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February 1, 2023

Via E-filing:

California Labor & Workforce
Development Agency
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102

Via Certified U.S. Mail:

Pacific Coast Cleaning, Inc.
500 Fesler Street, Suite 102
El Cajon, CA 92020

Elite Recruiting LLC
1105 E. Commonwealth Ave, Ste. C
Fullerton, CA 92831

Re: PAGA Notice Pursuant to California Labor Code §2699
Claimants: Guadalupe Valdez
Employer: Pacific Coast Cleaning, Inc. & Elite Recruiting LLC

Dear Sir or Madam:

Claimant Guadalupe Valdez has retained Nazo Koulloukian, Esq. of the Koul Law Firm to represent her, and all other aggrieved employees, for wage and hour claims against her former co-employers, Pacific Coast Cleaning, Inc. & Elite Recruiting LLC (hereafter collectively referred to as “Employer”). Claimant is an aggrieved employee who worked for Employer until October 2022.

Claimant brings this action against Employer pursuant to Labor Code Section 2810.3. This PAGA Notice letter shall also serve as notice, pursuant to subdivision 6 (d) of Section 2810.3, that Claimant, on behalf of herself and similarly situated employees, will file a civil action against both of the Employers in accordance with Labor Code Section 2810.3, subdivision 6 (b-f), which provide:

(b) A client employer shall share with a labor contractor all civil legal responsibility and civil liability for all workers supplied by that labor contractor for both of the following:

(1) The payment of wages.

(2) Failure to secure valid workers' compensation coverage as required by Section 3700.

Employer has violated, and/or has caused to be violated, several Labor Code provisions and are therefore liable for civil penalties under Cal. Labor Code §2698 *et seq.* We request that your agency investigate the claims alleged below, or permit claimant to seek civil penalties under the Private Attorney General Act ("PAGA"), Labor Code §2698 *et seq.*, on behalf of the Labor and Workforce and development Agency ("LWDA") and the State of California in a representative action. This letter will serve as notice of these allegations pursuant to Cal. Lab. Code §2699.3.

Failure to Pay For All Hours Worked, Including Overtime Hours Worked

(Cal. Labor Code §§204, 206, 206.5, 207, 210, 216, 218, 218.6, 221, 223, 510, 558, 1194, 1197, 1197.1, 1198, 2698 *et seq.*, Wage Order)

The Wage Orders define "hours worked" as "the time during which an employee is subject to the control of an including all the time the employee is suffered or permitted to work, whether or not required to do so." Employer has been engaged in many unlawful employment practices which resulted in underpayment for hours worked each pay period as described below:

Time Shaving

Employees clock in and out using an app downloaded on their personal devices. They are required to upload a photo of themselves when they clock in and out in addition to various times during their shifts. However, at the end of each shift, Claimant and Aggrieved Employees would be instructed to record specific times that they took unpaid meal periods, which frequently were not aligned with the actual times. Often, this resulted in underpaid hours worked as not all hours worked were reflected in recorded time. Employees were also required to perform tasks before clocking in and after clocking out.

The California Supreme Court has rejected the *de minimis* argument frequently echoed by employers, confirming that employees are entitled to payment for all hours (and minutes) worked. Indeed, California law will permit a "rounding policy only 'if the rounding policy is fair and neutral on its face and 'it is used in such a manner that it will not result, over a period of time, in failure to compensate the employees properly for all the time they have actually worked.'" (*Troester v. Starbucks Corporation*, (2018) 5 Cal. 5th 829, 846, citing *See's Candy*, 210 Cal.App.4th at p. 907.) The policy utilized by Employer is neither fair nor neutral, as it consistently shaved time from claimant and aggrieved employees' hours worked, resulting in a failure to compensate Claimant and aggrieved employees for all hours worked.

Work Performed During Unpaid Meal Periods

As more fully set forth below, Employer failed to permit Claimant and others to take timely, uninterrupted, off-duty meal breaks of “not less than 30 minutes” for each five consecutive hours of work in violation of Labor Code §§226.7 and 512. Employees meal breaks were often interrupted resulting in underpaid hours worked.

Failure to Pay Wages- Required Minimum Wage

Employer failed to pay Claimant and aggrieved employees for all hours worked as a result of Employer’s practices described above. Based on Employer’s unlawful conduct described above, Employer’s failure to pay for all hours worked, including overtime, resulted in a payment of less than the minimum wage for those hours worked in violation of Labor Code §1197, 1197.1, 1199 and Wage Order 4-2001 4(B). Employer is liable for civil penalties pursuant to Labor Code §§558 and 2699 *et seq.*

Failure to Pay All Wages Owed Twice Per Month

Employer was required to pay Claimant and aggrieved employees all wages earned twice during each calendar month pursuant to Labor Code §204(a). Employer failed to pay all wages earned to employees as a result of the unlawful employment policies and practices discussed herein. As a result of these practices, Employees were underpaid for hours worked, including overtime and penalty wages, and this underpayment resulted in a failure to pay all wages owed twice per month. Due to this failure, Employer is liable under Labor Code §210 for failure to pay wages as required by law.

Failure to Provide Rest Breaks

Cal. Labor Code §§226, 226.7, 512, 558, 1198, 2698 *et seq.*

Employer has failed to maintain a compliant rest period policy and practice that provides its employees with off-duty rest periods as required by California law. Claimant reports that she and her coworkers often had their rest breaks interrupted and they were not relieved of all duties.

Uninterrupted rest periods were not consistently provided or not scheduled before and after a meal period for shifts greater than six hours, as prescribed by California law because Employer: (1) did not account for all hours worked that were unaccounted for on their timecard; (2) did not adequately inform and train employees about their rights to rest breaks and premium payments for non-compliant rest breaks; (3) did not adequately inform and train employees about when, where and how to take timely and uninterrupted ten-minute rest breaks; (4) because Employer did not staff enough people to schedule all timely and uninterrupted ten-minute rest breaks; and/or (5) because management at various levels, affecting all hourly, non-exempt employees, refused to offer, permit, or enforce a lawfully compliant rest break policy.

Employer consistently required Claimant and Aggrieved Employees to forego rest breaks altogether and instead would permit employees to take a one-hour unpaid lunch in the place of a thirty minute lunch and two paid rest periods as required under California law. Employer did not

authorize or permit all of its hourly employees to take at least a ten-minute rest period in which they were relieved of all duties, for every 4 hours of work, or major fraction thereof, as required by Cal. Lab. Code §226.7, §512 and the Wage Order. When breaks were missed or unlawfully interrupted Employer failed to pay the 1-hour penalty, as required. Because Employer violated the Wage Order, Employer is liable under Labor Code §1198. As a result of these violations, Employer is liable for civil penalties pursuant to Cal. Labor Code §2698 *et. seq.*

Failure to Provide Uninterrupted Meal Breaks

Cal. Labor Code §§226, 226.7, 512, 558, 1198, 2699 et seq.

During Claimant's employment, Employer failed to maintain a compliant meal period policy and practice. Employer failed to provide all of its hourly employees with their right to take an uninterrupted, off-duty unpaid 30-minute meal period. Labor Code §512 provides, "[a]n 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..." Labor Code §226.7(a) provides, "[n]o employer shall require an employee to work during any meal... period mandated by an applicable order of the Industrial Welfare Commission." Paragraph 11(A) of the Wage Orders provides, in pertinent part, "[u]nless an employee is relieved of all duty during a 30-minute meal period, the meal period shall be considered an 'on duty' meal period and counted as time worked." Labor Code 1198 states that any violation of a wage order is a violation of the Labor Code.

Claimant and aggrieved employees experienced frequent meal period violations. Full, uninterrupted, off-duty, thirty-minute meal periods were not provided because Employer: (1) did not account for all hours worked that were unaccounted for on their timecard; (2) did not adequately inform and train employees about their rights to meal periods and premium payments for non-compliant meal periods; (3) did not adequately inform and train employees about when, where and how to take timely and uninterrupted thirty-minute meal periods; (4) because Employer did not staff enough people to schedule all timely and uninterrupted thirty-minute meal periods; and/or (5) because management at various levels, affecting all hourly, non-exempt employees, refused to offer, permit, or enforce a lawfully compliant meal period policy.

Meal periods were often provided late however Employer would instruct employees to record specific times so that timecards would not show meal period violations despite them having occurred. Employees were not paid a premium payment, paid as an hour's wage when meal periods were not given to them in compliance with California law.

Failure to Reimburse for Required Business Expenses

(Cal. Labor Code §§1198, 2802, 2699 *et seq.*)

Labor Code §2802 requires employers to indemnify employees for necessary expenditures or losses incurred by employees in direct consequence of discharge of duties.

Claimant and aggrieved employees were required to download a timekeeping app on their personal cell phones and use their phones throughout the day to take images of themselves and upload them to the app.

Employer required Claimant and employees to utilize their personal cell phones for work purposes but failed to reimburse Claimant and employees for this use as required by the Labor Code. Accordingly, Employer is liable for civil penalties under PAGA §2699 *et seq.*

Failure to Pay Wages Due Upon Termination

(Cal. Lab. Code §§201, 202, 203, 256 and 2698 *et seq.*)

An employee who is discharged must be paid all of his or her wages, including accrued vacation and rest break penalty wages, immediately at the time of termination. (Labor Code Sections 201 and 227.3.) As set forth above, Employer knowingly and willfully failed to pay all compensation due and owing to Claimant at the time employment terminated. Employer willfully failed to pay employees who are no longer employed by it all compensation due upon termination of employment as required by Cal. Lab. Code §§201 and 202. Claimant and similarly situated individuals are now entitled to recover up to thirty (30) days pay as waiting time under the terms of §203. Moreover, Employer is liable for civil penalties pursuant to Cal. Lab. Code § 2698 *et seq.*

Failure to Provide Accurate Itemized Wage Statements & Violation of Record Keeping Requirements

(Cal. Labor Code §§ 226, 1174, 1174.5, 2699 *et seq.*)

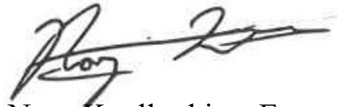
Employer knowingly and intentionally failed to provide timely, accurate, itemized wage statements to Claimant and the aggrieved employees in accordance with Labor Code §§ 226 and keep accurate records as required by §1174(d). The statements provided to Claimant and aggrieved employees, and the records maintained by Employer, failed to include the correct total hours worked, wages earned and owed, and meal and rest period penalty payments, among other deficiencies. Additionally, wage statements issued by Elite Recruiting LLC wage statements do not contain the full address of the employer, missing the name of the city.

Finally, Employer has violated Labor Code §432.5 for forcing Claimant and aggrieved employees to sign employment related contracts and documents that contained unlawful terms of employment.

Conclusion

Employer has violated a number of California wage and hour laws. Claimant respectfully requests that the agency investigate the above allegations and hereby provides notice of the allegations pursuant to PAGA's provisions. Alternatively, Claimant requests that the agency inform her if it does not intend to investigate these violations so that she may pursue her claims as a representative action in civil court.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Nazo Koulloukian', with a long horizontal flourish extending to the right.

Nazo Koulloukian, Esq.
Attorneys for Claimant