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January 15, 2025

VIA CERTIFIED U.S. MAIL

Acme Glass Co., Inc.
Eric Wortman
253 Plum Street
Vacaville, CA 95688

Acme Glass Co., Inc.
Eric Wortman
2400 Martin Road Ste C
Fairfield, CA 94534

Re: PAGA NOTICE -- Garcia v. Acme Glass Co., Inc., et al.

To Whom It May Concern:

This office has been retained by Ricardo Garcia ("Mr. Garcia" or "Plaintiff"), your employee. I am writing on behalf of Mr. Garcia, and all similarly situated employees, pursuant to the Labor Code Private Attorneys General Act of 2004 ("PAGA"), Cal. Labor Code § 2699 et seq.

Pursuant to Labor Code Sections 2699 et seq, a copy of this letter is being sent to the California Labor and Workforce Development Agency, along with a PAGA Claim Notice, and shall serve as a formal PAGA Notice to Acme Glass Co., Inc., Eric Wortman, and any of its members, officers, directors, owners, and related individuals responsible for causing the violations of the Labor Code as set forth in this letter (collectively referred hereafter as "Acme" or "Defendants").

Mr. Garcia, on behalf of himself and all other aggrieved employees, contends that Defendants have violated multiple California Labor Code provisions. Certain of these violations provide for "statutory penalties" for which a private right of action existed before passage of PAGA and for which no PAGA notice is required in order to maintain a civil action.

As the court in *Caliber Bodyworks, Inc., v. Superior Court (Herrera)* (2005) 134 Cal. App. 4th 365, explains:

> Not all statutory penalties are "civil penalties" covered by the Act.
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> ***
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> [Defendant] fails to distinguish between a request for statutory penalties provided by the Labor Code for employer wage-and-hour violations, which were recoverable directly by employees well before the Act [PAGA] became part of the Labor Code, and a demand for "civil penalties," previously enforceable only by

> the State's labor law enforcement agencies. An example of the former is section 203, which obligates an employer that willfully fails to pay wages due an employee who is discharged or quits to pay the employee, in addition to the unpaid wages, a penalty equal to the employee's daily wages for each day, not exceeding 30 days, that the wages are unpaid.

Caliber Bodyworks, 134 Cal. App. 4th at 377.

> Section 2699.5 includes many Labor Code provisions that, prior to the Act, contained a private right of action. (§ 2699.5)

Id. at 382.

With regard to those Labor Code sections for which no PAGA notice is required, we provide this correspondence in a further effort to resolve this matter informally without the time and expense of court proceedings.

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Plaintiff wishes to bring a representative action on behalf of himself and the State of California as well as on behalf of a group of aggrieved employees defined as: non-exempt hourly employees, for Defendants in the State of California who worked one or more pay periods since one (1) year prior to the date of this PAGA notice and continuing to the present (hereinafter "aggrieved employees").

NOTICE OF LABOR CODE VIOLATIONS

1. OVERTIME VIOLATIONS (Labor Code §§ 510, 1194, 1198)

California Labor Code section 510 states: "Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee." Labor Code section 1194 provides that "any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees, and costs of suit." Labor Code section 1198 makes it unlawful to employ workers under conditions that violate the applicable wage order.

During the relevant time period, Mr. Garcia and other aggrieved employees routinely worked in excess of 8 hours in a day and 40 hours in a week. Specifically, Mr. Garcia worked approximately 1-2 hours of overtime at least once or twice per week without proper compensation. Acme also required Mr. Garcia and other aggrieved employees to clock out before completing work duties, including unloading tools and driving company trucks, resulting in uncompensated overtime work. Acme failed to compensate Mr. Garcia and other aggrieved employees for all hours worked and performing off-the-clock work. Therefore, Mr. Garcia and other aggrieved employees were entitled to receive certain wages for overtime compensation, but they were not paid for all overtime hours worked.

2. NOT PAID FOR ALL HOURS WORKED (Labor Code §§ 204, 1194, 1197)

California Labor Code section 204 requires that "all wages [...] earned by any person in any employment are due and payable twice during each calendar month." Labor Code sections 1194 and 1197 ensure payment of minimum wages for all hours worked.

Acme failed to pay Mr. Garcia and other aggrieved employees for all hours worked and performing off-the-clock work. Specifically, Mr. Garcia was required to clock out before unloading tools and driving trucks, resulting in approximately 30 minutes per day of uncompensated work. Acme engaged in a pattern and practice of requiring employees to work without compensation, which resulted in systematic underpayment for all hours worked.

3. NOT PAID WAGES DUE ON TERMINATION (Labor Code §§ 201, 202, 203)

California Labor Code section 201 requires that "if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately." California Labor Code section 202 requires that "if an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting." California Labor Code section 203 provides that "if an employer willfully fails to pay, without abatement or reduction, in accordance with Labor Code sections 201, 201.3, 201.5, 201.6, 201.8, 201.9, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days."

During the relevant time period, Acme failed to pay Mr. Garcia and other aggrieved employees all wages due upon separation, including uncompensated off-the-clock work, unpaid overtime premiums, and premium wages for failing to provide legally mandated meal and rest breaks. Mr. Garcia was terminated on or about September 4, 2025, and Acme failed to pay him all wages due within the time period specified by California Labor Code sections 201 and 203 and therefore is liable under California Labor Code section 203.

4. MEAL AND REST BREAK VIOLATIONS (Labor Code §§ 226.7, 512)

California Labor Code section 226.7 states: "(a) An employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission... (b) If an employer fails to provide an employee a meal or rest or recovery period in accordance with a state law... 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." Section 512(a) states: "An employer shall not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes... An employer shall not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes."

During the relevant time period, Acme routinely required Mr. Garcia and other aggrieved employees to work through, interrupt, cut short, and/or delay their meal and rest breaks to comply with Acme's policies and expectations, and meet job demands. Specifically, Mr. Garcia did not consistently receive 30-minute lunch breaks due to job demands; lunch breaks were often interrupted or not provided before the 5th hour of work. Additionally, while Mr. Garcia was supposed to receive 10-minute rest breaks, job demands made it difficult for him to take them consistently. Acme also failed to provide adequate coverage to Mr. Garcia and other aggrieved employees so they may be relieved of all work duties and take legally mandated meal and rest breaks. Despite these facts, Acme failed to compensate Mr. Garcia and other aggrieved employees all the premium wages they were owed.

5. IMPROPER OR INCOMPLETE WAGE STATEMENTS (Labor Code § 226)

California Labor Code section 226(a) provides: "Every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee."

During the relevant time period, Acme did not provide Mr. Garcia and other aggrieved employees with complete and accurate itemized wage statements. Specifically, Mr. Garcia received wage statements that did not accurately reflect all overtime hours worked, the proper rate of overtime pay, or proper compensation for the failure to provide rest and meal periods. The wage statements received from Acme were in violation of California Labor Code section 226(a). The violations include, but are not limited to, the failure to include (1) accurate gross wages earned by Mr. Garcia and other aggrieved employees, (2) accurate total hours worked by Mr.

Garcia and other aggrieved employees, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by Mr. Garcia and other aggrieved employees.

6. RECORDKEEPING VIOLATIONS (Labor Code § 1174)

California Labor Code section 1174(d) requires an employer to keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept with rules established for this purpose by the commission, but in any case, shall be kept on file for not less than two years.

During the relevant time period, Acme failed to keep accurate and complete payroll records showing the hours worked daily and the wages paid to Mr. Garcia and other aggrieved employees. Specifically, Acme required Mr. Garcia to clock out before completing work duties such as unloading tools and driving trucks, thereby failing to record all hours actually worked. By failing to maintain complete and accurate records of daily hours worked and meal periods, Acme not only violated its statutory obligations but also shifted the burden to employees to prove their hours worked, further depriving them of their earned wages.

7. PENALTIES UNDER LABOR CODE § 558

California Labor Code section 558 allows recovery of penalties: "(a) Any employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars ($50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred dollars ($100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (3) Wages recovered pursuant to this section shall be paid to the affected employee."

Mr. Garcia and other aggrieved employees have been denied their wages and premium wages and, therefore, are entitled to penalties under Labor Code section 558.

CONCLUSION AND REQUEST FOR RESOLUTION

We believe that Mr. Garcia and other current and former California-based hourly-paid or non-exempt employees are entitled to penalties as allowed under California Labor Code section 2698, et seq. for violations of Labor Code and IWC Wage Orders.

California Labor Code section 2699.3 requires that a claimant send a certified letter to the employer in question and the California Labor & Workforce Development Agency setting forth the claims, and the basis for the claims, thereby giving the California Labor & Workforce

Development Agency an opportunity to investigate the claims and/or take any action it deems appropriate.

The purpose of this letter is to satisfy the requirement created by California Labor Code section 2699 prior to seeking penalties allowed by law for the aforementioned statutory violations. We look forward to determining whether California Labor & Workforce Development Agency intends to take any action in reference to these claims. We kindly request that you respond to this notice according to the time frame contemplated by the California Labor Code.

Mr. Garcia will seek these penalties on Acme's own behalf and on behalf of other similarly situated California-based hourly-paid or non-exempt employees of Acme within one year of the date of this letter, as allowed by law.

Halavi Law, Inc.

Naveed Halavi, Esq.