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April 16, 2014

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800 Capitol Mall, MIC-55
Sacramento, CA 95814

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APR 21 2014

LABOR STANDARDS ENFORCEMENT
S.F.

Via Certified U.S. Mail Only

Re: Juan Romo v. Shimmick Construction Company, Inc.
Our File Number: 6468

Dear Administrator:

Please allow this correspondence to serve as "written notice," as required by California Labor Code section 2699.3(a)(1), of the specific provisions of the California Labor Code believed to have been violated by Shimmick Construction Company, Inc. (hereinafter "Shimmick") in the above referenced matter. Thank you for your assistance on this issue.

The specific provisions alleged to have been violated by Shimmick are as follows:

CALIFORNIA LABOR CODE SECTIONS 201-203, 221, 226, 226(a), 226.7, 510, 512, 1194 and 2802, as well as IWC Wage Order 16, codified as Title 8, California Code of Regulations, section 11040 *et seq.*

Facts and theories supporting the allegations: Our client, Juan Romo, worked as a non-exempt employee for Shimmick from approximately October, 2011 through April 23, 2013.

Throughout the term of his employment, Shimmick required Mr. Romo, and all other non-exempt employees, to experience actions illegal under the California Labor Code, including the following:

- Shimmick has failed to provide timely Regular and Overtime compensation to its employees, because all hours worked by the Shimmick employees were and are not calculated or paid for, in violation of - among other statutes - Labor Code sections 201-203, 204, 510, and 1194. For example, Mr. Romo, and certain other Shimmick employees, continuously worked in excess of 8 hours a day and 40 hours a week,

without being provided all Overtime compensation owing to them. Mr. Romo, working on the San Vicente dam project, worked (on at least 1 occasion) 24 hours in a row, but was only paid for 16 hours in that day. Additionally, Mr. Romo would regularly work 16-hour days, without receiving all Overtime. The failure to pay all overtime owing was caused, at least in part, by Shimmick supervisors concerns for scheduling and limiting payroll.

- Shimmick failed to provide compliant meal and rest periods or requisite meal/rest period payments in violation of, *inter alia*, Labor Code sections 226.7, 512, and IWC Wage Order 16, codified as Title 8, California Code of Regulations, section 11160 (7) and (11). Shimmick possesses a deficient meal period policy which (1) does not ensure that a first meal period is provided before an employee works 5 consecutive hours of work, and (2) fails to provide a second meal period for shifts lasting in excess of 10 hours. Shimmick also failed to pay its employees an additional hour of pay at the “regular rate of compensation” for missed or late meal periods, as required by Labor Code section 226.7 and IWC Wage Order 16. Shimmick’s Rest Period Policy did not provide a Rest Period for each 4 hours “or major fraction thereof.” Moreover, Mr. Romo and other Shimmick employees were continuously denied Meal Periods and Rest Periods by Shimmick supervisors, who refused to allow the employees to take them;
- Shimmick failed to provide statutorily-compliant and accurate itemized wage statements, in violation of Labor Code section 226. For example, Shimmick failed to provide an accurate showing of the “gross wages earned,” in violation of Labor Code section 226(a)(1). This violation was caused by Shimmick’s failure to accurately pay for all regular and overtime worked. Shimmick also failed to provide an accurate showing of the “total hours worked by the employees,” in violation of Labor Code section 226(a)(2), for the same reasons set forth immediately above. Shimmick failed to provide an accurate showing of the “net wages earned,” in violation of Labor Code section 226(a)(5), for the same reasons set forth above. Shimmick also failed to provide an accurate showing of the “inclusive dates of the period for which the employee is paid,” in violation of Labor Code section 226(a)(6); simply, the required information is not present. Shimmick also failed to provide an accurate showing of the “last four digits of the employee’s social security number or an employee identification number,” in violation of Labor Code section 226(a)(7). Again, this information is not present. Shimmick also failed to provide an accurate showing of the “name and address of the legal entity that is the employer,” in violation of Labor Code section 226(a)(8); this information is not present. Finally, Shimmick failed to provide an accurate showing of the “number of hours worked at each hourly rate by the employee,” in violation of Labor Code section 226(a)(9), because the number of hours listed is inaccurate, due to the fact that Shimmick under-reported the regular and overtime hours listed. Please see **Exhibit A**.
- Shimmick failed to provide compliant expense reimbursement payments in violation of, *inter alia*, Labor Code section 2802, by failing to provide payments for expenses incurred by Mr. Romo and other non-exempt employees, including expenses for cell-

phone costs, boots, and mileage.

- Shimmick illegally deducted sums from its employees' wages in violation of, among other statutes, Labor Code section 221. These violations resulted from Shimmick's policy of making deductions, without explanation or prior authorization, from its employees' earned wages; and
- Shimmick failed to provide all compensation upon termination of employment in violation of Labor Code sections 201-203, due, in part, to the fact that Shimmick failed to provide proper compensation for all hours worked, as discussed above.

To confirm, Shimmick is a "person" as defined within California Labor Code section 18.

Again, thank you for your assistance and instruction throughout this matter. Should you have any questions or comments, please do not hesitate to contact the undersigned.

Very Truly Yours,



Clint S. Engleson, Esq.

Via Certified U.S. Mail

Scott Fairgrieve - *Agent for Service*
Shimmick Construction Company, Inc.
8201 Edgewater Drive, Suite 202
Oakland, CA 94621

EXHIBIT A

30108 Juan F. Romo

Check Number: 16280
Check Date: 4/25/13
Period Ending: 4/27/13
Pay Frequency: Weekly

Social Security Number: [REDACTED]

EARNINGS				
DESCRIPTION	RATE	HR/UNITS	AMOUNT	YEAR-TO-DATE AMOUNT
Regular	27.10000	24.00	650.40	17,073.00
Overtime	40.65000	7.00	284.55	3,739.82
Vacation	4.05000		125.55	2,924.12

Important Messages: 8201 Edgewater Dr. Ste 202 Oakland, Ca. 94621

THIS PAY PERIOD		
PERIOD ENDING	EARNINGS	NET PAY
4/27/13	1,060.50	699.94

YEAR TO DATE		
EARNINGS		NET PAY
23,736.94		15,042.72