

SULLIVAN & YAECKEL
LAW GROUP
A PROFESSIONAL CORPORATION

2330 THIRD AVENUE
SAN DIEGO, CALIFORNIA 92101

PHONE 619-702-6760
FACSIMILE 619-702-6761

July 10, 2025

Labor and Workforce Development Agency
Attn. PAGA Administrator

Submitted Via Online Filing

Re: **Leslie Rohmann v. Torrey Pines Property Management, Inc.**
Our File No.: 3269

Dear Administrator:

Please allow this correspondence to serve as “written notice,” as required by California Labor Code section 2699.3(a)(1), of the specific provisions of the California Labor Code believed to have been violated by Torrey Pines Property Management, Inc. (hereinafter referred to as “TP”), in the above referenced matter. This “written notice” is filed on behalf of Leslie Rohmann (hereinafter referred to as “Plaintiff” or “Ms. Rohmann”) and all current and former non-exempt employees employed by TP. Thank you for your assistance and instruction on this issue.

Please Note: In providing said notice, Plaintiff intends to proceed in a “representative capacity only.” Plaintiff is not seeking any individual relief. This is consistent with recent California Court of Appeal precedent. See *Balderas v Fresh Start Harvesting, Inc.* (2024) 101 Cal.App.5th 533; and *Rodriguez v. Packers Sanitation Services Ltd., LLC* (2025) 109 Cal.App.5th 69. However, Plaintiff is also aware of a potentially conflicting Court of Appeal Opinion in *Leeper v. Shipt, Inc.* (2024) Second Dist, Div One, Case No. B339670. The *Leeper* Court required a PAGA Plaintiff to proceed on a representative and individual basis. Accordingly, Plaintiff has also provided notice herein of individual labor code violations experienced by Plaintiff. Plaintiff will pursue penalties for these individual violations only in the event that future precedent, or a ruling from the Court, requires that Plaintiff proceed in an individual and representative basis.

The specific provisions alleged to have been violated by TP are as follows:

CALIFORNIA LABOR CODE SECTIONS 201-203, 204, 226, 226(a), 226.7, 510, 512, 1194, and 2802, as well as IWC Wage Order 5, and/or any other applicable wage orders, codified as Title 8, California Code of Regulations, section 11050 *et seq.*

Facts and theories supporting the allegations: Ms. Rohmann was employed as an employee for TP from October 15, 2020 through the current date.

Throughout the term of Plaintiff's employment, TP required Plaintiff and all other non-exempt employees to experience actions illegal under the California Labor Code, including the following:

Minimum Wage and Overtime Violations

- TP failed to provide all compensation, including minimum wage and overtime compensation, as well as compensation for work performed inside of Meal and Rest Periods, to its employees in violation of, *inter alia*, Labor Code sections 204, 1194, 510, IWC Wage Order 5, and/or any other applicable wage orders. This illegal action is due, in part, to TP's policies of (1) failing to properly retain accurate Time Records, in violation of California law, and (2) failing to provide compensation (including both minimum and overtime compensation) for all time worked by the employees, or in control of the employer. For instance, TP would instruct Plaintiff to report scheduled (as opposed to *actual*) work hours, resulting in a loss of compensation. Additionally, TP would often require Plaintiff to work extended hours (beyond scheduled hours), without compensation. Ms. Rohmann will testify she frequently was required to answer phone calls and emails regarding work related matters outside of her scheduled hours. Finally, TP would require Ms. Rohmann (and other employees) to "Round" their hours to the nearest 15-minute increment, as the employees were not able to report accurate (*i.e.* to the minute) recording of time. This served to deny the employees proper compensation.
- Additionally, among other issues, TP has notice of Plaintiff, and others, working outside of their scheduled and/or reported hours, as well as *within* Meal and Rest Periods, but fails to provide any compensation for this work-time. Plaintiff was frequently scheduled to be "On Call" outside of when her work shifts ended, but was never compensated for this time. Further, TP failed to properly calculate and pay overtime at the actual overtime rate of pay, as TP ignores certain compensation, like "Bonus" pay and other non-discretionary compensation when calculating the Regular Rate of Pay.

Failure to Provide Compliant Meal Periods

- TP failed to provide compliant Meal Periods or requisite Meal Period penalty payments, in violation of, *inter alia*, Labor Code sections 226.7, 512, and IWC Wage Order 5, and/or any other applicable wage orders. For example, TP does not possess a legal Meal Period policy and makes no attempt to ensure that its employees are either timely or wholly provided Meal Periods. The employees would often either miss a Meal Period entirely, or be provided a short or untimely Meal Period. Whether or not an employee was provided a Meal Period was often contingent upon the how

busy the employees were on a given day.

- TP would pressure its employees to either skip, or cut short, a Meal Period as employees were expected to respond to supervisors and/or residents at all times. TP has never provided a compliant Meal Period penalty payment to any employee as to the above referenced issues. Finally, on the rare occasions when employees *were* paid Meal Period penalties (*i.e.* California Meal Period Premiums), such payments do not “cure” the stated Labor Code violation under section 226.7. The California Supreme Court held that “An employer’s failure to provide an additional hour of pay does not form part of a section 226.7 violation, and an employer’s provision of an additional hour of pay does not excuse a section 226.7 violation. The failure to provide required meal and rest breaks is what triggers a violation of section 226.7.” *Kirby v. Immoos Fire Protection, Inc.* (2012) 53 Cal.4th 1244, 1256. Even more recently, a 2020 California Supreme Court ruling stated that, “The remedy for a Labor Code violation, through settlement or other means, is distinct from the fact of the violation itself. For example, employers can pay an additional hour of wages as a remedy for failing to provide meal and rest breaks. (§ 226.7, subd. (c).) But we have held that payment of this statutory remedy ‘does not excuse a section 226.7 violation.’” *Kim v. Reins International California, Inc.*, (2020) 9 Cal.5th 73. To be clear, payment of a Meal Period penalty to employees does not rectify the violation, it is in fact an admission of a Labor Code violation. Finally, TP failed to pay Meal Period Premiums at the proper rate, as TP fails to either (1) pay a full hours worth of pay, or (2) properly calculate the regular rate of pay for purposes of determining the premium rate owed. *Ferra v. Loews Hollywood Hotel, LLC*, (2021) 11 Cal.5th 858.
- TP required its employees to constantly monitor their cell phones and be “on-call” at all times, specifically during Meal Periods. On occasion, TP would interrupt, or cut short, its employees’ Meal Periods and require them to return to work.
- TP illegally retained control over its employees during Meal Periods. For example, TP required its employees to “remain on the premises,” and to remain “On Call” (*i.e.* monitor their phones) at all times, including during Meal Periods.

Failure to Provide Compliant Rest Periods

- TP failed to provide compliant Rest Periods or requisite Rest Period penalty payments, in violation of, *inter alia*, Labor Code sections 226.7, 512, and IWC Wage Order 5, and/or any other applicable wage orders. For example, TP does not possess a legal Rest Period policy, as its Rest Period policy lacks required language under California law. TP makes no attempt to ensure that its employees are either timely or wholly provided Rest Periods. The employees would often either miss a Rest Period entirely, be provided a short or untimely Rest Period, or be provided only one

Rest Period, even when they were working in excess of 6.5 hours a day. TP would pressure its employees to either skip, or cut short, a Rest Period as employees were expected to respond to supervisors and/or residents at all times. TP has never provided a compliant Rest Period penalty payment to any employee as to the above referenced issues. Finally, on the rare occasions in which TP would provide a Rest Period penalty, it would pay said penalty at an improper (and *lesser*) rate, due to the failure to properly calculate the Regular Rate of Pay.

- TP required its employees to constantly monitor their cell phones and be “on-call” at all times, specifically during Rest Periods. On occasion, TP would interrupt, or cut short, its employees’ Rest Periods and require them to return to work. Plaintiff was required to respond to supervisors and/or residents during Rest Periods.
- Finally, TP illegally retained control over its employees during Rest Periods. For example, TP required its employees to “remain on the premises,” and to remain “On Call” (*i.e.* monitor their telephones) at all times, including during Rest Periods.

Wage Statement Violations

- TP violated Labor Code section 226(a)(2) by failing to furnish an accurate showing of all hours worked at each hourly rate by the employee. Plaintiff and other employees were not compensated for all hours worked (due in part to TP’s requirement that employees list only *scheduled* work-times, not actual work-times.)
- TP violated Labor Code section 226(a)(5) by failing to furnish an accurate showing of the net wages earned by its employees. For example, TP (a) would not provide compensation for all hours and minutes worked, (b) would use an improper (and lesser) Overtime Rate of Pay, and (c) would fail to pay Meal and/or Rest Period penalties when due. Further, on the rare occasions in which TP would provide a Meal or Rest Period penalty, it would pay said penalty at an improper (and lesser) rate, due to the failure to properly calculate the Regular Rate of Pay.
- TP violated Labor Code section 226(a)(9) by failing to furnish an accurate showing of all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. TP does not explain how its system describes “time worked” on the Wage Statement itself. As such, Plaintiff cannot “readily ascertain” what these figures mean. This is because TP is apparently using a time-calculating system other than “minutes,” but without explanation to the employees within the wage statement. As minutes are measured on a scale of 1 through 60, it is not apparent what these figures (*i.e.* “.83”) are meant to represent. Without an explanation for how these figures were arrived at, employees cannot “readily ascertain” their total hours worked. Therefore, TP failed

to provide an accurate showing of the “total hours worked” by its employees pursuant to section 226(a)(2), due to all the aforesaid reasons.

Failure to Provide Compliant Expense Reimbursement Payments

- TP failed to provide compliant expense reimbursement payments in violation of, *inter alia*, Labor Code section 2802, by failing to provide payments for expenses incurred by Plaintiff and other non-exempt employees, including expenses for cell-phone costs, and internet expenses.

To confirm, TP is a “person” as defined within California Labor Code section 18.

Again, thank you for your assistance and instruction throughout this matter. Should you have any questions or comments, please do not hesitate to contact the undersigned.

Very Truly Yours,



Cody D. Archer, Esq.

Via Certified U.S. Mail

JOHN A MAYERS
DINSMORE & SHOHL LLP
Agent of Service of Process for
TORREY PINES PROPERTY MANAGEMENT, INC.
655 West Broadway, Suite 800
San Diego, CA 92101