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July 3, 2025

Attn: PAGA Administrator
Labor and Workforce Development Agency
Attn: PAGA Administrator
<http://dir.tflaforms.net>
Via Electronic Submission

Re: Douglas McNeal / CM&I Enterprises, Inc.

To Whom It May Concern:

Pursuant to the Labor Code Private Attorneys General Act of 2004, Labor Code sections 2698, *et seq.*, Douglas McNeal (hereafter “McNeal” or “Complainant”) provides notice that CM & I Enterprises, Inc., a California corporation, Juanita Kilambi, a natural person, and related entities (collectively “the CM&I Enterprises Employers” or “the Employers”) violated his rights and those of all other individuals the CM&I Enterprises Employers have employed or otherwise contracted with in California as hourly, non-exempt workers, including hair stylists, individuals performing work comparable to the aforementioned, and individuals in similar positions (hereafter the “Aggrieved Employees”) under Labor Code sections 201, 202, 203, 204, 226, 226.7, 227.3, 233, 246, 246.5, 510, 512, 1174, 1194, 1197, 1198, and 2802, and related employee protections. On behalf of himself and all other Aggrieved Employees, McNeal hereby provides this notice to the Labor & Workforce Development Agency and the CM&I Enterprises Employers and their agents and representatives.

At all relevant times, the CM&I Enterprises Employers have employed persons, conducted business, and engaged in illegal payroll practices and policies, throughout California. McNeal and all of the other Aggrieved Employees are “employees” within the meaning of Industrial Welfare Commission Order No. 2-2001 (hereafter “the Wage Order”) section 2, subdivision (E) and “Aggrieved Employees” within the meaning of Labor Code section 2699(c).

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Statement of Facts

On approximately March 30, 2022, the CM&I Enterprises Employers began to employ McNeal in Oceanside in the position of hair stylist. The CM&I Enterprises Employers continuously employed him in that capacity until on or about December 2, 2024 when his employment ended.

At all relevant times, the CM&I Enterprises Employers issued wages to McNeal and all of the other Aggrieved Employees on a biweekly (26 paychecks/year) basis and paid them by the hour. At all relevant times, the CM&I Enterprises Employers classified McNeal and all of the other Aggrieved Employees as non-exempt employees entitled to the protections of the Labor Code and the Wage Order.

The CM&I Enterprises Employers failed to compensate McNeal and all of the other Aggrieved Employees for all hours worked at the applicable minimum or regular rates of pay. The CM&I Enterprises Employers required McNeal and the other Aggrieved Employees to work for about several minutes each day without pay and off the clock, though the CM&I Enterprises Employers did not pay McNeal and the other Aggrieved Employees for the time. This included tasks after clocking out for the day, including organizing receipts, removing tools from stations, cleaning tools, cleaning stations, sweeping stations, spraying stations and chairs, rinsing clippers containers, cleaning mirrors and hand mirrors with glass cleaner, removing tools from disinfectant and placing them on towels to dry, and obtaining management approval that the aforementioned tasks were completed satisfactorily. They also required them to work through meal periods while clock out. This also included time at the beginning of the shift to prepare the salon for customers.

The CM&I Enterprises Employers failed to compensate McNeal and all of the other Aggrieved Employees at the correct rates of pay for all hours worked over eight in a day, over 40 in a week, and for the first eight hours of the seventh day of the workweek. The CM&I Enterprises Employers required McNeal and the other Aggrieved Employees to work over eight hours per day, over 40 hours per week, and on the seventh day of the same workweek. During such workdays and workweeks, the CM&I Enterprises Employers required McNeal and the other Aggrieved Employees to work for about several minutes each day without pay and off the clock, though the CM&I Enterprises Employers did not pay McNeal and the other Aggrieved Employees for the time. This included tasks after clocking out for the day, including organizing receipts,

removing tools from stations, cleaning tools, cleaning stations, sweeping stations, spraying stations and chairs, rinsing clippers containers, cleaning mirrors and hand mirrors with glass cleaner, removing tools from disinfectant and placing them on towels to dry, and obtaining management approval that the aforementioned tasks were completed satisfactorily. They also required them to work through meal periods while clock out. This also included time at the beginning of the shift to prepare the salon for customers.

At all relevant times, the CM&I Enterprises Employers failed to provide McNeal and all of the other Aggrieved Employees with all timely 30-minute, off-duty meal periods. The CM&I Enterprises Employers required McNeal and the other Aggrieved Employees to work through their unpaid meal periods as a result of understaffing. The CM&I Enterprises Employers also failed to pay premium wages for days on which they failed to provide McNeal and all of the other Aggrieved Employees with meal periods as required by law.

At all relevant times, the CM&I Enterprises Employers failed to authorize and permit McNeal and all of the other Aggrieved Employees to take ten-minute, off-duty, paid rest breaks every four hours worked or major portion thereof. The CM&I Enterprises Employers required McNeal and the other Aggrieved Employees to work through their rest periods as a result of understaffing. The CM&I Enterprises Employers also failed to pay premium wages for days on which they failed to authorize and permit McNeal and all of the other Aggrieved Employees to take rest breaks as required by law.

The CM&I Enterprises Employers failed to provide paid sick leave to McNeal and all of the other Aggrieved Employees.

The CM&I Enterprises Employers failed to pay all earned but unused vacation pay to McNeal and all of the other Aggrieved Employees at their final rates of pay. Under the policies and practices of the CM&I Enterprises Employers, McNeal and all of the other Aggrieved Employees earned the following forms of vacation pay during employment: vacation, paid time off (PTO), and time off pay (TOP). Under such policies, these accrued but unused forms of vacation pay were subject to forfeit at the conclusion of the employment relationship.

At all relevant times, the CM&I Enterprises Employers required McNeal and all of the other Aggrieved Employees to incur certain business expenses in the course of

performing their duties. The CM&I Enterprises Employers required McNeal and all of the other Aggrieved Employees to supply tools, equipment, supplies to perform their job duties. However, the CM&I Enterprises Employers did not provide these items and did not reimburse McNeal and the other Aggrieved Employees for these items. The CM&I Enterprises Employers required McNeal and the other Aggrieved Employees to purchase their own equipment and supplies, including shear sharpeners, clippers, and edgers.

At all relevant times, the CM&I Enterprises Employers failed to issue to McNeal and all of the other Aggrieved Employees complete and accurate wage statements that state all hours worked at the correct rates of pay, and all wages earned. The CM&I Enterprises Employers knowingly and intentionally failed to state on the wage statements they issued to McNeal and all of the other Aggrieved Employees the unpaid wages discussed above. The wage statements fail to state all minimum wages earned, all regular wages earned, all overtime wages earned, all meal period premium wages earned, all rest break premium wages earned, all earned vacation pay, all earned sick pay, and related compensation.

The CM&I Enterprises Employers failed to provide McNeal and all of the other Aggrieved Employees with statements of sick leave available, or paid time off in lieu of sick leave.

The CM&I Enterprises Employers also failed to timely pay McNeal and all of the other Aggrieved Employees all earned wages as described above during and at the conclusion of employment.

The CM&I Enterprises Employers failed to maintain accurate employee records of McNeal and all of the other Aggrieved Employees.

For the reasons stated herein, McNeal alleges the following violations of the Labor Code and the Wage Order on behalf of himself and all of the other Aggrieved Employees:

- (a) The CM&I Enterprises Employers failed to pay McNeal and all of the other Aggrieved Employees all wages earned for all hours worked at the correct rates of pay, including minimum, regular, and overtime wages;

- (b) The CM&I Enterprises Employers failed to provide paid sick leave to McNeal and all of the other Aggrieved Employees;
- (c) The CM&I Enterprises Employers failed to pay all earned but unused vacation pay to McNeal and all of the other Aggrieved Employees at their final rates of pay;
- (d) The CM&I Enterprises Employers failed to provide McNeal and all of the other Aggrieved Employees all meal periods in compliance with California law;
- (e) The CM&I Enterprises Employers failed to authorize and permit McNeal and all of the other Aggrieved Employees to take rest breaks in compliance with California law;
- (f) The CM&I Enterprises Employers failed to compensate McNeal and all of the other Aggrieved Employees at one hour's pay for each day in which the CM&I Enterprises Employers failed to provide them with one or more meal periods as required by law;
- (g) The CM&I Enterprises Employers failed to compensate McNeal and all of the other Aggrieved Employees at one hour's pay for each day in which the CM&I Enterprises Employers failed to authorize and permit them to take one or more rest breaks as required by law;
- (h) The CM&I Enterprises Employers failed to indemnify McNeal and all of the other Aggrieved Employees for all necessary business expenditures incurred during the discharge of their duties;
- (i) The CM&I Enterprises Employers knowingly and intentionally failed to issue to McNeal and all of the other Aggrieved Employees accurate and complete wage statements;
- (j) The CM&I Enterprises Employers failed to provide McNeal and all of the other Aggrieved Employees with statements of sick leave available, or paid time off in lieu of sick leave;

- (k) The CM&I Enterprises Employers willfully failed to timely pay McNeal and all of the other Aggrieved Employees all earned and unpaid wages during their employment with the CM&I Enterprises Employers and when their employment ended;
- (l) The CM&I Enterprises Employers failed to maintain accurate employment records pertaining to McNeal and all of the other Aggrieved Employees.

Accordingly, McNeal now seeks civil penalties on behalf of himself and all of the other Aggrieved Employees based on the CM&I Enterprises Employers' alleged violations of the Labor Code and the Wage Order.

The Wage Order

The Wage Order applies to “all persons employed in the personal service industry whether paid on a time, piece rate, commission, or other basis[.]” Wage Order, § 1. The Wage Order defines “Personal Service Industry” to mean:

[A]ny industry, business, or establishment operated for the purpose of rendering, directly or indirectly, any service, operation, or process used or useful in the care, cleansing, or beautification of the body, skin, nails, or hair, or in the enhancement of personal appearance or health, including but not limited to beauty salons, schools of beauty culture offering beauty care to the public for a fee, barber shops, bath and massage parlors, physical conditioning, weight control salons, health clubs, and mortuaries.

Wage Order, § 2(J). At all relevant times during the applicable limitations period, the CM&I Enterprises “Employers, McNeal, and all of the Aggrieved Employees were covered by the Wage Order because the CM&I Enterprises Employers operated, and McNeal, and all of the Aggrieved Employees worked for, one or more establishments operated as hair salons. Accordingly, McNeal and all of the other Aggrieved Employees are entitled to the protections the Wage Order provides.

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Failure To Pay Wages For All Hours Worked At The Correct
Rates of Pay
(Lab. Code §§ 510, 1194, 1197, and 1198)

Under Labor Code section 1197, “The minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than the minimum so fixed is unlawful.”

In relevant part, section 2(G) of the Wage Order states,

“Hours worked” means the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so[.]

In relevant part, Labor Code section 1194 states:

- (a) Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney’s fees, and costs of suit.

In relevant part, Labor Code section 510 states:

Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee.

In relevant part, Section 3 of the Wage Order states:

The following overtime provisions are applicable to employees 18 years of age or over and to employees 16 or 17 years of age who are not required by law to attend school and are not otherwise prohibited by law from engaging in the subject work. Such employees shall not be employed more than eight (8) hours in any workday or more than 40 in a workweek unless the employee receives one

and one half (1½) times such employee's regular rate of pay for all hours worked over 40 hours in the workweek. Eight (8) hours of labor constitutes a day's work. Employment beyond eight (8) hours in any workday or more than six (6) days in any workweek is permissible provided the employee is compensated for such overtime at not less than:

- (a) One and one-half (1½) times the employee's regular rate of pay for all hours worked in excess of eight (8) hours up to and including twelve (12) hours in any workday, and for the first eight (8) hours worked on the seventh (7th) consecutive day of work in a workweek;

Labor Code § 1198 prohibits employers from employing their employees under conditions prohibited by the Wage Order.

In conjunction, these provisions of the Labor Code require employers to pay employees no less than their agreed-upon or statutorily mandated wage rates for all hours worked, including hours spent working "off-the-clock" (before punching in or after punching out on a time clock) when the employer knew or reasonably should have known that employees were working during those hours. *Morillion v. Royal Packing Co.* (2000) 22 Cal.4th 575, 585.

The CM&I Enterprises Employers required McNeal and the other Aggrieved Employees to work for about several minutes each day without pay and off the clock, though the CM&I Enterprises Employers did not pay McNeal and the other Aggrieved Employees for the time. This included tasks after clocking out for the day, including organizing receipts, removing tools from stations, cleaning tools, cleaning stations, sweeping stations, spraying stations and chairs, rinsing clippers containers, cleaning mirrors and hand mirrors with glass cleaner, removing tools from disinfectant and placing them on towels to dry, and obtaining management approval that the aforementioned tasks were completed satisfactorily. They also required them to work through meal periods while clock out. This also included time at the beginning of the shift to prepare the salon for customers.

The CM&I Enterprises Employers required McNeal and the other Aggrieved Employees to work over eight hours per day, over 40 hours per week, and on the seventh day of the same workweek. During such workdays and workweeks, the CM&I Enterprises Employers required McNeal and the other Aggrieved Employees to work

for about several minutes each day without pay and off the clock, though the CM&I Enterprises Employers did not pay McNeal and the other Aggrieved Employees for the time. This included tasks after clocking out for the day, including organizing receipts, removing tools from stations, cleaning tools, cleaning stations, sweeping stations, spraying stations and chairs, rinsing clippers containers, cleaning mirrors and hand mirrors with glass cleaner, removing tools from disinfectant and placing them on towels to dry, and obtaining management approval that the aforementioned tasks were completed satisfactorily. They also required them to work through meal periods while clock out. This also included time at the beginning of the shift to prepare the salon for customers.

At all relevant times during the applicable limitations period, the CM&I Enterprises Employers failed to compensate McNeal and all of the other Aggrieved Employees for all hours worked, including, but not limited to minimum, regular, and overtime wages for all hours they worked at the correct rates of pay. Accordingly, McNeal now seeks civil penalties on behalf of himself and all of the other Aggrieved Employees as follows:

1. \$50 for each aggrieved employee for each initial violation of Labor Code § 510, and \$100 for each aggrieved employee for each subsequent violation, per pay period in addition to an amount sufficient to recover underpaid wages (penalties set by Labor Code § 558);
2. \$100 for each aggrieved employee for each initial violation of Labor Code § 1194, and \$200 for each aggrieved employee for each subsequent violation, per pay period (penalties set by Labor Code § 2699(f)(2));
3. \$100 for each underpaid aggrieved employee for each initial violation of Labor Code § 1197, and \$250 for each underpaid aggrieved employee for each subsequent violation per pay period (regardless of whether the initial violations were intentionally committed), in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section 203 (penalties set by Labor Code § 1197.1) and
4. \$100 for each aggrieved employee for each initial violation of Labor Code § 1198, and \$200 for each aggrieved employee for each subsequent violation, per pay period (penalties set by Labor Code § 2699(f)(2)).

Failure To Provide Sick Leave
(Labor Code §§ 233, 246, and 246.5)

Labor Code section 233 states,

Any employer who provides sick leave for employees shall permit an employee to use in any calendar year the employee's accrued and available sick leave entitlement, in an amount not less than the sick leave that would be accrued during six months at the employee's then current rate of entitlement, for the reasons specified in subdivision (a) of Section 246.5.

Labor Code section 246(a)(1) states,

An employee who, on or after July 1, 2015, works in California for the same employer for 30 or more days within a year from the commencement of employment is entitled to paid sick days as specified in this section.

Labor Code section 246.5 states,

- (a) Upon the oral or written request of an employee, an employer shall provide paid sick days for the following purposes:
 - (1) Diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee's family member.
 - ...
 - (c) (1) An employer shall not deny an employee the right to use accrued sick days ...

The CM&I Enterprises Employers failed to provide McNeal and all of the other Aggrieved Employees with paid sick leave. Accordingly, McNeal now seeks civil penalties for these Labor Code violations that the CM&I Enterprises Employers have committed against him and all of the other Aggrieved Employees as follows:

1. For violations of Labor Code section 233, \$100 per aggrieved employee for each of the pay periods in which initial violations of section 233

occurred, and \$200 per aggrieved employee per pay period in which subsequent violations of section 233 occurred (penalties set by Labor Code section 2699(f)(2));

2. For violations of Labor Code section 246, \$100 per aggrieved employee for each of the pay periods in which initial violations of section 246 occurred, and \$200 per aggrieved employee per pay period in which subsequent violations of section 246 occurred (penalties set by Labor Code section 2699(f)(2)); and
3. For violations of Labor Code section 246.5, \$100 per aggrieved employee for each of the pay periods in which initial violations of section 246.5 occurred, and \$200 per aggrieved employee per pay period in which subsequent violations of section 246.5 occurred (penalties set by Labor Code section 2699(f)(2)).

Forfeiture of Vacation Pay
(Lab. Code § 227.3)

Section 227.3 of the Labor Code states that, unless otherwise stipulated by a collective bargaining agreement, whenever a contract of employment or employer policy provides for paid vacations and an employee is terminated without having fully utilized his vested vacation time, all vested vacation must be paid to the employee at his final rate in accordance with such contract of employment or employer policy respecting vacation eligibility or time served. In addition, the statute prohibits an employment contract or employer policy from providing for forfeiture of such vested vacation time upon an employee's termination of employment, regardless of the reason for termination. (See *Suastez v. Plastic Dress-Up Co.* (1982) 31 Cal.3d 774, [183 Cal.Rptr. 846, 646 P.2d 122 (1982)].)

The California Supreme Court has examined the terms under which an employee acquires a vested right to vacation benefits that is protected against forfeiture. The Supreme Court concluded that a "proportionate right to a paid vacation 'vests' as the labor is rendered." Thus, an employee is entitled to a pro rata share of vacation pay upon termination of employment even though he has not completed all of the service requirements specified in the employer's policy or plan.

An employer should never, by reason of the employee's termination, attempt to divest or forfeit any portion of the vacation benefits in which the employee has acquired a vested interest pursuant to the terms of the employer's policy or agreement.

A vacation policy that provides for the forfeiture of vacation pay that is not used by a specified date, such as an employee's anniversary date, is impermissible under California law. Courts have held that such "use-it-or-lose-it policies" result in forfeitures of vested vacation pay and thus transgress the requirements of Labor Code Section 227.3. Such policies do not permit employees to carry over vacation time from one year to the next and do not allow employees to receive vacation pay in lieu of taking vacation time off.

The DLSE's enforcement policy permits employers to exclude employees from a vacation policy during a specified period of time at the beginning of employment. This could apply to a probationary or introductory period or even the first year of employment. If the policy is properly drafted, employees will not be entitled to prorated vacation benefits if they separate from the employer for any reason during the probationary period or "initial employment." (D.L.S.E. Operations and Procedures Manual § 7(a).) However, such an exclusion will be recognized only if it is not found to be a "subterfuge." The Division will deem a subterfuge to exist if vacation benefits are implicitly earned or accrued during the waiting period. For example, if a policy provides that employees do not earn any vacation during their first year of employment, but earn four weeks' vacation during the second year and are reduced to two weeks' vacation the third year, the Division will contend that the policy involves a subterfuge. This is based on the Division's position that the policy, when viewed as a whole, makes it clear that two of the four weeks' vacation attributed to the second year are actually earned in the first years. In a case where such a subterfuge is found, employees who separate during the so-called "waiting period" (i.e., the first year of employment in the example) will be entitled to prorated vacation pay.

The Division takes the position that vacation pay for a terminating employee must be prorated on a daily basis and must be paid at the final rate of pay in effect as of the date of the separation. (See D.L.S.E. Operations and Procedures Manual § 8; D.L.S.E. Enforcement Policies and Interpretations Manual § 13.3 (1998); Letter of Chief Deputy Labor Commissioner Albert J. Reyff (Oct. 28, 1986).)

The CM&I Enterprises Employers maintained vacation pay policies and practices with accrual components that violate Labor Code § 227.3 based on the California Supreme

Court's decision in *Suastez v. Plastic Dress-Up Co.*, supra. The CM&I Enterprises Employers' vacation policy fails to provide for proportionate vacation pay accruals as employees render labor and causes employees to forfeit their vested rights to vacation pay. Under the policies and practices of the CM&I Enterprises Employers, McNeal and all of the other Aggrieved Employees earned the following forms of vacation pay during employment: vacation, paid time off (PTO), time off pay (TOP). Under such policies, these accrued but unused forms of vacation pay were subject to forfeit at the conclusion of the employment relationship. Consequently, the Aggrieved Employees are entitled to recover vacation pay.

In *Suastez*, the defendant-employer "refused to pay vacation benefits to anyone whose employment was terminated before . . . [his or her employment] anniversary date" and refused to pay the plaintiff-employee a pro rata share of his vacation pay for the time period between his last employment anniversary date and his termination date. (*Id.* at 776–77.) In finding for the plaintiff-employee, the Court held that "a proportionate right to a paid vacation 'vests' as the labor is rendered" and that Labor Code § 227.3 protects that right from forfeiture. (*Id.* at 784.)

It is especially worth noting that, in rejecting the contention that the plaintiff-employee had no vested right to vacation pay until his anniversary date, the Court specifically stated: "The right to some share of vacation pay vests, like pension rights, on acceptance of employment. Nonperformance of a condition subsequent, such as [defendant-employer's] requirement that employees remain until their anniversary, can, at most, result in a forfeiture of the right to a vacation; *it cannot prevent that right from vesting.*" (*Id.* at 780–81, (italics added).)

Like the vacation pay policy the Court rejected in *Suastez*, the CM&I Enterprises Employers' vacation pay policies also fail to provide for proportionate accruals. Accordingly, McNeal now seeks civil penalties for these Labor Code violations that the CM&I Enterprises Employers have committed against him and all of the other Aggrieved Employees as follows: \$100 for each aggrieved employee for each initial violation of Labor Code § 227.3, and \$200 for each aggrieved employee for each subsequent violation, per pay period (penalties set by Labor Code § 2699(f)(2)).

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Failure to Provide Meal Periods
(Lab. Code §§ 226.7, 512, and 1198)

In relevant part, section 2(G) of the Wage Order states,

“Hours worked” means the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.

In relevant part, Labor Code section 1198 states, “The employment of any employee ... under conditions of labor prohibited by the [Wage Order] is unlawful.”

In relevant part, Labor Code section 512 states:

An employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes, except that if the total work period per day of the employee is no more than six hours, the meal period may be waived by mutual consent of both the employer and employee. An employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

In relevant part, Section 11 of the Wage Order states:

Meal Periods:

- (A) No employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, except that when a work period of not more than six (6) hours will complete the day’s work the meal period may be waived by mutual consent of the employer and the employee.

...

- (D) If an employer fails to provide an employee a meal period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided.

In addition, Labor Code section 226.7 states:

- (b) An employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health.
- (c) If an employer fails to provide an employee a meal or rest or recovery period in accordance with a state law, including, but not limited to, an applicable statute or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided.

At all relevant times, the CM&I Enterprises Employers failed to provide McNeal and all of the other Aggrieved Employees with all timely meal periods. The CM&I Enterprises Employers denied McNeal and all of the other Aggrieved Employees their 30-minute off-duty meal period within the first five hours of work. The CM&I Enterprises Employers required McNeal and the other Aggrieved Employees to work through their unpaid meal periods as a result of understaffing. Furthermore, the CM&I Enterprises Employers failed to pay premium wages for days on which they failed to provide McNeal and all of the other Aggrieved Employees with timely meal periods. Accordingly, McNeal now seeks civil penalties for these Labor Code violations that the CM&I Enterprises Employers have committed against him and all of the other Aggrieved Employees as follows:

1. \$100 for each aggrieved employee for each initial violation of Labor Code section 226.7, and \$200 for each aggrieved employee for each subsequent violation, per pay period (penalties set by Labor Code section 2699(f)(2));
2. \$50 for each aggrieved employee for each initial violation of Labor Code section 512, and \$100 for each aggrieved employee for each subsequent violation, per pay period in addition to an amount sufficient to recover underpaid wages (penalties set by Labor Code section 558); and
3. \$100 for each aggrieved employee for each initial violation of Labor Code section 1198, and \$200 for each aggrieved employee for each subsequent violation, per pay period (penalties set by Labor Code section 2699(f)(2)).

Failure to Authorize and Permit Rest Periods
(Lab. Code §§ 226.7 & 1198)

Section 2(G) of the Wage Order states,

“Hours worked” means the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.

In relevant part, Labor Code section 1198 states,

The employment of any employee . . . under conditions of labor prohibited by the [Wage Order] is unlawful.

Section 12 of the Wage Order provides, in relevant part:

Rest Periods:

Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof. However, a rest period need not be authorized for employees whose total daily work time is less than three and one-half (3 ½) hours. Authorized rest period

time shall be counted as hours worked for which there shall be no deduction from wages.

If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the rest period is not provided.

In addition, Labor Code section 226.7 states:

- (b) An employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health.
- (c) If an employer fails to provide an employee a meal or rest or recovery period in accordance with a state law, including, but not limited to, an applicable statute or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided.

The CM&I Enterprises Employers failed to authorize and permit McNeal and all of the other Aggrieved Employees to take ten-minute, paid, duty-free rest breaks every four hours worked or major fraction thereof. The CM&I Enterprises Employers did not seek an exemption from the rest period protections of the Wage Order from the California Division of Labor Standards Enforcement. The CM&I Enterprises Employers required McNeal and the other Aggrieved Employees to work through their rest periods as a result of understaffing. Moreover, the CM&I Enterprises Employers failed to pay McNeal and all of the other Aggrieved Employees premium wages on workdays the CM&I Enterprises Employers failed to provide McNeal and all of the other Aggrieved Employees with 10-minute rest periods every four hours worked or

major fraction thereof. Accordingly, McNeal now seeks civil penalties for these Labor Code violations that the CM&I Enterprises Employers have committed against him and all of the other Aggrieved Employees as follows:

1. \$100 for each aggrieved employee for each initial violation of Labor Code section 226.7, and \$200 for each aggrieved employee for each subsequent violation, per pay period (penalties set by Labor Code section 2699(f)(2)); and
2. \$100 for each aggrieved employee for each initial violation of Labor Code section 1198, and \$200 for each aggrieved employee for each subsequent violation, per pay period (penalties set by Labor Code section 2699(f)(2)).

Failure to Reimburse for Expenses
(Lab. Code §§ 1198 and 2802)

In pertinent part, Labor Code § 2802(a) states, “An employer shall indemnify his or her employee[s] for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her duties.”

Additionally, the Wage Order states,

- (A) When uniforms are required by the employer to be worn by the employee as a condition of employment, such uniforms shall be provided and maintained by the employer.
- (B) When tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft. Notwithstanding any other provision of this section, employees in beauty salons, schools of beauty culture offering beauty care to the public for a fee, and barber shops may be required to furnish their own manicure implements, curling irons, rollers, clips, haircutting

scissors, combs, blowers, razors, and eyebrow tweezers. This subsection (B) shall not apply to apprentices regularly indentured under the State Division of Apprenticeship Standards.

Wage Order, § 9.

Labor Code Section 1198 prohibits an employer from employing any person under conditions that violate the Wage Order.

As described above, the CM&I Enterprises Employers required McNeal and all of the other Aggrieved Employees to incur certain business expenses in the course of performing their duties. The CM&I Enterprises Employers required McNeal and all of the other Aggrieved Employees to supply tools, equipment, supplies to perform their job duties. However, the CM&I Enterprises Employers did not provide these items and did not reimburse McNeal and the other Aggrieved Employees for these items. The CM&I Enterprises Employers required McNeal and the other Aggrieved Employees to purchase their own equipment and supplies, including shear sharpeners, clippers, and edgers. Accordingly, McNeal seeks civil penalties for these Labor Code violations that the CM&I Enterprises Employers have committed against him and all of the other Aggrieved Employees as follows:

1. \$100 for each aggrieved employee for each initial violation of Labor Code section 2802, and \$200 for each aggrieved employee for each subsequent violation, per pay period (penalties set by Labor Code section 2699(f)(2)); and
2. \$100 for each aggrieved employee for each initial violation of Labor Code section 1198, and \$200 for each aggrieved employee for each subsequent violation, per pay period (penalties set by Labor Code section 2699(f)(2)).

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Failure to Provide Accurate Wage Statements
(Lab. Code § 226)

Labor Code section 226(a) requires an employer to provide an employee, either semi-monthly or at the time of each wage payment, with an accurate and itemized written wage statement that shows:

1. Gross wages earned;
2. Total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission;
3. The number of piece rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis;
4. All deductions, provided that all deductions made on written orders of the Employee may be aggregated and shown as one item;
5. Net wages earned;
6. The inclusive dates of the period for which the employee is paid;
7. The name of the employee and his or her social security number, except that by January 1, 2008, only the last four digits of his or her social security number or an employee identification number other than a social security number may be shown on the itemized statement;
8. The name and address of the legal entity that is 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 employee.

At all relevant times during the applicable limitations period, the CM&I Enterprises Employers violated Labor Code section 226 because they did not properly and

accurately itemize each Aggrieved Employee's gross wages earned, net wages earned, the total hours worked, the corresponding number of hours worked at each rate by the Aggrieved Employee and other requirements of Labor Code section 226. The CM&I Enterprises Employers failed to state in the wage statements they issued to McNeal and all of the other Aggrieved Employees all their hours worked and wages earned, including, but not limited to, regular and overtime wages for work they performed off-the-clock after clocking-out (as described above). The CM&I Enterprises Employers knowingly and intentionally failed to state on the wage statements they issued to McNeal and all of the other Aggrieved Employees the earned but unpaid wages described above. The wage statements do not state all minimum wages earned, all regular wages earned, all overtime wages earned, all meal period premium wages earned, all rest break premium wages earned, all earned vacation pay, all earned sick pay, and related compensation. Accordingly, McNeal seeks civil penalties for the Labor Code violations that the CM&I Enterprises Employers have committed against him and all of the other Aggrieved Employees as follows: \$250 for each aggrieved employee for each initial violation of Labor Code section 226(a), and \$1,000 for each aggrieved employee for each subsequent violation (penalties set by Labor Code section 226.3).

Failure To Provide Notice of Available Sick Leave
(Labor Code § 246)

Labor Code § 246 states,

An employer shall provide an employee with written notice that sets forth the amount of paid sick leave available, or paid time off leave an employer provides in lieu of sick leave, for use on either the employee's itemized wage statement described in Section 226 or in a separate writing provided on the designated pay date with the employee's payment of wages.

Lab.Code § 246(h) (effective July 1, 2015). The CM&I Enterprises Employers failed to provide McNeal and all of the other Aggrieved Employees with an itemized wage statement or separate writing that set forth the amount of paid sick leave available. Accordingly, McNeal seeks civil penalties on behalf of himself and all of the other Aggrieved Employees as follows: For violations of Labor Code § 246, \$100 per aggrieved employee for each of the pay periods in which initial violations of § 246 occurred, and \$200 per aggrieved employee per pay period in which subsequent violations of § 246 occurred (penalties set by Labor Code § 2699(f)(2)).

Failure to Timely Pay Wages During Employment
(Lab. Code § 204)

Labor Code section 204 states all wages (other than those mentioned in Labor Code sections 201 and 202) earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month. In addition, all wages for work performed in excess of the normal work period must be paid by no later than the following regular payday.

The CM&I Enterprises Employers failed to compensate McNeal and all of the other Aggrieved Employees for wages earned, including minimum wages, regular wages, overtime wages, unprovided meal period premium wages, unprovided rest break premium wages, vacation pay, and related compensation, at the intervals stated above. As a result, the CM&I Enterprises Employers failed to timely pay all earned wages due during employment within the time periods set by Labor Code section 204. Accordingly, McNeal now seeks civil penalties for the Labor Code violations that the CM&I Enterprises Employers have committed against him and all of the other Aggrieved Employees as follows: \$100 for each aggrieved employee for each initial violation of Labor Code section 204, and \$200 for each aggrieved employee for each subsequent violation, plus 25% of the amount unlawfully withheld from each aggrieved employee (penalties set by Labor Code section 210).

Failure to Timely Pay Wages Upon Termination of Employment
(Lab. Code §§ 201, 202, and 203)

Under Labor Code § 201, if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately. Under § 202, if an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 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. Notwithstanding any other provision of law, an employee who quits without providing a 72-hour notice shall be entitled to receive payment by mail if he or she so

requests and designates a mailing address. *Id.* The date of the mailing shall constitute the date of payment for purposes of the requirement to provide payment within 72 hours of the notice of quitting. *Id.*

Under Labor Code § 203, if an employer willfully fails to pay without abatement or reduction, in accordance with §§ 201 and 202, the wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days.

The CM&I Enterprises Employers failed to pay McNeal and all of the other Aggrieved Employees whose employment ended all of the earned but unpaid wages described above by the conclusion of their employment with McNeal, including minimum wages, regular wages, overtime wages, unprovided meal period premium wages, unprovided rest break premium wages, vacation pay, and related compensation. By failing to pay McNeal and all of the other Aggrieved Employees as set forth above at the end of employment, the CM&I Enterprises Employers are liable for violations of Labor Code §§ 201, 202, and 203. Accordingly, on behalf of himself and all of the other Aggrieved Employees, McNeal seeks civil penalties from the CM&I Enterprises Employers as follows:

1. For violations of Labor Code § 201, \$100 per aggrieved employee for each of the pay periods in which initial violations of § 201 occurred, and \$200 per aggrieved employee per pay period in which subsequent violations of § 201 occurred (penalties set by Labor Code § 2699(f)(2));
2. For violations of Labor Code § 202, \$100 per aggrieved employee for each of the pay periods in which initial violations of § 202 occurred, and \$200 per aggrieved employee per pay period in which subsequent violations of § 202 occurred (penalties set by Labor Code § 2699(f)(2)); and
3. For violations of Labor Code § 203, \$100 per aggrieved employee for each of the pay periods in which initial violations of § 203 occurred, and \$200 for per aggrieved employee per pay period in which subsequent violations of § 203 occurred (penalties set by Labor Code § 2699(f)(2)).

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Failure to Maintain Accurate Employment Records
(Lab. Code §§ 1174 & 1198)

Labor Code section 1174, which also pertains to recordkeeping, states:

Every person employing labor in this state shall:

...

- (c) Keep a record showing the names and addresses of all employees employed and the ages of all minors.
- (d) Keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept in accordance with rules established for this purpose by the commission, but in any case shall be kept on file for not less than three years. An employer shall not prohibit an employee from maintaining a personal record of hours worked, or, if paid on a piece-rate basis, piece-rate units earned.

Labor Code section 1174.5 states:

Any person employing labor who willfully fails to maintain the records required by subdivision (c) of Section 1174 or accurate and complete records required by subdivision (d) of Section 1174, or to allow any member of the commission or employees of the division to inspect records pursuant to subdivision (b) of Section 1174, shall be subject to a civil penalty of five hundred dollars (\$500).

Section 7 of Wage Order states,

- (A) Every employer shall keep accurate information with respect to each employee including the following:

- (1) Full name, home address, occupation and social security number.
- (2) Birth date, if under 18 years, and designation as a minor.
- (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.
- (4) Total wages paid each payroll period, including value of board, lodging, or other compensation actually furnished to the Employee.
- (5) Total hours worked in the payroll period and applicable rates of pay. This information shall be made readily available to the employee upon reasonable request.
- (6) When a piece rate or incentive plan is in operation, piece rates or an explanation of the incentive plan formula shall be provided to employees. An accurate production record shall be maintained by the employer.

Labor Code section 1198 prohibits employers from employing their employees under conditions prohibited by the Wage Order.

The CM&I Enterprises Employers failed to compensate McNeal and all of the other Aggrieved Employees for all hours worked at the correct rates of pay, including all minimum wages earned, all regular wages earned, all overtime wages earned, all meal period premium wages earned, all rest break premium wages earned, all earned vacation pay, all earned sick pay, and related compensation. As a result, the CM&I Enterprises Employers have failed to accurately maintain all records required by section 1174 and the Wage Order, including but not limited to McNeal and all of the other Aggrieved Employees' total hours worked, total wages paid, and applicable hourly rates during each payroll period. Accordingly, McNeal seeks civil penalties on behalf of himself and all of the other Aggrieved Employees as follows:

1. \$500 for each aggrieved employee for each violation of Labor Code section 1174 (penalties set by Labor Code section 1174.5); and
2. \$100 for each aggrieved employee for each initial violation of Labor Code section 1198, and \$200 for each Aggrieved Employee for each subsequent violation, per pay period (penalties set by Labor Code section 2699(f)(2)).

Person Acting on Behalf of Employers who Violates Labor Code
(Labor Code § 558.1)

In relevant part, Labor Code section 558.1 states:

- (a) Any employer or other person acting on behalf of an employer, who violates, or causes to be violated, any provision regulating minimum wages or hours and days of work in any order of the Industrial Welfare Commission, or violates, or causes to be violated, Sections 203, 226, 226.7, 1193.6, 1194, or 2802, may be held liable as the employer for such violation.
- (b) For purposes of this section, the term “other person acting on behalf of an employer” is limited to a natural person who is an owner, director, officer, or managing agent of the employer, and the term “managing agent” has the same meaning as in subdivision (b) of Section 3294 of the Civil Code.

At all relevant times, Juanita Kilambi was an employer of McNeal and all of the other Aggrieved Employees, and/or “owner,” “managing agent,” and/or “officer” of the CM&I Enterprises Employers and the other employers identified above. Juanita Kilambi directly or indirectly, or through an agent or other person, employed and exercised control over the wages, hours, and/or working conditions of the Aggrieved Employees, and caused the violations to the Labor Code and the Wage Order described above. On behalf of himself and all of the other Aggrieved Employees, McNeal seeks the same civil penalties against Juanita Kilambi on the same grounds for which he seeks civil penalties against the CM&I Enterprises Employers.

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LWDA / CM&I Enterprises Employers
Re: Douglas McNeal
7/3/2025
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Conclusion

As noted above, this letter constitutes the required notice under the Labor Code Private Attorneys General Act of 2004. Please be advised that Douglas McNeal will seek both reasonable attorneys' fees and costs under Labor Code section 2699(g)(1) in a civil action should the LWDA decline to pursue this matter. This letter also serves as a formal notice under the catalyst theory and Code of Civil Procedure section 1021.5 to resolve this matter before litigation.

Sincerely,



David Glenn Spivak Esq.
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cc: Mr. Douglas McNeal

Mr. Walter L. Haines, Esq.

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