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Via Certified Mail

System Transport, Inc.
7405 South Hayford Road
Cheney, WA 99004

System Transport, Inc.
151 Fogg Street
Colton, CA 92324

Subject: *Eduardo Diaz v. System Transport, Inc.*

Dear Representative:

This office represents Eduardo Diaz ("Plaintiff") in connection with Labor Code violation claims related to their employment with System Transport, Inc. ("Employer").

Plaintiff has personally suffered each of the Labor Code violations alleged in this letter while employed by Employer within the applicable one-year statute of limitations period. Plaintiff intends to seek PAGA penalties on behalf of himself and all other non-exempt employees of Employer employed in California and who were subjected to the Labor Code violations referenced herein during the PAGA Period (together with Plaintiff, "Aggrieved Employees"). The PAGA Period begins one year prior to the date of this letter and, because the violations alleged herein are ongoing, the PAGA Period extends beyond the date of this letter.

This letter is sent pursuant to the requirements of Labor Code section 2699.3. The Labor Code violations being alleged are as follows:

Wage Violations

Labor Code sections 1194 and 1197 and the applicable Wage Order require an employer to pay for all hours worked.

Employer failed to pay the Aggrieved Employees the minimum wage for all hours worked because the Aggrieved Employees were required to perform work while off the clock and the Aggrieved Employees were also not paid for overtime. Specifically, the Aggrieved Employees regularly performed uncompensated pre-trip work such as unstrapping and untarpping loads and additional load securement work amounting to approximately 8 to 10 unpaid hours per week.

Civil Penalties Applicable to Minimum Wage Violations

As a result of the above minimum wage violations, Employer is subject to the civil penalties listed in Labor Code sections 1197.1 and 2699.

Unpaid Non-Productive Time

Labor Code section 226.2(a)(1) provides that employees compensated on a piece-rate or commission only basis shall be compensated for rest and recovery periods and other nonproductive time separate from other earnings. Under subparagraph (3), this compensation should be at the regular hourly rate that is determined by dividing the total compensation for the workweek, exclusive of compensation for rest and recovery periods and overtime, by the total hours worked during the workweek, exclusive of rest and recovery periods.

Here, the Aggrieved Employees, who were paid exclusively on a per-mile basis, were required to perform substantial nonproductive tasks that consumed significant time but generated no mileage-based compensation. This nonproductive work included pre-trip inspections, loading and pickup time, waiting time at shippers and receivers, strapping, chaining, tarping, untarping, and other load securement work. This work should have been separately compensated for on an hourly basis.

As a result of Employer's failure to pay all non-productive time to its commission or piece-rate only employees, it is subject to the civil penalties listed in Labor Code sections 1197.1 and 2699

Failure to List Non-Productive Time on Wage Statements

Employees paid on a piece-rate or commission only basis must be provided with wage statements which separately state the total hours of compensable rest and recovery periods and the total hours of other nonproductive time. (Labor Code section 226.2(a)(2)). Employer failed to accurately list this information on the Aggrieved Employees' wage statements in violation of Labor Code section 226, and is thus subject to the civil penalties listed in Labor Code sections 226.3 and 2699.

Unreimbursed Work Expenses

Labor Code section 2802 requires an employer to "indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties"

Here, the Aggrieved Employees incurred out of pocket expenses in connection with their employment, but these expenses were not reimbursed by Employer. The Aggrieved Employees purchased necessary work equipment including strap rollers and gloves required for their flatbed truck driving duties. Plaintiff estimates approximately \$500 in unreimbursed work expenses.

Civil Penalties Applicable to Work Expense Violations

As a result of Employer's failure to reimburse all work-related expenses, Employer is subject to the civil penalties listed in Labor Code section 2699.

Wage Statement Violations

Labor Code section 226 requires an employer to provide wage statements to its employees which include the total hours worked, the number of piece-rate units earned and any applicable piece, all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate. Employer failed to provide wage statements which accurately reflected this information.

Civil Penalties Applicable to Wage Statement Violations

As a result of the wage statement violations detailed above, Employer is subject to the civil penalties listed in Labor Code sections 226.3 and 2699.

Waiting Time Penalties

Labor Code sections 201 and 202 require that an employer provide an employee with all wages due and payable either: (a) immediately upon termination, or (b) within 3 days of the employee's resignation. When an employer fails to comply with the above, the employee is entitled to the equivalent of a day's wage at their regular rate of pay for each day the employer is late, for up to 30 days. (Labor Code section 203). Employer failed to pay all wages owed at the conclusion of the Aggrieved Employees' employment.

Civil Penalties Applicable to Waiting Time Penalties

Because of Employer's failure to pay all wages at the conclusion of employment and to pay the resulting waiting time penalties, Employer is subject to the civil penalties listed in Labor Code section 2699.

Sincerely,

/s/

Mike Rachmann
Adam Rose