



**February 7, 2024**

**VIA LWDA WEBSITE**

Labor and Workforce Development Agency  
Attn. PAGA Administrator  
1515 Clay Street, Ste. 801  
Oakland, CA 94612

Re: *Mariselle Garcia v. Garcia Meat Solutions Corporation et al.*

To Whom It May Concern:

Please be advised that this law firm represents Mariselle Garcia (“Ms. Garcia”) in claims arising from her employment with Cargill Meat Solutions Corporation and Cargill, Inc.; and DOES 1 through 50 (collectively “Cargill”). Ms. Garcia is an “aggrieved employee” as defined by Labor Code Section 2698 *et seq.*, due to Cargill’s numerous violations of the Labor Code as set forth below. The purpose of this letter is to comply with Labor Code Sections 2699.3, which requires aggrieved employees to notify their employer and the Labor & Workforce Development Agency (“LWDA”) of the specific provisions of the Labor Code allegedly violated.

Cargill is in business in the meat packing and food processing industry. Ms. Garcia worked for Cargill from approximately November 16, 2022 to approximately March 2023. During her employment, Ms. Garcia worked in Cargill’s facilities as a packager primarily packaging hamburger patties. Ms. Garcia was generally scheduled to work for six (6) days per week. Ms. Garcia was scheduled to work from approximately 2:30 p.m. to approximately 12:30 a.m. or 2:00 a.m.

Throughout the duration of Ms. Garcia’s employment with Cargill, Ms. Garcia and other aggrieved employees were not paid for all hours worked as Cargill required Ms. Garcia and other employees to work off-the-clock. Cargill instructed Ms. Garcia and other non-exempt employees to arrive before her scheduled start time to clock in. Ms. Garcia and other non-exempt employees spent at least approximately 5 to 15 minutes waiting in line before clocking in.

Furthermore, Ms. Garcia and other aggrieved employees worked overtime hours, based on the requirements of Wage Order 14, but did not receive overtime compensation equal to one and one-half times their regular rates of pay for all overtime hours worked. Cargill failed to pay overtime compensation due to Ms. Garcia and other aggrieved employees when they worked off the clock. As a result, Cargill failed to ensure that Ms. Garcia and other aggrieved employees were being paid at least the minimum wage for all hours actually worked, and failed to ensure that Ms. Garcia and other aggrieved employees

received proper overtime wages for all overtime hours worked, in compliance with Wage Order 14.

Ms. Garcia and other aggrieved employees were not authorized to take all legally required rest periods. By way of example, Cargill required Ms. Garcia to clock in and out from each rest period and Ms. Garcia had to spend few minutes waiting in line before clocking back in from her rest period. As another example, Ms. Garcia often had to spend approximately 5 minutes waiting in line during her rest break to use the restroom as there were only 3 restrooms for at least 50 employees to access. Despite Cargill's failure to authorize and permit Ms. Garcia and other aggrieved employees to take all lawful paid rest periods due to their unlawful practices, Cargill did not provide Ms. Garcia and other aggrieved employees with an hour of pay at their regular rate for each rest period violation as required by Labor Code § 226.7.

Cargill did not provide Ms. Garcia and other non-exempt employees with legally compliant meal periods when they worked shifts in excess of 5.0 hours. By way of example, consistent with their rest period policies, Cargill required Ms. Garcia to wait in line for 5 to 10 minutes prior to clocking back in from her meal period. As a result, on a daily basis, Ms. Garcia did not receive a full first 30-minute meal period. Further, even though Ms. Garcia regularly worked shifts in excess of ten (10) hours, Ms. Garcia and other aggrieved employees were almost never permitted to exercise a legally compliant second meal period. Despite Cargill's failure to provide Ms. Garcia and other non-exempt employees with all lawful meal periods due to their unlawful practices, Cargill did not provide Ms. Garcia and other non-exempt employees with an hour of pay at their regular rate for each meal period violation as required by Labor Code § 226.7.

Furthermore, Cargill failed to adequately reimburse Ms. Garcia and other aggrieved employees for all reasonable and necessary work expenditures, including but not limited to, requiring Ms. Garcia to purchase her own steel-toed safety boots. Ms. Garcia was not ever provided any reimbursement for this necessary expense.

Cargill failed to issue to Ms. Garcia and other aggrieved employees accurate itemized statements in writing showing (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, (8) the name and address of the legal entity that is 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.

Cargill has maintained inaccurate payroll records, failed to timely pay all wages owed to employees, failed to timely pay separating employees at the time of their

separation, and issued inaccurate wage statements. This is in part a result of Cargill's failure to accurately compensate Ms. Garcia and other aggrieved employees for all minimum and overtime wages, and failure to pay premium pay for failing to provide all required meal periods and authorize all rest periods.

As described above, Cargill committed the following violations of the Labor Code, and Industrial Welfare Commission Wage Order 8 ("Wage Order 8"):

#### Minimum Wage Violations

Cargill was required to pay Ms. Garcia and other aggrieved employees an hourly rate at least equal to the minimum wage for each hour actually worked. See Labor Code §§ 1182.12, 1194; 1194.2, 1197; Wage Order 8 § 4. As alleged above, Cargill maintained and maintains timekeeping policies/practices that regularly, systematically, and impermissibly underreport the hours worked by Ms. Garcia and other aggrieved employees. As a result of these policies/practices, which fail to compensate for all hours worked, Ms. Garcia and other aggrieved employees were deprived of all required minimum wages.

#### Overtime Wage Violations

Cargill was required to pay Ms. Garcia and other aggrieved employees overtime wages for all overtime hours worked. See Labor Code §§ 1194(a) and 1198; Wage Order 8, § 3. Wage Order 8, § 3 requires an employer to pay overtime wages when an employee's hours worked cross certain thresholds or meet certain criteria set forth in the Wage Order. At all times relevant herein, Cargill caused Ms. Garcia and other aggrieved employees to work overtime hours but did not compensate Ms. Garcia and other aggrieved employees at one and one-half times their regular rate of pay for such hours.

#### Meal Period Violations

As alleged above, Cargill failed to provide Ms. Garcia and other aggrieved employees with all required and compliant meal periods due to Cargill meal period policies/practices that often fail to provide full, 30 minute off-duty first meal periods before the end of the fifth hour of work or a second meal period for shifts worked in excess of ten (10) hours. See Labor Code §§ 226.7 and 512; Wage Order 8, § 11. As a result, Ms. Garcia and other aggrieved employees are owed an additional hour of wages at their regular rate of compensation for each workday they experienced a meal period violation. See Labor Code § 226.7 ("If an employer fails to provide an employee a meal or rest or recovery period in accordance with ... [an] order of the Industrial Welfare Commission ... the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided.").

#### Rest Period Violations

As alleged above, Cargill also failed to authorize and permit Ms. Garcia and other aggrieved employees to take all legally required paid rest periods. *See* Labor Code §§ 226.7 and 516; Wage Order 8, § 12. As a result, Ms. Garcia and other aggrieved employees are owed an additional hour of wages at their regular rate of compensation for each workday that they were not authorized and permitted to take all legally required paid rest periods. *See* Labor Code § 226.7 (“If an employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee’s regular rate of compensation for each workday that the meal or rest period is not provided.”)

#### Failure to Reimburse Necessary Business Expense

Cargill was subject to Labor Code § 2802, which states that “an 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.” Cargill was subject to Labor Code § 2804, which states that “any contract or agreement, express or implied, made by any employee to waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive any employee or his personal representative of any right or remedy to which he is entitled under the laws of this State.” As alleged herein, due to Cargill’s unlawful reimbursement practices, Cargill failed to indemnify Ms. Garcia and other aggrieved employees for all necessary business expenses incurred, including, but not limited to, purchase of steel-toed safety boots. Ms. Garcia and other aggrieved employees were not ever provided any reimbursement for this necessary expense.

#### Wage Statement Violations

As described above, Cargill was required to furnish Ms. Garcia and other aggrieved employees with complete and accurate itemized wage statements that showed, among other things, their rates of pay, corresponding number of hours worked at each rate of pay, total gross wages earned, and total net wages earned. *See* Labor Code §§ 226(a) and 1174(d); Wage Order 8, § 7. As a result of Cargill’s failure to pay all overtime wages, minimum wages, and failure to pay all required meal and rest period premium wages, Cargill maintained inaccurate payroll records and issued inaccurate wage statements to Ms. Garcia and other aggrieved employees in violation of Labor Code § 226.

#### Waiting Time Penalties

Labor Code §§ 201 and 202 require that employees receive all of their final wages at the time of their separation of employment. Cargill failed to timely pay Ms. Garcia and other aggrieved employees all of their final wages at the time of separation, which included all overtime and minimum wages, and all meal and rest period premium wages at the time

of aggrieved employees' separation of employment. Pursuant to Labor Code § 203, Cargill' failure to pay all final wages due to Ms. Garcia and other aggrieved employees was willful and, consequently, entitles Ms. Garcia and other aggrieved employees to waiting time penalties equal to one day of wages at their standard hourly rate for each day Cargill failed to pay their final wages after their separation from employment, up to a maximum of thirty days.

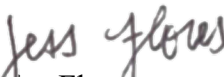
As an "aggrieved employee," Ms. Garcia will initiate a civil action on behalf of herself and other aggrieved employees to recover damages, statutory penalties, and civil penalties resulting from the wage and hour violations alleged herein. Based on Ms. Garcia's own investigation, and on information and belief, Cargill committed and continues to commit the following Labor Code violations:

- a. Cargill violated Labor Code §§ 558, 1182.12, 1194, 1194.2, 1197, and 1198 by failing to pay Ms. Garcia and other aggrieved employees the statutory minimum wage for all hours worked;
- b. Cargill violated Labor Code §§ 204, 510, 558, 1194, and 1198 by failing to pay Ms. Garcia and other aggrieved employees all overtime compensation earned;
- c. Cargill violated Labor Code §§ 226.7, 512 and 1198 by failing to provide meal periods as required by law and failing to pay meal period premiums to Ms. Garcia and other aggrieved employees at these employees' respective regular rates of compensation for meal period violations;
- d. Cargill violated Labor Code §§ 226.7, 516, and 558 by failing to authorize and permit Ms. Garcia and other aggrieved employees to take all required paid rest periods, and/or failing to pay all rest period premiums to Ms. Garcia and other aggrieved employees at their respective regular rates of compensation;
- e. Cargill violated Labor Code §§ 2802 and 2804 by failing to reimburse Ms. Garcia and other aggrieved employees for all work-related expenses incurred;
- f. Cargill violated Labor Code § 226 by failing to furnish Ms. Garcia and other aggrieved employees with accurate and compliant itemized wage statements;
- g. Cargill violated Labor Code §§ 201, 202 and 203 by failing to timely pay all final wages due upon separation of employment to Ms. Garcia and other aggrieved employees;
- h. Cargill violated Labor Code § 204 by failing to pay Ms. Garcia and other aggrieved employees all wages earned at least twice during each calendar month;

- i. Cargill violated Labor Code § 205 by failing to pay Ms. Garcia and other aggrieved employees all wages earned up to and including the fourth day before the scheduled payday
- j. Cargill violated Labor Code § 245.5 by failing to permit and authorize Ms. Garcia and other aggrieved employees to exercise the use of their accrued paid sick leave days;
- k. Cargill violated Labor Code §§ 1174 and 1198 by failing to maintain accurate records on behalf of Ms. Garcia and other aggrieved employees; and
- l. Cargill violated Labor Code § 2810.5 by failing to provide legally mandated disclosures and/or written notices regarding the terms of employment of Ms. Garcia and other aggrieved employees.

Pursuant to Labor Code Section § 2699.3(a)(2)(A), please notify us and Cargill if the LWDA intends to investigate the alleged violations of the Labor Code stated herein. Please contact me should you require additional information.

Very truly yours,  
STANSBURY BROWN LAW, PC

  
Jessica Flores

cc: Cargill Meat Solutions Corporation (via certified mail)  
Cargill, Inc. (via certified mail)