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January 30, 2024

VIA ELECTRONIC SUBMISSION

California Labor & Workforce Development Agency
ATTN: PAGA Administrator
455 Golden Gate Ave., 9th Floor
San Francisco, CA 94102
PAGAFilings@dir.ca.gov

VIA CERTIFIED MAIL (EMPLOYER)

LAZER SPOT, INC.
6525 SHILOH RD., SUITE 900
ALPHARETTA, GA 30005

Re: Notice of Labor Code/IWC Wage Order Violations (Labor Code § 2699.3)

Dear LWDA and Employer,

Please be advised that my law firm, Blake Jones Law, PC, represents Ahnaisha Hall ("Claimant"). Claimant was previously employed as a non-exempt employee for LAZER SPOT, INC. ("Employer") during the relevant statutory period for asserting the underlying claims under the California Private Attorneys General Act ("PAGA") (Labor Code § 2699 et seq.).

Pursuant to California Labor Code sections 2699.3 and 2699.5, Claimant, individually, and on behalf of all others similarly situated ("Aggrieved Employees"), hereby provides written notice of the following Labor Code and IWC Wage Order violations.

VIOLATIONS OF LABOR CODE AND IWC WAGE ORDERS

Recordkeeping Violations: Under California law, an employer must maintain accurate time and pay records, including (1) time records showing when employees begin and ends each work periods, meal periods, split shift intervals, and total hours worked, and (2) pay records showing its employees' hours worked and applicable rates of pay during each pay period. (Labor Code § 1174 and IWC Wage Orders § 7).

Employer failed to maintain these records. Among other things, Employer failed to keep records of all hours worked for Claimant and the Aggrieved Employees, including the time that their meal periods began and ended. Instead, Employer engaged in unlawful thirty-minute auto deductions regardless of the length of the meal period. Employer violated Labor Code §§ 1174 and the applicable IWC Wager Order § 7, and is subject to civil penalties under Labor Code § 2699(f).

Minimum Wage Violations: Labor Code § 1197 requires employers to pay employees at least the minimum wage fixed by the Industrial Welfare Commission for all hours worked. Labor Code § 1194 similarly provides that notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees, and costs of suit.

Employer failed to pay Claimant and the Aggrieved Employees minimum wages for all hours worked. Among other things, Employer failed to pay Claimant and the Aggrieved Employees for work performed "off the clock" during meal periods and engaged in unlawful time shaving/rounding of their work hours. Employer violated Labor Code §§ 510, 1194, 1197, 1198, and the applicable IWC Wage Order; and, is therefore liable for civil penalties under Labor Code §§ 1197.1 and 2699(f).

Overtime Violations: California law requires employers to pay overtime equal to one and one-half times the regular hourly rate of pay for each hour worked beyond eight (8) hours per workday and each hour worked beyond forty (40) hours per work week. Employers must pay overtime equal to double the regular hourly rate of pay for each hour worked beyond twelve (12) hours per workday and for all hours worked in excess of eight (8) hours on the seventh consecutive day or work in a work week. (Lab. Code § 510; IWC Wage Orders § 3 (A).)

Employer violated California overtime laws by failing to pay Claimant and the Aggrieved Employees overtime and double time. Among other things, Employer failed to pay Claimant and the Aggrieved Employees for work performed "off the clock" during meal periods and engaged in unlawful time shaving/rounding of their work hours Employer further failed to pay overtime and double time at the correct rates by all forms of non-discretionary pay into the regular rates and/or improperly calculating the regular rates of pay. Employer is therefore liable for civil penalties under California Labor Code §§ 558 and 2699(f).

Meal Period Violations: California law requires employers to provide employees a reasonable opportunity to take a duty-free thirty (30) minute meal period when an employee works more than five (5) hours in a workday. Unless the employee is relieved of all duty during a 30-minute meal period, the meal period shall be considered an “on duty” meal period and counted as time worked. Employers must also provide employees with a second meal period when an employee works more than (10) hours in a workday, except under certain conditions. Employers must pay employees an additional hour of wages at the employees’ regular rate of pay for each missed meal period. (Labor Code §§ 226.7 and 512, IWC Wage Orders § 11.)¹

Employer failed to provide Claimant and the Aggrieved Employees with compliant meal periods. Among other things, Claimant and the Aggrieved Employees received interrupted, late or no meal periods. Employer engaged in thirty minute auto deductions for meal periods even when employees received shorter or no meal periods. Employer did not pay Claimant and the Aggrieved Employees one additional hour of pay at their regular rates each time that the Employer failed to provide compliant meal periods. When Employer paid meal period premiums, it failed to pay them at the correct rates by not including all forms of non-discretionary pay into the regular rates.

Employer violated California Labor Code §§ 226.7, 512 and 516 and IWC Wage Orders § 11. Employer is therefore liable for civil penalties under California Labor Code §§ 558 and/or 2699(f).

Rest Period Violations: Under California law, employers must provide employees with a paid, duty-free ten (10) minute rest period for each four (4) hours worked, or major fraction thereof. (Labor Code § 226.7 and IWC Wage Order § 12). Employers must pay employees an additional hour of wages at the employee’s regular rate of pay where it fails to provide a compliant rest period. (Lab. Code § 226.7).

Employer violated Labor Code §§ 226.7 and 516, and IWC Wage Orders Section 11 by failing to provide Claimant and the Aggrieved Employees with all required, compliant rest periods. Claimant and the Aggrieved Employees were routinely required to work through rest periods or received interrupted rest periods.

Employer did not pay Claimant and the Aggrieved Employees one additional hour of pay at their regular rates when Employer failed to provide compliant rest periods. When Employer paid rest

¹ Labor Code § 516 provides that the Industrial Welfare Commission may adopt or amend working condition orders with respect to break periods, meal periods, and days of rest for any workers in California consistent with the health and welfare of those workers.

period premiums, it failed to pay them at the correct rates by not including all forms of non-discretionary pay into the regular rates.

Accordingly, Employer subject to civil penalties under California Labor Code § 2699(f) for failing to provide compliant rest periods and underpaying rest period premiums.

Sick Pay Violations: California law requires an employer to provide paid sick days to employees at a rate of no less than one hour per every thirty hours worked, beginning on the commencement of employment. (Labor Code § 246(b)(1).) Paid sick leave must be calculated as set forth in Labor Code § 246(l). An employer shall provide an employee with written notice that sets forth the amount of paid sick leave available, or paid time off leave an employer provides in lieu of sick leave, for use on either the employee's itemized wage statement described in Section 226 or in a separate writing provided on the designated pay date with the employee's payment of wages. (Labor Code § 246(i).)

Employer violates these statutes. Employer did not accrue sick days for Claimant and the Aggrieved Employees at the required rate of accrual, did not calculate and pay sick pay to them at the required rate of pay, and did not accurately set forth the amount of available paid sick leave on their wage statements or in a separate writing.

Employer is therefore subject to civil penalties pursuant to Labor Code section 248.5 and/or 2699(f).

Wage Statement Violations: An employer, semimonthly or at the time of each payment of wages, shall furnish to his or her employee, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately if wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except as provided in subdivision (j), (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee and, beginning July 1, 2013, if the employer is a temporary services employer as defined in Section 201.3, the rate of pay and the total hours worked for each temporary services assignment. (Labor Code § 226(a).)

Employer violated Labor Code section 226(a) by failing to provide Claimant and the Aggrieved Employees with accurate itemized written wage statements. Among other things, Employer failed to correctly list the total wages earned, total hours worked or the applicable hourly rates of

pay for the reasons discussed herein. Accordingly, Employer is subject to civil penalties under Labor Code §§ 2699(f) or 226.3.

Failing to Timely Pay Wages During Employment: Labor Code § 204 requires an employer to pay all wages that are due and owing to employees twice during each calendar month on days designated in advance by the employer as regular paydays. Employer violated this statute by failing to pay Claimant and the Aggrieved Employees all wages that were due and owing each pay period, including failing to pay them for all hours worked and failing to pay them premium pay for non-compliant meal and rest periods. Employer is therefore subject to civil penalties under Labor Code § 2699.

Failing to Timely Pay Wages Upon Separation of Employment: If an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately. (Labor Code § 201.) If an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting. (Labor Code § 202.) If an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.3, 201.5, 201.6, 201.8, 201.9, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days. (Labor Code § 203.)

Employer violated these statutes by failing to timely pay Claimant and Aggrieved Employees (who are former employees) all wages that were due and owing upon separation of employment, including failing to pay them for all hours worked and premiums for non-compliant meal and rest periods. Employer is therefore subject to civil penalties under Labor Code §§ 2699 and/or 201- 203.

Failure to Reimburse Business Expenses. Under California law, an employer is required to indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties. (Labor Code § 2802.) Employer failed to reimburse Claimant and the Aggrieved Employees for such business expenses. Among other things, Claimants and the Aggrieved Employees had to use their personal cellular phones for work. Claimant and the Aggrieved Employees were not reimbursed for these expenses. Accordingly, Employer is subject to penalties under Labor Code § 2699(f).

CONCLUSION

Pursuant to Labor Code § 299.3(a)(2)(A), please advise my office within sixty days if the LWDA intends to investigate these alleged violations. In the event the LWDA fails to timely respond, please be advised that my office intends to file a PAGA action for these violations against Employer on behalf of Claimant and the Aggrieved Employees.

If the Employer cures any of the alleged violations that are subject to cure pursuant to Labor Code § 2699.3(c)(2)(A) within thirty (30) days, Employer is directed to give notice to this office via certified mail.

Thank you for your time and consideration. Should you have any questions or concerns, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Blake R. Jones", written in a cursive style.

Blake R. Jones