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April 6, 2023

Via E-filing:

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

Via Certified U.S. Mail:

Man Staffing, LLC
550 E. Del Amo Blvd., Suite C
Carson, CA 90746

Kamran Staffing, Inc.
800 N. Haven, Suite 425
Ontario, CA 91764

Re: PAGA Notice Pursuant to California Labor Code §2698 *et seq.*

Claimant: Sergio Osuna

Employers: Man Staffing, LLC & Kamran Staffing, Inc.

Dear Sir or Madam:

Sergio Osuna (“Claimant”) has retained Nazo Koulloukian, Esq. of the KOUL LAW FIRM and Sahag Majarian, II, and Garen Majarian of MAJARIAN LAW GROUP, APC, to represent him, and all other aggrieved employees, for conditions of employment and wage and hour claims against his former employers, Man Staffing, LLC, and Kamran Staffing, Inc. (hereafter collectively “Employer”). Claimant worked for Man Staffing, LLC, until January 2023, and he worked for Kamran Staffing, Inc. until December 2022, at all times at the same location, Best Quality Furniture.

Employer violated, and/or has caused to be violated, several Labor Code provisions and is therefore liable for civil penalties under 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 Labor Code § 2699.3.

As alleged below, Claimant personally suffered some of the Labor Code violations committed by Employer, while other violations, though not personally suffered by him, were suffered by other aggrieved employees. As held in *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal.App.5th 745, 758, “[b]y the plain language of the statute, an aggrieved employee need only suffer one of the Labor Code violations alleged against his or her employer to be able to bring a PAGA claim on behalf of himself or herself and current or former employees who suffered any Labor Code violation at the hands of the employer. Plaintiff need not have actually suffered all of the Labor Code violations that he alleges to have taken place for purposes of seeking PAGA penalties.” (citation omitted). Accordingly, Claimant plans to pursue penalties for all the violations committed by Employer against the aggrieved employees, including those he did not personally suffer.

Failure to Comply with California Law Concerning Payment of Lawful Wage For All Hours Worked, Including Overtime Hours Worked

(Cal. Labor Code §§218, 510, 558, 1194, 1197, 1198, 1199, 2698 *et seq.*)

Unpaid Wages – Rounding

Employer rounds Claimant and aggrieved employee timecards in a manner that favors Employer. Indeed, with Employer’s strict policies against arriving to work late, Claimant and aggrieved employees clock in before their shift start time and this consistently benefitted Employer. However, Claimant and aggrieved employees’ wage statement consistently show hours rounded to the nearest half-hour or hour.

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. 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.

Failure to Pay All Wages Owed Twice Per Month

(Cal. Lab. Code §§204, 210, and 2698 *et seq.*)

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 these failures, Employer is liable under Labor Code §204, 210 and 2698 *et seq.* for failure to pay wages as required by law.

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 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 Pay Minimum Wage

(Cal. Labor Code §§ 200, 218.5, 226, 558, 1194, 1194.2, 1197, 1197.2, 1198, 1199, 2698 *et seq.*)

Pursuant to Labor Code sections 1194, 1194.2 and 1197, it is unlawful for an employer to suffer or permit a California employee to work without paying wages at the proper minimum wage for all time worked as required by the applicable IWC Wage Order.

Employer failed to pay Claimant and aggrieved employees for all hours worked as a result of Employer's practices described above, including rounding timecards to the nearest half-hour and hour. Based on Employer's unlawful conduct described above, and because

Claimant and the aggrieved employees were paid at or near minimum wage, employer's failure to pay for all hours worked, including overtime, resulted in a payment of less than the minimum wage for all hours worked, in violation of Labor Code §1197, 1197.1, 1199 and the wage order. Employer is liable for civil penalties pursuant to Labor Code §§558 and 2699 *et seq.*

Failure to Provide Accurate Itemized Wage Statements

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

Employer knowingly and intentionally failed to provide timely, accurate, itemized wage statements to Claimants and the aggrieved employees, and maintain accurate records, in accordance with Labor Code §§ 226 and 1174.

Wage statements issued to employees failed to state the full legal name of the employer. Further, wage statements issued by Man Staffing, LLC, failed to show the pay beginning and end date.

Wage statements also failed to list the number of Covid-19 sick days available and taken during the relevant statutory period. Labor Code § 248.6(d) (1)-(2) states:

For purposes of the enforcement of subdivision (i) of Section 246 as it relates to this section, COVID-19 supplemental paid sick leave shall be set forth separately from paid sick days. The employer shall provide an employee with written notice that sets forth the amount of COVID-19 supplemental paid sick leave that the employee has used through the pay period in which it was due to be paid on either the employee's itemized wage statement described in Section 226 or in a separate writing provided on the designated pay date with the employee's payment of wages. The employer shall list zero hours used if a worker has not used any COVID-19 supplemental paid sick leave.

Labor Code 246(i) (i) requires that the employer "provide an employee with written notice that sets forth the amount of paid sick leave available, or paid time off leave an employer provides in lieu of sick leave, for use on either the employee's itemized wage statement described in Section 226 or in a separate writing provided on the designated pay date with the employee's payment of wages."

Based on and as a result of the above-mentioned Labor Code violations, Employers maintained and issued inaccurate wage statements, failing to include required pay period dates, hours and overtime hours worked, and Covid-19 related disclosures. Claimant will

seek penalties as permitted under Labor Code §226 for himself and other aggrieved employees for each violation. Further, claimant will seek recovery of civil penalties under Labor Code §226.3, and PAGA, Labor Code §2698, *et seq.*, on behalf of the LWDA against the Employers if authorized to file a representative action on behalf of the State of California for Employers' paystub violations.

Conclusion

Employers have 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 these claims as a representative action in civil court.

Sincerely,

A handwritten signature in black ink, appearing to read 'Nazo Koulloukian', written over a horizontal line.

Nazo Koulloukian, Esq.
Attorney for Claimant

Cc:

Majarian Law Group, APC