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VIA Certified U.S. Mail – Return Receipt Requested

July 3, 2023

Labor and Workforce Development Agency
(via online submission)

Wineshipping.com LLC
Agent For Service: Stacy Aleman
50 Technology CT
Napa, CA 94558

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 WINESHIPPING.COM LLC and their agents, managers and supervisors (“Defendants”), for violations of the California Labor Code described below. I am writing on behalf of Josefina Flores Diaz, 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 WINESHIPPING.COM LLC who performed work in California for Defendants at any time after July 3, 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 WINESHIPPING.COM LLC ("WINESHIPPING") operates facilities shipping wine across the United States, including Napa, California. In so doing, Defendant directly employed Aggrieved Plaintiff and similarly situated aggrieved employees herein. Aggrieved Plaintiff began working at WINESHIPPING Napa facility preparing shipments of wine on or about July 2019. During that time, Plaintiff was formally employed by WINESHIPPING.

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 Defendant's 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 WINESHIPPING.

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 WINESHIPPING in California:

1. WINESHIPPING 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 inaccurately keeping records 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. WINESHIPPING 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 period, including but not limited to unprovided rest periods, late rest periods, and non-net ten (10) minute rest periods because of time spent working during rest periods to manage heavy workload and understaffing, and being interrupted by supervisors during rest periods, when they are given, to assist with heavy workloads within the applicable time limits as instructed by Defendants, in violation of California state laws, wage orders, and public policy;
3. WINESHIPPING 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 and failure to pay premium rest period wages in lieu of rest period, including but not limited to unprovided rest periods, late rest periods, and non-net ten (10) minute rest periods because of time spent working during rest periods to manage heavy workload and understaffing, and being interrupted by supervisors during rest periods, when they are given, to assist with heavy workloads within the applicable time limits as instructed by Defendants, in violation of California state laws, wage orders, and public policy.
4. WINESHIPPING failed to provide accurate wage statements that reflect actual hours worked and amounts earned as employees' wage statements failed the wage statement failed to account for all hours worked and failed to provide premium wages for missed, short, or late rest and/or meal periods to Plaintiffs and aggrieved employees, in the wage statements in violation of Labor Code §§ 226, 1174, and applicable Wage Orders.
5. WINESHIPPING 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.

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 Josefina Flores Diaz may be contacted through our office: Mallison & Martinez Attorneys at Law, 1939 Harrison Street, Suite 730, Oakland, California 94612.

Sincerely,

MALLISON & MARTINEZ

A handwritten signature in black ink, appearing to be 'H. Martinez', with a long, sweeping horizontal stroke extending to the right.

Hector R. Martinez, Esq.