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Via Online Filing
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Via Certified Mail
Pillsbury Winthrop Shaw Pittman Incorporated LLP
333 Commerce St
Ste 1300
Nashville, TN 37201

Pillsbury Winthrop Shaw Pittman LLP
Four Embarcadero Center,
22nd Floor
San Francisco, CA 94111

Subject: *Kathleen Stout v. Pillsbury Winthrop Shaw Pittman LLP*

Dear Representative:

This office represents Kathleen Lynn Stout ("Plaintiff") in connection with Labor Code violation claims related to their employment with Pillsbury Winthrop Shaw Pittman LLP ("Employer"). Employer can be contacted at:

Pillsbury Winthrop Shaw Pittman LLP
333 Comercial St
Ste 1300
Nashville, TN 37201

Pillsbury Winthrop Shaw Pittman LLP
Four Embarcadero Center,
22nd Floor
San Francisco, CA 94111

Plaintiff has personally suffered each of the Labor Code violations alleged in this letter while employed by Employer within the applicable one-year statute of limitations period. As such, Plaintiff intends to seek PAGA penalties on behalf of herself and all other non-exempt employees of Employer employed in California and who were subjected to any or all of the Labor Code violations referenced herein during the PAGA Period (together with Plaintiff, "Aggrieved Employees"). The PAGA Period begins one year prior to the date of this letter and, because the violations alleged herein are ongoing, the PAGA Period extends beyond the date of this letter.

In response to Labor Code violations alleged below, PAGA provides Employer with specific options to mitigate potential penalties:

Taking All Reasonable Steps to Be in Compliance:

Employer can reduce potential penalties to 15% of the maximum by demonstrating it has already taken all reasonable steps to be in compliance with all Labor Code provisions identified in this notice prior to receiving it. If Employer believes it has already taken all reasonable steps to be in compliance with all Labor Code provisions identified in this notice, Employer is encouraged to contact our office to set forth all reasonable steps taken.

If all reasonable steps are taken to be in compliance with all Labor Code provisions identified in this notice within 60 days after receiving it, penalties may be reduced to 30% of the maximum. If Employer intends to take all reasonable steps to be in compliance with all Labor Code provisions identified in this notice, Employer is encouraged to engage in good faith meet-and-confer discussions with our office regarding the alleged violations. Failure to do so may support a finding that all reasonable steps were not taken to comply with the Labor Code provisions identified herein.

Curing Violations:

For certain violations, Employer has the opportunity to fully cure the alleged violations to further reduce penalties or even avoid penalties altogether. Once again, we strongly encourage Employer to promptly initiate meet-and-confer discussions with our office as part of any compliance or cure efforts. Failure to do so may result in a cure that is insufficient.

Employer must notify both our office and the Labor and Workforce Development Agency (LWDA) of any steps taken towards compliance or any attempts to cure. Not only does this approach demonstrate a good faith attempt to come into compliance, but failure to do so could potentially support a finding that Employer's conduct was malicious, fraudulent, or oppressive, thereby leading to increased penalties pursuant to Labor Code section 2699(f)(2)(B).

All communications regarding this matter should be directed to:

Frontier Law Center
6200 Canoga Ave, Suite 470
Woodland Hills, CA 91367

This letter is sent pursuant to the requirements of Labor Code section 2699.3. The Labor Code violations being alleged are as follows:

Failure To Pay for All Hours Worked, Including Off-The-Clock and Controlled Standby Time

Labor Code sections 1197 and 1198 and Wage Order No. 4, including sections 2(K) and 4, require Employer to pay nonexempt employees for all time during which they are subject to Employer's control or are suffered or permitted to work. California law does not permit Employer to average compensation paid for recorded hours against entirely unpaid hours.

Employer failed to pay the Aggrieved Employees the minimum wage for all hours worked because the Aggrieved Employees were required to perform work while off the clock. Specifically, the Aggrieved Employees were at times required to clock out but continue working, and they were required to remain on-call after their scheduled shifts to log back in and perform late filing work without being paid for all of the off-the-clock work. During on-call periods, they were restricted from using the time effectively for their own purposes, and the Employer paid them only after they began performing an assigned task and did not pay for the preceding time during which they were required to remain available and subject to Employer's control.

Civil Penalties Applicable to Minimum Wage Violations

As a result of the above minimum wage violations, Employer is subject to the civil penalties listed in Labor Code sections 1197.1 and 2699.

Overtime Violations

Labor Code section 510 and the applicable Wage Order provides that an employee shall be paid one and one-half times their regular rate of pay for any work in excess of eight hours in one workday or 40 hours in any one workweek. Labor Code section 510 and the applicable Wage Order further provides that an employee shall be paid twice their regular rate of pay for any work in excess of 12 hours in one day.

Unpaid Overtime Due to Off the Clock Work

The Aggrieved Employees regularly worked in excess of eight hours in a day and 40 hours in a workweek. Since the Aggrieved Employees were required to perform work off the clock, it follows that this time was often overtime. Thus, the Aggrieved Employees were not paid all overtime wages owed.

Civil Penalties Applicable to Overtime Violations

As a result of the above overtime violations, Employer is subject to the civil penalties listed in Labor Code sections 558, 1197.1, and 2699.

Meal Break Violations

Labor Code section 512 and the applicable Wage Order provides that an employer shall not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes, or more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes. Meal periods must be uninterrupted, and the employee must be relieved of all duty.

Labor Code section 226.7 further provides that an employee is entitled to one hour of pay at their regular rate of pay for each day that a compliant meal period was not provided.

Missed, Late, or Short Meal Breaks

The Aggrieved Employees' meal breaks were regularly missed, late or short because they were required to work through their meal periods in order to complete filings.

Civil Penalties Applicable to Meal Break Violations

As a result of the above meal break violations, Employer is subject to the civil penalties listed in Labor Code sections 558 and 2699.

Reporting-Time Pay

Labor Code section 1198 and Wage Order No. 4, section 5, require an employer to pay reporting-time wages when employees are required to report to work, including by remotely connecting or otherwise making themselves available for work, but are furnished less than the minimum compensable amount of work required by the applicable Wage Order.

Employer failed to pay the Aggrieved Employees all required reporting-time wages. Specifically, the Aggrieved Employees were required to report for work, remotely connect, log in, or otherwise make themselves available for work assignments, including late-night or late filing assignments, but were at times furnished less than the minimum compensable amount of work. Employer failed to pay the Aggrieved Employees the reporting-time wages required under the applicable Wage Order.

Civil Penalties Applicable to Reporting-Time Pay Violations

As a result of the above reporting-time pay violations, Employer is subject to the civil penalties listed in Labor Code sections 1198 and 2699, and any other applicable civil penalties available under PAGA for violations of the applicable Wage Order.

Failure to Maintain Accurate Payroll Records

Labor Code section 1174(d) and Wage Order No. 4, section 7, require an employer to maintain accurate payroll records showing, among other things, the hours worked by employees, wages earned, and other information required by the Labor Code and applicable Wage Order.

Employer failed to maintain accurate payroll records for the Aggrieved Employees. Specifically, because Employer failed to record all hours worked, including off-the-clock work, controlled standby time, remote late-night work, and other compensable time, Employer's payroll records did not accurately reflect the Aggrieved Employees' actual hours worked or wages earned. Employer also failed to maintain accurate records concerning meal periods and premium wages owed.

Civil Penalties Applicable to Failure to Maintain Accurate Payroll Records

As a result of the above recordkeeping violations, Employer is subject to the civil penalties listed in Labor Code sections 1174.5 and 2699, and any other applicable civil penalties available under PAGA for violations of Labor Code section 1174(d) and the applicable Wage Order.

Wage Statement Violations

Labor Code section 226 requires an employer to provide wage statements to its employees which include, among other things, gross and net wages earned, total hours worked, all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate. Employer failed to provide wage statements which accurately reflected this information.

Civil Penalties Applicable to Wage Statement Violations

As a result of the wage statement violations detailed above, Employer is subject to the civil penalties listed in Labor Code sections 226.3 and 2699.

<u>Failure to Pay Wages When Due</u>

Labor Code section 204 requires an employer to pay all wages earned by employees during the statutorily required pay periods. Wages include, but are not limited to, regular wages, overtime wages, minimum wages, wages for off-the-clock work, controlled standby time, reporting-time pay, and premium wages owed for noncompliant meal periods.

Employer failed to pay the Aggrieved Employees all wages due during the required pay periods. Specifically, Employer failed to timely pay all wages owed for off-the-clock work, overtime, controlled standby time, reporting-time pay, and meal-period premium wages. As a result, the Aggrieved Employees were not paid all wages earned during the pay periods in which those wages were due.

Civil Penalties Applicable to Failure to Pay Wages When Due

As a result of the above failure to timely pay wages, Employer is subject to the civil penalties listed in Labor Code sections 204 and 2699, and any other applicable civil penalties available under PAGA.

<u>Waiting Time Penalties</u>

Labor Code sections 201 and 202 require that an employer provide an employee with all wages due and payable either: (a) immediately upon termination, or (b) within 3 days of the employee's resignation. When an employer fails to comply with the above, the employee is entitled to the equivalent of a day's wage at their regular rate of pay for each day the employer is late, for up to 30 days. (Labor Code section 203). Employer failed to pay all wages owed at the conclusion of the Aggrieved Employees' employment.

Civil Penalties Applicable to Waiting Time Penalties

Because of Employer's failure to pay all wages at the conclusion of employment and to pay the resulting waiting time penalties, Employer is subject to the civil penalties listed in Labor Code section 2699.

<u>Reservation of Rights</u>

The facts and claims contained herein are based on the information available at the time of this writing. Therefore, if through discovery and/or expert review, Plaintiff becomes aware of additional facts or theories of liability, they expressly reserve the right to revise these facts and/or add any new claims by amending and/or supplementing this letter or by adding applicable causes of action to the complaint which will relate back to the date of this letter.

Sincerely,

/s/

Mark Tieman