
January 24, 2024

VIA ONLINE FILING

Stewart Knox, Secretary
California Labor and Workforce Development Agency

VIA CERTIFIED MAIL—RETURN RECEIPT REQUESTED

Lainika Johnson—Agent for Service of Process
TrashLogic, LLC
5740 Windmill Way, #17
Carmichael, CA 95608

Re: Galvan v. TrashLogic, LLC, et al.

To Whom It May Concern:

This office represents Richard Ryan Galvan (“Claimant”) who was employed by TrashLogic, LLC and related entities (collectively “Respondents”). This letter is notice, and a request, pursuant to Labor Code §2699.3 that your agency investigate the claims in this impending civil action. If the agency does not intend to investigate the alleged violations, we specifically request such notification to allow Claimant to file a civil action to pursue PAGA claims.

This action is brought on behalf of Claimant and all aggrieved employees at all of Respondents’ locations in California (referred to herein as “similarly situated employees”), to recover penalties for unlawfully withheld wages for overtime work, payroll reporting violations, and violations of other California laws, as well as other statutory penalties and damages owed to Claimant by Respondents.

Continuously during the year prior to the date of this notice, prior to that, and continuing through the pendency of this claim, Respondents:

- (1) Failed and continue to fail to pay Claimant and other similarly situated employees overtime pay (one and a half times their hourly rate) for their work over eight hours per day and 40 hours per week and double-time pay (two times their hourly rate) for their work over 12 hours per day;
- (2) Failed to properly pay Claimant and other similarly situated employees the proper rate of pay for all overtime hours worked (one and a half times or double the *regular rate of pay*);
- (3) Failed and continue to fail to pay Claimant and other similarly situated employees all minimum wages due;
- (4) Failed and continue to fail to provide Claimant with accurate, itemized wage statements reflecting actual wages, overtime, and meal/rest period premiums;

- (5) Failed and continue to fail to reimburse Claimant and all similarly situated employees for necessary expenditures and losses incurred by Claimant and other similarly situated employees in the discharge of their duties;
- (6) Failed and continue to fail to maintain required employee records pursuant to Labor Code § 226(b), 1174, 1199;
- (7) Failed and continue to fail to pay all wages due to non-exempt employees on a biweekly basis in violation of Labor Code § 204;
- (8) Failed and continue to fail to pay all wages due to discharged and quitting employees in violation of Labor Code §§ 201, 202, 203;
- (9) Failed and continue to fail to properly pay accrued sick pay;
- (10) Failed and continue to fail to pay discharged and quitting employees all unused vacation pay at the proper rate of pay.

All of the above violations were suffered by Claimant and similarly situated non-exempt employees at all of Respondents' locations in California on a daily basis in the entire year preceding the date of this notice and continuing throughout the pendency of this claim.

Failure to Pay Minimum Wages

Pursuant to California Labor Code Sections 1182.12, 1194, 1197, and IWC Wage Orders, payment to an employee of less than the applicable minimum wage for all hours worked in a payroll period is unlawful.

Respondents failed to pay Claimant and all similarly situated non-exempt employees minimum wages for all hours worked. Specifically, Respondents failed to pay employees for all hours worked by requiring off the clock work and by failing to properly record and pay overtime hours worked.

Respondents are liable to Claimant for all minimum wages unlawfully withheld, waiting time penalties, and any other penalties imposed by the Labor Code which include but are not limited to, interest, and attorneys' fees and costs.

All of the above violations were suffered by Claimant and similarly situated non-exempt employees at all of Respondents' locations in California on a daily basis in the entire year preceding the date of this notice, and continuing throughout the pendency of this claim.

Failure to Pay Overtime Compensation

Respondents have violated Labor Code section 510 and are subject to Labor Code sections 1194 and other relevant Labor Code sections such as 1194, 1194.2, 1194.3, 1197, 1198, and other pertinent sections of the Labor Code. Labor Code section 510 provides that any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee and any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. Labor Code section 1194 provides that any employee who receives less than the legal overtime compensation due is entitled to recover in a civil action the full amount of the overtime compensation, interest on said compensation, and reasonable attorneys' fees and costs of suit.

Respondents have violated the Labor Code section by not paying Claimant and all similarly situated employees rightfully earned overtime pay for their working more than 8 and 12 hours per day and more than 40 hours per week on a daily and weekly basis. Claimant and other aggrieved, similarly situated employees regularly worked shifts in excess of daily eight hours, without being fully compensated with all overtime premiums due and owing.

As a result of Respondents' failure to pay Claimant's rightfully earned overtime pay, Respondents are liable for all back overtime pay, waiting time penalties, and any other penalties imposed by the Labor Code which include but are not limited to, interest, and attorneys' fees and costs.

All of the above violations were suffered by Claimant and similarly situated non-exempt employees at all of Respondents' locations in California on a daily basis in the entire year preceding the date of this notice and continuing throughout the pendency of this claim.

Failure to Furnish Accurate Wage Statements

Labor Code section 226 (a) requires employers to furnish each employee with an accurate statement, which includes but is not limited to, gross wages earned, the total numbers of hours worked, the net wages earned, all deductions and the name and legal address of the employer. Labor Code section 226 (e) provides that if an employer fails to provide a statement complying with section 226 (a), then the employee is entitled to recover the greater of actual damages or \$50.00 for the initial violation and \$100.00 for each subsequent violation, up to \$4,000.00.

Respondents failed to furnish and continue to intentionally fail to furnish Claimant and all similarly situated employees with timely, itemized statements that meet the requirements of Labor Code section 226 (a) because those statements failed to include an accurate itemization of the employees' total hours worked, gross and net wages earned, and all applicable hourly rates during the applicable time period, with the corresponding number of hours worked at those hourly rates.

Respondents are therefore liable for all applicable civil penalties pursuant to Labor Code sections 226(a), 226, 226.2, 226.3, 226.6., 558.1, 1199 and 2698 *et seq.* in the amount of \$250.00 for the initial violation and \$1,000.00 per subsequent violation, or under the default penalties as set forth in Labor Code section 2699 *et seq.*

All of the above violations were suffered by Claimant and similarly situated non-exempt employees at all of Respondents' locations in California on a daily basis in the entire year preceding the date of this notice, and continuing throughout the pendency of this claim.

Failure to Maintain Required Records

Under California Labor Code Sections 226(b), 1174, 1199, and IWC Wage Orders, an employer must maintain records of total daily hours worked by each employee, all applicable rates of pay, gross and net wages earned time records showing when each employee begins and ends each work period, including meal periods, and accurate itemized statements.

Here, Respondents knowingly and intentionally failed to maintain records as required under California Labor Code Sections 226, 1174, 1199 and IWC Wage Orders. Specifically, Respondents' failed to maintain records for Claimant and other similarly situated employees that accurately reflect: (1) all minimum wages due for time spent working while clocked out for meal periods; (2) the proper rate of pay for all overtime hours worked (one and a half times or double the *regular rate of pay*); (3) the proper rate of pay for all meal and rest periods penalty

premiums (the *regular rate of pay*); (4) all wages and premiums due for missed meal periods and rest periods. These violations resulted in Respondents maintaining inaccurate records.

Respondents are therefore liable for civil penalties pursuant to Labor Code sections 226(a), 226, 226.3, 1174, 1174.5, 1199, and 2698 *et seq.* in the amount of \$250.00 for the initial violation and \$1,000.00 per subsequent violation, or as enumerated in the preceding statutes, or the default penalties as set forth in Labor Code section 2699 *et seq.*

All of the above violations were suffered by Claimant and similarly situated non-exempt employees at all of Respondents' locations in California on a daily basis in the entire year preceding the date of this notice, and continuing throughout the pendency of this claim.

Failure to Pay Timely Wages During Employment

Pursuant to California Labor Code § 204, for all labor performed between the 1st and 15th days of any calendar month, Respondents are required to pay their nonexempt employees between the 16th and 26th day of the month during which the labor was performed. California Labor Code § 204 also provides that for all labor performed between the 16th and 26th days of any calendar month, Respondents are required to pay their nonexempt employees between the 1st and 15th day of the following calendar month. In addition, California Labor Code § 204 provides that all wages earned for labor in excess of the normal work period shall be paid no later than the payday of the next regular payroll period.

Respondents knowingly and willfully failed to pay Claimant, and similarly situated non-exempt employees all the wages earned when due as required by California Labor Code § 204.

Pursuant to California Labor Code § 210, failure to pay the wages of each employee as provided in California Labor Code § 204 will subject Respondents to a civil penalty of: (1) one hundred dollars (\$100) for each failure to pay each employee for each initial violation; and (2) two hundred dollars (\$200) for each failure to pay each employee, plus twenty-five percent (25%) of the amount unlawfully withheld, for each subsequent violation.

Respondents' conduct described herein violates California Labor Code § 204. As a proximate result of the aforementioned violations, Claimant has been damaged in an amount according to proof at trial. Therefore, pursuant to California Labor Code §§ 200, 210, 226, 558, 1194, 1197.1, 2699, and other applicable provisions under the Labor Code and IWC Wage Orders, Claimant is entitled to recover the unpaid balance of wages owed to them by Respondents, plus interest, penalties, attorneys' fees, expenses, and costs of suit.

All of the above violations were suffered by Claimant and similarly situated non-exempt employees at all of Respondents' locations in California on a daily basis in the entire year preceding the date of this notice, and continuing throughout the pendency of this claim.

Failure to Pay Timely Wages to Discharged and/or Quitting employees

Pursuant to California Labor Code Sections 201, 202, and 203, employers are required to pay all earned and unpaid wages to an employee who is discharged. California Labor Code Section 201 mandates that if an employer discharges an employee, the employee's wages accrued and unpaid at the time of discharge are due and payable immediately. Furthermore, pursuant to California Labor Code Section 202, Employers are required to pay all accrued wages due to an employee no later than 72 hours after the employee quits his or her employment, unless the employee provided 72 hours previous notice of his or her intention to quit, in which case the employee is

entitled to his or wages at the time of quitting. California Labor Code Section 203 provides that if an employer willfully fails to pay, in accordance with California Labor Code Sections 201 and 202, any wages of an employee who is discharged or who quits, the employer is liable for waiting time penalties in the form of continued compensation to the employee at the same rate for up to 30 workdays.

Respondents have willfully failed to pay accrued wages and other compensation to Claimant after being discharged in accordance with California Labor Code Sections 201 and 202. As a result, Claimant is entitled to all available statutory and civil penalties, including the waiting time penalties provided in California Labor Code sections 203 and 256, together with interest thereon, as well as other available remedies. In the same manner as above, Respondents have failed to pay all similarly situated employees their rightfully earned accrued wages and other compensation upon being discharged or quitting.

All of the above violations were suffered by Claimants and similarly situated non-exempt employees at all of Respondents' locations in California during the entire year preceding the date of this notice, and continuing throughout the pendency of this claim.

Violation of California Labor Code §§233, 246 – Failure to Pay All Accrued Sick Days

Because of Respondents' failure to recognize, and pay wages for, all hours worked, including regular and overtime hours, as well as incorporate all income earned--including piece-rate and non-piece rate work--into calculating the regular adjusted rate for purposes of issuing and paying for sick days or sick leave, Respondents failed to recognize and appropriately pay Claimant and other aggrieved employees for all sick hours earned and paid during the relevant period, as required by California Labor Code sections 246 and 233. This also constitutes discrimination under Labor Code Section 98.6.

Accordingly, Claimant and other aggrieved employees are entitled to recover penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code section 2699(a), (f)-(g).

Failure to Properly Pay Vacation Pay

California Labor Code section 227.3 requires employers to pay terminated employees for their unused paid vacation time at their final rate of pay.

When Respondents terminated Claimants, and similarly situated employees, Respondents failed to include any additional non-discretionary pay when calculating the final regular rate of pay for purposes of paying Claimants, and similarly situated employees, their unused vacation time pay. Thus, Respondents failed to pay Claimants, and similarly situated employees, all unused vacation time pay due to them upon termination pursuant to California Labor Code section 227.3.

All of the above violations were suffered by Claimants and similarly situated non-exempt employees at all of Respondents' locations in California on a daily basis in the entire year preceding the date of this notice, and continuing throughout the pendency of this claim.

Failure to Reimburse Employees

Labor Code section 2802(a) provides that “[a]n employer shall indemnify his or her employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer, even though unlawful, unless the employee, at the time of

obeying the directions, believed them to be unlawful.” Thus, Respondents were under a statutory duty to indemnify Claimant, and other similarly situated employees, for the numerous business expenses that Claimant, and other similarly situated employees, incurred in the fulfillment of their employment responsibilities. These expenses include, but are not limited to, expenses for the mileage, maintenance, and repairs that Claimant incurred for the use of Claimant’s personal vehicle, and expenses incurred in purchasing and servicing Claimant’s personal cell phone. Respondents demanded and expected that Claimant, and other similarly situated employees, use his personal vehicle and personal cell phone to fulfill various work-related responsibilities such as driving to and

Respondents are therefore liable for penalties, pursuant to Labor Code sections 2802 and 98. Additionally, Respondents are also liable for all reasonable costs, including, but not limited to, attorney’s fees incurred by the employee enforcing the right to be reimbursed, pursuant to Labor Code section 2802(c).

All of the above violations were suffered by Claimant and similarly situated non-exempt employees at all of Respondents’ locations in California on a daily basis in the entire year preceding the date of this notice and continuing throughout the pendency of this claim.

* * * * *

Respondents are in direct violation of numerous California wage and hour laws including but not limited to said sections stated above. We provide notice under the Private Attorney’s General Act of 2004, Labor Code sections 2699, et seq., and specifically ask for an investigation, or if the agency does not intend to investigate the alleged violations, a letter confirming the same so that we may file a complaint against Respondents for the violations discussed in this letter.

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 65 calendar days 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 65 calendar days, the employee may file a lawsuit invoking the provisions under Labor Code section 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 section 2699 should your office not address these matters within this time.

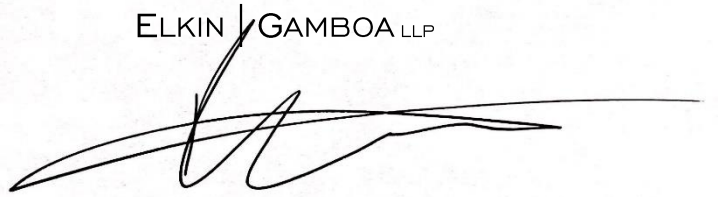
Claimant requests all personnel records pursuant to Labor Code Section 1198.5. The amended statute defines "personnel records" broadly to include all documents pertaining to “performance” and “any grievance concerning the employee.” These records necessarily include all records related to Claimant’s employment.

Pursuant to Labor Code section 432, Claimant requests all documents signed by Claimant. This request includes the complete document of any signature page from a policy, procedure, handbook or other agreement between Respondents and Claimant.

Claimant also requests payroll records in accordance with Labor Code section 226, as well as all time records of when he worked pursuant to Labor Code Section 1199.

Sincerely,

ELKIN | GAMBOA^{LLP}

A handwritten signature in black ink, appearing to be 'Benjamin McLain', written over a light gray background.

Benjamin McLain