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June 20, 2023

VIA ELECTRONIC SUBMISSION

Stewart Knox
Secretary
California Labor & Workforce Development Agency
800 Capital Mall, Suite 5000 (MIC-55)
Sacramento, CA 95814

Re: **Cesar Murillo v. ENJ Dining Group, Inc., ENJD Dining Group, Inc.,
Boyoung Kim, and David Hong**
California Labor Code section 2698, *et seq.* violations

Dear Mr. Knox:

I am writing on behalf of aggrieved employee Cesar Murillo (“Murillo”). This notice is being made to the Labor & Workforce Development Agency pursuant to the requirement of Labor Code section 2698 *et al.* that Murillo, and other aggrieved employees, who were employed by ENJ Dining Group, Inc., ENJD Dining Group, Inc., Boyoung Kim, and David Hong as well as Does 1-10 who may also operate as part of ENJ Dining Group, Inc. and/or ENJD Dining Group, Inc. but are as yet unidentified (herein all of the above are collectively referred to as “ENJ”), as non-exempt hourly employees in California (the “Aggrieved Employees”). ENJ jointly employed Murillo as a non-exempt hourly cook until April of 2023.

Murillo, and each of the Aggrieved Employees described above, suffered from one or more of the following Labor Code violations by their current or former employer ENJ. All of the individuals in ENJ noted above, including but not limited to ENJ Dining Group, Inc. and ENJD Dining Group, Inc., are joint employers of the Aggrieved Employees both statutorily and under the common law with shared control over all conditions of employment, payments of wages, and management of the work of the Aggrieved Employees. ENJ is owned and controlled by Boyoung Kim, and David Hong who personally set all conditions of employment, make all employment decisions, set all employment policies, set all wages, and personally enact all decisions of consequence for ENJ. As such Boyoung Kim, and David Hong are persons acting as an employer under Labor Code sections 558 and 558.1. Furthermore, Boyoung Kim, and David Hong are the Chief Executive Officer, Secretary, and Chief Financial Officer, respectively, with shared ownership of the company and who personally oversee, payroll processing, conditions of employment, human resources and employee relations. Boyoung Kim, and David Hong also have common decision making and common management powers over ENJ and all employees.

Murillo and the other Aggrieved Employees’ employment with ENJ was governed by the California Wage Orders, and California Labor Code sections 201, 202, 203, 226, 226.7, 510, 512, 558, 558.1, 1174, 1175, 1194, 1194.2, 1197, 1197.1, 1198 and 2802.

Murillo worked for ENJ as a non-exempt hourly employee in Long Beach, California at ENJ's restaurant Aburi Sushi. Murillo and the other Aggrieved Employees were not paid overtime for all time worked after 8 hours of work in a workday/shift, 7 workdays in a workweek, and/or 40 hours worked in a workweek. Murillo and the other Aggrieved Employees have their timecards edited to reduce or eliminate overtime worked, and to match or closely match their scheduled hours, and not the hours they actually worked. Murillo and the other Aggrieved Employees are often required to work off the clock at the beginning or end of their shifts but are not paid for that time spent under ENJ's control. In addition to the above, Murillo and the other Aggrieved Employees are also kept on call during a two-hour waiting period in the middle of their shifts, and are required to monitor their cellular telephones to be ready to return to work at a moment's notice. Murillo and the other Aggrieved Employees are not paid for this on-call time and are not paid a split shift premium for this two-hour unpaid waiting period.

Murillo and the other Aggrieved Employees also were not provided with legally adequate meal periods and rest breaks, and ENJ does not pay premiums for non-complaint meal periods and rest breaks. If any premiums or bonuses were ever paid, ENJ did not pay any premiums at the Aggrieved Employees' correct regular rate of pay/compensation. ENJ does not provide any meal periods or rest breaks aside from the two-hour break in the middle of shifts, which as mentioned above, during which all Aggrieved Employees are kept on call. ENJ does not keep accurate records of when all work periods and meal periods begin or end and sometimes provides meal periods which are short and/or late. ENJ does not provide second meal periods after more than 10 hours of work in a workday, and does not provide rest breaks as required by California law. These policies are in violation of Labor Code §§ 226.7, 512, 558, 1198, and the IWC Wage Orders.

Murillo is informed and believes that it is ENJ's uniform practice and procedure to not reimburse its non-exempt workers for the use of their personal cellular devices and associated cellular service and/or data service plans which they use in the performance of their job, for the purchase and upkeep of their specialized work equipment, and for the purchase of other equipment and miscellaneous supplies necessary to their job duties but not provided by ENJ. Murillo and the other Aggrieved Employees are expected to use their personal cellular telephones to communicate with ENJ management/staff as part of their job duties. Murillo and the other Aggrieved Employees are expected to use their personal cellular telephones to access and use ENJ's payroll and timekeeping systems without reimbursement under Labor Code § 2802.

Murillo is also informed and believes that ENJ's above mentioned uniform policies and procedures are unlawful and have further caused ENJ to intentionally provide incorrect wages statements which do not accurately display all of the information required by Labor Code § 226(a), including but not limited to not accurately providing the gross wages earned, total hours worked by the employees, net wages earned and all hourly rates in effect in the pay period and the corresponding correct number of hours worked at each hourly rate by the employee. This has also resulted in a failure to keep accurate employment records under Labor Code §§ 226(b), 1174, and 1175, which ENJ already fails to keep for the time required by statute. ENJ

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additionally has a policy of not paying all wages at termination by waiting until the next regularly scheduled payday to pay the remaining earned wages of any terminated employee. ENJ's failure to pay all earned overtime and premium wages also results in a failure to pay all wages at termination. All of these policies and practices are in violation of Labor Code sections 201, 202(a), 203, 226(a) and (b), 226.7, 510, 512, 558, 558.1, 1174, 1175, 1194, 1194.2, 1197, 1197.1, 1198 and 2802, as well as the relevant IWC Wage Orders.

Sincerely,

GLEASON & FAVAROTE LLP

A handwritten signature in black ink, appearing to read 'Torey Favarote', with a long horizontal line extending to the right.

Torey Joseph Favarote

TJF/dd

cc: ENJ Dining Group, Inc., ENJD Dining Group, Inc., Boyoung Kim, and David SJ Hong