



THE VILLEGAS LAW FIRM, APC

WE REPRESENT WORKERS

Tuesday, October 10, 2023

File No. 2023-00550

VIA ONLINE FILING SYSTEM PAGAfilings@dir.ca.gov

Labor & Workforce Development Agency
1515 Clay Street, Suite 801
Oakland, CA 94612
Attention: PAGA Administrator

RE: Notice of Labor Law Violations
Labor Code Private Attorneys General Act § 2699.3
Valmore Navarro/ Advance Auto Parts, dba Worldpac-San Rafael

Dear PAGA Administrator:

The Villegas Law Firm, APC represents Valmore Navarro (“Complainant”), a former employee at the San Rafael, California location of Advance Auto Parts, dba Worldpac¹ located at 160 Paul Drive, San Rafael, California 94903. (“Respondent”). Respondent is a Delaware corporation with its principal place of business in Raleigh, North Carolina. Respondent’s California Corporate Headquarters is listed as 37137 Hickory Street, Newark, CA 94560.

Complainant worked for Respondent performing delivery and associated warehouse duties, such as inventory and maintenance, from approximately November 2016 to February 2023. His last rate of pay was \$20.68 per hour. Since November 2021, Complainant generally worked 8.5 hours a day, 5 days per week. Complainant is covered by the provisions of Wage Order 7-2001 and/or Wage Order 9-2001.

The purpose of this letter is to comply with the statutory exhaustion requirements of California Labor Code section 2699.3 prior to commencing an action pursuant to Labor Code sections 2699, *et seq.* Complainant intends to file a complaint on behalf of himself and other non-exempt hourly employees of Respondent who have been subjected to violations of the California labor and employment laws and who worked within the PAGA statutory period (“Aggrieved Employees”). Accordingly, Complainant hereby notifies you that Respondent has violated Labor Code sections 201-203, 204, 221-223, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1198, Wage Order 7-2001 and/or Wage Order 9-2001 Sections 3, 4, 7, 11 and 12 with respect to himself and, on information and belief, other Aggrieved Employees. The particulars are set forth below.

¹ On information and belief, Advance Auto Parts does business as Worldpac, Advance, Carquest, and Autopart International.

1. Failure to Provide Compliant Meal and Rest Breaks, Labor Code §§ 226.7(b), 512, and Wage Order 7-2001 and/or Wage Order 9-2001 §§ 11,12.

Facts supporting complaint: Complainant generally worked shifts of 8.5 hours or more 5 days per week. During the time Complainant worked for Respondent, he was deprived of most of the uninterrupted 30-minute meal breaks and all of the 10-minute rest breaks that he was entitled to take due to his work responsibilities. Complainant was instructed to come back to the shop to punch out for meal breaks. But often he could not get back in time and had to take a short meal break on the road. When he was at the shop, Complainant was only permitted to go within walking distance of the shop and was told he could not drive anywhere in his car during his meal breaks. Sometimes he was called back to work during his meal breaks. Similarly, when he was out of the shop making deliveries, Complainant could not take rest breaks because he was given unrealistic delivery schedules and he did not have time to fit in rest breaks. When he was in the shop, Complainant was told he was not permitted to leave the premises during his rest breaks. In addition, if he was released late for his break, he was only permitted to take the balance of the time left on the scheduled break. Nevertheless, Complainant was required to fill out meal and rest period logs indicating that he had taken compliant meal and rest periods. Furthermore, Respondent never informed Complainant how to report missed meal and rest breaks. Complainant is informed and believes that other Aggrieved Employees were likewise not provided with some or all of their legally compliant meal and rest breaks.

California Labor Code § 512 and Wage Order 7 and/or Wage Order 9-2001 Section 11 require an employer to provide an employee with a 30-minute meal period no later than the end of an employee's fifth hour of work and a second 30-minute meal period no later than an employee's tenth hour of work. Labor Code § 226.7 and Wage Order 7 and/or Wage Order 9 section 12 require employers to provide one 10-minute paid rest break for shifts from three and one-half to six hours in length, two 10-minute paid rest breaks for shifts of more than 6 hours up to 10 hours, and three 10-minute paid rest breaks for shifts of more than 10 hours up to 14 hours.

An employer who refuses to provide his or her employees with compliant meal and rest periods must compensate that employee for one hour of pay at the employee's regular rate of pay for each meal and rest period, for a maximum of 2 hours of pay per day. Cal. Lab. Code § 226.7(b).

2. Failure to Pay All Hours Worked Including Premium Overtime Wages, Labor Code §§ 221-223, 558, 204, 510, 558, 1194, 1194.2, 1198 and Wage Order 7-2001 and/or Wage Order 9-2001 Section 3.

Facts supporting complaint: Complainants and other Aggrieved Employees have worked for Respondent during the statutory PAGA period. As non-exempt employees, Complainant and the other Aggrieved Employees had the right to be paid at the appropriate hourly rate (straight-time, overtime, or double-time) for all the hours they worked. *See* Lab. Code § 221-223. Complainant and, on information and belief, other Aggrieved Employees were sometimes required to report to work before the start of their shift and then not permitted to clock in, resulting in off-the clock time. Complainant was not paid anything for that off-the clock time nor overtime premiums if the off-the clock time would have resulted in overtime hours.

California Labor Code § 510 requires employers to compensate their employees at a rate

of one-and-a-half times the employee's regular rate of pay for all hours worked in excess of 8 hours per day, and for the first 8 hours worked on the seventh day of the workweek.

In addition, Complainant is informed and believes that Respondent deducted 30 minutes from his and the other Aggrieved Employees' time records for each shift worked in excess of 6 hours even though Complainant and the other Aggrieved Employees were not provided with compliant meal breaks. As such, liability for the meal period claim may also result in additional overtime time claims if the deducted time would have resulted in more than 8 hours in a day or 40 hours in a week.

3. Failure to Pay Minimum Wages Due, Labor Code §§ 1182.12, 1194, 1194.2, 1197 and Wage Order 7-2001 and/or Wage Order 9-2001 Section 4.

Facts supporting complaint: Complainant and other Aggrieved Employees have worked for Respondent during the statutory PAGA period. During that time Complainant and, on information and belief, the other Aggrieved Employees, were not paid for all of the hours they actually worked. In particular, Respondent did not pay Claimant anything for off-the-clock time resulting in minimum wage violations. In addition, Complainant believes that 30-minutes was deducted from the hours worked by Complainant and other Aggrieved Employees, regardless of whether a meal period was actually taken, they performed work during the time that should have been off-duty or did not have uninterrupted meal breaks. Therefore, Complainant and, on information and belief, other Aggrieved Employees were paid nothing (\$0/hr) for compensable off-the clock time and the time that they worked during what should have been their meal breaks. As such, Respondent violated the California minimum wage laws. Cal. Lab. §§ 1194, 1194.2, 1197, and 1182.12.

4. Failure to Provide Accurate Itemized Wage Statements, Labor Code § 226(a) and 226.3.

Facts supporting complaint: California Labor Code § 226(a) requires employers to give employees accurate wage statements that show the "wages earned" and "hours worked" by the employee. Complainant worked for Respondent. During Complainant's employment, he was provided with itemized wage statements that did not properly reflect **all** hours that he worked (including compensable off-the clock time and work performed during what should have been his meal breaks) and/or the applicable premium rates for hours worked in excess of 8 hours per day or 40 hours per week.) Complainant is informed and believes that other Aggrieved Employees also were not provided with compliant rest and meal breaks, were not paid the required premium for overtime hours worked and/or minimum wage, and thus were subjected to the same inaccurate itemized wage statements as Complainant.

5. Failure to Maintain Payroll Records, Labor Code §§ 226(a), 1174, 1174.5, and Wage Order 7-2001 and/or Wage Order 9-2001 Section 7.

Facts supporting complaint: Labor Code section 1174 and Wage Order 7 and/or Wage Order 9 § 7 require that employers maintain accurate payroll and other employee records for a period of at least three years. Moreover, Labor Code § 226(a) expressly mandates that employers provide accurate itemized wage statements to employees with each payment of wages.

Respondent did not maintain accurate records that reflected off-the clock time, actual meal periods, short meal periods, and/or missed meal periods. Similarly, the wage statements that Complainant received do not reflect **all** the hours that he actually worked and was owed because they do not reflect unpaid wages for off-the clock work, missed/non-compliant meal periods, and premium pay for missed/non-compliant meal and rest periods. Complainant is informed and believes that Respondent likewise has not maintained accurate payroll records for other Aggrieved Employees.

6. Waiting Time Penalties, Labor Code Sections 201, 202 and 203.

Facts supporting complaint: Labor Code section 201 provides that if an employer discharges an employee, all wages due and unpaid must be paid immediately at the time of discharge. Labor Code section 202 provides that all wages due and unpaid of an employee who quits without notice are due and payable 72 hours after quitting. Labor Code section 203 provides that an employer who willfully fails to pay all wages due and unpaid in violation of Labor Code sections 201 and 202 is subject to waiting time penalties of up to 30 days of additional wages. Because Respondent failed to pay Complainant all wages due at the time of his termination, including regular, overtime, and premium pay, Complainant is entitled to the full 30 days of waiting time penalties. Complainant is informed and believes that other Aggrieved Employees who quit or were involuntarily terminated were not paid all wages due and unpaid in violation of Labor Code sections 201, 202, and 203.

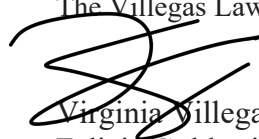
Conclusion

Complainant submits this letter to comply with the provisions of Labor Code Section 2699.3. If we do not receive notice from your agency regarding an intent to investigate within the time periods provided by Labor Code Section 2699.3, we will commence a civil action pursuant to Section 2699.

Please contact us with any questions. Thank you for your attention to this matter.

Sincerely,

The Villegas Law Firm, APC.



Virginia Villegas
Felicia Goldstein
Attorneys for Complainant

cc: Valmore Navarro- Regular Mail

cc: Via Certified Mail to:

Advance Auto Parts	Advance Auto Parts	Advance Auto Parts	Advance Auto Parts
Worldpac, Inc.	Worldpac, Inc.	Worldpac, Inc.	Worldpac, Inc.
5008 Airport Rd NW	37137 Hickory St	42992 Ivy St.	160 Paul Drive
Roanoke, VA 24012	Newark, CA 94560	Murrieta, CA 92562	San Rafael, CA 94903