

HAINES LAW GROUP
EMPLOYMENT ATTORNEYS

August 2, 2023

VIA LWDA WEBSITE

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

Re: *Alfonso Almaraz v. World Oil, Corp., et al.*

To Whom It May Concern:

Please be advised that this law firm represents Alfonso Almaraz in claims arising from his employment with World Oil, Corp. and Does 1 through 100 (“Defendants”). Mr. Almaraz is an “aggrieved employee” within the meaning of Labor Code section 2699.3 as to all of the violations alleged herein. *See Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal.App.5th 745, 754 (“any Labor Code penalties recoverable by state authorities may be recovered in a PAGA action by a person who was employed by the alleged violator and affected by at least *one* of the violations alleged in the complaint.”)(emphasis added). The purpose of this letter is to comply with Labor Code § 2699.3, which requires aggrieved employees to notify their employer and the Labor and Workforce Development Agency (“LWDA”) of the specific provisions of the Labor Code allegedly violated. For purposes of this letter, “aggrieved employees” includes all of Defendants’ non-exempt employees who worked for Defendants in California during the one year immediately preceding the date of this letter through the present.

Defendants operate a petroleum products transportation provider specializing in the delivery of oil across California. Mr. Almaraz has been employed by Defendants in the non-exempt position of “Driver” from approximately November 9, 2019, to the present. On July 7, 2023, Mr. Almaraz submitted a written personnel records request to Defendants. Defendants failed to respond to Mr. Almaraz’s records request within 21 days from the date of the request, in direct violation of Labor Code section 226(c), and has not responded to Mr. Almaraz’s request as of the date of this letter.

During their respective employments with Defendants, Mr. Almaraz and other aggrieved employees were required to use their personal cell phones for work, as supervisors would frequently call them on their personal cell phones for work-related communications. Despite this, Defendants failed to reimburse Mr. Almaraz and other aggrieved employees for all necessary business expenses associated with using their personal cell phones in violation of Labor Code § 2802. *See Cochran v. Schwan's Home Service, Inc.* (2014) 228 Cal.App.4th 1137, 1144 (holding that employer who requires

employees use their personal cell phone for business purposes must reimburse a reasonable percentage of the employee's cell phone bill).

In addition, Defendants pay Plaintiff and other non-exempt employees piece-rate wages, but do not list the number of pieces earned and corresponding piece-rates on employee wage statements, in violation of Labor Code § 226.

As described above, Defendants committed the following violations of the Labor Code and Industrial Welfare Commission Wage Order No. 9 ("Wage Order 9"):

Failure to Reimburse Necessary Business Expenses

Defendants failed to reimburse Mr. Almaraz and other aggrieved employees for necessary work expenses, including the use of their personal cellular phones for business purposes. Defendants' policy of not providing reimbursement for necessary work-related expenses violates Wage Order 9, § 8, and Labor Code §§ 2802 and 2804 ("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.") Mr. Almaraz and other aggrieved employees are therefore entitled to reimbursement of such unpaid work expenses with interest.

Wage Statement Violations

Defendants knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Mr. Almaraz and other aggrieved employees with complete and accurate wage statements with respect to piece-rate wages earned, in violation of Labor Code § 226 *et seq.* Defendants' failures in furnishing Mr. Almaraz and other aggrieved employees with complete and accurate itemized wage statements resulted in actual injury, as said failures deprived Mr. Almaraz and other non-exempt employees of the information necessary to identify the discrepancies in Defendants' reported data and whether they have been paid all wages earned.

Record Keeping Violations

Defendants are subject to Labor Code § 226 (c) which states that upon receipt of a written or oral request to inspect or copy records, the employer "shall comply with the request as soon as practicable, but no later than 21 calendar days from the date of the request." Labor Code § 226 (f) further provides that "[a] failure by an employer to permit a current or former employee to inspect or copy records within the time set forth in subdivision (c) entitles the current or former employee or the Labor Commissioner to recover a seven-hundred-fifty-dollar (\$750) penalty from the employer." Although Mr. Almaraz made a written request pursuant to subdivision (c), Defendants failed to respond within 21 days.

As an “aggrieved employee,” Mr. Almaraz will initiate a civil action on behalf of himself and other aggrieved employees to recover damages, statutory penalties, and civil penalties (including an amount equal to the unpaid wages) resulting from the wage and hour violations alleged herein. Based on Mr. Almaraz’s own investigation, and on information and belief, Defendants committed and continue to commit the following Labor Code violations:

- a. Defendants violated Labor Code §§ 2802 and 2804 by failing to reimburse Mr. Almaraz and other aggrieved employees for all work-related expenses incurred;
- b. Defendants violated Labor Code § 226 *et. seq* by failing to furnish Mr. Almaraz and other aggrieved employees with accurate and compliant itemized wage statements;
- c. Defendants violated Labor Code § 226(c) by failing to respond to Mr. Almaraz and other aggrieved employees’ written requests to inspect their employment records; and

Pursuant to Labor Code § 2699.3, please notify us and Defendants if the LWDA intends to investigate these alleged violations of the Labor Code. Please contact me should you require additional information.

Very truly yours,
HAINES LAW GROUP, APC



Fletcher W. Schmidt

cc: World Oil, Corp. c/o CT Corporation, Amanda Garcia, agent for service of process
(via certified mail)