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VIA CERTIFIED U.S. MAIL – Return Receipt Requested

May 23, 2024

Labor and Workforce Development Agency
(via online submission)

SILVA TRUCKING (a California Corporation)
Agent for Service: David C. Silva
36 W Mathews Rd.
French Camp, CA 95231

STOCKTON AG TRANSPORT (a California Corporation)
Agent for Service: David C. Silva
36 W Mathews Rd.
French Camp, CA 95231

David C Silva
6264 Chesapeake Cir
Stockton, CA 95219

David C Silva
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Mark Silva
36 W Mathews Rd.
French Camp, CA 95231

Re: Labor Code §2699 Notice by Aggrieved Employee Monica Castillo

This constitutes statutory notice pursuant to Labor Code § 2699.3(a)(1) for purposes of bringing a claim under the Private Attorneys General Act, Cal. Labor Code § 2699, et seq. (“PAGA”). Please consider this a request for the California Labor & Workforce Development Agency (“LWDA” or “Agency”) to take action against SILVA TRUCKING (a California Corporation) and STOCKTON AG TRANSPORT (a California Corporation) (collectively, “DEFENDANTS”), and their agents, managers and supervisors—including, without limitation, owners and/or managers David C. Silva and Mark Silva (collectively “Defendants”)—for violations of the California Labor Code described below. I am writing on behalf of MONICA CASTILLO, an aggrieved employee represented by this law firm (hereinafter “Aggrieved Plaintiff”) who seeks to assert a PAGA claim on behalf of the State of California and all other similarly situated current or former employees who have been employed by DEFENDANTS in California during the relevant time period. Specifically, this notice is given on behalf of the following category of aggrieved employees:

All non-exempt employees of SILVA TRUCKING (a California Corporation) and/or STOCKTON AG TRANSPORT (a California Corporation) (collectively, “DEFENDANTS”) who performed work in California for DEFENDANTS at any time on or after May 8, 2023.

PLEASE TAKE NOTICE THAT THIS IS ALSO A GENERAL LITIGATION PRESERVATION NOTICE to preserve all documents relating to all employees, including but not limited to all timekeeping and payroll records in paper form, native electronic form, and any other format in which they are generated and maintained in the regular course of business; all databases and computer or electronic systems that are used for timekeeping and payroll; all records and evidence in any way related to the facts and claims asserted in this letter; all records and evidence in any way related to claims of Aggrieved Plaintiff, the state and other current or former employees under the California Labor Code Private Attorney General (including underlying Labor Code and IWC orders), the California Government Code, and the Equal Employment Opportunity Act. These documents include but are not limited to all schedules (both current and former) all timekeeping records, all rest and meal period records, all duty and responsibility records, all records of customers of the facilities that include employee signatures or initials, all payroll



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records, all state or federal withholding records, all personnel files and other employment records, all records concerning the payment or nonpayment of wages, or provision or non-provision of state mandated Labor Code protections, as well as all documents pertaining to harassment or discrimination against employees, all communications relating to these records and documents, and all emails relating to these records and documents.

Further, pursuant to California Labor Code §§ 210, 558, 1197.1, and other provisions of the Labor Code, please consider this a notice to DEFENDANTS' owners, supervisors, managers, agents and all other persons acting on behalf of DEFENDANTS and the employer who caused to be violated any provision of the California Labor Code or Wage Orders governing hours and days of work. As used herein, "DEFENDANTS" refers to all liable persons and entities, including owners, supervisors, managers, agents, and any other person acting on behalf of DEFENDANTS who "caused" the violations at issue.

DEFENDANTS operate a trucking business in Stockton, California. In so doing, DEFENDANTS directly employed Aggrieved Plaintiff and similarly situated aggrieved employees. Aggrieved Plaintiff worked for DEFENDANTS as a truck driver, transporting materials for, without limitation, the agricultural industry. Such materials consisted of, without limitation, chicken meal, tomato paste, and sand for making class for wine industry clients of DEFENDANTS. Plaintiff has worked for DEFENDANTS since on or about March 11, 2024.

This investigation request and notice of California Labor Code violations concerns the systematic failure by DEFENDANTS to pay current and former California non-exempt employees in compliance with provisions set out in the California Labor Code and in Wage Orders promulgated by the Industrial Welfare Commission. At the core of DEFENDANTS' violations is a policy of: systematically failing to pay all wages earned, systematically failing to pay overtime wages for all hours worked by employees in excess of eight hours in a work day and/or 40 hours in a workweek; systematically refusing to provide rest periods or to provide premium wages in lieu thereof; systematically refusing to provide meal periods or to provide premium wages in lieu thereof; systematically failing to provide accurate wage statements and systematically failing to pay of all wages owed upon separation from employment. These violations are a uniform policy applied to all non-exempt employees who performed work for DEFENDANTS.

The facts and theories giving rise to these violations include, without limitation the following:

- DEFENDANTS manipulated/falsified time records to structure hours worked in a manner which would avoid the obligation to pay overtime wages (i.e., for over eight hours per day and/or forty hours per week).



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- DEFENDANTS systematically underpaid Aggrieved Plaintiff and other employees for all hours worked, as such hours were reflected in timesheets and/or electronic records tracking truck shipments (e.g., GPS). Instead of fully compensating those hours, DEFENDANTS shaved time off, and thereby failed to pay at least minimum wages for all hours worked.
- DEFENDANTS failed to authorize and permit Aggrieved Plaintiff and other workers to take full and complete off-duty meal and/or rest breaks. While employees were transporting goods for DEFENDANTS, they were required to drive continuously, and were not allowed to stop in order to enjoy meal and/or rest breaks during eligible shifts.
- As a result of the foregoing violations, DEFENDANTS failed to pay all wages due and owing, and therefore failed to issue accurate itemized wage statements, as such statements failed to reflect wages earned for overtime and minimum wages, as well as premium wages for meal and rest break violations.
- In addition, as a result of the wage payment violations described above, DEFENDANTS failed to timely pay all wages upon termination to those employees who separated from DEFENDANTS' employ.

Liability under the PAGA may be based on a wide variety of Labor Code predicate provisions, including but not limited to sections 98.6, 98.7, 201, 203, 210, 216, 218, 218.6, 223, 225, 226, 226.2, 226.7, 510, 512, 2810.5, 1174, 1175, 1194, 1194.2, 1197, 1197.1, 1199, and 2802, Industrial Welfare Commission Wage Orders, sections 2699 et seq. and all of the provisions listed in Labor Code section 2699.5 (including the penalty provisions related to these predicate provisions), among others. Any violation of these or any other Labor Code provisions serve as the basis for a PAGA claim by an aggrieved employee on behalf of themselves and other current and former employees.

Further, pursuant to Labor Code sections 210, 558, 558.1, 1197.1, 2699(f), and others, please consider this a notice to DEFENDANTS and their owners, supervisors, managers, agents, and all other persons acting on behalf of DEFENDANTS and the employers who caused to be violated any provision of the California Labor Code or IWC Wage Orders governing hours and days of work. DEFENDANTS and their owners, supervisors, managers, agents, and all other persons acting on their behalf have complete authority to implement and carry out the illegal wage and hour policies described herein. These violations are a uniform policy applied to all non-exempt workers described and defined above.



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David C. Silva and Mark Silva, as owners, directors, and/or managers of DEFENDANTS, were in charge of all major business decisions. They made the decision to hire our client and set, implemented, and/or enforced the policies and practices described herein in order to avoid compliance with labor laws. As such, they were on notice, whether actual or constructive, of all the violations described herein, and failed to prevent, address, or remedy them. David C. Silva and Mark Silva caused the violations described herein by carrying out DEFENDANTS' illegal labor practices at the direction of DEFENDANTS and/or of their own accord.

The above provisions do not include all of the derivative penalties associated with the above provisions, which are listed throughout the Labor Code. If no action is taken within 65 days, we will assume that we may pursue this action under the theories described above against described entities above and their managers, agents, owners and other liable persons and entities (pursuant to sections 210, 558 and 1197.1 (and other provisions)).

Aggrieved Plaintiff Monica Castillo may be contacted through our office: Mallison & Martinez Attorneys at Law, 1939 Harrison Street, Suite 730, Oakland, California 94612.

Sincerely,

Hector Martinez