



June 1, 2023

VIA LWDA WEBSITE

Labor and Workforce Development Agency
Attn. PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612

Re: *Tera Ramirez v. Lawry's Restaurants, Inc., et al.*

To Whom It May Concern:

Please be advised that this law firm represents Tera Ramirez in claims arising from her employment with Lawry's Restaurants, Inc.; and DOES 1 through 100 (collectively "LRI"). Ms. Ramirez is an "aggrieved employee" as defined by Labor Code Section 2698 *et seq.*, due to LRI's numerous violations of the Labor Code as set forth below. The purpose of this letter is to comply with Labor Code Sections 2699.3, which requires aggrieved employees to notify their employer and the Labor & Workforce Development Agency ("LWDA") of the specific provisions of the Labor Code allegedly violated.

LRI is in the restaurant business, with locations across the United States and internationally. Ms. Ramirez worked for LRI as a non-exempt employee in the position of server at LRI's flagship restaurant in Beverly Hills from approximately January 2018 until approximately July 17, 2022, when she was wrongfully terminated. Ms. Ramirez did not work a set schedule, rather she would be made to work at the whims of LRI's management anywhere from 3-6 days per week. However, as discussed below, Ms. Ramirez usually worked more hours per shift than she was credited as having worked.

For purposes of this letter, the "aggrieved employees" whom Ms. Ramirez seeks to represent are the other aggrieved employees of LRI in California at any time during the one year preceding the date of this letter through the present.

At various times during the relevant time period, LRI required Ms. Ramirez and other aggrieved employees to work off-the-clock. For example, Ms. Ramirez and other aggrieved employees would work off-the-clock by virtue of LRI's practice of requiring Ms. Ramirez and other aggrieved employees to perform pre-shift work prior to clocking in for their shifts. This pre-shift work included duties such as folding napkins, setting up tables, assisting others in preparing the restaurant for service, and assisting with stocking. Ms. Ramirez estimates that this pre-shift work would take she and other aggrieved employees anywhere from 15-45 minutes each shift that they worked to complete. All of these duties necessarily performed for the benefit of LRI were performed under the express direction of Ms. Ramirez's supervisors prior to being permitted to clock in. At no

point were Ms. Ramirez and other aggrieved employees compensated for any of this time. Each and every manager that supervised Ms. Ramirez throughout her employment explicitly instructed Ms. Ramirez and other aggrieved employees to complete the pre-shift work as described above before clocking in for their shifts, including, but not limited to: i) Peter May; ii) Aneil Chopra; iii) Billie Freeman; iv) Tom Brown; v) Joe Mercado; vi) Michael Papac; and vii) JJ Wang. LRI was aware, or reasonably should have been aware, that this off-the-clock work was being performed but failed to compensate Ms. Ramirez and other aggrieved employees for such off-the-clock work, most of which constituted overtime hours worked. As such, LRI failed to ensure that Ms. Ramirez and other non-exempt employees were being paid at least the minimum wage for all hours actually worked and failed to ensure that Ms. Ramirez and other aggrieved employees received proper overtime wages for all overtime hours worked.

Further, on those occasions where Ms. Ramirez worked overtime hours during the week, Ms. Ramirez was rarely, if ever, compensated at the requisite overtime rate of pay. Upon information and belief, LRI systemically failed to pay overtime compensation due to Ms. Ramirez and other aggrieved employees when they met the statutory hourly thresholds to entitle them to overtime pay. Additionally, Ms. Ramirez and other aggrieved employees would be subject to LRI's "on-call" practices, whereby they would be forced to remain "on-call" for hours a day geographically constrained to the general vicinity of LRI, necessarily under LRI's control, waiting to hear whether they would be working or not. Ms. Ramirez and other aggrieved employees were not ever compensated for these "on-call" hours necessarily worked. As a result, LRI failed to ensure that Ms. Ramirez and other aggrieved employees were being paid at least the minimum wage for all hours actually worked and failed to ensure that Ms. Ramirez and other aggrieved employees received proper overtime wages for all overtime hours worked, in compliance with Wage Order 5.

Ms. Ramirez and other aggrieved employees were not authorized to take all legally required rest periods throughout her employment with LRI. Rather, Ms. Ramirez and other aggrieved employees would generally be working through their entire shifts in their efforts to meet the intense business demands imposed on them by LRI. Ms. Ramirez does not recall ever having actually received or been authorized to take any rest periods throughout the entirety of her tenure working for LRI. Despite LRI's failure to authorize and permit Ms. Ramirez and other aggrieved employees to take all lawful paid rest periods, due to their uniform and unlawful practices, LRI never provided Ms. Ramirez and other aggrieved employees with an hour of pay at their regular rate for each rest period violation as required by Labor Code § 226.7. Upon information and belief, during at least a portion of the time period in question, LRI maintained no payroll code or another mechanism for the payment of rest period premiums in the event Ms. Ramirez and other aggrieved employees were not authorized to take lawful rest periods.

LRI also rarely, if ever, provided Ms. Ramirez and other aggrieved employees with a compliant first meal period when they worked shifts in excess of 6.0 hours. Ms. Ramirez and other aggrieved employees rarely, if ever, were entitled to exercise the use of a thirty-

minute uninterrupted meal period despite almost always working at least 6.0 hours in a day. Rather, Ms. Ramirez and other aggrieved employees would be specifically instructed to clock out for lunch, continue working through their shifts, and clock back in after 30 minutes in a backhanded effort by LRI's management to feign compliance with the law. LRI were not only aware of, but actively encouraged this practice. Again, as described above, Ms. Ramirez and other aggrieved employees would work through their entire shifts without breaks, meaning that not only did they not receive meal periods which they were statutorily entitled to, they were working off-the-clock during the time that should have been spent exercising a meal period. Upon information and belief, LRI did not accurately record meal periods in any manner and acted to falsify the time punch records of Ms. Ramirez and other aggrieved employees in a manner that deprived them of their meal periods and minimum/overtime wages. Despite LRI's failure to provide Ms. Ramirez and other aggrieved employees with all lawful meal periods due to their uniform and unlawful practices, LRI never provided Ms. Ramirez and other aggrieved employees with an hour of pay at their regular rate for each meal period violation as required by Labor Code § 226.7. In addition, to LRI's failure to provide Ms. Ramirez and other aggrieved employees with all legally required first meal periods, LRI also failed to provide second meal periods to Ms. Ramirez and other aggrieved employees when they worked shifts in excess of 10.0 hours. Despite frequently working shifts in excess of 10+ hours, Ms. Ramirez and other aggrieved employees did not ever receive second meal periods.

LRI failed to adequately reimburse Ms. Ramirez and other aggrieved employees for all reasonable and necessary work expenditures, including but not limited to, requiring them to purchase their own uniform items, namely pantyhouse in accordance with LRI's uniform requirements, without reimbursement. Ms. Ramirez estimates that she has spent thousands of dollars on pantyhouse in order to comply with LRI's uniform directives and was at no point reimbursed for these expenditures. Furthermore, Ms. Ramirez and other aggrieved employees were required to utilize their personal cellular phones for work purposes on a near daily basis, whether scheduled to work or not, without any reimbursement for cell phone costs.

As a result of LRI's failure to pay all minimum and overtime wages, and failure to provide all required meal periods and authorize all rest periods or pay premium pay in lieu thereof, LRI have maintained inaccurate payroll records, failed to timely pay all wages owed to employees, and issued inaccurate wage statements.

Furthermore, LRI violated Labor Code § 204 by failing to pay Ms. Ramirez and other aggrieved employees all wages earned at least twice during each calendar month.

LRI failed to meet its obligations to provide paid sick leave to Ms. Ramirez and other aggrieved employees under Labor Code § 245.5(b) which requires that employers authorize and permit employees who worked 30 or more days within a year to accrue paid sick leave, and allow them to exercise paid sick leave on or after their 90th day of employment. Despite meeting all of the statutory requires for being able to accrue and utilize paid sick leave, Ms. Ramirez and other aggrieved employees were not provided

paid sick leave on those occasions where they needed to take a “sick day” in violation of Labor Code § 245.5(b).

Finally, LRI failed to conform to the requirements of Labor Code § 2810.5 by failing to provide Ms. Ramirez and other aggrieved employees written notices, in the language normally used to communicate employment related information to the employees, containing information regarding their: i) rate(s) of pay and the basis thereof; ii) allowances claimed as part of the minimum wage; iii) regular payday designated by the employer; iv) the legal name of the employer; v) the address of the legal entity that is the employer; vi) the telephone number of the employer; vii) identifying information for the employer’s workers’ compensation insurance carrier; and viii) information informing the employee of their right to accrue and use paid sick leave. Despite maintaining an obligation to provide these disclosures to Ms. Ramirez and other aggrieved employees, LRI failed to do so in violation of Labor Code § 2810.5.

As described above, LRI committed the following violations of the Labor Code, and Industrial Welfare Commission Wage Order 5 (“Wage Order 5”):

Minimum Wage Violations

LRI was required to pay Ms. Ramirez and other aggrieved employees an hourly rate at least equal to the minimum wage for each hour actually worked. See Labor Code §§ 1182.12, 1194; 1194.2, 1197; Wage Order 5 § 4. As alleged above, LRI maintained and maintains timekeeping policies/practices that regularly, systematically, and impermissibly underreport the hours worked by Ms. Ramirez and other aggrieved employees whether by rounding, time-shaving, or otherwise. As a result of these policies/practices, which fail to compensate for all hours worked, Ms. Ramirez and other aggrieved employees were deprived of all required minimum wages.

Overtime Wage Violations

LRI was required to pay Ms. Ramirez and other aggrieved employees overtime wages for all overtime hours worked. See Labor Code §§ 1194(a) and 1198; Wage Order 5, § 3. Wage Order 5, § 3 requires an employer to pay overtime wages when an employee’s hours worked cross certain thresholds or meet certain criteria set forth in the Wage Order. At all times relevant herein, LRI caused Ms. Ramirez and other aggrieved employees to work overtime hours but did not compensate Ms. Ramirez and other aggrieved employees at one and one-half times their regular rate of pay for such hours.

Meal Period Violations

As alleged above, LRI failed to provide Ms. Ramirez and other aggrieved employees with all required and compliant meal periods due to LRI’Ss meal period policies/practices that often fail to provide 30 minute off-duty first meal periods before the

end of the fifth hour of work. *See* Labor Code §§ 226.7 and 512; Wage Order 5, § 11. As a result, Ms. Ramirez and other aggrieved employees are owed an additional hour of wages at their regular rate of compensation for each workday they experienced a meal period violation. *See* Labor Code § 226.7 (“If an employer fails to provide an employee a meal or rest or recovery period in accordance with ... [an] order of the Industrial Welfare Commission ... the employer shall pay the employee one additional hour of pay at the employee’s regular rate of compensation for each workday that the meal or rest or recovery period is not provided.”).

Rest Period Violations

As alleged above, LRI also failed to authorize and permit Ms. Ramirez and other aggrieved employees to take all required paid rest periods. *See* Labor Code §§ 226.7 and 516; Wage Order 5, § 12. As a result, Ms. Ramirez and other aggrieved employees are owed an additional hour of wages at their regular rate of compensation for each workday that they were not authorized and permitted to take all legally required paid rest periods. *See* Labor Code § 226.7 (“If an employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee’s regular rate of compensation for each workday that the meal or rest period is not provided.”)

Failure to Reimburse Necessary Business Expense

LRI was subject to Labor Code § 2802, which states that “an employer shall indemnify his or her employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or obedience to the directions of the employer.” LRI was subject to Labor Code § 2804, which states that “any contract or agreement, express or implied, made by any employee to waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive any employee or his personal representative of any right or remedy to which he is entitled under the laws of this State.” As alleged herein, due to LRI’s unlawful reimbursement practices, LRI failed to indemnify Ms. Ramirez and other aggrieved employees for all necessary business expenses incurred.

Wage Statement Violations

LRI was required to furnish Ms. Ramirez and other aggrieved employees with complete and accurate itemized wage statements that showed, among other things, their rates of pay, corresponding number of hours worked at each rate of pay, total gross wages earned, and total net wages earned. *See* Labor Code §§ 226(a) and 1174(d); Wage Order 5, § 7. As a result of LRI’s failure to pay all overtime wages, minimum wages, and failure to pay all required meal and rest period premium wages, LRI maintained inaccurate payroll records and issued inaccurate wage statements to Ms. Ramirez and other aggrieved employees in violation of Labor Code § 226.

Waiting Time Penalties

Labor Code §§ 201 and 202 require that employees receive all of their final wages at the time of their separation of employment. LRI failed to timely pay Ms. Ramirez and other aggrieved employees all of their final wages at the time of separation, which included all overtime and minimum wages, and all meal and rest period premium wages at the time of aggrieved employees' separation of employment. Pursuant to Labor Code § 203, LRI's failure to pay all final wages due to Ms. Ramirez and other aggrieved employees was willful and, consequently, entitles Ms. Ramirez and other aggrieved employees to waiting time penalties equal to one day of wages at their standard hourly rate for each day LRI failed to pay their final wages after their separation from employment, up to a maximum of thirty days.

As an "aggrieved employee," Ms. Ramirez will initiate a civil action on behalf of herself and other aggrieved employees to recover damages, statutory penalties, and civil penalties resulting from the wage and hour violations alleged herein. Based on Ms. Ramirez's own investigation, and on information and belief, LRI committed and continues to commit the following Labor Code violations:

- a. LRI violated Labor Code §§ 551-552, 558, 1182.12, 1194, 1194.2, 1197, and 1198 by failing to pay Ms. Ramirez and other aggrieved employees the statutory minimum wage for all hours worked;
- b. LRI violated Labor Code §§ 204, 510, 558, 1194, and 1198 by failing to pay Ms. Ramirez and other aggrieved employees all overtime compensation earned;
- c. LRI violated Labor Code §§ 226.7, 512, and 1198 by failing to provide meal periods as required by law and failing to pay meal period premiums to Ms. Ramirez and other aggrieved employees at these employees' respective regular rates of compensation for meal period violations;
- d. LRI violated Labor Code §§ 226.7, 516, and 558 by failing to authorize and permit Ms. Ramirez and other aggrieved employees from taking all required paid rest periods, and/or failing to pay all rest period premiums to Ms. Ramirez and other aggrieved employees at their respective regular rates of compensation;
- e. LRI violated Labor Code §§ 2802 and 2804 by failing to reimburse Ms. Ramirez and other aggrieved employees for all work-related expenses incurred;
- f. LRI violated Labor Code § 226 by failing to furnish Ms. Ramirez and other aggrieved employees with accurate and compliant itemized wage statements;

- g. LRI violated Labor Code §§ 201, 202 and 203 by failing to timely pay all final wages due upon separation of employment to Ms. Ramirez and other aggrieved employees;
- h. LRI violated Labor Code § 204 by failing to pay Ms. Ramirez and other aggrieved employees all wages earned at least twice during each calendar month;
- i. LRI violated Labor Code § 245.5(b) by failing to pay all sick pay to Ms. Ramirez and other aggrieved employees on those occasions where they needed to take a “sick day”;
- j. LRI violated Labor Code §§ 1174 and 1198 by failing to maintain accurate records on behalf of Ms. Ramirez and other aggrieved employees; and
- k. LRI violated Labor Code § 2810.5 by failing to provide legally mandated disclosures and/or written notices regarding the terms of employment of Ms. Ramirez and other aggrieved employees.

Pursuant to Labor Code Section § 2699.3(a)(2)(A), please notify us and LRI if the LWDA intends to investigate the alleged violations of the Labor Code stated herein. Please contact me should you require additional information.

Very truly yours,
STANSBURY BROWN LAW, PC



Ethan C. Surls

cc: Lawry's Restaurants, Inc. (via certified mail)