



PARKER & MINNE, LLP

January 13, 2025

PAGA Claim Notice Via Online Electronic Submission

California Labor & Workforce Development Agency

800 Capitol Mall, Suite 5000 (MIC-55)

Sacramento, CA 95814

<https://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-Act.html>

**RE: *Jose Santiago v. Rural/Metro Fire Dept., Inc.*
 LWDA Case No. LWDA-CM-1005134-24**

Dear Representative:

This office represents Jose Santiago (“Claimant”) with respect to his claims under the California Labor Code against Rural/Metro Fire Dept., Inc. (including any and all affiliates, subsidiaries, parents, directors, and officers thereof) (collectively referred to herein as “Employer”). This letter is being sent simultaneously to Employer by certified mail.

This notice is being sent to amend the written notices previously submitted to the LWDA and Employer on January 16, 2024 and March 11, 2025 (LWDA Case No. LWDA-CM-1005134-24). The purpose of this amendment is to provide notice of additional violations of the California Labor Code (“IWC Wage Orders”) alleged by Claimant to have been committed by Defendant. This notice is being sent simultaneously to Employer via its counsel of record by certified mail.

Employer employed Claimant from approximately April 2018 to October 2023 as an hourly-paid, non-exempt employee. During his employment with Employer, Claimant was employed as a Rescue Technician and was assigned to perform work at job sites across the state of California. Employer is a provider of private fire, rescue, and hazmat response services.

Claimant intends to bring a representative action seeking penalties for violations of the California Labor Code which are recoverable under the Labor Code Private Attorneys General Act of 2004, California Labor Code section 2698, *et seq.* (“PAGA”). Claimant is seeking penalties on behalf of himself and in a representative capacity on behalf of the State of California and all current and former hourly-paid and/or non-exempt employees who worked for Employer in the State of California during the relevant statutory period (“Aggrieved Employees”). This letter is being sent in compliance with California Labor Code section 2699.3, and shall serve as Claimant's notice of the provisions of the California Labor Code alleged to have been violated, including the facts and theories in support thereof.

As detailed below, Employer violated several of California’s wage and hour laws during Claimant's employment, including but not limited to California Labor Code sections 201, 202, 203, 204, 226, 226.7, 227.3, 246, 432, 510, 512(a), 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 1198.5, 2800, and 2802, and the IWC Wage Orders including, *inter alia*, Wage Order No. 5. The claims made on behalf of Claimant and Aggrieved Employees are based upon the following facts and theories:

1. FAILURE TO PAY FOR ALL TIME WORKED AT CORRECT RATES OF PAY, INCLUDING MINIMUM WAGES, STRAIGHT TIME WAGES, AND OVERTIME COMPENSATION

Employer has engaged in numerous unlawful practices which resulted in the failure to pay Claimant and other Aggrieved Employees for all time worked at the correct rates of pay, including minimum wages, straight time wages, and overtime compensation.

California Labor Code sections 1194, 1197, and 1197.1 and the IWC Wage Orders require employers to pay at least the legal minimum wage to their employees. California Labor Code sections 510 and 1198 and the IWC Wage Orders further require employers to pay no less than one and one-half times the regular rate of pay of the employee for hours worked in excess of eight (8) hours in one workday, for hours worked in excess of forty (40) hours in one workweek, and for the first eight (8) hours worked on the seventh day of work in any one workweek, and to pay no less than twice the regular rate of pay of the employee for hours worked in excess of twelve (12) hours in one workday and for any work in excess of eight (8) hours on any seventh day of a workweek.

Throughout the relevant time period, Employer regularly required Claimant and other Aggrieved Employees to perform work off-the-clock. This off-the-clock work included, amongst other things, requiring Claimant and other Aggrieved Employees to: (1) respond to Employer and work-related requests and perform work while clocked out for purported meal breaks; (2) perform work before clocking in at the start of their shift; and (3) perform work after clocking out at the end of their shift. Employer failed to compensate Claimant and other Aggrieved Employees for any of this off-the-clock work, in violation of California law. In addition, Employer utilized time rounding practices that resulted in the systematic underpayment of wages (including minimum wages, straight time wages and overtime wages) to Claimant and Aggrieved Employees. Employer also failed to accurately record the actual time worked by Claimant and Aggrieved Employees. Moreover, the uncompensated work described herein was often performed when Claimant and other Aggrieved Employees had already worked eight (8) hours in a day and/or forty (40) hours in week and/or more than twelve (12) hours in one workday and/or over eight (8) hours on any seventh day of a workweek, resulting in a failure to pay overtime compensation. Finally, Employer failed to pay overtime to Claimant and Aggrieved Employees for all overtime hours worked based on regular rates of pay correctly calculated to include all applicable remuneration.

As a result of the foregoing practices, Employer has failed to pay Claimant and other Aggrieved Employees for all wages earned at the correct rates of pay, including minimum wages, straight time wages, and overtime compensation. Accordingly, Employer violated the IWC Wage Orders and California Labor Code sections 204, 510, 1194, 1197, 1197.1 and 1198.

Claimant and Aggrieved Employees will therefore seek PAGA default penalties pursuant to California Labor Code section 2699; penalties pursuant to the IWC Wage Orders; penalties pursuant to California Labor Code sections 558, 1197.1, and 1199; and attorneys' fees and costs.

2. FAILURE TO PROVIDE MEAL PERIODS AND PAY MEAL PERIOD PREMIUMS

California law requires employers to provide employees with an opportunity to take an uninterrupted meal period of no less than thirty (30) minutes before the end of the fifth hour of work when an employee works more than five (5) hours in a day. Cal. Lab. Code §§ 226.7, 512(a). A second meal period of no less than thirty (30) minutes must be provided before the end of the tenth hour of work when an employee works more than ten (10) hours in a day. Cal. Lab. Code §§ 226.7, 512(a). When an employer fails to provide a meal or rest period, an hour of pay at the employee's regular rate of compensation is owed to the employee. Cal. Lab. Code § 226.7(c).

During the relevant time period, Employer failed to provide Claimant and other Aggrieved Employees with legally-compliant 30-minute meal periods. Claimant and other Aggrieved Employees were required by Employer to work more than five (5) hours per day, but were not provided with uninterrupted 30-minute meal periods. Further, Claimant and other Aggrieved Employees were not provided with a second uninterrupted 30-minute meal period when they worked over ten (10) hours per day. Employer regularly required Claimant and other Aggrieved Employees to work through their first and second meal periods, to take their first meal period after their fifth (5th) hour of work, and/or to take their second meal periods after their tenth (10th) hour of work. On the occasions that Claimant and other Aggrieved Employees did take a meal period, their meal periods were frequently interrupted or cut short.

Employer's policies, practices, and procedures were responsible for the violations alleged above and prevented Claimant and other Aggrieved Employees from taking timely, complete and duty-free meal periods because, amongst other reasons: (1) Employer did not have legally-compliant policies regarding the provision and timing of meal periods or systematically disregarded its own purported meal period policies; (2) Employer's management at various levels failed and refused to implement and enforce legally compliant meal period policies and practices; (3) Employer failed to adequately inform and train Claimant and other Aggrieved Employees regarding their right to take timely, uninterrupted, and duty-free meal periods; (4) Employer failed to adequately inform and train Claimant and other Aggrieved Employees about their right to premium wages for non-compliant meal periods; (5) Employer failed to ensure that there was adequate staffing to allow Claimant and other Aggrieved Employees to take timely, uninterrupted, and duty-free meal periods; (6) Employer required Claimant and other Aggrieved Employees to remain on-call and respond to work-related requests at all times, including during meal periods, which included responding to telephone calls, text messages, and in-person verbal interruptions; and (7) Employer's policy and culture prevented Claimant and other Aggrieved Employees from taking timely, uninterrupted, and duty-free meal periods because of the priority placed on completing job requirements over employees' right to receive timely, uninterrupted, and duty-free meal periods. Claimant and other Aggrieved Employees did not receive an extra hour of wages at their regular rate of pay for the meal periods which were not provided to them in compliance with California law. Accordingly, Employer violated the IWC Wage Orders and California Labor Code sections 226.7, 512(a) and 1198.

Claimant and Aggrieved Employees will therefore seek PAGA default penalties pursuant to California Labor Code section 2699; penalties pursuant to the IWC Wage Orders; penalties

pursuant to California Labor Code sections 558 and 1199; and attorneys' fees and costs.

3. FAILURE TO AUTHORIZE AND PERMIT REST PERIODS AND PAY REST PERIOD PREMIUMS

California law requires employers to authorize and permit employees to take an uninterrupted rest period of no less than ten (10) minutes for every four (4) hours, or major fraction thereof, worked. Cal. Lab. Code § 226.7. When an employer fails to authorize and permit a rest period, an hour of pay at the employee's regular rate of compensation is owed to the employee. Cal. Lab. Code § 226.7(c).

Employer failed to authorize and permit Claimant and other Aggrieved Employees to take legally-compliant 10-minute rest periods. Employer required Claimant and other Aggrieved Employees to work through rest periods. Claimant and Aggrieved Employees were not provided with uninterrupted, duty-free rest periods when they worked more than four (4) hours or a major fraction thereof. Further, Claimant and other Aggrieved Employees were not provided with a second uninterrupted, duty-free rest period when they worked more than six (6) hours in a day, or a third uninterrupted, duty-free rest period after working more than ten (10) hours in day. In the rare event that a rest period was taken, it was frequently interrupted or cut short. Moreover, Claimant and other Aggrieved Employees were not completely relieved of duty as required by *Augustus v. ABM Security Services, Inc.*, 2 Cal.5th 257 (2016).

Employer's policies, practices, and procedures were responsible for the violations alleged above and prevented Claimant and other Aggrieved Employees from taking timely and complete rest periods because, amongst other reasons: (1) Employer did not have legally-compliant policies regarding the provision and timing of rest periods or systematically disregarded its own purported rest period policies; (2) Employer's management at various levels failed and refused to implement and enforce legally compliant rest period policies and practices; (3) Employer failed to adequately inform and train Claimant and other Aggrieved Employees regarding their right to take timely, uninterrupted, and duty-free rest periods; (4) Employer failed to adequately inform and train Claimant and other Aggrieved Employees about their right to premium wages for non-compliant rest periods; (5) Employer failed to ensure that there was adequate staffing to allow Claimant and other Aggrieved Employees to take timely, uninterrupted, and duty-free rest periods; (6) Employer required Claimant and other Aggrieved Employees to remain on-call and respond to work-related requests at all times, including during rest periods, which included responding to telephone calls, pages, text messages, and in-person verbal interruptions; and (7) Employer's policy and culture prevented Claimant and other Aggrieved Employees from taking timely, uninterrupted, and duty-free rest periods because of the priority placed on completing job requirements over employees' right to receive rest periods.

Claimant and other Aggrieved Employees did not receive an extra hour of wages at their regular rate of pay for the rest periods which were not provided to them in compliance with California law. Accordingly, Employer violated the IWC Wage Orders and California Labor Code sections 226.7 and 1198.

Claimant and Aggrieved Employees will therefore seek PAGA default penalties pursuant to California Labor Code section 2699; penalties pursuant to the IWC Wage Orders; California Labor Code sections 558 and 1199 penalties; and attorneys' fees and costs.

4. FAILURE TO PAY REPORTING TIME WAGES

Pursuant to California Labor Code section 1198, "the employment of any employee... under conditions of labor prohibited by the [Industrial Wage Orders] is unlawful." The applicable Industrial Wage Orders require that for each workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee's usual or scheduled day's work, the employee shall be paid for half the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee's regular rate of pay. Further, if an employee is required to report for work a second time in any one workday and is furnished less than two (2) hours of work on the second reporting, said employee shall be paid for two (2) hours at the employee's regular rate of pay. Cal. Code Regs., tit. 8, §11050, subd. 5(A).

During the relevant time period, Employer failed to pay Claimant and other Aggrieved Employees half the usual or scheduled day's work (in an amount of at least two (2) hours at the employee's regular rate of pay) for workdays in which Claimant and the other Aggrieved Employees reported to work and were furnished less than half the usual or scheduled day's work. Employer also failed to pay Claimant and other Aggrieved Employees for two (2) hours at the employee's regular rate of pay on days on which Claimant and the other Aggrieved Employees were required to report for work a second time in one workday and were furnished less than two (2) hours of work upon the second reporting.

Claimant and Aggrieved Employees will therefore seek PAGA default penalties pursuant to California Labor Code section 2699; penalties pursuant to the IWC Wage Orders; and attorneys' fees and costs.

5. FAILURE TO PAY SPLIT SHIFT WAGES

A split shift is any employer-established work schedule interrupted by an unpaid, non-working period, other than a bona fide meal or rest period. "When an employee works a split shift, one (1) hour's pay at the minimum wage shall be paid in addition to the minimum wage for that workday, except when the employee resides at the place of employment." Cal. Code Regs., tit. 8, §11050, subd. 4(C). During the relevant period, Defendant required Claimant and the other Aggrieved Employees to work split shifts, but failed to pay them the split shift premiums required by the IWC Wage Orders.

Claimant and Aggrieved Employees will therefore seek PAGA default penalties pursuant to California Labor Code section 2699; penalties pursuant to the IWC Wage Orders; and attorneys' fees and costs.

6. FAILURE TO PROVIDE NOTICE OF PAID SICK TIME ACCURAL

Pursuant to California Labor Code § 246(a)(1), an employee who, on or after July 1, 2015, works in California for the same employer for 30 or more days within a year from the commencement of employment is entitled to paid sick days as specified in that section. Pursuant to Labor Code § 246(i), 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(i) or in a separate writing provided on the designated pay date with the employee's payment of wages. If an employer provides unlimited paid sick leave or unlimited paid time off to an employee, the employer may satisfy this section by indicating on the notice or the employee's itemized wage statement "unlimited."

During the relevant time period, Defendant failed to provide sick leave to Claimant and Aggrieved Employees in accordance with California Labor Code § 246(a)(1), including paid sick leave at the correct rate of pay, and further failed to provide written notice of the amount of sick leave available to Claimant and Aggrieved Employees pursuant to California Labor Code 226(i). Accordingly, Employer violated California Labor Code section 246. Claimant and Aggrieved Employees will therefore seek penalties pursuant to California Labor Code 248.5, and attorneys' fees and costs.

7. FAILURE TO TIMELY PAY WAGES DURING EMPLOYMENT

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. During the relevant time period, Employer has failed to timely pay all wages earned because Claimant and other Aggrieved Employees were not paid all the wages they were owed including, *inter alia*, overtime compensation, straight time wages, minimum wages, meal and rest period premiums, reporting time wages, and split shift wages. Accordingly, Employer violated California Labor Code section 204(a).

Claimant and Aggrieved Employees will therefore seek PAGA default penalties pursuant to California Labor Code section 2699; penalties pursuant to California Labor Code sections 210 and 1199; and attorneys' fees and costs.

8. FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS

California Labor Code section 226(a) requires an employer semimonthly or at the time of each payment of wages to furnish wage statements to its employees setting forth, *inter alia*, (1)

gross wages earned, (2) total hours worked by the employee, (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, and (8) the name and address of the legal entity that is the employer.

As a result of the practices described herein, the wage statements provided to Claimant and other Aggrieved Employees failed to include the actual hours worked (including time spent working off-the-clock), the actual gross wages earned (including wages owed for time spent working off the clock, meal and rest period premiums, reporting time wages, and split shift premiums), and the correct rates of pay. Accordingly, Employer violated California Labor Code section 226(a).

Claimant and Aggrieved Employees will therefore seek PAGA default penalties; penalties pursuant to California Labor Code section 226.3; and attorneys' fees and costs.

9. FAILURE TO MAINTAIN ACCURATE RECORDS

California Labor Code section 1174(d) requires an employer to keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept with rules established for this purpose by the commission, but in any case, shall be kept on file for not less than two years. During the relevant time period, Employer has failed to maintain accurate records relating to Claimant and other Aggrieved Employees' work periods, meal periods, total daily hours worked, and total hours worked per payroll period. Accordingly, Employer violated the IWC Wage Orders and California Labor Code sections 1198.5 and 1174(d).

Claimant and Aggrieved Employees will therefore seek PAGA default penalties pursuant to California Labor Code section 2699; penalties pursuant to the IWC Wage Orders; California Labor Code section 1174.5 penalties; and attorneys' fees and costs.

10. FAILURE TO REIMBURSE NECESSARY EXPENDITURES

California Labor Code sections 2800 and 2802 require an employer to reimburse its employees for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her job duties or in direct consequence of his or her obedience to the directions of the employer. The IWC Wage Orders requires employers to provide employees with the tools or equipment necessary for the performance of their job. During the relevant time period, Claimant and Aggrieved Employees incurred necessary business-related expenses and costs that were not fully reimbursed by Employer. These costs include, but are not limited to, use of their personal cell phones for work-related purposes. Accordingly, Employer violated the IWC Wage Orders and

California Labor Code sections 2800 and 2802.

Claimant and Aggrieved Employees will therefore seek PAGA default penalties pursuant to California Labor Code section 2699; penalties pursuant to the IWC Wage Orders; and attorneys' fees and costs.

11. FAILURE TO TIMELY PAY ALL WAGES UPON TERMINATION OF EMPLOYMENT

California Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and if an employee quits his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours' 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.

During the relevant time period, upon the termination of employment (including but not limited to when they were temporarily laid off, laid off, discharged, and/or resigned), Claimant and Aggrieved Employees were not paid all wages due to them within twenty-four (24) hours or even within seventy-two (72) hours for those who resigned. Specifically, as a result of Employer's practices of requiring Claimant and Aggrieved Employees to work off-the-clock without compensation, failing to pay proper overtime compensation, unlawful rounding practices, and failing to accurately record all hours actually worked, Employer failed to pay Claimant and Aggrieved Employees for all straight time wage, minimum wages and overtime compensation owed to them upon termination of their employment. Employer also failed to pay Claimant and Aggrieved Employees for meal period premiums, rest period premiums, reporting time wages, and split shift premiums they were owed, amongst other wages. Accordingly, Employer violated California Labor Code sections 201 and 202.

Claimant and Aggrieved Employees will therefore seek PAGA default penalties pursuant to California Labor Code section 2699; penalties pursuant to California Labor Code sections 203 and 1199; and attorneys' fees and costs.

12. FAILURE TO PAY ACCRUED/UNUSED VACATION TIME AND PAID TIME OFF AT END OF EMPLOYMENT

Pursuant to California Labor Code section 227.3, ". . . whenever a contract of employment or employer policy provides for paid vacations, and an employee is terminated without having taken off his vested vacation time, all vested vacation shall be paid to him as wages at his final rate in accordance with such contract of employment or employer policy respecting eligibility or time served." During the relevant time period, Employer failed to pay Claimant and other Aggrieved Employees for all earned and unused/accrued vacation time and paid time off at their final rate of pay at the time of termination of their employment. Accordingly, Employer has violated California Labor Code section 227.3.

Claimant and Aggrieved Employees will therefore seek PAGA default penalties pursuant to California Labor Code section 2699; and attorneys' fees and costs.

13. FAILURE TO PRODUCE PERSONNEL RECORDS

California Labor Code section 226(b)-(c) requires an employer to afford current and former employees the right to inspect or receive a copy of records pertaining to their employment, upon reasonable request to the employer, no later than twenty-one (21) calendar days from the date of the request. California Labor Code section 432 requires an employer to give a copy of any instrument signed by an employee relating to the obtaining or holding of employment to the employee. California Labor Code section 1198.5 requires employers to make the contents of an employee's personnel records available for inspection to current or former employees, or his or her representative, no later than 30 days from the date the employer receives a written request. During the relevant period, Employer violated California Labor Code sections 226, 432, and 1198.5 by failing to produce records to Claimant and the other Aggrieved Employees.

Claimant and Aggrieved Employees will therefore seek PAGA default penalties pursuant to California Labor Code section 2699; penalties pursuant to California Labor Code sections 226.3 and 1198.5(k); and attorneys' fees and costs.

14. CONCLUSION

Employer is in direct violation of numerous California wage and hour laws including but not limited to said sections stated above. We hereby provide notice of the alleged violations pursuant to California Labor Code section 2699.3, and specifically ask for an investigation of the alleged violations, or written notice if the agency does not intend to investigate the alleged violations. If the LWDA advises it will not investigate, or if no notice is provided within 65 calendar days, it is Claimant's intention to file a civil complaint and to bring the appropriate claims under California Labor Code § 2699 on behalf of himself, the State of California, and the Aggrieved Employees. Cal. Lab. Code § 2699.3(a)(2)(A).

If you have any questions or require additional information, please do not hesitate to contact my office. Thank you for your attention to this matter.

PARKER & MINNE, LLP

A handwritten signature in blue ink, appearing to read "S. Emi Minne".

S. Emi Minne, Esq.

Cc: By U.S. Certified Mail, Return Receipt Requested

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