September 10, 2025

VIA LWDA WEBSITE

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

Re: *Elivan Cruz Ortiz v. Sun Valley Raisins, Inc.*

To Whom It May Concern:

Please be advised that this law firm represents Elivan Cruz Ortiz ("Mr. Ortiz") in claims for Labor Code violations arising from his employment with Sun Valley Raisins, Inc.; and DOES 1 through 100 (collectively referred to herein as "Employers"). Mr. Ortiz is an "aggrieved employee" as defined by Labor Code Section 2698 *et seq*., due to Employers' numerous violations of the Labor Code as set forth below. The purpose of this letter is to comply with Labor Code Sections 2699.3, which requires aggrieved employees to notify their employer and the Labor & Workforce Development Agency ("LWDA") of the specific provisions of the Labor Code allegedly violated.

For purposes of this letter, the "aggrieved employees" whom Mr. Ortiz seeks to represent are the other non-exempt employees of Employers who performed work in California at any time during the one year preceding the date of this letter through the present.

Mr. Ortiz started his employment with Employers in 2009, and was employed until approximately November 6, 2024. Plaintiff worked as forklift driver, served as a machine repair mechanic, packed raisins and headed the production line. He was generally scheduled to work for 6 days per week, Monday through Saturday, for up to 12 hours or more per day, with his shift starting at 3:00 p.m. and continuing to midnight or longer, depending on the number and locations of his assigned deliveries on any given day. When Plaintiff first began working for Employers, his hours were much longer, generally from 4 a.m. to 5 or 6 p.m.

Throughout the duration of Mr. Ortiz's employment with Employers, Mr. Ortiz and other aggrieved employees were not paid for all hours worked as Employers did not accurately keep track of all hours worked. Upon information and belief, the time records maintained by Employers were not reflective of the actual number of hours that Mr. Ortiz and other aggrieved employees actually worked. Employers required Mr. Ortiz and other aggrieved employees to clock in and out at a specific physical location using their fingerprint. Mr. Ortiz estimates he spent approximately 20 minutes each day waiting to clock in and out. Mr. Ortiz was also not paid for off-the-clock work associated with mandatory Covid precautions such as temperature checks. He was also not paid for time worked off the clock during meal periods, wherein he was required to clock out for a meal to maintain Employer's appearance of compliance, but was required to continue working after clocking out for the meal period.

Employers also routinely did not provide Mr. Ortiz and other aggrieved employees with a legally compliant first meal period when they worked shifts in excess of 5.0 hours. Instead of clocking in and out after receiving a full and uninterrupted 30-minute meal period, on almost every shift, Mr. Ortiz and other non-exempt employees would take a meal period if and when time permitted, as the demands and time restrictions of the production line often made timely and complete, uninterrupted 30-minute meal periods impossible. Mr. Ortiz and other aggrieved employees were also told to keep working after clocking out for meals, again due to exigencies of the production line or to immediately repair the machines servicing it. Moreover, Employers failed to authorize second meal periods when employees worked over 10.0 hours. Despite Employers' failure to authorize and permit Mr. Ortiz and other non-exempt employees to take all lawful paid meal periods, due to their uniform and unlawful practices, Employers rarely provided Mr. Ortiz and other non-exempt employees with an additional hour of pay at their regular rate for each meal period violation as required by Labor Code § 226.7. Upon information and belief, during at least a portion of the class period, Employers maintained no payroll code or another mechanism for the payment of meal period premiums in the event Mr. Ortiz and other non-exempt employees were not authorized to take lawful meal periods.

Similar to the meal period violations noted above, Employers also did not authorize Mr. Ortiz and other aggrieved employees to take all legally required rest periods. Specifically, Mr. Ortiz and other non-exempt employees were often unable to take timely and compliant rest periods as the demands and time restrictions of the production line often made taking timely and full rest periods impossible. Despite Employers' failure to authorize and permit Mr. Ortiz and other non-exempt employees to take all lawful paid rest periods, due to their uniform and unlawful practices, Employers never provided Mr. Ortiz and other non-exempt employees with an additional hour of pay at their regular rate for each rest period violation as required by Labor Code § 226.7. Upon information and belief, during at least a portion of the class period, Employers maintained no payroll code or another mechanism for the payment of rest period premiums in the event Mr. Ortiz and other non-exempt employees were not authorized to take lawful rest periods.

Furthermore, Employers failed to adequately reimburse Mr. Ortiz and other aggrieved employees for all reasonable and necessary work expenditures, including but not limited to, requiring them to utilize their personal cell phones and vehicles for necessary business purposes. Mr. Ortiz was not ever provided any reimbursement for this necessary use.

Employers have maintained inaccurate payroll records, failed to timely pay all wages owed to non-exempt employees, and failed to timely and fully pay separating employees at the time of their separation, and issued inaccurate wage statements. This is in part a result of Employers' failure to accurately track time worked and compensate Mr. Ortiz and other aggrieved employees for all minimum and overtime wages, as well as the attendant failure to pay premium pay for failing to provide all required meal periods and authorize all rest periods.

Employers failed to issue to Mr. Ortiz and other aggrieved employees accurate itemized statements in writing showing (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee was 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 only the last four digits of his or her social security number or an employee identification number other than a social security number, (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.

Furthermore, Mr. Ortiz and other aggrieved employees worked overtime hours, but did not receive all overtime compensation equal to one and one-half times their regular rates of pay for all overtime hours worked. Employers maintained a policy/practice of not compensating Mr. Ortiz and other aggrieved employees for all their overtime hours worked in the pay period. As discussed above, upon information and belief, Employers required Mr. Oritz and other aggrieved employees to continue working after clocking out for meal a periods. All overtime calculations were further flawed because they uniformly failed to include Mr. Ortiz and other aggrieved employees' annual bonus and shift differentials in the "regular rate" of pay calculations. Employers also did not compensate Mr. Ortiz and other aggrieved employees for their overtime worked off the clock. As a result, Employers failed to ensure that Mr. Ortiz and other aggrieved employees were being paid at least the minimum wage for all hours worked, and failed to ensure that Mr. Ortiz and other aggrieved employees received proper overtime wages for all overtime hours worked.

Finally, Employers failed to conform to the requirements of Labor Code § 2810.5 by failing to provide Mr. Ortiz and other aggrieved employees written notices, in the language normally used to communicate employment related information to the employees, containing information regarding their: i) rate(s) of pay and the basis thereof; ii) allowances claimed as part of the minimum wage; iii) regular payday designated by the employer; iv) the legal name of the employer; v) the address of the legal entity that is the employer; vi) the telephone number of the employer; vii) identifying information for the employer's workers' compensation insurance carrier; and viii) information informing the employee of their right to accrue and use paid sick leave. Despite maintaining an obligation to provide these disclosures to Mr. Ortiz and other aggrieved employees, Employers failed to do so, in violation of Labor Code § 2810.5.

As described above, Employers committed the following violations of the Labor Code, and Industrial Welfare Commission Wage Orders ("IWC Wage Orders"):

<u>Minimum Wage Violations</u>

Employers were required to pay Mr. Ortiz and other aggrieved employees an hourly rate at least equal to the minimum wage for each hour actually worked. See Labor Code §§ 1182.12, 1194; 1194.2, 1197; and relevant IWC Wage Orders. As alleged above, Employers maintained and maintain timekeeping policies/practices that regularly, systematically, and impermissibly underreport the hours worked by Mr. Ortiz and other aggrieved employees. As a result of these policies/practices, which fail to compensate for all hours worked, Mr. Ortiz and other aggrieved employees were deprived of all required minimum wages.

<u>Overtime Wage Violations</u>

Employers were required to pay Mr. Ortiz and other aggrieved employees overtime wages for all overtime hours worked. *See* Labor Code §§ 1194(a) and 1198; and relevant IWC Wage Orders, which require an employer to pay overtime wages when an employee's hours worked cross certain thresholds or meet certain criteria set forth in the Wage Order. At all times relevant herein, Employers caused Mr. Ortiz and other aggrieved employees to work overtime hours but did not compensate Mr. Ortiz and other aggrieved employees at one and one-half times their regular rate of pay for such hours.

<u>Meal Period Violations</u>

As alleged above, Employers failed to provide Mr. Ortiz and other aggrieved employees with all required and compliant meal periods due to Employers' meal period policies/practices that often fail to provide full, 30 minute off-duty first meal periods before the end of the fifth hour of work or a second meal period for shifts worked in excess of ten (10) hours. *See* Labor Code §§ 226.7 and 512; and relevant IWC Wage Orders. As a result, Mr. Ortiz 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.").

<u>Rest Period Violations</u>

As alleged above, Employers also failed to authorize and permit Mr. Ortiz and other aggrieved employees to take all required paid rest periods. *See* Labor Code §§ 226.7 and 516; and relevant IWC Wage Orders. As a result, Mr. Ortiz and other aggrieved employees are owed an additional hour of wages at their regular rate of compensation for each workday that they were not authorized and permitted to take all legally required paid rest periods. *See* Labor Code § 226.7 ("If an employer fails to provide an employee a meal period or rest period in accordance with an applicable 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 period is not provided.")

<u>Wage Statement Violations</u>

As described above, Employers were required to furnish Mr. Ortiz and other aggrieved employees with complete and accurate itemized wage statements that showed, among other things, their rates of pay, corresponding number of hours worked at each rate of pay, total gross wages earned, and total net wages earned. *See* Labor Code §§ 226(a) and 1174(d); Wage Order 13, § 7. As a result of Employers' failure to pay all overtime wages, minimum wages, and failure to pay all required meal and rest period premium wages, Employers maintained inaccurate payroll records and issued inaccurate wage statements to Mr. Ortiz and other aggrieved employees in violation of Labor Code § 226.

<u>Waiting Time Penalties</u>

Labor Code §§ 201 and 202 require that employees receive all of their final wages at the time of their separation of employment. Employers failed to timely pay Mr. Ortiz and other aggrieved employees all of their final wages at the time of separation, which included all overtime and minimum wages, and all meal and rest period premium wages at the time of aggrieved employees' separation of employment. Pursuant to Labor Code § 203, Employers' failure to pay all final wages due to Mr. Ortiz and other aggrieved employees was willful and, consequently, entitles Mr. Ortiz and other aggrieved employees to waiting time penalties equal to one day of wages at their standard hourly rate for each day Employers failed to pay their final wages after their separation from employment, up to a maximum of thirty days.

As an "aggrieved employee," Mr. Ortiz 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. Ortiz's own investigation, and on information and belief, Employers committed and continue to commit the following Labor Code violations:

As an "aggrieved employee," Mr. Ortiz 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. Ortiz' own investigation, and on information and belief, Employers committed and continue to commit the following Labor Code violations:

a. Employers violated Labor Code §§ 551-552, 558, 1182.12, 1194, 1194.2, 1197, and 1198 by failing to pay Mr. Ortiz and other aggrieved employees the statutory minimum wage for all hours worked;

b. Employers violated Labor Code §§ 204, 510, 558, 1194, and 1198 by failing to pay Mr. Ortiz and other aggrieved employees all overtime compensation earned;

c. Employers violated Labor Code §§ 226.7, 512, and 1198 by failing to provide meal periods as required by law and failing to pay meal period premiums to Mr. Ortiz and other aggrieved employees at these employees' respective regular rates of compensation for meal period violations;

d. Employers violated Labor Code §§ 226.7, 516, and 558 by failing to authorize and permit Mr. Ortiz and other aggrieved employees to take all required paid rest periods, and/or failing to pay all rest period premiums to Mr. Ortiz and other aggrieved employees at their respective regular rates of compensation;

e. Employers violated Labor Code §§ 2802 and 2804 by failing to reimburse Mr. Ortiz and other aggrieved employees for all work-related expenses incurred;

f. Employers violated Labor Code § 226 by failing to furnish Mr. Ortiz and other aggrieved employees with accurate and compliant itemized wage statements;

g. Employers violated Labor Code §§ 201, 202 and 203 by failing to timely pay all final wages due upon separation of employment to Mr. Ortiz and other aggrieved employees;

h. Employers violated Labor Code § 204 by failing to pay Mr. Ortiz and other aggrieved employees all wages earned at least twice during each calendar month;

i. Employers violated Labor Code § 233, 245.5 and 246.5 by failing to permit and authorize Mr. Ortiz and other aggrieved employees to exercise the use of their accrued paid sick leave days;

j. Employers violated Labor Code §§ 1174 and 1198 by failing to maintain accurate records on behalf of Mr. Ortiz and other aggrieved employees;

k. Employers violated Labor Code § 2810.5 by failing to provide legally mandated disclosures and/or written notices regarding the terms of employment of Mr. Ortiz and other aggrieved employees; and

l. Employers violated Labor Code §§ 204 and 221-223 by failing to pay Mr. Ortiz and other aggrieved employees all agreed-upon wages including bonus wages accrued.

Pursuant to Labor Code Section § 2699.3(a)(2)(A), please notify us and Employers if the LWDA intends to investigate the alleged violations of the Labor Code stated herein. Please contact me should you require additional information.

Very truly yours,

STANSBURY BROWN LAW, PC

Kathleen J. Becket