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April 11, 2024

VIA ONLINE SUBMISSION & U.S. MAIL
California Labor and Workforce Development Agency
800 Capitol Mall, Suite 5000 (MIC-55)
Sacramento, CA 95814

Via Certified & U.S. MAIL
Robert Bryant
SVP Legal
Fitness International, LLC dba LA Fitness
3161 Michelson Drive, #600
Irvine, CA 92612

Re: ***Austin Teffeteller/Fitness International, LLC dba LA Fitness***
Notice of Labor Code Violations Pursuant to California Labor Code Private Attorney Generals Act of 2004 (Labor Code 2699, *et. seq.*)

Dear Sir or Madam:

This office serves as legal counsel for Austin Teffeteller with respect to his claims against LA fitness, his former employer Fitness International, LLC dba LA Fitness (hereafter "Employer").

In accordance with California's Private Attorneys General Act of 2004, as codified in Labor Code section 2698, *et. seq* (hereafter "PAGA"), Mr. Teffeteller hereby provides notice regarding Employer's violations of numerous provisions of the California Labor Code and his intent to seek recovery of statutory penalties consistent with California Labor Code section 2699.5. Mr. Teffeteller provides further notice that he, on behalf of himself, and all similarly aggrieved current and former non-exempt employees of Employer, intends to utilize the protections and remedies afforded by PAGA.

Mr. Teffeteller was engaged as a non-exempt employee between 2019 and April 2023 by Employer and suffered one or more violations of the California Labor Code and therefore is an aggrieved employee within the meaning of California Labor Code section 2699(c). Employer has previously employed Mr. Teffeteller in the state of California as a Personal Trainer ("Trainer"). Mr. Teffeteller worked for Employer at the Corona, Lake Elsinore, and/or Norco locations. The other similarly aggrieved employees also hold and have held nonexempt positions with Employer at the same location and/or other various locations throughout California. These other facilities of Employer use common systems, policies and practices such that the nonexempt employees working therein suffered the same Labor Code violations as Mr. Teffeteller.

Mr. Teffeteller contends that Employer maintained and uniformly applied a companywide policy and/or practice that promotes off the clock work for its nonexempt employees, including the Trainers. This practice includes knowingly encouraging, aggrieved employees not to accurately record their actual time worked so that the Company can avoid paying all of the wages associated with its business model and improve its profitability at the expense of the nonexempt employees. Specifically, with regard to nonexempt employees, the Company encourages its nonexempt employees to not record all of their time worked, including: when the employee actually works but cannot train a customer due to a consumer cancellation; requiring the employee to work time off the clock both before and/or after a training session with a customer but not paying them for all of that time; requiring them to have unpaid "downtime" in between various customer training sessions that the Company schedules; and/or requiring the employee to frequently check their schedules in off hours without compensation to determine client training sessions that the Company has scheduled for them. These practices also require the nonexempt employees to remain under the Company's control and available during various off hours so that the Company can meet the changing needs of its customer base relative to the scheduling of training sessions. As such, these activities involve compensable time but the employees are not paid for all of this time worked and/or under the employer's control. While the Company has some written policies which instruct nonexempt employees not to work off the clock, the Company's actual practices intentionally and systemically differs from these policies and actually encourages and/or pressures the employees to disregard these policies and/or punishes them if they record total time worked and/or request pay for customer cancellations of training sessions and other total time worked.

As a result of these illegal pay practices, Mr. Teffeteller and all other similarly situated current and former nonexempt employees were not properly paid for all hours worked and/or overtime compensation for overtime hours worked in violation of various Labor Code sections including but not limited to sections: 201-204, 210, 510, 558, 1194, 1197, 1197.1, 1198 and/or 1199. During the relevant time, Employer also failed and refused to fully compensate other similarly aggrieved current and former employees at a rate of not less than one and a half times the regular rate of pay for all overtime hours worked. Employer also failed to pay Mr. Teffeteller and all other similarly aggrieved current and former employees for all time that they were on duty, working, and/or under the control of the Employer. As a result, Mr. Teffeteller and all other similarly aggrieved current and former employees were not paid wages for the actual time that they worked and were not paid all of the wages they were owed.

Mr. Teffeteller and all other similar aggrieved current and former nonexempt employees were not provided complete and accurate itemized wage statements. The deficiencies with the wage statements include, without limitation: the failure to include the accurate total hours worked; accurate gross, and net wages earned; overtime compensation; bonuses and commissions; and other information required by California Labor Code section 226(a). As a result of defense violation of Labor Code section 226, Mr. Teffeteller and/or all other aggrieved current and former employees have suffered injuries and damages, including: confusion over whether they received all wages earned and owed to them; difficulty and expense involved in reconstructing pay records and forcing them to make mathematical computations to analyze. whether the wages paid properly compensated them for all of their hours actually worked. Additionally, Mr. Teffeteller and all similar aggrieved current and former employees have been injured by Employer's intentional, multiple violations of the California Labor Code section 226(a), because they were denied both the legal right to receive and protect interest in receiving accurate and itemized wage statements pursued to California Labor Code section 226(a).

With respect to reimbursement of their reasonable business expenses, Mr. Teffeteller and all other similarly aggrieved current and former employees were not reimbursed, or not fully and fairly reimbursed, for all of their business expenses they incurred in violation of the California Labor Code sections 2800 and 2802. Pursuant to California Labor Code sections, 2800 and 2802, an employer must indemnify and/or reimburse employees for all necessary, expenditures incurred by the employee indirect consequence of the discharge of his or her job duties or direct consequence of his or her obedience to the directions of the employer. These Labor Code sections were violated at relevant times due to Company-wide policy requiring Mr. Teller and all other aggrieved current former employees of Employer to use their personal phone/data plans for the performance of their job duties. Specifically, nonexempt employees are required to use their cell phones in order to determine their schedules for customer training sessions in off hours. As a result,, Mr. Teffeteller, and all other similar grief current employees and were forced to incur data charges that have not been reimbursed by Employer.

Additionally, pursuant to *Murphy v Kenneth Cole Productions Inc*. (2007) 40 Cal.4th 1094, 1111–1112, California employers that cancel an employee's shift must compensate nonexempt employees for a minimum work day. However, Employer has a systemic practice of not paying reporting time pay or discouraging the payment of those wages when employees work a shift of less than four hours due to customer cancellations or other reasons beyond the employee's control. Reporting time is a form of wages that compensate employees for shifts they are scheduled to report to work, but who are not put to work or furnish with less than half of their or scheduled days' work because of inadequate scheduling, or lack of proper notice by the employer, or other business. These practices violate Labor Code sections 201-204, 221, 223, 558, 1197, and applicable wage orders and/or various state regulations. Accordingly, Mr. Teffeteller intends to bring a private civil action against Employer pursuant to PAGA for Employers violations of the California Labor Code. In his action, Mr. Teffeteller will see pies and other relief provided under PAGA on behalf of himself and all other past and current employees similarly agreed.

With regard to Labor Code section 203, Employer has failed to timely pay the nonexempt employees their full and final wages, including due to the failure to properly track their time worked and to pay all of the time worked.

Mr. Teffeteller and the similarly aggrieved employees also provide notice of their intention to pursue claims pursuant to Labor Code sections 245 and 2810.5 regarding the failure to comply with California's paid sick leave laws.

Lastly, with respect to compliance with Labor Code section 226.7 and 512, Employer has a practice of discouraging employees to take their rest and/or meal breaks in compliance with California law and fails to pay the meal and/or rest break premiums as required where the meal and/or rest break is not provided.

In conclusion, we look forward to your investigation of these issues and stand ready to assist in that investigation if you undertake it. Alternatively, if the LWDA does not pursue these claims within the statutory review period, Mr. Teffeteller intends to pursue these claims on behalf of himself and the other aggrieved nonexempt employees worked during the PAGA period.

Please direct all communications in this matter to my office as follows:

Greg A. Garbacz, Esq.
Tom Daugherty, Esq.
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San Diego, CA 92101
619/400-8000

Very truly yours,

KLINEDINST PC

GREG A. GARBACZ

GAG:cml