YOONLAWAPC

751 N. Fair Oaks Avenue, Suite 102
Pasadena, CA 91103
Tel 213-612-0988
fax 213-947-1211

October 29, 2025

BY ELECTRONIC SUBMISSION
PAGAfilings@dir.ca.gov
State of California
Labor & Workforce Development Agency
800 Capitol Mall, MIC-55
Sacramento, California 95814

Re: ***Carlos McDonald v. Kemper Corporation et al.***

Dear Representative:

We have been retained to represent Carlos McDonald against Kemper Corporation, Kemper Independence Insurance Company, Kemper Financial Indemnity Company, Unitrin Auto Home and Insurance Company, and Merastar Insurance Company ("Defendants") for violations of California wage-and-hour laws. This correspondence is intended to amend our prior correspondence dated October 17, 2025.

Background

Mr. McDonald is pursuing his California Labor Code section 2698 *et seq*. (the Private Attorneys General Act of 2004 ("PAGA")) claim on a representative basis. Therefore, Mr. McDonald may seek penalties for violations of the Labor Code on behalf of the State of California and aggrieved employees, which are recoverable under PAGA. This letter is sent in compliance with the reporting requirements of California Labor Code section 2699.3. The "aggrieved employees" Mr. McDonald seeks to represent are all current and former non-exempt employees who worked in California at any time during the one-year period preceding the date of this letter.

Defendant Kemper Corporation is a Delaware corporation, headquartered at 200 E. Randolph Street, Suite 3300, Chicago, Illinois 60601, and operating in multiple locations in California, including at 13340 183rd Street, Suite 210, Cerritos, California 90703. Defendant Kemper Independence Insurance Company and Kemper Financial Indemnity Company are Illinois corporations, headquartered at 200 E. Randolph Street, Suite 3300, Chicago, Illinois 60601, and operating in multiple locations in California, including at 13340 183rd Street, Suite 210, Cerritos, California 90703. Defendant Unitrin Auto and Home Insurance Company is a New York corporation, operating in multiple locations in California, including at 13340 183rd Street, Suite 210, Cerritos, California 90703. Defendant Merastar Insurance Company is an Indiana Corporation, headquartered at 200 E. Randolph Street, Suite 3300, Chicago, Illinois, 60601, and operating in multiple locations in California, including at 13340 183rd Street, Suite 210, Cerritos, California 90703. Defendants employed Mr. McDonald as an hourly-paid, non-exempt employee.

Legal Violations Alleged

As a pattern and practice, Defendants failed to properly pay Mr. McDonald and other hourly-paid or non-exempt aggrieved employees for all hours worked, including time spent working through recorded meal periods, failed to provide meal periods and rest breaks in compliance with law, failed to reimburse necessary work-related expenses, failed to issue compliant wage statements, and failed to pay all wages due and owing upon termination, thus resulting in other Labor Code violations as stated below.

Defendants have violated and/or continues to violate, among other provisions of the California Labor Code and applicable wage law, California Labor Code sections 201, 202, 203, 204, 216, 225.5, 226(a), 226.3, 226.7, 510, 512, 558, 1174(d), 1194, 1197, 1197.1, 1198, and 2802.

California Labor Code sections 1194, 1197 and 1197.1 provide the minimum wage and overtime wage to be paid to employees, and further provide that the payment of a lesser wage than the minimum so fixed is unlawful. During the relevant time period, Defendants failed to compensate Mr. McDonald and other aggrieved employees for all hours worked, including time spent working through recorded meal periods (detailed below) and “unauthorized” overtime. Defendants pressured Mr. McDonald and other aggrieved employees to get all work done in eight hours per workday and stated overtime would no longer be permitted . However, Mr. McDonald and other aggrieved employees continued to perform overtime work in order to meet the requirements of the job, and this overtime work was off-the-clock consistent with Defendants’ direction. Defendants had actual or constructive knowledge that Mr. McDonald and other aggrieved employees were performing this overtime off-the-clock work, and Defendants nevertheless failed to compensate them for this time. Thus, Defendants did not provide aggrieved employees with the minimum and overtime wages to which they were entitled. Mr. McDonald contends he and aggrieved employees are entitled to penalties in the amount of $100 for each first violation and $250 for each subsequent violation, in addition to an amount sufficient to recover unpaid wages under Labor Code § 1197.1.

California Labor Code sections 226.7, 512 and 558 require employers to provide a 30-minute meal period for every five (5) hours worked, and authorize and permit a 10-minute rest break for every four hours worked or major fraction thereof. During the relevant time period, Defendants failed to actively relieve Mr. McDonald and other aggrieved employees of duty for meal periods and rest breaks. In particular, Defendants lacked any mechanism by which employees could fully go off-duty and indicate to their superiors that they were on a break. As a result, Mr. McDonald and other aggrieved employees remained on-call (or simply working) during meal periods and rest breaks. Mr. McDonald contends he and aggrieved employees are entitled to penalties in the amount of up to $200 per aggrieved employee per pay period under Labor Code § 2699.

California Labor Code section 2802 requires employers to reimburse employees for necessary work-related expenses. During the relevant time period, Defendants failed to reimburse Mr. McDonald and other aggrieved employees for the full amount of business expenses, including expenses incurred working remotely, such as the required use of cell phones and home rent, utilities (including telecom such as internet) for work purposes. Mr. McDonald contends that he and other aggrieved employees are entitled to penalties in the amount of up to $200 for each aggrieved employee per pay period pursuant to Labor Code section 2699 Mr. McDonald and other aggrieved employees are further entitled to recover an amount sufficient to recover unreimbursed business expenses pursuant to Labor Code section 2802(d).

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. During the relevant time period, Defendants failed to pay Mr. McDonald and other aggrieved employees all wages due to them within any time period specified by California Labor Code section 204, including as outlined above. Mr. McDonald contends that pursuant to Labor Code section 210, he and other aggrieved employees are entitled to recover penalties of $100 for the first violation of section 204 and $200 for each subsequent violation, plus 25 percent of the amount of wages unlawfully withheld.

California Labor Code sections 201 to 203 require that employers pay their employees all wages due and owing upon termination of employment within specified time periods. During the relevant time period, Defendants failed to pay Mr. McDonald and other aggrieved employees all wage due them within the time periods specified by California Labor Code sections 201 to 203 as outlined above. Mr. McDonald contends that he and other aggrieved employees are entitled to penalties in the amount up to $200 for each aggrieved employee per pay period pursuant to Labor Code section 2699.

California Labor Code section 226 requires employers to make, keep and provide complete and accurate itemized wage statements to their employees. During the relevant time period, Defendants did not provide Mr. McDonald and other aggrieved employees with complete and accurate itemized wage statements. The wage statements they received from Defendants were in violation of California Labor Code section 226(a). The violations include, but are not limited to, the failure to include (1) gross wages earned by

Mr. McDonald and other aggrieved employees, (2) total hours worked by Mr. McDonald and other aggrieved employees, (3) net wages earned by Mr. McDonald and other aggrieved employees, and (4) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by Mr. McDonald and other aggrieved employees. Mr. McDonald asserts he and aggrieved employees are entitled to recover penalties in the amount of $25 per employee per pay period for inaccurate wage statements, $250 per employee for missing wage statements, and $750 for any failure to produce records upon request. California Labor Code section 226.3 requires employers to provide employees wage deduction statements.

California Labor Code section 558 allows recovery of penalties, including penalties equal to the amount of unpaid wages:

> (a) Any employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows:
>
> (1) For any initial violation, fifty dollars ($50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages.
> (2) For each subsequent violation, one hundred dollars ($100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages.
> (3) Wages recovered pursuant to this section shall be paid to the affected employee.

Mr. McDonald and other aggrieved employees have been denied their wages and premium wages and, therefore, are entitled to penalties.

California Labor Code sections 1174(d) requires an employer to 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 with rules established for this purpose by the commission, but in any case, shall be kept on file for not less than two years. During the relevant time period, Defendants failed to keep accurate and complete payroll records showing the hours worked daily and the wages paid to Mr. McDonald and other aggrieved employees.

We believe that Mr. McDonald and other current and former California-based hourly-paid or non-exempt employees of Defendants are entitled to penalties and wages as allowed under California Labor Code section 2698, *et seq.* for violations of Labor

Code sections 201, 202, 203, 204, 216, 225.5, 226(a), 226.3, 226.7, 510, 512, 558, 1174(d), 1194, 1197, 1197.1, 1198, and 2802.

<u>Litigation Hold Notice to Defendants</u>

Because of impending litigation, this letter imposes a duty on Defendants to preserve evidence under California law. Under discovery rules, a defendant has an obligation to preserve potentially relevant evidence when litigation is reasonably foreseeable. As such, Defendants are instructed to preserve all documents or things related to Mr. McDonald and the aggrieved employees specified in this notice.

Our directive to preserve evidence also includes, but is not necessarily limited to, all internet search histories, browsing data, active and/or deleted electronic media and any and all active and/or electronic data on that media, including but not limited to computers; media; machines; hard drives; removable devices, *e.g.*, but not limited to flash memory (*i.e.*, USB or similar external port removable media commonly called, among other names, thumb drives), floppy discs, and external hard drives or media of any type whatsoever; and equipment used by Defendants or any of its employees or agents to produce, print, or create any data, in any form, which relates to Mr. McDonald and the aggrieved employees. These computers, media, machines, devices and equipment shall include all hard drives, hardware, directories and files, including Recovery Bin or Recycle Bin information, all internet histories and/or browsing data, all data files, all servers, all logs, all audit trails, all access records, all access control lists, all backup software, all encryption software, all passwords and all encoding and decoding information. Said computers, media, data, machines, devices, and equipment shall be preserved in such a manner as to retain all computer evidence, and protect any/all media from deletion, alteration, or corruption of any type whatsoever.

Due to its format, electronically stored information is easily deleted, modified, and/or corrupted. Destruction of documents, things, or data may generate suspicion and may constitute spoliation of evidence. Monetary damages, as well as “adverse inference” jury instructions, are just two of the potential sanctions for destruction of evidence. Thus, Defendants must preserve all documents, things, data, and information related to Mr. McDonald and the aggrieved employees, including but not limited to:

- Mr. McDonald’s and the aggrieved employees’ entire personnel and employment files;
- Any and all documents relating to all of Defendants’ employee handbooks;
- Any and all time sheets, time records, time clock records, payroll records, pay stubs, and wage statements relating to Mr. McDonald and the aggrieved employees, and any and all other documents or things reflecting or relating to Mr. McDonald’s and the aggrieved employees’ hours worked, meal breaks taken, wages, overtime and double-time wages, reimbursements, bonuses, raises, benefits, or any other compensation or remuneration received by Mr. McDonald and the aggrieved employees from Defendants;

- Any and all emails or signage given to Mr. McDonald and the aggrieved employees, regarding meal breaks, reimbursements, time card policies, overtime policies, etc.;
- Documents related to the above documents, or to Mr. McDonald or the aggrieved employees in general.

Mr. McDonald reserves the right to seek all available remedies, including damages and evidentiary and monetary sanctions, should Defendants fail to take steps to preserve such information.

Demand for Resolution to Defendants

In light of the above, Mr. McDonald requests Defendants agree to remedy these violations in the following ways:

- Implement the following corrective policies, practices, and/or procedures:
  - Providing meal periods and rest breaks by actively relieving employees of duty, instituting some mechanism whereby employees may notify supervisors that they are off-the-clock and unavailable during breaks (or otherwise insulating employees from work during breaks), and paying premiums if not provided by Defendants on time and for proper duration.
  - Compensating employees for all hours worked, including any overtime hours, by requiring employees to contemporaneously record meal periods and overtime hours worked, and compensating employees for all hours worked as reflected in the time records whether or not a meal period was recorded or overtime was worked;
  - Paying a reasonable percentage of each employee's monthly cell phone bill and home internet bill when the employee is required by government mandate or by the employer to work from home.
- Agree to participate in pre-litigation mediation for purposes of reaching a monetary settlement to correct the past violations. We propose one of the following mediators: Eve Wagner, Esq. of Signature Resolution, Lynn Frank, Esq. of Frank & Feder Mediators; or Monique Ngo-Bonnici, Esq. of Signature Resolution.

Conclusion

California Labor Code section 2699.3 requires that a claimant send a certified letter to the employer in questions and the California Labor & Workforce Development Agency setting forth the claims, and the basis for the claims, thereby giving the California Labor & Workforce Development Agency an opportunity to investigate the claims and/or take any action it deems appropriate.

The purpose of this letter is to satisfy the requirement created by California Labor Code section 2699 prior to seeking penalties allowed by law for the aforementioned statutory violations. We look forward to determining whether California Labor & Workforce Development Agency intends to take any action in reference to these claims. We kindly request that you respond to this notice according to the time frame contemplated by the California Labor Code.

Within one year of his employment or demand for wages, as allowed by law, Mr. McDonald will seek these penalties and wages on his own behalf and on behalf of other similarly situated California-based hourly-paid or non-exempt employees employed by Defendants.

If you have any questions or require additional information, please do not hesitate to contact us.

Sincerely,

Stephanie E. Yasuda

Stephanie E. Yasuda

SEY:jc

cc: Kemper Corporation (via Certified Mail, RRR)
c/o Illinois Corporation Service Company (authorized agent)
801 Adlai Stevenson Drive
Springfield, Illinois 62703

Kemper Independence Insurance Company (via Certified Mail, RRR)
c/o Christopher D. Dell Isola (authorized agent)
200 East Randolph Street, Suite 3300
Chicago, IL 60601

Kemper Financial Indemnity Company (via Certified Mail, RRR)
c/o Christopher D. Dell Isola (authorized agent)
200 East Randolph Street, Suite 3300
Chicago, IL 60601

Unitrin Auto Home and Insurance Company (via Certified Mail, RRR)
c/o CT Corporation System (authorized agent)
1200 South Pine Island Road
Plantation, Florida 33324

Merastar Insurance Company (via Certified Mail, RRR)
c/o Jere Keprios (authorized agent)
818 W. 7th Street,
Los Angeles, California 90017

Robert S. Blumberg (via email only)
Littler Mendelson P.C.
rblumberg@littler.com