

NOTICE OF PRIVATE ATTORNEYS GENERAL ACT CLAIM

To: California Labor and Workforce Development Agency,
Priority Workforce, LLC; Alum-A- Coat- Aluminum Anodizing
Date: May 31, 2023
Subject: *Mateo Ich Tux v. Priority Workforce; Alum-A- Coat Aluminum Anodizing*

INTRODUCTION

Please take notice that Mateo Ich Tux intends to seek civil penalties against his employers, Priority Workforce and Alum- A-Coat Aluminum Anodizing (collectively, “Employers”) under the California Private Attorneys General Act, California Labor Code §§ 2698, *et seq.* (“PAGA”), on behalf of himself, the Labor and Workforce Development Agency (“LWDA”), and other aggrieved employees. Employers are liable for these civil penalties as a result of its uniform and systematic failure to comply with California wage laws, including California Labor Code provisions relating to the payment of overtime wages and minimum wages, and providing meal and rest breaks (or payment of the statutory additional wages due), inaccurate wage statements, reporting time pay, suitable seating requirements, and waiting time penalties.

Before pursuing these PAGA penalties in a representative capacity, California Labor Code § 2699.3 requires that aggrieved employees notify their employer and the LWDA of the specific provisions of the California Labor Code allegedly violated, as well as the facts and legal grounds supporting the allegations. To that end, we submit this letter on behalf of our client, Mateo Ich Tux, and on behalf of all aggrieved employees to provide notice of the following facts and violations of the California Labor Code:

GENERAL INFORMATION

Priority Workforce, LLC is a staffing agency that specializes in the placement of job seekers with various different employers and has its headquarters in Tustin, California. Alum-A-Coat-Aluminum Anodizing processes aluminum for customers, such as, extruders, architectural manufacturers, machine shops, etc. and has its headquarters in South El Monte, California. At all times mentioned herein, Employers were licensed to do business in the State of California and conducted and continues to conduct substantial business in the State of California and at all times mentioned herein, Employers were and are covered by the California Labor Code and the applicable California Industrial Welfare Commission (“IWC”) Wage Order.

Mateo Ich Tux was employed by Priority Workforce, LLC and placed at Alum-A-Coat Aluminum Anodizing as a production line employee from May 2022 to March 1, 2023. At all times, Mr. Ich Tux was employed as hourly non-exempt employee.

CALIFORNIA LABOR CODE VIOLATIONS

1. Failure to Provide Meal Periods

(California Labor Code §§ 226.7, 512 and IWC Wage Orders)

High workload demands, strict deadlines, and intense pressure to meet company goals forced Mr. Ich Tux and other employees to delay, shorten, or forgo their meal breaks to complete their assigned tasks. As a matter of fact, Employers would often require Mr. Ich Tux and other employees to work up to 12- hour shifts, however, the company would only provide the employees with one 30-minute lunch break. As a result, Mr. Ich Tux and other employees worked more than five hours during a shift without being provided a timely half-hour meal period and/or more than ten hours in a shift without receiving a second timely half-hour meal period, as required by California Labor Code §§ 226.7 and 512 and the IWC Wage Orders. As a result, Employers have violated California Labor Code §§ 226.7 and 512 and the applicable IWC Wage Order, and is liable for civil penalties under California Labor Code §§ 2698 *et seq.*

2. Failure to Provide Rest Periods

(California Labor Code §§ 226.7 and 512 and IWC Wage Orders)

The same workload demands discussed above forced Mr. Ich Tux and other employees to delay, shorten, or forgo their rest breaks to complete their assigned tasks. Indeed, for a long period time while they were employed, Employers failed to provide Mr. Ich Tux and other employees with any rest breaks at all. As a result, Mr. Ich Tux and other employees regularly worked in excess of four hours or major fraction thereof during work days without being provided at least a ten-minute rest period in which they were relieved of all duties, as required by California Labor Code §§ 226.7, 512, and 512,1198 and IWC Wage Orders, and is liable for civil penalties under California Labor Code §§ 2698 *et seq.*

3. Failure to Pay Overtime Wages

(California Labor Code §§ 510 and 1194, and 1198)

Under most circumstances, Employers employed Mr. Ich Tux and other employees for more than eight hours per day or more than 40 hours per workweek. In this instance, the non-exempt employees are entitled to receive one-and-one half times their regular hourly rate of pay for working more than eight hours but less than 12 hours in a workday or over 40 hours in a workweek. In addition to this, Mr. Ich Tux was also required to work seven days a week, nonetheless, Employers failed to pay their employees the correct wages. Notwithstanding this law, Employers failed to maintain a policy that compensates Mr. Ich Tux and other employees for all hours worked, including overtime compensation and properly calculating the overtime rate.

As a result, Employers have violated California Labor Code §§ 204, 210, 211, 510, 1194, 1197.1, and 1198 and the applicable IWC Wage Order for failure to pay overtime, and is liable for civil penalties under California Labor Code §§ 558 and 2698 *et seq.*

4. Failure to Pay Minimum Wage

(California Labor Code §§ 204, 1118.12, 1197.1, IWC Wage Order)

Employers failed to pay Mr. Ich Tux and other employees California's prevailing minimum wage for all "hours worked". In such an instance, Employers were obligated to pay wages for all hours worked, but failed to do so. As a result, Employers have violated California Labor Code §§ 204, 558, 1118.12, 1193.6, 1194, 1197, 1197.1, and 1198 and the applicable IWC Wage Order for failure to pay minimum wage for all hours worked, and is liable for civil penalties under California Labor Code §§ 558 and 2698 et seq.

As a result, Employers have violated California Labor Code §§ 204, 210, 211, 510, 1194, 1197.1, and 1198 and the applicable IWC Wage Order for failure to pay overtime, and are liable for civil penalties under California Labor Code §§ 558 and 2698 et seq.

5. Failure to Provide Accurate Itemized Wage Statements

(California Labor Code § 226)

Mr. Ich Tux and other employees' wage statements were deficient, because of the violations detailed in this notice, including not paying regular and overtime wages for all hours worked and failing to provide meal and rest break premiums. As a result, the wage statements provided to Mr. Ich Tux and other employees were not accurate and do not include all of the statutorily-required information. Specifically, Employers have violated California Labor Code § 226 by willfully failing to furnish Mr. Ich Tux and other employees with accurate, itemized wage statements. These California Labor Code violations, in turn, constitute PAGA violations.

6. Reporting Time Pay

(IWC Wage Order)

Under California law, each workday an employee is required to report to work, but is not put to work or is furnished with less than half of his or her usual or scheduled day's work, the employee must be paid for half the usual or scheduled day's work, but in no event for less than two hours nor more than four hours, at his or her regular rate of pay. Here, Employers have required Mr. Ich Tux and other employees to report to work, but sometimes Employer's management would inform them that there is not any work from them that day. In such a situation, these employees are sent home before their usual day's work, and are entitled to reporting time pay under the applicable IWC Wage Order. Employers, however, did not provide reporting time pay to Mr. Ich Tux and other employees in violation of the applicable IWC Wage Order, which in turn, constitutes a PAGA violation.

7. Failure to Pay Waiting Time Penalties

(California Labor Code § 203)

Sections 201 and 202 of the California Labor Code requires that employers pay employees all wages due immediately if an employer discharges an employee, and within 72 hours if an employee quits his or her employment. Section 203 of the California Labor Code provides that if an employer willfully fails to timely pay such wages the employer must, as a sanction and amount owed, continue to pay that employee's wages until the back wages are paid in full or an action is commenced. The sanction and amount owed cannot exceed 30 days of wages.

Employers owed wages to discharged employees, such as premiums for missed meal and rest periods, minimum wage, and overtime pay for hours worked over eight hours in a workday or 40 in a workweek. Employer's failure to pay these wages at termination was willful and constitutes a PAGA violation based on a violation of California Labor Codes §§ 201-203 and 558.

8. Failure to Provide Suitable Seating Requirements

(California Labor Code § 1198 and IWC Wage Order No. 7-2001, § 14)

California IWC Wage Order No. 7-2001, § 14 states: "(A) All working employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats. [¶] (B) When employees are not engaged in the active duties of their employment and the nature of the work requires standing, an adequate number of suitable seats shall be placed in reasonable proximity to the work area and employees shall be permitted to use such seats when it does not interfere with the performance of their duties." Here, Employers failed to provide its employees throughout the state of California, including Mr. Ich Tux, with seats—despite the fact that the nature of their job reasonably permits the use of seats at times, especially when waiting for the machine to finish its part of the task that needed completing. In doing so, Employers harmed Mr. Ich Tux and other employees, because they were required to stand for extended periods of time despite the fact that the nature of their work did not require that they remain standing at all times.

Moreover, California Labor Code § 1198 makes it illegal to employ an employee under conditions of labor that are prohibited by the applicable IWC Wage Order. By failing to provide Mr. Ich Tux and other employees with suitable seats in violation of IWC Wage Order 7-2001, § 14, Employers have violated California Labor Code § 1198. As a result, Employers have violated both IWC Wage Order No. 7-2001, § 14 and California Labor Code § 1198, and are liable for civil penalties under California Labor Code §§ 558 and 2698, *et seq.*

CONCLUSION

In sum, Employers have committed PAGA violations based on non-compliance with California Labor Code §§ 204, 1118.12, 1197.1 (minimum wage), 226 (inaccurate itemized wage statements), 226 (wage statements), 226.7 (meal and rest break violations), 510-511, 119, 512 (meal breaks), 226 (wage statements), 1198 suitable seating requirements and 202-203 and 558 (waiting time penalties), as well as the applicable IWC Wage Order.

Mr. Ich Tux seeks to remedy these violations by securing unpaid wages and civil penalties. Please let me know whether the LWDA intends to investigate or whether we may proceed with a civil action as representatives for the LWDA and those employees that are aggrieved. If you have any questions, please do not hesitate to contact me.

Sincerely,



Vache Thomassian, Esq.
KJT Law Group, LLP

VIA ONLINE FILING

Labor and Workforce Development Agency

Attn: PAGA Administrator

Filed at "New PAGA Claim Notice" (<https://dir.tfaforms.net/308>)

VIA CERTIFIED MAIL, RRR

Priority Workforce, LLC

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CC: Alum-A- Coat Aluminum Anodizing

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