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December 6, 2023

VIA ONLINE SUBMISSION

State of California
Labor & Workforce Development Agency
800 Capitol Mall, MIC-55
Sacramento, CA 95814

VIA USPS CERTIFIED MAIL

ROSS DRESS FOR LESS, INC.

5130 Hacienda Dr.
Dublin, California 94568

ROSS STORES, INC.

5130 Hacienda Dr.
Dublin, California 94568

ROSS STORES, INC. dba

DD's DISCOUNTS

5130 Hacienda Dr.
Dublin, California 94568

ROSS DRESS FOR LESS, INC.

763 S. Main, Suite 125
Orange, California 92868

ROSS STORES, INC.

1023 Edwards Ferry Rd NE
Leesburg, VA, 20176-3347

DD's DISCOUNTS

5130 Hacienda Dr.
Dublin, California 94568

Re: PAGA Notice Letter re California Wage & Hour Violations

To Whom It May Concern:

This office represents Ernestina Pineda with respect to claims she is seeking to bring under the Private Attorneys General Act (PAGA) for employment practices in violation of California law. This letter, which constitutes the notice required by Labor Code § 2699.3, is based on currently possessed information and belief.

Identity of “Employees”

Ernestina Pineda seeks to pursue PAGA claims on her own behalf and on the behalf of other current and former employees of the entities/individuals referenced below. The employees that Ernestina Pineda seeks to represent are the employees who worked for said entities/individuals in the State of California during the following time period: Any and/or all times during the one-year period prior to the date of the filing of this notice and continuing until all unlawful employment practices are stopped and/or the action in this matter is resolved via dismissal, settlement and/or judgment.

Said employees are collectively hereinafter referred to as “Employees”. The names of Employees (other than Ernestina Pineda) are contained within the personnel records of the ROSS Employers identified below.

Identity and Capacity of Employers/Joint Employers

Ernestina Pineda seeks to pursue a PAGA action against ROSS STORES, INC., ROSS DRESS FOR LESS, INC., ROSS STORES, INC. dba DD’s DISCOUNTS, DD’s DISCOUNTS and their respective parent companies, subsidiaries, successors, owners, officers, directors, managing agents, and/or members. Ernestina Pineda will also seek to hold all owners, directors, officers, and managing agents of said business entities personally liable for said violations to the extent permitted under Labor Code §§ 558, 558.1 and/or 1197.1. Said entities and individuals have been employers/joint employers of Employees and are collectively referred to herein as the “ROSS Employers.”

The ROSS Employers operate out of about 400 locations (including retail stores, warehouses, distribution centers, corporate offices, etc.) in the State of California. Their headquarters is also in California. It is reasonably estimated that the Ross Employers employ approximately 25,000 employees in the State of California.

All business entities referenced herein were/are the alter-egos of each and every individual referenced herein and there exists, and at all times herein mentioned has existed, a unity of interest and ownership between said entities and individuals such that any separateness between them ceased to exist in that said individuals have completely controlled, dominated, managed, and operated the business entities and have intermingled their assets. Further, each of the business entities are, and at all times mentioned herein were, mere shells, instrumentalities, and conduits through which the individuals carried out their business while exercising complete control and dominance of the business such that individuality or separateness did not truly exist. Therefore, in the PAGA action, Ernestina Pineda will seek to hold each said individual and entity jointly and severally liable for all the employment violations referenced herein.

It should further be noted that the ROSS Employers and their parent companies, subsidiaries, successors, owners, officers, directors, and managing agents have been engaged in a joint enterprise. Moreover, said entities and individuals are joint employers of Employees for the following reasons: 1) Said entities and individuals directly and/or indirectly exercised control

over the wages, hours or working conditions of Employees; 2) Said entities and individuals had knowledge (either personally or through officers, directors and/or managing agents) of the work Employees were doing for them while supposedly being employed by another entity and/or individual and failed to prevent the work from occurring; and 3) Said entities retained or assumed a general right of control over hiring, direction, supervision, discipline, discharge, and relevant day-to-day aspects of the workplace behavior of Employees.

VIOLATIONS/SUPPORTING FACTS AND THEORIES

At all times herein, the ROSS Employers have been involved in a retail apparel and home fashion (and other various retail commodities) business in the State of California and have employed/jointly employed Employees (including Ernestina Pineda) to perform work and services in furtherance of said business and/or joint enterprise interests.

On approximately December 13, 2022, Ernestina Pineda was hired by the ROSS Employers to work as a non-exempt, hourly wage employee in the State of California. She was given and employee the title of “Retail Associate” and was told that she would be paid \$15.00 per hour. She filled out the “New Hire paperwork” that she was told to fill out before she reported for training and she attended training/testing at the 763 S. Main St. address in Orange, California, 92868. She worked two training days and then was told that the reason she had not been given a normal work schedule was that her application had been lost and that she would have to reapply. This was a discharge/constructive discharge. Ernestina Pineda has still not been paid for the two training days that she worked for the ROSS Employers.

For more than a year, the ROSS Employers have engaged in the unlawful employment practices referenced in this PAGA Notice.

Because the ROSS Employers have refused to comply with Labor Code § 226 by making its records pertaining to Ernestina Pineda’s employment available to her (or her agents), other facts substantiating additional or different violations may become evident after such records are obtained during the LWDA’s investigation of this matter or, alternatively, during litigation of this matter in court. Accordingly, under the doctrines of equitable tolling, unclean hands and/or waiver, the statute of limitation within which to file a PAGA Notice Letter and a complaint alleging PAGA violations is tolled until all of the employment records that the ROSS Employers are required to produce under the Labor Code are, in fact, produced.

Overtime Violations

Failure to Pay Non-Exempt Employees Mandated Overtime Pay (Labor Code § 500, Labor Code § 510 – 511, Labor Code § 1194 and 1198, IWO No. 7, and/or Other Applicable Statute(s) and/or IWO(s), Title 8 (CCRs including 8 CCR 11070(2)(G)): The ROSS Employers have violated and continue to violate the above-referenced statute(s), IWO(s) and/or CCRs by failing to pay non-exempt Employees the mandated overtime wages as follows:

- Non-Exempt Employees working more than 8 hours in a workday have not been paid time and one-half of their regular rate of pay. Instead, they were either not paid for the time they worked over 8 hours and/or they were only paid at their usual base hourly rate.
- Non-Exempt Employees working more than 40 hours in a workweek have not been paid time and one-half their regular rate of pay. Instead, they were either not paid for the time they worked over 40 hours and/or they were only paid at their usual base hourly rate.
- Non-Exempt Employees working more than 12 hours in a workday have not been paid double their regular rate of pay. Instead, they have either not been paid for the time they worked over 12 hours, and/or they have only been paid at their usual base hourly rate.

To the extent any overtime wages were paid, said wages were not paid based on the non-exempt Employees' regular rate of pay as that rate is to be determined under California law which is to include all nondiscretionary compensation paid to Employees (e.g., non-discretionary incentives/bonuses, services fees, etc.)

The ROSS Employers' failure to pay non-exempt Employees overtime wages in accordance with the California law has been, in part, accomplished by wrongfully failing to include all of the time during which Employees have been subject to the control of the ROSS Employers, including all times non-exempt Employees have been suffered or permitted to work, whether or not required to do so, including, but not limited to the following times:

- Time worked that was not reported on the timesheets or included in the Employees' paychecks (including but not limited to times that were unfairly rounded),
- On-duty travel time (including travelling to/from worksites during the workday, travelling to worksites distant from the usual place of employment)
- On-duty meal periods,
- Waiting time/Standby time,
- On-call time,
- Reporting time/Show-up time,
- Donning and doffing time,
- Training/testing time,
- Filling out New Hire paperwork (including paperwork which Employees were told they would be paid for filling out).

The ROSS Employers have also had and continue to have a company-wide practice of discouraging, hindering, and/or inhibiting Employees from recording all the time they actually worked on their time records in some and/or all of the following ways: Employees were advised that they should/could not record O.T. hours on their time records and/or that all O.T. work that was reported had to be specifically approved. This was the policy and practice of the ROSS Employers even though they required Employees to finish their work assignments before leaving and even though the \$\$ Employers knew they were understaffed such that the workers could not complete their assigned duties during their regular wage work hours.

The ROSS Employers have also failed to properly calculate the times reported on Employee timesheets and/or failed to properly calculate the wages owed to Employees based on the work times set forth in the Employee time records.

Additionally, to the extent any overtime wages were paid, said wages were not paid based on the Employees' regular rate of pay as that rate is to be determined under California law which is to include all nondiscretionary compensation paid to Employees (e.g., non-discretionary incentives/bonuses, services fees, etc.) See, *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal5th 858.

Based on the information known to date, it is believed that many non-exempt Employees were denied O.T. wages at least once every pay period that they worked for the ROSS Employers. The total number of pay periods that each Employee was denied O.T. pay can be determined via the time records of the Employees during the statutory time period.

Day of Rest Violations

Failure to Provide a Mandatory Day of Rest (Labor Code § 551, Labor Code § 552, Labor Code § 1198, IWO No. 7 and/or Other Applicable Statute(s), IWO(s)): The ROSS Employers have violated and continue to violate the above-referenced statute(s) and IWOs by failing to provide current and former non-Exempt Employees with one day of rest in seven workdays.

Minimum Wage Violations

Failure to Pay Employees at Least the Minimum Wage for All Time Worked [Labor Code § 1182.12, Labor Code § 1194, Labor Code § 1197, Labor Code § 1197, Labor Code § 1197, Labor Code § 1198, IWO No. 7 and/or Other Applicable Statute(s), IWO(s), Local Law(s)/Ordinance (s) re Minimum Wages] The ROSS Employers have violated and continue to violate the above-referenced statute(s), IWO(s), local law(s)/ordinance(s) by failing to pay Employees at least the minimum wage rate mandated by law and/or failed to pay at least minimum wages for the following work times:

- Time worked that was not reported on the timesheets or included in the Employees' paychecks (including but not limited to times that were unfairly rounded),
- On-duty travel time (including travelling to/from worksites during the workday, travelling to worksites distant from the usual place of employment)
- On-duty meal periods,
- Waiting time/Standby time,
- On-call time,
- Reporting time/Show-up time,
- Donning and doffing time,
- Training/testing time,

- Filling out New Hire paperwork.

Because the ROSS Employers have also had a company-wide practice of discouraging, hindering, and/or inhibiting Employees from recording all of the time they have actually worked (see above re O.T.), the times that Employees worked for the ROSS Employers which were not recorded in the Employees' time records were not paid. As a result, Employees were not paid at least the minimum wage for that time.

Based on the information known to date, it is believed that every non-exempt Employee was denied payment of minimum wages every pay period that they worked for the ROSS Employers. The total number of pay periods that each Employee was denied minimum wages/the proper amount of minimum wages can be determined via the time records of the Employees during the statutory time period.

Meal Period Violations

Failure to Provide Legally Mandated and Legally Compliant Meal Periods or, In Lieu Thereof, Premium Pay Wages (Labor Code § 226.7, Labor Code § 512, Labor Code § 516, Labor Code § 1198, IWO No. 7 and/or Other Applicable IWO(s)): In violation of the above-referenced statute(s) and/or IWO(s), the ROSS Employers have engaged, and continue to engage, in the business-wide practice of not providing Employees with legally compliant meal periods or, in lieu thereof, the premium pay mandated under California law as follows:

- a) The ROSS Employers have failed, and continue to fail, to provide Employees working 5.1 to 10 hours in a workday with at least one 30-minute unrestricted, off-duty, and uninterrupted meal period within the first 5 hours of their workday. Instead, Employees have either not been provided with a meal period or, when they have been provided meal periods, the meal periods have not been within the first 5 hours of work, they have been interrupted, they have been too short, they have been restricted in some manner and/or the Employees have been required to remain on duty and/or on the work premises. (See, e.g., *Augustus v. ABM Security Services, Inc.*, (2016) 2 Cal. 5th 257, 273 – to qualify as a break, the employee must be relieved of *all* duties.) Additionally, the ROSS Employers have failed to pay said Employees one additional hour of pay at their regular rate of compensation (aka premium pay) for each day a legally compliant meal break was not provided. With respect to Ernestina Pineda, she attended training on two days for more than 5 hours but was not provided any meal periods and was not paid any premium pay.
- b) The ROSS Employers have failed, and continue to fail, to provide Employees working 10.1 to 14 hours in their workday with a second 30-minute, unrestricted, off-duty, and uninterrupted meal period within the first ten hours of their workday. Instead, Employees have either not been provided with a meal period or, when they have been provided meal periods, the meal periods have not been legally compliant because they have not been timely, they have been interrupted, they have been too short, they have been restricted in some manner and/or the Employees have been required to remain on duty and/or on the work premises. (See, e.g., *Augustus v. ABM Security Services, Inc.*, (2016) 2 Cal. 5th 257, 273 – to qualify as a break, the employee must be relieved of *all* duties.) Additionally, the ROSS

Employers have failed to pay said Employees one additional hour of pay at their regular rate of compensation (aka premium pay) for each day a legally compliant second meal break was not provided.

To the extent that premium pay was paid to non-exempt Employees, it was not paid at the Employees' regular rate of compensation as that rate is determined under California law which is to include nondiscretionary compensation paid to the Employees (e.g., non-discretionary incentives, services fees, etc.) See, *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal5th 858.

Any meal period waiver forms signed by any and/or all non-exempt Employees were invalid in its terms and/or in its application for multiple legal reasons, including the reason that the ROSS Employers had a practice of using blanket waiver forms which ignores the case of *Brinker Rest. Corp. v. Superior Court* (2012) 53 Cal. 4th 1004 in which the court recognized that a waiver may occur *after* a meal period is triggered.

It is also believed that the ROSS Employers have failed to comply with the record-keeping requirements set forth in the applicable IWO which required them to keep accurate time records showing when each Employee took their meal periods.

Based on the information known to date, it is believed that every Employee was denied at least one legally compliant meal period and the legally required premium pay every pay period that they worked for the ROSS Employers. The total number of pay periods that each Employee was denied one or more meal periods can be determined via the time records of the Employees during the statutory time period.

Rest Break/Lactation Break Violations

Failure to Provide Legally Mandated and Legally Compliant Rest Breaks or, In Lieu Thereof, Premium Pay Wages (Labor Code § 226.7, Labor Code § 512, Labor Code § 516, Labor Code §§ 1030 – 1033, Labor Code § 1198, IWO No. 7 or Other IWO(s) Applicable to Employers' Business): On an approximate daily basis, the ROSS Employers have engaged, and continue to engage, in the business-wide practice of not authorizing and/or permitting Employees to take the paid rest breaks/lactation breaks they are entitled to under the above-referenced statute(s) and/or IWO(s) as follows:

- a) The ROSS Employers have failed, and continue to fail, to authorize and/or permit Employees working 3.5 to 6 hours in a workday to take at least one unrestricted and uninterrupted 10-minute net rest break in the middle of their daily work periods even though it was practical for Employees to take such rest breaks. Instead, on a daily (or at least weekly) basis, Employees have either not been given rest breaks; or, when they have been given rest breaks, the breaks have not been in the middle of the work period, the breaks have been interrupted, the breaks have been restricted and/or Employees have been required to remain on-duty and/or on the work premises during their rest breaks. (See, e.g., *Augustus v. ABM Security Services, Inc.*, (2016) 2 Cal. 5th 257, 273 – to qualify as a rest break, the employee must be relieved of *all* duties.) Additionally, the ROSS

Employers have failed to pay said Employees one additional hour of pay at their regular rate of compensation (aka premium pay) for each day that required rest breaks were not authorized and/or permitted. Ernestina Pineda was not provided legally compliant rest breaks either of the training days that she worked for the ROSS Employers.

- b) The ROSS Employers have failed, and continue to fail, to authorize and/or permit Employees working 6.1 to 10 hours in a workday to take at least two unrestricted and uninterrupted 10-minute rest breaks in the middle of each of their daily work periods even though it was practical for Employees to take such rest breaks. Instead, on a daily (or at least weekly) basis, Employees have either not been given the required number of rest breaks; or, when they have been given rest breaks, the breaks have not been in the middle of the work period, the breaks have been interrupted, the breaks have been restricted (e.g., on-call) and/or Employees have been required to remain on-duty and/or on the work premises during their rest breaks. (See, e.g., *Augustus v. ABM Security Services, Inc.*, (2016) 2 Cal. 5th 257, 273 – to qualify as a rest break, the employee must be relieved of *all* duties.) Additionally, the ROSS Employers have failed to pay said Employees one additional hour of pay at their regular rate of compensation (aka premium pay) for each day that required rest breaks were not authorized and/or permitted.
- c) The ROSS Employers have failed to provide a reasonable amount of time to accommodate Employees who desire to express breast milk for their infant child each time the Employee had/has a need to express milk. No time to express milk was/is given and no place was/is provided to express milk in private. Pursuant to Labor Code § 1033, the denial of reasonable lactation breaks or adequate space to express milk is a failure to comply with Labor Code § 226.7, however, the ROSS Employers have failed to pay said Employees one hour of pay at their regular rate of compensation (aka premium pay) for each day that required rest breaks were not authorized and/or permitted. (aka premium pay) for each day that legally compliant lactation breaks were not provided.

To the extent that premium pay related to rest breaks was paid to Employees, it was not paid at the Employee's regular rate of compensation as that rate is determined under California law which is to include nondiscretionary compensation paid to the Employees (e.g., non-discretionary incentives, services fees, etc.) See, *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal5th 858.

Ernestina Pineda was denied a legally compliant rest break each training day that she worked for the ROSS Employers.

Based on the information known to date, it is believed that every Employee was denied at least one legally compliant rest break and the legally required premium pay every pay period that they worked for the ROSS Employers. The total number of pay period violations that each Employees suffered from one or more rest break violations can be determined via the time records of the Employees during the statutory time period.

Tip Violations

Failure to Pay Tips Left by Customers for Employees (Labor Code § 350, Labor Code § 351, Labor Code § 1198) Pursuant to Labor Code § 351, tips are the sole property of employees (not the employer or its agents which are defined in Labor Code § 350 as those having authority to hire, fire, direct or control the acts of Defendants' employees). Nevertheless, instead of distributing all of the tips left by customers to Employees (including Ernestina Pineda), the ROSS Employers have taken, and continue to take, tips for themselves and/or their agents. As a result, Ernestina Pineda and other Employees who were/are entitled to all or a portion of the tips left by customers have been unlawfully, unfairly, and or fraudulently denied receipt of such tips. Based on the information known to date, the failure to distribute all of the tips left by customers to Employees occurred every day and, therefore, every pay period.

Regular Rate of Pay/Compensation Issues

Failure to Properly Calculate the Regular Rate of Wage (Labor Code §§ 226.7, 510, 516, 1998, Labor Code §§ 1030 – 1033, IWO No. 7 or Other IWO(s) Applicable to Employers' Business): The ROSS Employers have failed and continue to fail to apply the correct computation/analysis of each Employee's "regular rate of pay" (re O.T. wages) and each Employee's "regular rates of compensation" in computing the premium pay wages owed with respect to payment of O.T. wages and wages for non-compliant meal, rest or recovery periods under Labor Code § 226.7(c) (See, *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal5th 858 -- all nondiscretionary payments/wages paid to Employees must be considered, not just the Employees' basic hourly wages).

As a result, Employees who were paid O.T. wages and/or premium pay related to meal periods, rest/lactation breaks and/or recovery periods were not paid at the legally required rate(s) of pay.

Sick Leave Benefit Violations

Failure to Provide Mandated Sick Leave Benefits (Labor Code § 233, Labor Code §§ 245.5, 246 – 246.5, 247, 247.5, 248.5, 249 and Labor Code § 1198 and/or Other Applicable Law(s), Ordinance(s) and/or Regulation(s)): The ROSS Employers have violated and continue to violate the above referenced laws by failing to provide Employees (including Ernestina Pineda) with the sick leave benefits mandated by law, including local laws, ordinances and/or regulations which have required the provision of more sick time/higher caps than mandated by the State of California. Ernestina Pineda was not allowed to accumulate any sick time for the two training days that she worked for the ROSS Employers.

Failure to Notify Employees of their Available Sick Leave Benefits (Labor Code § 233, Labor Code §§ 245.5, 246 – 246.5, 247, 247.5, 248.5, 249 and Labor Code § 1198 and/or Other Applicable Law(s), Ordinance(s) and/or Regulation(s)): The ROSS Employers have violated and continue to violate the Labor Code by failing to notify Employees as to the amount of their available sick leave either in their wage statements or in a separate writing provided to Employees on the designated pay date along with the Employee's payment of wages. Ernestina Pineda was not given any such documentation.

Failure to Permit Employees the Use of Accrued Sick Leave Benefits (Labor Code § 233, Labor Code §§ 245.5, 246 – 246.5, 247, 247.5, 248.5, 249 and Labor Code § 1198 and/or Other Applicable Law(s), Ordinance(s) and/or Regulation(s)): The ROSS Employers have violated and continue to violate Labor Code § 233 and/or § 246.5 by failing to permit its current and former Employees from using their accrued sick time for the purposes set forth under California law.

Failure to Pay/Timely Pay Employees Accrued Sick Leave Benefits (Labor Code § 233, Labor Code §§ 245.5, 246 – 246.5, 247, 247.5, 248.5, 249 and Labor Code § 1198 and/or Other Applicable Law(s), Ordinance(s) and/or Regulation(s)) The ROSS Employers have adopted, and continue to adopt, a custom and practice of violating Labor Code § 233 and Labor Code § 246(n) by failing to pay Employees (including Ernestina Pineda) sick leave time that Employees have accrued and used for purposes permitted under California law.

Seating Accommodation Violations

Failure to Provide Employees with Seating Accommodations (Labor Code § 1198, IWO No. 7 or Other Applicable IWO) The ROSS Employers have adopted and continue to adopt a custom and practice of failing to provide its current and former Employees with: **1)** Suitable seating when the nature of the Employees' work reasonably permits use of seats (e.g., while at the cash registers, folding clothes, doing paperwork, etc.) and **2)** Suitable seating in reasonable proximity to the Employees' work areas for use by Employees when a) they are not engaged in active duty, b) their work requires standing and c) such seats would not interfere with the performance of their duties.

Failure to Pay/Timely Wage Payment Violations

Failure to Pay/Timely Pay Employees All Wages Owed on Designated Paydays (Labor Code § 200, Labor Code §§ 204 – 204b, Labor Code § 1198, IWO No. %% or Other Applicable IWO):

For more than a year, the ROSS Employers have violated and continue to violate Labor Code §§ 204-204b and the applicable wage order by failing to pay Employees the wages they were due within the timeframes set forth in Labor Code §§ 204-204b. Such failures occurred in at least the following ways:

- a) Employees have been paid wages after the ROSS Employers' designated paydays.
- b) Employees have been paid their wages more than seven days after the end of the pay period.
- c) The ROSS Employers regularly require non-exempt Employees to work "off-the-clock" and, thereafter, do not compensate them for the time worked "off-the-clock". Depending on the non-exempt Employee involved, the time worked off-the-clock occurs on a daily basis before their shift begins, during the Employee's meal period, and/or after their scheduled shift is over.
- d) Employees are promised that they will be paid for completing New Hire paper work but they are not paid for that time. Ernestina Pineda worked two training days but was never paid wages for any of the time she worked.

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- e) In accordance with the work schedule provided by the ROSS Employers, Employees who show up timely for work have not been compensated for the time they have spent waiting to clock-in for their workday.
 - f) The ROSS Employers have unfairly “rounded” the punch-in/out times of non-exempt Employees such that the Employees are not paid for all the time they actually work. Moreover, the rounding consistently works as an unfair monetary advantage to the ROSS Employers and to the detriment of the non-exempt Employees.
 - g) The ROSS Employers have not paid Employees the tips they are owed as set forth in this notice.
 - h) Non-exempt Employees have not been paid the premium pay wages owed by the ROSS Employers for missed, untimely, restricted, on-duty, interrupted, on-duty, and/or short rest breaks/lactation breaks. Ernestina Pineda was not paid any premium pay related to the ROSS Employers’ failure to provide her with legally compliant rest breaks.
 - i) Non-exempt Employees have not been paid the premium pay wages owed by the ROSS Employers for missed, untimely, restricted, on-duty, interrupted, on-duty, and/or short meal periods. Ernestina Pineda was not paid any premium pay related to the ROSS Employers failure to provide her with legally compliant meal periods.
 - j) The ROSS Employers have not paid Employees vested vacation pay/PTO pay when lawfully used by Employees and/or remain unused at the time of Employees’ separation from employment.
 - k) The ROSS Employers have not paid Employees accrued sick leave benefits even though it has been used by Employees for purposes permitted by the Labor Code.
 - l) The ROSS Employers have not paid non-exempt Employees the overtime wages they were owed because the ROSS Employers have not included all the time non-exempt Employees have actually worked in the Employees’ time records which have been used to calculate Employees’ regular and overtime wages.
 - m) Employees who are owed additional wages due to the ROSS Employers’ failure to comply with minimum wages laws have not been paid said wages.
 - n) Employees have not been paid minimum, regular, and/or overtime wages for times worked which were not included in the calculations of Employees’ wages and/or not correctly calculated. Consequently, said wages were not included in the Employees’ paychecks and/or wage statements. Indeed, Ernestina Pineda was not paid for any of the time that she worked for the ROSS Employers.
 - o) Non-exempt Employees have not been paid minimum, regular and/or overtime wages owed for on-duty travel time.
 - p) Non-exempt Employees have not been paid minimum, regular and/or overtime wages owed for on-call time.
 - q) Non-exempt Employees have not been paid minimum, regular and/or overtime wages owed for reporting time.
 - r) Non-exempt Employees (including Ernestina Pineda) have not been paid minimum, regular and/or overtime wages owed for training time and/or time spent filling out New Hire paper work.
 - s) Non-exempt Employees have not been paid minimum, regular and/or overtime wages owed for donning/doffing the uniforms that the ROSS Employers require them to wear.
 - t) Non-exempt Employees who have worked more than 8 hours to 12 hours in a workday
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- have not been paid time and one-half of their regular rate of pay.
 - u) Employees who have worked more than 40 hours in a workweek have not been paid time and one-half of their regular rate of pay.
 - v) Employees who have worked more than 12 hours in a workday have not been paid double time of their regular rate of pay.
 - w) Employees who have worked more than 8 hours on the seventh consecutive day of work in a workweek have not been paid double time of their regular rate of pay.

Because Employees were not compensated for the above-referenced wages, Employees were not paid such wages within the timeframes set forth in Labor Code §§ 204-204b. Moreover, even the wages that Employees were paid were not paid within the timeframe(s) set forth in Labor Code §§ 204-204b.

Indemnification of Expenditure Violations

Failure to Indemnify/Reimburse Employees for Necessary Expenditures (Labor Code § 2802): The ROSS Employers have violated and continue to violate Labor Code § 2802 by not indemnifying or reimbursing Employees for all on-duty, necessary expenditures and/or losses they incurred in the discharge of their work duties or in obedience to the directions of the ROSS Employers, including expenditures and/or losses related to the following:

- Use of Employees' personal vehicles resulting in necessary expenditures for gas, vehicle maintenance, and insurance,
- Use of Employees' personal cell phone devices,
- Etc.

Illegal Deductions

Making Illegal Deductions from Employee Wages (Labor Code § 221, IWO No. 7 or other applicable IWO): The ROSS Employers have violated and continue to violate Labor Code § 221 and the applicable wage order by collecting or making deductions from Employees wages for losses/expenses which the ROSS Employers were not legally entitled to deduct from Employee wages including for things like: cash shortages, breakage, loss of equipment, expenses for phone usage for employment/business purposes, uniforms required by the ROSS Employers, lost property, etc.

Wage Statement Violations

Failure to Provide Employees with Accurate Itemized Wage Statements (Labor Code § 226, Labor Code 226.3, Labor Code § 1198) The ROSS Employers have adopted, and continue to adopt, a custom and practice of either not providing wage statements to Employees (as was the case with Ernestina Pineda) and/or they have provided wage statements to Employees that fail to comply with Labor Code § 226 in the following ways:

- The wage statements do not accurately record the total hours worked and/or the gross/net wages earned by non-exempt Employees, including:
 - Premium pay wages for missed, untimely, restricted, interrupted, on-duty and/or short rest breaks/lactation breaks as referenced above,

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- Premium pay wages for missed, untimely, restricted, interrupted and/or short meal periods as referenced above,
 - Premium pay wages for missed, untimely, restricted, interrupted and/or short meal periods and rest breaks have not included a regular rate of pay that was adjusted to account for non-discretionary wages/bonuses,
 - Regular and/or overtime wages for time worked but not reported on the Employees' time records,
 - Regular and/or overtime wages for on-duty travel time,
 - Regular and/or overtime wages for on-duty meal periods,
 - Regular and/or overtime wages for on-call time,
 - Regular and/or overtime wages for reporting time,
 - Regular and/or overtime wages for donning/doffing time,
 - Regular and/or overtime wages for training time, testing time, and/or time spent filling out required paperwork,
 - Regular and/or overtime wages for rounding to the benefit of the ROSS Employers,
 - Earned overtime wages for overtime work,
 - Owed wages due to the ROSS Employers' failure to comply with minimum wages laws,
 - Wages owed for vested vacation time,
 - The wage statements do not accurately record the number of piece-rate units earned by Employees and the applicable piece rates,
 - The wage statements do not accurately record the wages owed to Employees in the form of tips/service charges, etc.,
 - The wage statements do not accurately record all the deductions deducted from Employee's wages,
 - The wage statements do not state the inclusive dates for which the Employees were/are being paid,
 - The wage statements do not state the names of the Employees and only the last 4 digits of their Social Security numbers or the Employees' I.D. numbers,
 - The wage statements do not set forth the name and address of the legal entity of the entity that employed Employees,
 - The wage statements do not set forth all the hourly rates in effect to the pay period and corresponding number of hours worked at each hourly rate by Employees.

Misclassification Violations

Misclassifying Employees as Independent Contractors (Labor Code § 226.8, Labor Code § 1198, Labor Code § 2775 et. seq., IWO No. 7 and/or Other Applicable Statute(s) and/or IWO(s)): The ROSS Employers have violated and continue to violate the above-referenced statute(s) and/or IWO(s) by misclassifying current and former Employees as independent contractors. Accordingly, as set forth herein, the ROSS Employers have unlawfully denied said individuals the employment benefits owed to Employees under California law, including the following benefits: rest breaks, meal breaks, wage statements, overtime pay, sick leave benefits, payment of employment taxes, reimbursement of business expenses, and/or other employment benefits owed to employees under the law.

Misclassifying Non-Exempt Employees as Exempt Employees: (Labor Code § 515, Labor Code § 1198, IWO No. 7, and/or Other Applicable Statute(s) and/or IWO(s)): The ROSS Employers have violated and continue to violate the above-referenced statute(s) and/or wage order(s) by misclassifying current and former non-exempt Employees as exempt employees and, thereby, have unlawfully denied said individuals the employment benefits owed to non-exempt Employees under California employment laws as referenced in this notice, including laws regarding: overtime wages, rest breaks and associated rest break compensation, meal periods and associated premium pay compensation, minimum wage pay, sick leave benefits, and other benefits owed to non-exempt employees as referenced in this notice.

Said misclassifications are evidenced by a number of factors, including but not limited to: Employees who primarily performed non-exempt work were classified as performing in executive and/or administrative capacities when said Employees did not, in fact, qualify for such classification. For example: 1) Said Employees did not customarily and/or regularly exercise discretion and independent judgment in the performance of their duties; instead, they followed the instructions and procedures given to them by others; 2) Said employees were not paid a monthly salary that was equivalent to no less than two times the state minimum wage for full-time employment (i.e., 40 hours per week), etc.

Equal Pay/Equal Work Violations

Failure to Pay Equal Pay for Equal Work to Members of the Opposite Sex (Violations of Labor Code § 1197.5, Labor Code § 1198): The ROSS Employers have adopted and continue to adopt a custom and practice of paying Employees whose sex and/or gender is male more pay than the ROSS Employers have paid/are paying current and former Employees (including Ernestina Pineda) whose sex and/or gender is female for doing substantially similar work performed under similar working conditions. By failing to pay former and current female Employees the same wage as male Employees for substantially similar work performed under similar working conditions the ROSS Employers are in violation of Labor Code § 1197.5.

Waiting Time Violations at Time of Separation

Failure to Pay/Timely Pay Employees All Wages Due at Time of Separation (Labor Code §§ 200-203, 208, 227.3): The ROSS Employers have violated and continue to violate the above-referenced statute(s) by failing to pay Employees (including Ernestina Pineda) who have become separated from employment with the ROSS Employers the complete and correct amount of all wages owed to such Employees at the time of their separation and at the required place within the timeframes mandated by law, including in the following ways:

- For Employees who have been terminated (including Ernestina Pineda), the ROSS Employers have failed, and continue to fail, to pay said employees all wages due and payable immediately at the time of their termination. With respect to Ernestina Pineda, she had not been paid any of the wages that she earned.

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- For Employees who have given at least a 72-hour notice of resigning or otherwise separating from employment with the ROSS Employers, the ROSS Employers have failed (and continue to fail) to pay said Employees all wages due and payable on their last day of work.
 - For Employees who have resigned or otherwise separated from employment with the ROSS Employers and have not given at least a 72-hour notice, the ROSS Employers have failed (and continue to fail) to pay said Employees all wages due and payable within 72-hours.
 - Employees who have become separated from employment with the ROSS Employers (whether by termination, resignation or otherwise) have not been paid the premium pay wages (and/or correct amount of such premium wages) owed at the time of separation for missed, untimely, restricted, interrupted, on-duty, and/or short rest breaks/lactation breaks.
 - Employees who have become separated from employment with the ROSS Employers (whether by termination, resignation or otherwise) have not been paid the premium pay wages (and/or the correct amount of premium wages) owed at the time of separation for missed, untimely, restricted, interrupted and/or short meal periods.
 - Employees who have become separated from employment with the ROSS Employers (whether by termination, resignation or otherwise) have not been paid regular and/or overtime wages owed at the time of separation for time worked but not reported on the Employees' time sheets and/or wage statements.
 - Employees who have become separated from employment with the ROSS Employers (whether by termination, resignation or otherwise) have not been paid regular and/or overtime wages owed at the time of separation for on-duty travel time.
 - Employees who have become separated from employment with the ROSS Employers (whether by termination, resignation or otherwise) have not been paid regular and/or overtime wages owed at the time of separation for on-duty meal periods.
 - Employees who have become separated from employment with the ROSS Employers (whether by termination, resignation or otherwise) have not been paid regular and/or overtime wages owed at the time of separation for on-call time.
 - Employees who have become separated from employment with the ROSS Employers (whether by termination, resignation or otherwise) have not been paid regular and/or overtime wages owed at the time of separation for reporting time.
 - Employees who have become separated from employment with the ROSS Employers (whether by termination, resignation or otherwise) have not been paid regular and/or overtime wages owed at the time of separation for donning/doffing time.
 - Employees who have become separated from employment with the ROSS Employers (whether by termination, resignation or otherwise) have not been paid regular and/or overtime wages owed at the time of separation for training time, testing time, filling out paperwork required by the Ross Employers.
 - Employees who have become separated from employment with the ROSS Employers (whether by termination, resignation or otherwise) have not been paid regular and/or overtime wages owed at the time of separation for time unpaid due to rounding practices that unfairly worked to the benefit of the ROSS Employers.
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- Employees who have become separated from employment with the ROSS Employers (whether by termination, resignation or otherwise) have not been paid the overtime wages owed at the time of separation.
- Employees who have become separated from employment with the ROSS Employers (whether by termination, resignation or otherwise) have not been paid wages owed due to ROSS' failure to pay at least the minimum wage mandated by law.
- Employees who have become separated from employment with the ROSS Employers (whether by termination, resignation or otherwise) have not been paid the wages they are owed for vested vacation/PTO time.

Employees who were discharged were not paid at the place of discharge, Employees who quit were not paid at the at the office or agency of the ROSS Employers in the county where each respective employee had been performing labor.

Since none of the separated employees have been paid the entirety of the wages they were owed at the time of their separation, each such Employee (including Ernestina Pineda) is entitled to continuing wages for the 30-day maximum set forth in Labor Code § 203 (see below).

The number of pay period violations of Labor Code §§ 201-202 can be determined from information contained in the employment records of the ROSS Employers including records which show when Employees became separated from employment with the ROSS Employers, when said Employees were paid their final wages from the ROSS Employers and what wages were paid as well as records regarding the total number of Employees who have become separated from employment during the statutory period (this number will continue to grow until the illegal practice is stopped).

Failure to Pay/Timely Pay Separated Employees Continuous Wages (Labor Code § 203):

The ROSS Employers have violated and continue to violate Labor Code § 203 (or other applicable law, wage order and/or regulation) by failing to pay up to 30 days of continuing wages to Employees who have become separated from employment with the ROSS Employers and have not been paid all the wages owed to Employees at the time of separation pursuant to Labor Code §§ 201-202, as set forth above.

Employment Record Violations

Failure to Respond/Timely Respond to Employees' Requests to Inspect and/or Copy Employment Records (Labor Code §§ 226, 432, 433, 1174, 1197.5 1198.5; Gov't Code §12946, IWO No. %% or Other Applicable IWO and/or Law/Regulation)

The ROSS Employers have adopted and continue to adopt a custom and practice of failing to respond or timely respond to Employees' request to inspect and/or a copy all records that the law requires them to provide. As a result, the ROSS Employers have wrongfully prevented Employees (including Ernestina Pineda) from discovering all facts and/or theories of liability which may subject the ROSS Employers to liability and penalties under the law (including the PAGA).

It also believed that the ROSS Employers have failed to comply with the record-keeping requirements set forth in the applicable IWO (or other applicable law/regulation) which required them to keep accurate time records showing when each non-exempt Employee took their meal periods.

The ROSS Employers have also failed to keep records of the names/addresses of their employees, the payroll records have not been kept in the central location(s)/establishment(s) where Employees are employed, the records do not show the hours worked daily by and the wages paid to Employees. Such records have also not been for the period of time required under the above-referenced laws.

Conclusion

If the State of California intends to investigate the matters set forth herein, please inform our offices as soon as possible as prompt administrative action will permit the identified unlawful practices to be rectified in prompt fashion. If the State of California does not send notification of its intent to investigate the alleged violations set forth herein, then pursuant to Labor Code § 2698 *et. seq.* (PAGA), then Ernestina Pineda reserves the right to file a PAGA cause of action and seek all available damages, penalties, and remedies as well as attorneys' fees, interest, and costs against the ROSS Employers, as permitted under the PAGA.

Should the State of California require any additional information, please do not hesitate to contact the undersigned.

Very truly yours,

MOORADIAN LAW, APC



ZORIK MOORADIAN
Attorney for Ernestina Pineda