HAINES LAW GROUP
EMPLOYMENT ATTORNEYS

August 12, 2025

VIA LWDA WEBSITE

Labor and Workforce Development Agency
Attn. PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612

Re: *Ayebainaton Ekine vs. Gucci America, Inc.*

To Whom It May Concern:

Please be advised that this law firm represents Mr. Ayebainaton Ekine ("Mr. Ekine") in claims arising from his employment with Gucci America, Inc., and DOES 1 through 100, inclusive ("Defendants"). Mr. Ekine is an "aggrieved employee" within the meaning of Labor Code section 2699.3 as to all of the violations alleged herein. For purposes of this letter, "aggrieved employees" includes all of Defendants' employees who worked for Defendants in California during the one year immediately preceding the date of this letter through the present.

Defendants design, manufacture, and sell luxury fashion clothing, handbags, and apparel. Defendants employed Mr. Ekine as a non-exempt "Client Advisor" from approximately April 12, 2022 to approximately January 2025. Specifically, Mr. Ekine worked in Defendants' Roseville, California retail store location. Mr. Ekine's primary job duties consisted of selling merchandise, preparing and organizing the store, handling paperwork for items to be shipped, and outreaching to clients via text message and e-mail.

Defendants failed to compensate Mr. Ekine and other aggrieved employees for all hours actually worked and/or subject to Defendants' control, resulting in unpaid minimum wages and overtime wages. Specifically, Defendants maintained a policy/practice that requires Mr. Ekine and other aggrieved employees to be available to assist customers any time a customer came into the store. To incentivize store associates to assist customers and complete sales, Mr. Ekine and other aggrieved employees were paid, in part, on a commission basis, and were therefore required to assist their specific clients once the initial sales associate-client relationship was established. Therefore, in the event a client who Mr. Ekine previously assisted returned to the store or asked for Mr. Ekine specifically, Mr. Ekine was expected to immediately assist that client, even in situations where Mr. Ekine was clocked out for purported meal periods. Defendants' policies and practices meant that Mr. Ekine and other aggrieved employees frequently worked when they were off-the-clock during their respective purported meal periods. Moreover, Defendants required Mr. Ekine and other aggrieved employees to communicate frequently with their clients outside of their scheduled shifts and while clocked out during meal periods for work-related purposes, including for placing orders and informing clients that their purchased products had been shipped. Defendants' supervisors also contacted Mr. Ekine and other aggrieved employees while off the clock, both during purported meal periods and outside of their scheduled shift times, for work-related purposes, including to discuss the locations of items or to discuss clients and client orders. Since Mr. Ekine and other aggrieved employees were required to use their cell phones while off-the-clock for necessary work purposes, Defendants were required to compensate Mr. Ekine and other aggrieved employees for this time, but failed to do so.

In addition, Defendants failed to compensate Mr. Ekine and other aggrieved employees for time spent undergoing security bag checks every time they left the store, including after clocking out for their shifts or meal periods. Specifically, Defendants maintain a policy and practice to search Mr. Ekine's and other aggrieved employees' backpacks, purses, briefcases, and similar items any time Mr. Ekine or other aggrieved employees attempt to leave the work location, including for purported meal periods and at the end of the workday. However, Defendants preformed bag checks *after* Mr. Ekine and other aggrieved employees had clocked out while off the clock. Since Defendants conducted these bag searches after the non-exempt employees are off-the-clock, Mr. Ekine and other aggrieved employees are not compensated for this time spent under Defendants' control. Defendants' failure to compensate Mr. Ekine and other aggrieved employees for the time spent undergoing bag searches violates California law. *See Frlekin v. Apple, Inc.*, (2020) 8 Cal.5th 1038 (holding employer must compensate employees for time spent undergoing, and waiting for, bag searches). As a result, Defendants failed to compensate Mr. Ekine and other aggrieved employees for all minimum and overtime wages owed while subject to the control of the employer.

Defendants failed to provide Mr. Ekine and other aggrieved employees with all legally-compliant meal periods due to Defendants' unlawful meal period policies/practices that failed to provide timely, uninterrupted, duty-free 30-minute meal periods before the fifth hour of work and second timely, uninterrupted, duty-free 30-minute meal periods when they worked shifts in excess of ten hours. Specifically, Mr. Ekine and other aggrieved employees were frequently interrupted during their purported meal periods with work-related demands, or told that they had to take a late meal period after the conclusion of the fifth hour of work in order to be present in the store and available for customers until other co-workers returned from their breaks. For example, Mr. Ekine and other aggrieved employees were expected to assist customers whenever clients asked for him or her in particular, even during purported meal periods. Mr. Ekine and other aggrieved employees were then expected to interrupt their meal periods in order to immediately assist the client. Moreover, Defendants required that Mr. Ekine and other aggrieved employees always be available via their personal cellular phones, even during purported meal periods. As such, Mr. Ekine was expected to respond to calls and texts from Defendants' supervisors and clients to fulfill orders during purported meal periods and address any other issues or requests, in violation of California law. Further, Mr. Ekine and other aggrieved employees were not paid an additional hour of premium pay at their respective regular rates of pay for each workday in which a meal period violation occurred, as required by Labor Code section 226.7.

Defendants regularly failed to authorize and permit Mr. Ekine and other aggrieved employees to take duty-free 10-minute rest periods for every four hours worked, or major fraction thereof, due to Defendants' unlawful rest period policies/practices. As with meal periods, Mr. Ekine and other aggrieved employees were unable to take rest periods throughout the workday due to work-related demands. Moreover, Defendants required Mr. Ekine and other aggrieved employees to respond to Defendants' supervisors and clients on their respective personal cellular phones throughout the day, including during purported rest periods, thereby failing to relinquish control over Mr. Ekine and other aggrieved employees during their rest periods. *See Augustus v. ABM Security Services, Inc.*, (2016) 2 Cal.5th 257, 260 ("[D]uring required rest periods, employers must relieve their employees of all duties and relinquish any control over how employees spend their break time").

Further, Defendants failed to authorize and permit Mr. Ekine and other aggrieved employees to take rest periods for a "net" of 10 minutes. Under California law, Defendants are required to authorize and permit a "net" rest period of 10-minutes that begins when the employee reaches a rest area away from his or her workstation and must be uninterrupted during the duration of the rest period. *See e.g.*, Division of Labor Standards Enforcement Manual ("DLSE Manual") §45.3.3; *Vaquero v. Stoneledge Furniture LLC*, (2017) 9 Cal.App.5th 98, 111-112 (citing DLSE Manual § 45.3.3 for the proposition that "the rest period begins when the employee reaches an area away from the workstation that is appropriate for rest"); *Augustus v. ABM Security Services, Inc.*, (2016) 2 Cal.5th 257, 260 ("[D]uring required rest periods, employers must relieve their employees of all duties and relinquish any control over how employees spend their break time"). Specifically, Defendants only authorized and permitted ***exactly*** 10-miunte rest periods and required Mr. Ekine and other aggrieved employees to return to their respective workstation at exactly the end of the 10-minute mark of their purported rest periods. Defendants therefore failed to account for the time Mr. Ekine and other aggrieved employees must travel to and from the designated rest area to their workstation during purported rest periods, thereby further shortening their purported rest periods to ***less than*** 10 minutes net. As such, Defendants failed to provide 10-minutes of "net" rest during purported rest periods. On occasions when Mr. Ekine and other aggrieved employees were not authorized and permitted to take all lawful rest periods to which they were entitled, Defendants failed to pay Mr. Ekine and other aggrieved employees an additional hour of premium pay at their respective regular rates of pay for each workday in which a rest period violation occurred, as required by Labor Code section 226.7.

Additionally, Defendants failed to reimburse Mr. Ekine and other aggrieved employees for their work-related expenses, in violation of Labor Code section 2802. As mentioned, Defendants required Mr. Ekine and other aggrieved employees to use their personal cellular phones for necessary work purposes. Defendants, however, failed to reimburse Mr. Ekine and other aggrieved employees for a reasonable portion of their monthly cellular phone bills, in violation of Labor Code section 2802 and *Cochran v. Schwan's Home Service, Inc.*, (2014) 228 Cal.App.4th 1137.

As a result of Defendants' failure to pay all overtime wages, minimum wages, and meal and rest period premium wages owed, Defendants also maintained inaccurate payroll records, issued inaccurate wage statements to Mr. Ekine and other aggrieved employees, and failed to pay all final wages owed to Mr. Ekine and other aggrieved employees upon their respective separations from employment.

As described above, Defendants committed the following violations of the Labor Code and Industrial Welfare Commission Wage Order No. 7 ("Wage Order 7"):

<u>Overtime Wage Violations</u>

Defendants were required to properly pay Mr. Ekine and other aggrieved employees for all overtime hours worked pursuant to California Labor Code section 1194 and Wage Order 7. Wage Order 7, § 3 requires an employer to pay an employee "one and one-half (1½) times the employee's regular rate of pay for all hours worked in excess of eight (8) hours" per workday and/or in excess of 40 hours of work in the workweek. Wage Order 7, § 3 also requires an employer to pay an employee double the employee's regular rate of pay for work in excess of twelve hours each workday and/or for work in excess of eight hours on the seventh consecutive day of work in the workweek. Defendants caused Mr. Ekine and other aggrieved employees to work overtime hours but did not compensate Mr. Ekine or other aggrieved employees at one and one-half times their regular rate of pay for all such hours.

<u>Minimum Wage Violations</u>

Wage Order 7, § 4 and California Labor Code sections 1197 and 1182.12 establish the right of employees to be paid minimum wages for all hours worked, in amounts set by state law. Labor Code §§ 1194(a) and 1194.2(a) provide that an employee who has not been paid the legal minimum wage as required by Labor Code section 1197 may recover the unpaid balance together with attorneys' fees and costs of suit, as well as liquidated damages in an amount equal to the unpaid wages and interest accrued thereon. Defendants failed to conform their pay practices to the requirements of the law by failing to pay Mr. Ekine and other aggrieved employees for all hours worked including, but not limited to, all hours they were subject to the control of Defendants and/or suffered or permitted to work under the California Labor Code and Wage Order 7.

<u>Meal Period Violations</u>

As alleged above, Defendants failed to provide Mr. Ekine and other aggrieved employees with all required and compliant meal periods. *See* Labor Code §§ 226.7 and 512; Wage Order 7, § 11. As a result, Mr. Ekine and other aggrieved employees are owed an additional hour of wages at their regular rate of compensation for each workday they experienced a meal period violation. *See* Labor Code § 226.7 ("If an employer fails to provide an employee a meal or rest or recovery period in accordance with … [an] order of the Industrial Welfare Commission … 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.").

Rest Period Violations

As described above, Defendants also failed to authorize and permit Mr. Ekine and other aggrieved employees to take all required and compliant rest periods. *See* Labor Code §§ 226.7, 516, and 558; Wage Order 7, § 12. As a result, Mr. Ekine and other aggrieved employees are owed an additional hour of wages at their regular rate of compensation for each workday that all rest periods were not authorized and permitted. *See* Labor Code § 226.7.

Failure to Reimburse Necessary Business Expenses

Defendants failed to indemnify Mr. Ekine and other aggrieved employees for all necessary business expenses incurred, including, among other things, for the use of their personal cellular phones. As a proximate result of Defendants' policies and/or practices in violation of Labor Code sections 2802 and 2804, Mr. Ekine and other aggrieved employees are entitled to damages, attorneys' fees and costs of suit, and interest thereon, in sums to be shown according to proof at trial, pursuant to Labor Code section 2802.

Wage Statement Violations

Defendants knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Mr. Ekine and other aggrieved employees with complete and accurate wage statements with respect to gross wages earned, total hours worked, net wages earned, all applicable hourly rates in effect during the pay period, the corresponding number of hours worked at each hourly rate by the employee, and the correct name of the employer, in violation of Labor Code § 226 *et seq*. Defendants' failures in furnishing Mr. Ekine and other aggrieved employees with complete and accurate itemized wage statements resulted in actual injury, as said failures led to, among other things, the non-payment of all overtime and minimum wages as well as meal and rest period premium wages and deprived them of the information necessary to identify the discrepancies in Defendants' reported data and whether they have been paid all wages earned.

Waiting Time Penalties

Labor Code sections 201-203 require an employer to pay all wages earned immediately at the time of separation of employment in the event the employer discharges the employee, or if the employee provides at least 72 hours of notice of his/her intent to quit. In the event the employee provides less than 72 hours of his/her intent to quit, said employee's wages become due and payable no later than 72 hours upon said employee's last date of employment. Defendants failed to timely pay Mr. Ekine and other aggrieved employees all final wages due to them at the time of their separation, which includes, among other things, overtime and minimum wages and meal and rest period premium wages. Further, as a matter of uniform policy and practice, Defendants continue to fail to pay aggrieved employees all earned wages at the end of employment in a timely manner pursuant to Labor Code sections 201-203. Defendants' failure to pay all final wages was willful within the meaning of Labor Code section 203. Defendants' willful failure to timely pay Mr. Ekine and other aggrieved employees their earned wages upon separation from employment, results in a continued payment of wages up to thirty (30) days from the time the wages were due.

As an "aggrieved employee", Mr. Ekine will initiate a civil action on behalf of himself and other aggrieved employees to recover damages, statutory penalties, and civil penalties resulting from the wage and hour violations alleged herein. Based on Mr. Ekine's own investigation, and on information and belief, Defendants committed and continue to commit the following Labor Code violations:

a. Failing to pay Mr. Ekine and other aggrieved employees all earned overtime compensation in violation of Labor Code §§ 204, 510, 558, 1194, and 1198;

b. Failing to pay Mr. Ekine and other aggrieved employees the statutory minimum wage for all hours worked in violation of Labor Code §§ 1182.12, 1194, 1194.2, and 1197;

c. Failing to provide Mr. Ekine and other aggrieved employees all legally required meal periods, and failure to pay meal period premium wages to Mr. Ekine and other aggrieved employees at their regular rate of pay, in violation of Labor Code §§ 226.7, 512, and 558;

d. Failing to authorize and permit Mr. Ekine and other aggrieved employees to take all lawful rest periods to which they are entitled, and failing to pay rest period premium wages to Mr. Ekine and other aggrieved employees at their regular rate of pay, in violation of Labor Code §§ 226.7, 516, and 558;

e. Failing to reimburse Mr. Ekine and other aggrieved employees for all work-related expenses incurred in violation of Labor Code §§ 2802 and 2804;

f. Failing to furnish Mr. Ekine and other aggrieved employees with complete, accurate, itemized wage statements, in violation of Labor Code § 226;

g. Failing to timely pay all final wages due to Mr. Ekine and other aggrieved employees, in violation of Labor Code §§ 201-203;

h. Failing to maintain accurate records on behalf of Mr. Ekine and other aggrieved employees, in violation of Labor Code §§ 558 and 1174; and

i. Failing to pay Mr. Ekine and other aggrieved employees all earned wages at least twice during each calendar month, in violation of Labor Code § 204.

Pursuant to Labor Code § 2699.3, please notify us and Defendants if the LWDA intends to investigate these alleged violations of the Labor Code. Please contact me should you require additional information.

Very truly yours,
HAINES LAW GROUP, APC

Fletcher W. Schmidt, Esq.

cc: Gucci America, Inc., c/o C T Corporation, Agent for Service of Process, 330 N. Brand Blvd., Glendale, CA 91203 (via certified mail)