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November 21, 2023

Via E-filing:

California Labor & Workforce
Development Agency
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102

Via E-filing:

Division of Occupational Safety and Health
1515 Clay Street, Suite 1901
Oakland, CA 94612

Via Certified U.S. Mail:

UNITED PARCEL SERVICE, INC.
55 GLENLAKE PARKWAY NE
ATLANTA, GA 30328

Re: PAGA Notice Pursuant to California Labor Code §2699

Claimants: Tammie Barnett

Employer: United Parcel Service, Inc.

Dear Sir or Madam:

Claimant Tammie Barnett has retained Nazo Koulloukian, Esq. of the Koul Law Firm and Sahag Majarian, II, and Garen Majarian of Majarian Law Group, APC, to represent her, and all other aggrieved employees, for claims relating to unlawful and unsafe work conditions against her employer United Parcel Service, Inc. (“UPS”).

Employer has violated, and/or has caused to be violated, several Labor Code provisions and is therefore liable for civil penalties under Cal. Labor Code §2698 *et seq.* We request that your agency investigate the claims alleged below or permit Claimant to seek civil penalties under the Private Attorney General Act (“PAGA”), Labor Code §2698 *et seq.*, on behalf of aggrieved employees and the State of California in a representative action. This letter will serve as notice of these allegations pursuant to Cal. Lab. Code §2699.3.

Failure to Provide a Place Of Employment That Is Safe And Healthful

(Cal. Labor Code §§2260, 2350, 6300, 6400, 6401, 6401.7, 6402, 6403, 6404, 6406, 6407, 6409, 6712, 2699 *et seq.*, 8 CCR 3202, 3457)

Employer failed to provide suitable bathroom facilities to employees working in the field, primarily as drivers. As a result, many employees working in the field as drivers relieved themselves in water bottles, gallon jugs, and other items that are unsanitary replacements for required bathrooms. They lacked handwashing facilities to clean their hands after such acts. When employees, like delivery drivers, returned to Employer's facility, they were not provided with any suitable place to dispose of the urine and other unsanitary bathroom related items. As a result, trash cans at Employer's facilities overflowed with urine-filled water bottles and other containers. These containers were also left on the ground, on shelves, in vehicles, and generally dispersed throughout the facilities. The containers were not consistently sealed leading to urine and bodily fluids leaking into the workspace. Claimant describes numerous instances of improperly closed containers leading to spills, including containers being left on the ground and inadvertently crushed by the wheel of a vehicle, leading to a mess of human waste in the workplace. There is an unsanitary, unhealthful, and unsafe mess left as a result of Employer's failure to provide bathrooms. Employer is liable both for the failure to provide bathrooms, and for the resulting unhealthful work environment.

Cal. Labor Code § 6400(a) provides that every employer shall furnish employment and a place of employment that is safe and healthful for the employees therein. Cal. Labor Code §6401 provides that "every employer shall furnish and use safety devices and safeguards, and shall adopt and use practices, means, methods, operations, and processes which are reasonably adequate to render such employment and place of employment safe and healthful. Pursuant to Cal. Labor Code §6402, no employer shall require, or permit any employee to go or be in any employment or place of employment which is not safe and healthful. Cal. Labor Code §6403 states that no employer shall fail or neglect to provide and use safety devices and safeguards reasonably adequate to render the employment and place of employment safe, or to adopt and use methods and processes reasonably adequate to render the employment and place of employment safe, or to do every other thing reasonably necessary to protect the life, safety, and health of employees. Cal. Labor Code § 6404 provides that no employer shall occupy or maintain any place of employment that is not safe and healthful, and §6401.7 requires employers to implement injury prevention programs. §6406 requires employers to do everything reasonably necessary to protect the life, safety, and health of employees.

Legally Compliant Bathrooms

It is well established that employers are required to provide clean and sanitary bathrooms to employees, free of effluvia, which would include urine and other bodily fluids. These same

standards apply to areas in the workplace outside the bathroom. They must be free of effluvia, urine, and other bodily fluids and waste.

California Labor Code §2350 requires “[e]very factory, workshop, mercantile or other establishment in which one or more persons are employed, shall be kept clean and free from the effluvia arising from any drain or other nuisance, and shall be provided, within reasonable access, with a sufficient number of toilet facilities for the use of the employees.” Employer violated §2350 by failing to provide bathrooms for employees necessitating that they relieve themselves in containers not meant for the purpose, including water bottles and gallon jugs.

Employer further violated 8 CCR §3457(c) by failing to provide adequate toilet and handwashing facilities. Cal. Code Regs. tit. 8, § 3457 requires that “[t]oilet facilities shall be, at all times, operational, maintained in a clean and sanitary condition, and kept in good repair. Written records of service and maintenance shall be maintained and retained for two years.” Labor Code §6712 requires toilets to be “serviced and maintained in a clean, sanitary condition and kept in good repair at all times, including written records of that service and maintenance.” Moreover, “any employer who fails to provide the facilities required by the field sanitation standard shall be assessed a civil penalty...of not less than seven hundred fifty dollars (\$750) for each violation.” Labor Code §6712. Further, the public policy of the State of California as codified, expressed and mandated in Labor Code sections 6300, 6310 and 6400, et seq. requires all employers to take reasonable steps to provide a safe and secure workplace. Unfortunately, Employer failed to meet minimum standards for bathrooms. When employees took matters into their own hands and began to relieve themselves in containers, Employer failed to provide proper mechanism for disposing of the urine-filled containers leading to unsanitary, unsafe, and unhealthful work conditions.

As a result of these violations, Employer has violated the California Labor Code provisions enumerated above and is liable for civil penalties pursuant to Cal. Labor Code §2698 *et. seq.*

Respectfully submitted,


Nazo Koulloukian, Esq.
Attorneys for Claimant