



751 N. FAIR OAKS AVENUE, SUITE 102
PASADENA, CA 91103
TEL 213-612-0988
FAX 213-947-1211

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BY U.S. EMAIL/ELECTRONIC SUBMISSION

PAGAfilings@dir.ca.gov
State of California
Labor & Workforce Development Agency
800 Capitol Mall, MIC-55
Sacramento, California 95814

Re: *Matthew Lucas vs. International Golf Maintenance, Inc.*

Dear Representative:

We have been retained to Matthew Lucas against International Golf Maintenance, Inc. (“Defendant”) for violations of California wage-and-hour laws.

Background

Mr. Lucas is pursuing his California Labor Code section 2698 *et seq.* (the Private Attorneys General Act of 2004 (“PAGA”)) claim on a representative basis. Therefore, Mr. Lucas may seek penalties for violations of the Labor Code on behalf of the State of California and aggrieved employees, which are recoverable under PAGA. This letter is sent in compliance with the reporting requirements of California Labor Code section 2699.3. The “aggrieved employees” Mr. Lucas seeks to represent are all current and former hourly paid non-exempt employees who worked in California at any time during the one-year period preceding the date of this letter.

Defendant International Golf Maintenance, Inc. is a Delaware corporation, headquartered at 5385 Gateway Blvd, Ste. 12 Lakeland, Florida 60606, and operating in the State of California, including at 29541 Rolling Oak Drive, Bear Valley Springs, California 93561. Defendant employed Mr. Lucas as an hourly-paid, non-exempt employee.

Legal Violations Alleged

As a pattern and practice, Defendant failed to properly pay Mr. Lucas and other hourly-paid or non-exempt aggrieved employees for all hours worked, including time spent working off-the-clock, failed to provide meal and rest breaks in compliance with law, failed to pay all vested vacation wages, failed to reimburse employees for necessary work-related expenses, failed to issue compliant wage statements, and failed to pay all wages due and owing upon termination, thus resulting in other Labor Code violations as stated below.

Defendant has violated and/or continues to violate, among other provisions of the California Labor Code and applicable wage law, California Labor Code sections 201, 202, 203, 204, 216, 225.5, 226(a), 226.3, 226.7, 227.3, 510, 512, 558, 1174(d), 1194, 1197, 1197.1, 1198, and 2802.

California Labor Code sections 1194, 1197 and 1197.1 provide the minimum wage and overtime wage to be paid to employees, and further provide that the payment of a lesser wage than the minimum so fixed is unlawful. During the relevant time period, Defendant failed to compensate Mr. Lucas and other aggrieved employees for all hours worked, including time spent working through meal periods and time spent working “unauthorized” pre- and post-shift work, and “unauthorized” overtime. Mr. Lucas claims that he and other employees were not permitted to record hours worked before the start of the shift or past the scheduled clock-out time, and consequently were not paid for this off-the-clock time. Thus, Defendant did not provide aggrieved employees with the minimum and overtime wages to which they were entitled for the on-call time worked. Mr. Lucas contends he and aggrieved employees are entitled to penalties in the amount of \$100 for each first violation and \$250 for each subsequent violation, in addition to an amount sufficient to recover unpaid wages under Labor Code § 1197.1.

California Labor Code sections 226.7, 512 and 558 require employers to authorize and permit a 10-minute rest break for every four (4) hours worked or major fraction thereof, and provide a 30-minute meal period for every five (5) hours worked. During the relevant time period, Defendant failed to provide Mr. Lucas and other aggrieved employees with timely meal periods, and altogether failed to authorize and permit rest breaks. Nevertheless, Defendant failed to pay meal period and rest break premium wages. Mr. Lucas contends he and aggrieved employees are entitled to penalties in the amount of up to \$200 per aggrieved employee per pay period under Labor Code § 2699.

California Labor Code section 227.3 and *Suastez v. Plastic Dress-Up Co.*, 31 Cal. 3d 776 (1982) require employers to pay all vested vacation wages (regardless of label, including for example floating holidays and personal days and other forms of vacation equivalent time off) upon termination of employment. During the relevant time period, Defendant failed to pay all vested vacation wages to Mr. Lucas and other aggrieved employees at the end of employment, by either failing to accrue to Mr. Lucas’s and other aggrieved employees’ vacation wages during employment as required by corporate policy

and permitted under California law, or simply requiring forfeiture of accrued vacation upon termination of employment. Mr. Lucas contends he and aggrieved employees are entitled to penalties in the amount of \$100 for each aggrieved employee per pay period pursuant to Labor Code section 2699.

California Labor Code section 2802 requires employers to reimburse employees for necessary work-related expenses. During the relevant time period, Defendant failed to reimburse Mr. Lucas and other aggrieved employees for the full amount of business expenses, including expenses incurred in the required use of cell phones for work purposes. Mr. Lucas contends that he and other aggrieved employees are entitled to penalties in the amount of up to \$200 for each aggrieved employee per pay period pursuant to Labor Code section 2699. Mr. Lucas and other aggrieved employees are further entitled to recover an amount sufficient to recover unreimbursed business expenses pursuant to Labor Code section 2802(d).

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. During the relevant time period, Defendant failed to pay Mr. Lucas and other aggrieved employees all wages due to them within any time period specified by California Labor Code section 204, including as outlined above. Mr. Lucas contends that pursuant to Labor Code section 210, he and other aggrieved employees are entitled to recover penalties of \$100 for the first violation of section 204 and \$200 for each subsequent violation, plus 25 percent of the amount of wages unlawfully withheld.

California Labor Code sections 201 to 203 require that employers pay their employees all wages due and owing upon termination of employment within specified time periods. During the relevant time period, Defendant failed to pay Mr. Lucas and other aggrieved employees all wage due them within the time periods specified by California Labor Code sections 201 to 203 as outlined above. Mr. Lucas contends that he and other aggrieved employees are entitled to penalties in the amount up to \$200 for each aggrieved employee per pay period pursuant to Labor Code section 2699.

California Labor Code section 226 requires employers to make, keep and provide complete and accurate itemized wage statements to their employees. During the relevant time period, Defendant did not provide Mr. Lucas and other aggrieved employees with complete and accurate itemized wage statements. The wage statements they received from Defendant were in violation of California Labor Code section 226(a). The violations include, but are not limited to, the failure to include (1) gross wages earned by Mr. Lucas

and other aggrieved employees, (2) total hours worked by Mr. Lucas and other aggrieved employees, (3) net wages earned by Mr. Lucas and other aggrieved employees, and (4) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by Mr. Lucas and other aggrieved employees. Mr. Lucas asserts he and aggrieved employees are entitled to recover penalties in the amount of \$25 per employee per pay period for inaccurate wage statements, \$250 per employee for missing wage statements, and \$750 for any failure to produce records upon request.

California Labor Code section 558 allows recovery of penalties, including penalties equal to the amount of unpaid wages:

- (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. Lucas and other aggrieved employees have been denied their wages and premium wages and, therefore, are entitled to penalties.

California Labor Code sections 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, Defendant failed to keep accurate and complete payroll records showing the hours worked daily and the wages paid to Mr. Lucas and other aggrieved employees.

We believe that Mr. Lucas and other current and former California-based hourly-paid or non-exempt employees of Defendant are entitled to penalties and wages as allowed under California Labor Code section 2698, *et seq.* for violations of Labor Code sections 201, 202, 203, 204, 216, 225.5, 226(a), 226.3, 226.7, 227.3, 510, 512, 558, 1174(d), 1194, 1197, 1197.1, 1198, and 2802.

Litigation Hold Notice to Defendant

Because of impending litigation, this letter imposes a duty on Defendant to preserve evidence under California law. Under discovery rules, a defendant has an obligation to preserve potentially relevant evidence when litigation is reasonably foreseeable. As such, Defendant is instructed to preserve all documents or things related to Mr. Lucas and the aggrieved employees specified in this notice.

Our directive to preserve evidence also includes, but is not necessarily limited to, all internet search histories, browsing data, active and/or deleted electronic media and any and all active and/or electronic data on that media, including but not limited to computers; media; machines; hard drives; removable devices, *e.g.*, but not limited to flash memory (*i.e.*, USB or similar external port removable media commonly called, among other names, thumb drives), floppy discs, and external hard drives or media of any type whatsoever; and equipment used by Defendant or any of its employees or agents to produce, print, or create any data, in any form, which relates to Mr. Lucas and the aggrieved employees. These computers, media, machines, devices and equipment shall include all hard drives, hardware, directories and files, including Recovery Bin or Recycle Bin information, all internet histories and/or browsing data, all data files, all servers, all logs, all audit trails, all access records, all access control lists, all backup software, all encryption software, all passwords and all encoding and decoding information. Said computers, media, data, machines, devices, and equipment shall be preserved in such a manner as to retain all computer evidence, and protect any/all media from deletion, alteration, or corruption of any type whatsoever.

Due to its format, electronically stored information is easily deleted, modified, and/or corrupted. Destruction of documents, things, or data may generate suspicion and may constitute spoliation of evidence. Monetary damages, as well as “adverse inference” jury instructions, are just two of the potential sanctions for destruction of evidence. Thus, Defendant must preserve all documents, things, data, and information related to Mr. Lucas and the aggrieved employees, including but not limited to:

- Mr. Lucas’s and the aggrieved employees’ entire personnel and employment files;
- Any and all documents relating to all of Defendant’s employee handbooks;
- Any and all time sheets, time records, time clock records, payroll records, pay stubs, and wage statements relating to Mr. Lucas and the aggrieved employees, and any and all other documents or things reflecting or relating to Mr. Lucas’s and the aggrieved employees’ hours worked, meal breaks taken, rest breaks taken, wages, overtime and double-time wages, bonuses, raises, benefits, or any other compensation or remuneration received by Mr. Lucas and the aggrieved employees from Defendant;
- Any and all emails or signage given to Mr. Lucas and the aggrieved employees regarding meal breaks, rest breaks, reimbursements, time card policies, overtime policies, etc.;

- Documents related to the above documents, or to Mr. Lucas or the aggrieved employees in general.

Mr. Lucas reserves the right to seek all available remedies, including damages and evidentiary and monetary sanctions, should Defendant fail to take steps to preserve such information.

Demand for Resolution to Defendant

In light of the above, Mr. Lucas requests Defendant agree to remedy these violations in the following ways:

- Implement the following corrective policies, practices, and/or procedures:
 - Provide meal periods and rest breaks by relieving employees of duty for meal periods and rest breaks and paying premiums if not provided by Defendant on time and for proper duration, *e.g.*, by authorizing employees to turn off radios during meal periods and rest breaks, refraining from asking employees to cut breaks short to return to work, and refraining from interrupting employees during breaks.
 - Requiring and permitting contemporaneous time records that include all time spent working for Defendant, including pre- and post-shift work, and compensating employees for the recorded time.
 - Reimbursing employees a reasonable percentage of cell phone bills when cell phones are used for work.
- Agree to participate in pre-litigation mediation for purposes of reaching a monetary settlement to correct the past violations. We propose one of the following mediators: Eve Wagner, Esq. of Signature Resolution, Lynn Frank, Esq. of Frank & Feder Mediators; or Monique Ngo-Bonnici, Esq. of Signature Resolution.

Conclusion

California Labor Code section 2699.3 requires that a claimant send a certified letter to the employer in questions 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.

Within one year of his employment or demand for wages, as allowed by law, Mr. Lucas will seek these penalties and wages on his own behalf and on behalf of other similarly situated California-based hourly-paid or non-exempt employees employed by Defendant.

If you have any questions or require additional information, please do not hesitate to contact us.

Sincerely,

A handwritten signature in black ink that reads "Stephanie E. Yasuda". The script is cursive and fluid.

Stephanie E. Yasuda

SEY:wt

cc: International Golf Maintenance, Inc
c/o CSC Lawyers Incorporating Service (authorized agent)
2710 Gateway Oaks Drive
Sacramento, California 95833