for each workday they were not authorized and permitted to take all required rest period(s).

Employers, however, at times failed to pay Employees and the Aggrieved Employees, or some of them, the additional wages to which they were entitled for rest periods that they were not authorized and permitted to take. Employees do not recall ever receiving any meal and rest break premiums.

As a result, Employers are liable to Employees and the Aggrieved Employees, or some of them, for the civil penalties provided for in Labor Code §§ 210 and 2699(f)(2) for failing to authorize and permit rest periods and pay rest period premium wages.

**Failure to Pay All Earned Wages Twice Per Month**

Based on Employers' failure at times to pay Employees and the Aggrieved Employees, or some of them, for all wages as discussed above, Employers also violated Labor Code § 204.

Labor Code § 204 requires employers to pay employees all earned wages two times per month. Throughout the statute of limitations period applicable to this cause of action, employees were entitled to be paid twice a month at their regular rates, including all meal period premium wages owed, rest period premium wages owed, and wages owed for overtime hours worked. However, at times, Employers failed and refused to pay the Employees all wages due, and failed to pay those wages twice a month, in that Employees were not paid all wages for all meal periods not provided by Employers, all wages for all rest periods not authorized and permitted by Employers, and all wages for all hours worked. As a result, Employers owe Employees the legally required wages for unpaid wages, and Employees and the Aggrieved Employees, or some of them, suffered damages in those amounts.

Moreover, Employers are liable to Employees and the Aggrieved Employees, or some of them, for the civil penalties provided for in Labor Code § 210 for failing to pay all earned wages twice per month.

**Failure to Maintain Accurate Records of Hours Worked and Meal Periods**

Employees seeks penalties under California Labor Code § 1174(d). Pursuant to California Labor Code § 1174.5, any person, including any entity, employing labor who willfully fails to maintain accurate and complete records required by California Labor Code § 1174 is subject to a penalty under § 1174.5. Pursuant to the applicable IWC Order § 7(A)(3), every employer shall keep time records showing when the Employees begins and ends each work period. Meal periods and total hours worked daily shall also be recorded.

Employers, however, at times failed to maintain accurate records of hours worked and all meal periods taken or missed by Employees and the Aggrieved Employees, or some of them.

Employers' failure to provide and maintain records required by the California Labor Code and the applicable IWC Wage Orders deprived Employees and the Aggrieved Employees, or some of them, the ability to know, understand and question the accuracy and frequency of meal periods, and the accuracy of their hours worked stated in Employers' records. Therefore, Employees and the Aggrieved Employees, or some of them, had no way to dispute the resulting failure to pay wages, all of which resulted in an unjustified economic enrichment to Employers. As a direct result, Employees and the Aggrieved Employees, or some of them, have suffered and continue to suffer, substantial losses related to the use and enjoyment of such wages, lost interest on such wages and expenses and attorneys' fees in seeking to compel Employers to fully perform their obligation under state law, all to their respective damage in amounts according to proof at trial. As a result of Employers' knowing failure, at times, to comply with the California Labor Code and applicable IWC Wage Orders, Employees and the Aggrieved Employees, or some of them, have also suffered an injury in that they were prevented from knowing, understanding, and disputing the wage payments paid to them.

**Failure to Timely Pay All Wages at Termination**

Labor Code §§ 201 and 202 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 (72) hours thereafter, unless the employee has given seventy-two (72) 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. Direct deposits of wages to an employee's bank, saving and loan, or credit union account that were previously authorized by the employee are immediately terminated when an employee quits or is discharged, and the payment of wages upon termination of employment in the manner described above shall apply unless the employee has voluntarily authorized that deposit and provided that the employer complies with the provisions of Labor Code § 213(d) relating to the payment of wages upon termination or quitting of employment.

Within the applicable statute of limitations, the employment of Employees and many other Aggrieved Employees ended, i.e., was terminated by quitting or being discharged, and the employment of others will be terminated. However, during the relevant time period, Employers at times failed, and continue at times to fail, to pay Employees and terminated Aggrieved Employees, or some of them, without abatement, all wages required to be paid by Labor Code sections 201 and 202 either at the time of discharge, or within seventy-two (72) hours of their leaving Employers' employment. These unpaid wages include wages for unpaid work time (including minimum, straight time, and overtime wages), missed meal period premium wages, and missed rest period premium wages. Employers also violated, and continue to violate, Labor Code section 213(d) by paying final wages (if any are paid at all) via direct deposit without the Employees' voluntary authorization.

Employers' conduct violates Labor Code §§ 201 and 202. Labor Code § 203 provides that if an employer willfully fails to pay wages owed, in accordance with sections 201 and 202, then the wages of the employee shall continue as a penalty wage from the due date, and at the same rate until paid or until an action is commenced; but the wages shall not continue for more than thirty (30) days.

Accordingly, Employees and the Aggrieved Employees, or some of them, are entitled to recover from Employers their additionally accruing wages for each day they were not paid, at their regular hourly rate of pay, up to thirty (30) days maximum pursuant to Labor Code § 203.

Moreover, Employers are liable to Employees and the Aggrieved Employees, or some of them, for the civil penalties provided for in Labor Code § 2699(f)(2) for failing to timely pay all wages at termination, and for unlawfully making any such payment (if any) via direct deposit without the Employees' voluntary authorization.

**Failure to Furnish Accurate Itemized Wage Statements**

Labor Code § 226(a) provides that every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees an accurate itemized wage statement in writing showing nine pieces of information, including: (1) gross wages earned, (2) total hours worked by the Employees, (3) the number of piece-rate units earned and any applicable piece rate if the Employees are paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the Employees may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the Employees are paid, (7) the name of the Employees and the last four digits of his or her social security number or an Employees identification number other than a social security number, (8) the name and address of the legal entity that are the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the Employees. An Employees are presumed to suffer an injury if this information are missing. (Lab. Code § 226(e)(2)(B)(iii).)

The statute further provides: "An Employees suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) are entitled to recover the greater of all actual damages or fifty dollars ($50) for the initial pay period in which a violation occurs and one hundred dollars ($100) per Employees for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars ($4,000), and are entitled to an award of costs and reasonable attorney's fees." (Lab. Code § 226(e)(1).)

Throughout the statutory period, Employers at times failed to, and continue at times to fail, to timely furnish Employees and the Aggrieved Employees, or some of them, with accurate, itemized wage statements showing all applicable hourly rates, and all gross and net wages earned (including correct hours worked, correct wages for meal periods that were not provided in accordance with California law, and correct wages for rest periods that were not authorized and permitted to take in accordance with California law).

Because Employers at times violated Labor Code § 226, Employees and similarly Aggrieved Employees, or some of them, suffered injury and damage to their statutorily protected rights. Accordingly, Employees and similarly Aggrieved Employees, or some of them, are entitled to recover from Employers the greater of their actual damages caused by Employers' failure to comply with Labor Code § 226(a), or an aggregate penalty not exceeding four thousand dollars ($4,000) per Employees. Moreover, Employers are liable to Employees and the Aggrieved Employees, or some of them, for the civil penalties provided for in Labor Code § 226.3 for failing to timely furnish accurate itemized wage statements.

**Failure to Indemnify for Necessary Expenditures**

Labor Code § 2802(a) provides that employers shall indemnify their employees for all necessary business expenditures or losses that have been incurred by the employees in direct discharge of his or her duties. Throughout the statute of limitations period applicable to this cause of action, Employers at times wrongfully required Employees and the Aggrieved Employees, or some of them, to pay expenses that they incurred in direct discharge of their duties for Employers including but not limited to cell phone usage to utilize the timekeeping application or to respond to supervisor communications during breaks . Employees and the Aggrieved Employees, or some of them, at times paid out-of-pocket for necessary employment-related expenses. Employees and the Aggrieved Employees, or some of them, incurred substantial expenses as a direct result of performing their job duties for Employers, but Employers failed to indemnify Employees and the Aggrieved Employees, or some of them, for these employment-related expenses.

As a result, Employers are liable to Employees and the Aggrieved Employees, or some of them, for the civil penalties provided for in Labor Code §§ 2802 and 2699(f)(2) for failing to indemnify Employees and the Aggrieved Employees, or some of them, for necessary business expenditures.

**<u>Recordkeeping Requirement Violations</u>**

California Labor Code section 1174 requires employers to keep "accurate and complete" payroll records showing, among other things, the hours worked daily by Employees and Aggrieved Employees. All applicable IWC Wage Orders, section 7 similarly requires employers to keep accurate time records reflecting the times during which all owed meal periods were provided each day.

Based on information and belief, Employers at times failed, and continue at times to fail, to keep accurate and complete payroll records as required by law, including but not limited to the following records: total daily hours worked, applicable rates of pay, time records showing when Employees and other Aggrieved Employees began and ended each work period, time records of meal periods, and accurate itemized wage statements.

Based on information and belief, Employers at times failed and continue at times to fail to keep accurate and complete records showing total hours worked by Employees and Aggrieved Employees, or some of them, by virtue of Employers' time rounding and/or auto deduction policies and practices and/or other off-the-clock work policies and practices. Employers failed at times and continue at times to fail to keep accurate and complete records showing total hours worked by virtue of Employers' failure to relieve Employees and Aggrieved Employees, or some of them, of all duties and Employers' control for unpaid meal periods, resulting in unpaid hours worked.

Based on information and belief, Employers further failed at times, and continue at times to fail, to record the true start and end times of Employees' and Aggrieved Employees' meal periods, or some of them.

Based on further information and belief, Employers further failed at times and continue at times to fail, to record the true start and end times of Employees' and Aggrieved Employees' work shifts, or some of them.

Additionally, Employers at times failed, and continue at times to fail, to keep accurate records and issue accurate wage statements by not documenting accrued sick time for Employees and Aggrieved Employees, or some of them. Employers' failure to keep "accurate and complete" payroll records for Employees and Aggrieved Employees, or some of them, violates Labor Code sections 1174, 1198, 1199, and all applicable IWC Wage Orders, section 7. These violations subject Employers to civil penalties under Labor Code sections 558.1, 226.6, 1174.5 and 2699. Each violation of each Labor Code section and Wage Order provision, for each Aggrieved Employee (or some of them), results in a separate civil penalty.[1]

**<u>Action for Civil Penalties Under PAGA</u>**

In light of the above, Employees allege that Employers violated the following provisions of the Labor Code with respect to the Aggrieved Employees, or some of them:

1. Labor Code §§ 204, 510, 1194, 1197, and 1198 by failing at times to pay for all hours worked, including minimum wages, straight time wages, and overtime wages;

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[1] See Lab. Code §2699(f)(2) (establishing that the civil penalty is "for each aggrieved employee per pay period").

2. Labor Code § 226.7 and applicable Wage Orders by failing at times to provide meal periods;
3. Labor Code § 226.7 and applicable Wage Orders by failing at times to authorize and permit rest periods;
4. Labor Code § 204 by failing at times to pay all earned wages two times per month;
5. California Labor Code § 1174.5 and applicable Wage Orders by failing at times to maintain accurate records of hours worked and meal periods taken or missed;
6. Labor Code §§ 201 to 203 by willfully failing at times to pay all wages owed at termination;
7. Labor Code § 226 by failing at times to provide accurate itemized wage statements;
8. Labor Code § 2802 by failing at times to indemnify for necessary expenditures; and
9. Labor Code § 1174 by failing at times to keep accurate and complete payroll records.

Therefore, on behalf of potentially Aggrieved Employees, Employees seek applicable penalties related to the violations alleged above pursuant to the PAGA. These include, but are not limited to, penalties under Labor Code §§ 210, 226.3, 1174.5, 1197.1, and 2699.

Employees have placed Employers on notice by mailing a certified copy of this correspondence, as indicated on the first page. Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me.

Sincerely,

WILSHIRE LAW FIRM

Benjamin H. Haber, Esq.