



GLEASON & FAVAROTE LLP

213.452.0510 Main
213.452.0514 Fax

4014 Long Beach Blvd., Suite 300
Long Beach, California 90807

gleasonfavarote.com

October 6, 2023

VIA ELECTRONIC SUBMISSION

Stewart Knox
Secretary
California Labor & Workforce Development Agency
800 Capital Mall, Suite 5000 (MIC-55)
Sacramento, CA 95814

Re: **PAGA Notice, Martinez v. JRC Meat, Inc., Cameron Lu, and Bobby Lu**
California Labor Code section 2699, *et seq.* violations

Dear Mr. Knox:

I am writing to provide notice on behalf of aggrieved employee Bernardo Martinez ("Martinez") and other individuals, who were employed by JRC Meat, Inc. Cameron Lu, and Bobby Lu (hereinafter collectively referred to as "JRC"), as non-exempt hourly employees in California (the "Aggrieved Employees") going back one year from this notice.

Martinez, and each of the Aggrieved Employees described above, suffered from one or more of the following Labor Code violations by their current or former employer JRC. Pursuant to Huff v. Securitas Security Services, 23 Cal. App. 5th 745, 751 (2018), an employee who brings a representative action and was affected by at least one of the violations alleged in the complaint has standing to pursue penalties on behalf of the state not only for that violation, but for violations affecting other employees as well.

Martinez and other Aggrieved Employees' employment with JRC was governed by the California IWC Wage Orders, California Labor Code sections 201, 201.3, 202, 203, 204, 204.1, 204.11, 205, 205.5, 210, 216, 218.5, 218.6, 221-224, 225.5, 226, 226.3, 226.6, 226.7, 245-249, 256, 432.5, 432.7, 510, 512, 516, 551, 552, 558, 558.1, 1024.5, 1174, 1175, 1182.12, 1194, 1194.2, 1195, 1197, 1197.1, 1197.5, 1198, 1771, 1774, 1776, 1811, 1815, 2802, and the California Code of Regulations, Title 8, section 11000 *et seq.* JRC has violated each of the above statutes and regulations.

Martinez worked for JRC as a driver and warehouse worker in Los Angeles County, California. California Labor Code section 2802 requires that employers reimburse the business expenses reasonably incurred by employees in the course of their employment. The Aggrieved Employees were required to use their own personal cellular service and/or data plans to receive and make work related calls to their employer, and other employees and customers, but were not compensated for the use of their cellular devices or the use of their cellular service and/or data plans by JRC. Martinez and the Aggrieved Employees were at times required to use their personal vehicles for work related pick ups and deliveries without reimbursement for mileage or

any of the costs associated with the use of their personal vehicles, and to buy specialized equipment for their work, including but not limited to special gloves, back braces, and boots. As a result, JRC has violated California Labor Code section 2802 by failing to reimburse the Aggrieved Employees for these necessary business expenses.

Martinez and the Aggrieved Employees were not compensated for all of the time spent working for JRC and instead were paid a flat rate per day regardless of how long they worked. Furthermore, the Aggrieved Employees were required to perform additional work without compensation, among other things, going through security screenings, Covid-19 screenings, attend trainings orientations, work-related meetings, loading and unloading vehicles, cleaning and paperwork all without compensation. Additionally, the Aggrieved Employees were required to perform both pre and post shift activities off the clock, and employees were required to don and doff protective gear off the clock without compensation. As a result of these policies and practices, the Aggrieved Employees were paid less than minimum wage for all hours worked or were not paid all earned overtime after 8 hours of work in a day.

Martinez and the Aggrieved Employees were not paid all earned overtime and not paid overtime at their regular rate of pay/compensation. It is also JRC's policy to not pay overtime after 40 hours worked in a workweek, after twelve hours in one workday, and to not pay overtime for work performed on the seventh consecutive day of work in a workweek. As discussed above, it is JRC's uniform practice and procedure to pay a flat rate regardless of the time worked and to not track or record its employees' actual hours worked under its control. These policies have resulted in, and continue to result in, a vast and systematic theft of overtime wages from the Aggrieved Employees, as well as derivative violations of the Labor Code for failing to keep time records, including records of meal period start and end times.

Martinez is informed and believes that it is JRC's uniform practice and procedure to never include bonuses or other non-hourly forms of compensation into its employees' regular rate of pay for any purposes. The Aggrieved Employees often received non-discretionary bonuses in the form of cash, gift cards, and other incentives, such as shift differentials, but this non-hourly compensation is never included in the regular rate of pay for the purposes of calculating overtime, meal and rest break premiums, sick leave, or any other payment which is required to be made at the regular rate of pay.

Martinez is informed and believes that it is JRC's uniform practice and procedure to require the Aggrieved Employees to work seven or more days consecutively without a day's rest being provided. Labor Code sections 551 and 552 require an employer like JRC to provide at least one day's rest in seven, but JRC does not do so, and instead requires its employees to work seven, eight, or even more days consecutively without a day's rest in violation of the Labor Code.

Martinez is informed and believes that it is JRC's uniform practice and procedure to not provide adequate meal periods and rest breaks. Often meal periods and rest breaks were not provided at all to the Aggrieved Employees. However, when meal periods and rest breaks were

provided, those meal periods and rest breaks were late, short, interrupted, on-duty, or otherwise legally inadequate. Furthermore, the Aggrieved Employees were often not permitted to leave the premises or their trucks unattended during their meal period or rest breaks making all of their meal periods and rest breaks “on-duty,” or were otherwise not relieved of all job duties. It is also JRC’s policy to never provide second or third meal periods regardless of the amount of time worked, and to never provide rest breaks after 8 hours worked in a day. JRC has rarely, if ever, paid any meal period premiums or rest break premiums. Even when JRC occasionally paying premiums, it did not pay those premiums at their employees’ regular rate of pay. The Aggrieved Employees were not relieved of all duties during any meal periods or rest breaks which were provided, and were required to remain on call to return at a moment’s notice and to answer work related calls. As a result, JRC has violated the California Labor Code, including but not limited to Labor Code §§ 226.7, 512, and 1198, the applicable California IWC Wage Order provisions regarding meal and rest breaks, and also failed to pay wages for any work performed during purported meal periods and rest breaks.

As a result of these Labor Code violations, including the provisions regulating hours and days of work in the applicable California IWC Wage Orders, JRC is subject to penalties for each underpaid Aggrieved Employee as set forth in Labor Code § 558. Further, in violation of Labor Code section 204, JRC also failed to timely and appropriately pay the Aggrieved Employees for all wages earned during their employment. As a result of these violations, JRC is subject to penalties as set forth in Labor Code § 210.

Martinez is informed and believes that it is JRC’s uniform practice and procedure to not keep accurate time and payroll records as required by law. JRC does not keep accurate time records, wage statements, or other employee records as required by law, including but not limited to Labor Code sections 226, 247.5, and 1174, and the recordkeeping provisions of the IWC Wage Orders, both as an intentional practice to avoid responsibility for its wage theft and as a result of the myriad of Labor Code violations described herein. Furthermore, JRC has a routine policy and practice of ignoring employee record requests made under any Labor Code section, including but not limited to, Labor Code sections 226(b), 432, and 1198.5. When JRC does rarely provide its employees with requested records those productions are incomplete, contained false records, or are untimely.

Martinez is informed and believes that it is JRC’s uniform practice and procedure to not provide its employees with legally adequate sick days and does not pay sick leave pay at the rate required under Labor Code section 246. JRC is required to include all forms of compensation into the calculation of its sick leave pay but does not do so in violation of the Labor Code. JRC also failed to comply with Labor Code § 247.5, and is subject to penalties as a result, by failing to maintain records documenting the hours worked and paid sick days accrued by the Aggrieved Employees. JRC further failed to comply with Labor Code § 246 by failing to provide its employees with wage statements or separate documents showing the amount of paid sick leave available, or paid time off in lieu of sick leave.

Labor Code section 226 requires an employer to furnish its employees with an accurate itemized wage statement in writing showing, among other things, gross wages earned, net wages earned, total hours worked, and all applicable hourly rates in effect during each respective pay period and the corresponding correct number of hours worked at each hourly rate by each respective individual. JRC's aforementioned policies and practices has resulted in the Aggrieved Employees receiving inaccurate wage statements which fail to, amongst other information required by law, accurately provide the correct number of hours worked at each applicable rate, the correct total amount earned, the correct total number of hours worked, and failed to identify meal and rest period premiums earned and owed. JRC also failed to include all bonuses, and non-hourly compensation on the Aggrieved Employees' wage statements and has failed to issue accurate wage statements when multiple rates of pay were worked in the same pay period. Furthermore, as a pattern and practice, in violation of Labor Code section 226(a), JRC does not furnish accurate and legally compliant itemized wage statements that did not list, among other things, the correct gross wages earned, net wages earned, total hours worked, and all applicable hourly rates in effect during each respective pay period and the corresponding correct number of hours actually worked at each hourly rate by each respective individual.

At the time of termination, JRC failed to pay Aggrieved Employees who no longer work for JRC all wages owed pursuant to California Labor Code §§ 201-203. JRC's failure to pay all wages at termination is due to JRC's many unlawful policies and wage theft, including but not limited to its flat pay practices, requirement that Aggrieved Employees work off-the-clock, and failure to pay meal and rest period premiums. JRC also failed to comply with Labor Code §§ 201-203 by not paying termination wages during the time periods contemplated by these statutes and, instead, paying termination wages until the next regularly scheduled pay period. These policies and practices result in JRC failing to pay all wages at termination.

GLEASON & FAVAROTE LLP



Torey Joseph Favarote

TJF/dd

cc JRC Meat, Inc. c/o Cameron Lu, agent for service of process, 3050 E. 11th Street, Los Angeles, CA 90023
Cameron Lu, 3050 E. 11th Street, Los Angeles, CA 90023
Bobby Lu, 3050 E. 11th Street, Los Angeles, CA 90023