

Thomas D. Rutledge
Attorney-at-Law
16956 Via de Santa Fe, Suite 1847
Rancho Santa Fe, California 92091-4606
Telephone: (619) 886-7224
thomasrutledgelaw@gmail.com

April 17, 2024

File No. 771

VIA INTERNET UPLOAD

Department of Industrial Relations
Labor Workforce Development Agency
455 Golden Gate Avenue, 10th Floor
Accounting Unit
San Francisco, California 94102

VIA CERTIFIED MAIL (HAND RECEIPT REQUESTED) (70221670000314383203)

President
ABM Aviation, Inc./ ABM Industries Incorporated
14141 Southwest Freeway, Suite 425
Sugar Land, Texas 77478

Re: *Davila-Felix, et al. v. ABM Aviation, Inc., et al.*
LWDA Case No. LWDA-CM-994306-23
Case No.: 37-2024-00002748-CU-OE-CTL

Sir or Madam:

This letter shall serve as an amended notice pursuant to the California Private Attorney General Act (PAGA), California Labor Code Section 2699, *et seq.*, regarding Plaintiff's notice sent regarding the above matter. This amendment generally adds two more named Plaintiffs, to wit: Elmer Davila and Norma Magana.

I. FACTS & NATURE OF THE DISPUTE.

This is a representative action seeking penalties for Defendants' violations of various California Labor Code provisions. The details of our client's claims are discussed in the draft Complaint provided previously, which allegations are incorporated by reference as though set forth herein.

II. § 2699, ET SEQ., LABOR CODE VIOLATIONS.

Our client has numerous legal claims against the abovementioned parties. In particular, Defendants failed to pay Plaintiffs and their fellow aggrieved employees all wages earned, issued Plaintiffs and their fellow aggrieved employees inaccurate wage

statements, failed to reimburse its employees for work related expenses, failed to pay premium pay for missed meal and rest breaks or noncompliant meal and rest breaks, among other Labor Code violations. Further investigation and formal discovery will likely uncover other claims and additional facts supporting the liability.

The details of our client's Labor Code § 2699 claims are discussed in the draft Complaint provided previously, which allegations are incorporated by reference and incorporated herein as though set forth herein. Pursuant to *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal.App.5th 745 and its progeny, Plaintiff intends to recover penalties for every Labor Code provision of which they can show evidence of violations including but not limited to the Labor Code provisions cited in the draft complaint provided previously and Labor Code subdivision (k) of Section 96, Sections 98.6, 201.5, 201.7, 203.1, 203.5, 204a, 204.1, 204.2, 205, 205.5, 206, 206.5, 208, 209, and 212, subdivision (d) of Section 213, Sections 221, 222, 222.5, 223, 224, 227, 227.3, 230, 230.1, 230.2, 230.3, 230.4, 230.7, 230.8, and 231, subdivision (c) of Section 232, subdivision (c) of Section 232.5, Sections 233, 234, 245-249, 351, 353, and 403, subdivision (b) of Section 404, Sections 432, 432.2, 432.5, 432.7, 435, 450, 511, 512, 513, 551, 552, 601, 602, 603, 604, 750, 751.8, 800, 850, 851, 851.5, 852, 921, 922, 923, 970, 973, 976, 1021, 1021.5, 1025, 1026, 1101, 1102, 1102.5, 1153, 1197.5, 1198 via the applicable Wage Order, subdivision (b) of Section 1198.3, 1198.5, Sections 1199.5, 1290, 1292, 1293, 1293.1, 1294, 1294.1, 1294.5, 1296, 1297, 1298, 1301, 1308, 1308.1, 1308.7, 1309, 1309.5, 1391, 1391.1, 1391.2, 1392, 1683, and 1695, subdivision (a) of Section 1695.5, Sections 1695.55, 1695.6, 1695.7, 1695.8, 1695.9, 1696, 1696.5, 1696.6, 1697.1, 1700.25, 1700.26, 1700.31, 1700.32, 1700.40, 1700.47, 1735, 1777.5, 2651, and 2673, subdivision (a) of Section 2673.1, Sections 2695.2, 2800, 2801, 2802, 2806, and 2810, subdivision (b) of Section 2929, and Sections 3073.6, 6310, 6311, and 6399.7 and the applicable Wage Order.

III. CONCLUSION.

Please take notice this letter is intended to exhaust the pre-litigation requirements set forth under California Labor Code §§ 2699, *et seq.* By law, an employee alleging a violation of one of the above referenced sections must notify his or her employer and the Labor and Workforce Development Agency (LWDA) before he or she can invoke the provisions of § 2699, *et seq.*, by seeking redress in court. (Labor Code § 2699.3(a)(1).) The LWDA must then notify the employer and the employee within the time required by statute regarding whether it intends to investigate the alleged violation. (Labor Code § 2699.3(a)(2)(B).) If the LWDA advises it will not investigate, or if no notice is provided within the time required by statute, the employee may file a lawsuit invoking the provisions under Labor Code § 2699. (Labor Code § 2699.3(a)(2)(A).) It is the intention of this office to file a civil complaint and to bring the appropriate claims under Labor Code § 2699 seeking the remedies for the Labor Code violations referenced in this letter and its enclosure should your office not address these matters within the proscribed time.

We write this letter subject to and without waiver of our client's rights and remedies, all of which we expressly reserve. This letter is not an express statement of all facts and circumstances concerning this matter.

Very truly yours,

Thomas D. Rutledge
/s/Thomas D. Rutledge

Cc: Laurie Caroline Davila-Felix (via e-mail)
Elmer Davila (via e-mail)
Norma Magana (via e-mail)
Matthew C. Lewis, Esquire (via e-mail)