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March 2, 2023

VIA ELECTRONIC SUBMISSION

Stewart Knox
Secretary
California Labor & Workforce Development Agency
800 Capital Mall, Suite 5000 (MIC-55)
Sacramento, CA 95814

Re: **Fernando Sanchez v. Hof & Yates Rebar, Inc., James Herbert Hofheinz, Kimberly Renee Hofheinz, and Chad Hofheinz**
California Labor Code section 2698, *et seq.* violations

Dear Mr. Knox:

I am writing on behalf of aggrieved employee Fernando Sanchez ("Sanchez"). This notice is being made to the Labor & Workforce Development Agency pursuant to the requirement of Labor Code section 2698 *et al.* that Sanchez, and other aggrieved employees, who were employed by Hof & Yates Rebar, Inc., James Herbert Hofheinz (AKA James Hof), Kimberly Renee Hofheinz, and Chad Hofheinz (AKA Chad Hof) as well as Does 1-10 who may also operate as part of Hof & Yates Rebar, Inc. but are as yet unidentified (herein all of the above are collectively referred to as "H&Y"), as non-exempt hourly employees in California (the "Aggrieved Employees"). H&Y employed Sanchez as a worker on rebar construction projects since 2002 and H&Y's records state Sanchez was terminated on or about March 23, 2022.

Sanchez, and each of the Aggrieved Employees described above, suffered from one or more of the following Labor Code violations by their current or former employer H&Y. All of the individuals in H&Y noted above are joint employers of the Aggrieved Employees both statutorily and under the common law with shared control over all conditions of employment, payments of wages, and management of the work of the Aggrieved Employees. H&Y is owned and controlled by James Herbert Hofheinz, Kimberly Renee Hofheinz, and Chad Hofheinz who personally set all conditions of employment, make all employment decisions, set all employment policies, set all wages, and personally enact all decisions of consequence for Hof & Yates Rebar, Inc. As such James Herbert Hofheinz, Kimberly Renee Hofheinz, and Chad Hofheinz are persons acting as an employer under Labor Code sections 558 and 558.1. Furthermore, James Herbert Hofheinz, Kimberly Renee Hofheinz, and Chad Hofheinz are the Chief Executive Officer, Secretary, and Chief Financial Officer with shared ownership of the company and who personally oversee, payroll processing, conditions of employment, human resources and employee relations. James Herbert Hofheinz, Kimberly Renee Hofheinz, and Chad Hofheinz also have common decision making and common management powers over the entity and all employees.

Sanchez and the other Aggrieved Employees' employment with H&Y was governed by the California Wage Orders, and California Labor Code sections 201, 202, 203, 226, 226.7, 510, 512, 558, 558.1, 1174, 1175, 1194, 1194.2, 1197, 1197.1, 1198 and 2802.

Sanchez worked for H&Y as a non-exempt hourly employee in California at H&Y locations, and at many job sites throughout California. Sanchez and the other Aggrieved Employees were not paid overtime for all time worked after 8 hours of work in a workday/shift, 7 workdays in a workweek, and/or 40 hours worked in a workweek. Sanchez and the other Aggrieved Employees are instructed to fill out timecards that only list the number of hours worked, without start and end times for the day or meal periods, and are told to only write down the number of hours assigned to them regardless of how many hours they actually work. Sanchez and the other Aggrieved Employees are often required to work off the clock on weekends and sometimes seven days a week but are paid only at their regulate rate of pay without overtime. In addition to the above, Sanchez and the other Aggrieved Employees are also not paid for all time spent working, as they are not paid for the time spent traveling from the yard to the jobsites and back, time spent collecting materials and/or equipment for jobs, and time spent filling out paperwork.

Sanchez and the other Aggrieved Employees also were not provided with legally adequate meal periods and rest breaks, and H&Y does not pay premiums for non-complaint meal periods and rest breaks. If any premiums or bonuses were ever paid, H&Y did not pay any premiums at the Aggrieved Employees' correct regular rate of pay/compensation. Sanchez and the other Aggrieved Employees were not provided with duty free meal periods and rest breaks as they are always on call for H&Y's clients and supervisors. H&Y does not keep records of when all work periods and meal periods begin or end and sometimes provides meal periods which are short and/or late. H&Y does not provide second meal periods after more than 10 hours of work in a workday, and does not provide second or third paid rest breaks for shifts over 6 hours as required by California law. These policies are in violation of Labor Code §§ 226.7, 512, 558, 1198, and the IWC Wage Orders.

Sanchez is informed and believes that it is H&Y's uniform practice and procedure to not reimburse its non-exempt workers for the use of their personal cellular devices and associated cellular service and/or data service plans which they use in the performance of their job, for the purchase and upkeep of their specialized work equipment and boots, for the full expense associated with the use of their personal vehicles for work, and for the purchase of other equipment and miscellaneous supplies necessary to their job duties but not provided by H&Y. Sanchez and the other Aggrieved Employees are expected to use their personal cellular telephones to communicate with H&Y management/staff as part of their job duties, and to use H&Y's payroll app.

Sanchez is informed and believes that it is H&Y's uniform practice to not pay out paid time off ("PTO") when terminating an employee. Sanchez himself was shorted more than 200 hours of earned PTO which was not paid out to him on his termination. H&Y routinely deprived Sanchez and the Aggrieved Employees of their earned PTO by arbitrarily removing their PTO without payment when they tried to use it, wrongfully forfeiting it.

Sanchez is also informed and believes that H&Y's above mentioned uniform policies and procedures are unlawful and have further caused H&Y to intentionally provide incorrect wages statements which do not accurately display all of the information required by Labor Code § 226(a), including but not limited to not accurately providing the gross wages earned, total hours worked by the employees, net wages earned and all hourly rates in effect in the pay period and the corresponding correct number of hours worked at each hourly rate by the employee. Often employees would work at multiple rates of pay depending on the job. This includes, but is not limited to, H&Y's practice of having its non-exempt employees work shifts off the books without timecards, overtime, or any record of the hours worked reflected on wage statements. This has also resulted in a failure to keep accurate employment records under Labor Code §§ 226(b), 1174, and 1175, which H&Y already fails to keep for the time required by statute. H&Y additionally has a policy of not paying all wages at termination by waiting several days or until the next regularly scheduled payday to pay termination wages. H&Y's failure to pay all earned overtime and premium wages also results in a failure to pay all wages at termination. All of these policies and practices are in violation of Labor Code sections 201, 202(a), 203, 226(a) and (b), 226.7, 510, 512, 558, 558.1, 1174, 1175, 1194, 1194.2, 1197, 1197.1, 1198 and 2802, as well as the relevant IWC Wage Orders.

Sincerely,

GLEASON & FAVAROTE LLP

A handwritten signature in black ink, appearing to read 'Torey Favarote', with a long horizontal line extending to the right.

Torey Joseph Favarote

TJF/dd

cc Hof & Yates Rebar, Inc., James Herbert Hofheinz, Kimberly Renee Hofheinz, and Chad Hofheinz