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VIA Certified U.S. Mail – Return Receipt Requested

June 27, 2023

Labor and Workforce Development Agency
(via online submission)

Meirinho West, Inc.
Agent For Service: Tony R Meirinho
5418 Woodland Ave
Modesto, CA 95358

Mark Meirinho
1685 Dunn Road,
Modesto, CA 95358

RE: Labor Code §2699 Notice by Aggrieved Employee

This constitutes statutory notice pursuant to Labor Code § 2699.3(a)(1) for purposes of bringing a claim under the Private Attorneys General Act, Cal. Labor Code § 2699, et seq. Please consider this a request for the California Labor & Workforce Development Agency (“LWDA” or “Agency”) to take action against MEIRINHO WEST, INC. and MARK MEIRINHO, and their agents, managers and supervisors (collectively “Defendants”), for violations of the California Labor Code described below. I am writing on behalf of JOSE HERMOSILLO (hereinafter “HERMOSILLO”), an aggrieved employee represented by this law firm (hereinafter “Aggrieved Plaintiff”) who seeks to assert a PAGA claim on behalf of the State of California and all other similarly situated current or former employees who have been employed by Defendants in California during the relevant time period. Specifically, this notice is given on behalf of the following category of aggrieved employees:

All non-exempt employees of MEIRINHO WEST, INC. and/or MARK MEIRINHO (“Defendants”) who performed work in California for Defendants at any time after June 27, 2022.

PLEASE TAKE NOTICE THAT THIS IS ALSO A GENERAL LITIGATION PRESERVATION NOTICE to preserve all documents relating to all employees, including but not

limited to all timekeeping and payroll records in paper form, native electronic form, and any other format in which they are generated and maintained in the regular course of business; all databases and computer or electronic systems that are used for timekeeping and payroll; all records and evidence in any way related to the facts and claims asserted in this letter; all records and evidence in any way related to claims of Aggrieved Plaintiff, the state and other current or former employees under the California Labor Code Private Attorney General (including underlying Labor Code and IWC orders), the California Government Code, and the Equal Employment Opportunity Act. These documents include but are not limited to all schedules (both current and former) all timekeeping records, all rest and meal period records, all duty and responsibility records, all records of customers of the facilities that include employee signatures or initials, all payroll records, all state or federal withholding records, all personnel files and other employment records, all records concerning the payment or nonpayment of wages, or provision or non-provision of state mandated Labor Code protections, as well as all documents pertaining to harassment or discrimination against employees, all communications relating to these records and documents, and all emails relating to these records and documents.

Further, pursuant to California Labor Code §§ 210, 558, 1197.1, and other provisions of the Labor Code, please consider this a notice to Defendants' owners, supervisors, managers, agents and all other persons acting on behalf of Defendants and the employer who caused to be violated any provision of the California Labor Code or Wage Orders governing hours and days of work. As used herein, "Defendants" refers to all liable persons and entities, including owners, supervisors, managers, agents, and any other person acting on behalf of Defendants who "caused" the violations at issue.

Defendant MEIRINHO WEST, INC ("MEIRINHO") operates a Dairy Processing facility in Modesto, California. In so doing, Defendant directly employed Aggrieved Plaintiff and similarly situated aggrieved employees. Plaintiff worked at MEIRINHO's farm as a cowboy, moving and taking care of cattle, in or about August 2022 and also lived as a tenant in one of Defendants' houses on the property. During that time, Plaintiff was formally employed by MEIRINHO.

This investigation request and notice of California Labor Code violations concerns the systematic failure by Defendants to pay current and former California non-exempt employees in conformance with provisions set out in the California Labor Code and in Wage Orders promulgated by the Industrial Welfare Commission. At the core of Defendants' violations is a policy of: systematically failing to pay all wages earned, systematically failing to pay overtime wages for all hours worked by employees in excess of eight hours in a work day and/or 40 hours in a workweek; systematically refusing to provide rest periods or to provide premium wages in lieu thereof; systematically refusing to provide meal periods or to provide premium wages in lieu thereof; systematically failing to provide accurate wage statements and systematically failing to pay of all wages owed upon separation from employment. These violations are a uniform policy applied to all non-exempt workers at MEIRINHO WEST, INC.

MEIRINHO WEST, INC. discriminated, retaliated, harassed, created a hostile work environment, and/or took adverse action against employees who asserted their rights under state and federal laws, including but not limited to, 29 U.S.C. § 215(a)(3) and California Labor Code sections 98.6, 98.7, 1102. By way of example, MEIRINHO WEST, INC., among other things, retaliated, discriminated, created a hostile work environment, and wrongfully terminated HERMOSILLO, in response to and because of HERMOSILLO's repeated internal complaints

about wage and hour violations, requests for full payment for all hours worked, demands that MEIRINHO WEST, INC. comply with state and federal wage and hour laws, disclosing his intent to inform state and federal agencies about MEIRINHO WEST, INC.'s violation of federal and state wage and hour laws, and for requesting his employment records pursuant to California Labor Code § 226. MEIRINHO WEST, INC. engaged in this conduct to penalize HERMSILLO for engaging in protected activity and because of MEIRINHO WEST, INC.'s belief that HERMOSILLO is a prospective complainant and/or witness to the discriminatory and retaliatory conduct towards similarly situated employees.

Additional facts and allegations are set forth in Aggrieved Plaintiff's enclosed complaint. Liability under the PAGA may be based on a wide variety of Labor Code predicate provisions, including but not limited to sections 98.6, 98.7, 201, 203, 210, 216, 218, 218.6, 223, 225, 226, 226.2, 226.7, 510, 512, 2810.5, 1174, 1175, 1194, 1194.2, 1197, 1197.1, 1199, and 2802, Industrial Welfare Commission Wage Orders, sections 2699 et seq. and all of the provisions listed in Labor Code section 2699.5 (including the penalty provisions related to these predicate provisions), among others. Any violation of these or any other Labor Code provisions serve as the basis for a PAGA claim by an aggrieved employee on behalf of themselves and other current and former employees.

In particular, the policies described above, and the violations set forth below relate to all the non-exempt workers employed by MEIRINHO WEST, INC. in California:

1. MEIRINHO WEST, INC. failed to pay non-exempt employees all wages earned in violation of Cal. Labor Code §§ 201, 202, 221, 510, 1194 and 558, and the Wage Orders, by failing to keep accurate records of the full extent of actual hours worked and wages earned, and by requiring, suffering or permitting employees to work without compensation, requiring employees to work for hours not reflected in records, and by failing to pay for all hours worked.
2. MEIRINHO WEST, INC. failed to provide non-exempt employees rest periods of at least ten (10) minutes per four (4) hours worked or major fraction thereof and failure to pay premium rest period wages in lieu of rest periods. Defendants maintained a company-wide policy under which non-exempt employees were not allowed to take any uninterrupted, off-duty rest periods for a full 10-minutes during their shifts. Rather, employees were expected to work continuously.
3. MEIRINHO WEST, INC. failed to provide non-exempt employees meal periods of at least thirty (30) minutes per five (5) hours worked and/or failed to provide a second meal period of no fewer than 30 minutes for all workdays on which non-exempt employees worked more than ten (10) hours. Defendants also failed to pay premium meal period wages for these violations. Employees were required to manage heavy workloads and were not provided coverage or relief so that they could take meal periods. For example, HERMOSILLO was required to continuously be vigilant and attentive to a herd of cattle. To the extent he was able to consume a meal during his workday, he only had brief instances to do so while on-duty.

4. MEIRINHO WEST, INC. failed to provide accurate wage statements that reflect actual hours worked and amounts earned, as employees' wage statements failed to account for all hours worked and failed to provide the accurate amount of paid sick leave available to Plaintiffs and the Class, in the wage statements in violation of Labor Code §§ 226, 1174, and applicable Wage Orders. The wage statements also failed to reflect premium wages earned for meal and rest break violations, as described herein.
5. MEIRINHO WEST, INC. failed to pay all wages owed immediately or within 72 hours upon separation from employment in violation of Labor Code §§ 201, 202, 203, and 256 since it systematically failed to pay all wages earned and failed to pay all additional wages in lieu of providing all rest and meal periods.
6. MEIRINHO WEST, INC., among other things, retaliated, discriminated, harassed, created a hostile work environment, and/or took adverse employment action against employees for complaining about wage and hour violations and whom MEIRINHO WEST, INC. believed might disclose information to a state or federal governmental agency with the authority to investigate violations of the Labor Code, in violation of Labor Codes §§ 98.6, 98.7, 226, and 1102.5. For example, after HERMOSILLO complained to Defendant Mark Meirinho about Defendants' failure to pay overtime wages and failure to provide meal and rest breaks, Plaintiff's employment was terminated on the spot, which also resulted in the immediate termination of his housing agreement with Defendants.

The above provisions do not include all of the derivative penalties associated with the above provisions, which are listed throughout the Labor Code. If no action is taken within 65 days, we will assume that we may pursue this action under the theories described above against described entities above and their managers, agents, owners and other liable persons and entities (pursuant to § 210, 558 and 1197.1 (and other provisions)).

Aggrieved Plaintiff Jose Hermosillo may be contacted through our office: Mallison & Martinez Attorneys at Law, 1939 Harrison Street, Suite 730, Oakland, California 94612.

Sincerely,

MALLISON & MARTINEZ



Dan Keller, Esq.

Encls.