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November 8, 2024

California Labor & Workforce Development Agency

ATTN: PAGA Administrator

1515 Clay Street, Suite 801

Oakland, CA 94612

**SENT VIA USPS CERTIFIED MAIL TO CLAIMANT AND
UPLOADED TO <https://dir.govfa.net/309>**

**RE: Janine Marie Bello v. L. & R. Distributors, Inc.
LWDA Case No. LWDA-CM-1029679-24**

To whom it may concern,

Howard & Howard Attorneys, PLLC has been retained to represent the interests of L. & R. Distributors, Inc. (“L&R” or “Company”) with respect to the above-referenced matter. On September 27, 2024, Janine Marie Bello (“Ms. Bello” or “Claimant”) sent written notice to L&R pursuant to California Labor Code § 2698, *et. seq.* regarding L&R’s alleged violations of Labor Code §§ 201 – 204, 210, 226, 510, 512, 558, 1194, 1197, 2802 and IWC Order No. 5-2001, Section 12 (collectively, the “Applicable Labor Codes”).

Please be advised that there are the following two other duplicative ongoing putative class action complaints against L&R containing PAGA claims:

Ongoing Duplicative Case No. 1: Rebecca Ryhal v. L&R

On March 14, 2024, L&R employee Rebecca Ryhal (“Ms. Ryhal”) filed a PAGA demand letter with the LWDA Case No. LWDA-CM-1016637-24. (Exhibit A, Ryhal PAGA demand letter).

On March 14, 2024, Ms. Ryhal filed a putative class action complaint in the Superior Court of California, County of Los Angeles, entitled *Rebecca Ryhal, individually, and on behalf of the putative class v. L. & R. Distributors, Inc.*, Case No. 24STCV06416. L&R initially removed the case to the United States District Court for the Central District of California and eventually filed a Second Amended Complaint, which included a claim for penalties under the PAGA. (Exhibit B, Ryhal Second Amended Complaint.) The parties subsequently stipulated to remand the case back to Los Angeles Superior Court, where it is now pending. (Exhibit B, Notice of Removal of Ryhal action with complaint attached thereto; Exhibit C, Ryhal Order of Remand and Transmittal to State Court.)

Ongoing Duplicative Case No. 2: Yvette Evans v. L&R

On May 21, 2024, L&R employee Yvette Evans (“Ms. Evans”) filed a PAGA demand letter with the LWDA, Case No. LWDA-CM-1029679-24. (Exhibit D, Evans PAGA demand letter).

On June 17, 2024, Ms. Evans filed a putative class action complaint in the Superior Court of California, County of Santa Clara, entitled *Yvette Evans, as an individual and on behalf of all others similarly situated v. L. & R. Distributors, Inc, a New York corporation*; and DOES 1 – 50, inclusive, Case No. 24STCV06416. (Exhibit E, Evans Complaint.)

On July 25, 2024, Ms. Evans filed a new and separate action in the Superior Court of California, County of Santa Clara, that contained only a single cause of action for penalties under the PAGA, entitled *Yvette Evans, as an individual and on behalf of all others similarly situated v. L. & R. Distributors, Inc, a New York corporation*; and DOES 1 – 50, inclusive, Case No. 24CV443823. (Exhibit F, Evans PAGA-only Complaint.)

L&R’s Response to Claimant Ms. Bello’s Demand Letter

This correspondence does not address the merits of Ms. Bello’s allegations, but requests that the LWDA deny Claimant the right to proceed under PAGA “on behalf of all others similarly situated,” because (1) Ms. Bello’s claims are wholly duplicative of, and covered by, those filed by Ms. Ryhal and Ms. Evans for themselves and on behalf of all other similarly situated employees for the same relevant period; and (2) Ms. Bello is statutorily prohibited from seeking the penalties alleged in her demand letter due to the fact that she did not *personally* suffer any damages for violations of the Applicable Labor Codes, as required under the PAGA’s new rules.

Should the LWDA either fail to respond to Ms. Bello’s correspondence or deny L&R’s request contained herein, L&R will be severely prejudiced and forced to incur significant attorneys’ fees and costs to dismiss Ms. Bello’s claims (when filed with the court) under the PAGA as unnecessary and duplicative. When actions involving a common question of law or fact are pending before the court, it may order a joint hearing or trial of any or all of the matters in issue in the actions, it may order all the actions consolidated, and it may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay. *See* Cal. Code Civ. Proc. § 1048(a).

Additionally, if actions before the court involve a common question of law or fact, the Court may,

1. Join for hearing or trial any or all matters at issue in the actions;
2. Consolidate the actions; or
3. Issue any other orders to avoid unnecessary cost or delay.

Consolidation of all related actions that involve common questions of law and fact and allege the same or similar claims on behalf of the same or similar putative classes is appropriate. Courts have “broad discretion under this rule to consolidate cases pending in the same district,” and will not be reversed absent clear error. *Investors Research Co. v. U.S. District Court for Cent. Dist.*, 877 F.2d 777 (9th Cir. 1989); see *Schwarzer, et al.*, California Practice Guide: Federal Civil Procedure Before Trial § 16:151 (Rutter Group). In determining whether to consolidate cases, a court should “weigh the interest of judicial convenience against the potential for delay, confusion and prejudice.” *Kamakahi v. Am. Soc’y for Reproductive Med.*, 2012 WL 892163, at *1 (N.D. Cal. Mar. 14, 2012) (citing *Zhu v. UCBH Holdings, Inc.*, 682 F. Supp. 2d 1049, 1052 (N.D. Cal. 2010)).

Class actions are particularly well suited for consolidation because unification expedites pretrial proceedings, reduces case duplication, avoids confusion, and minimizes the expenditure of time and money for all parties involved. See *Kamakahi*, 2012 WL 892163, at *2 (“The Court finds that consolidation will serve the interests of efficiency and judicial economy.”); *Takeda v. Turbodyne Techs., Inc.*, 67 F. Supp. 2d 1129, 1133 (C.D. Cal. 1999) (“Absent class members will best be served by consolidation because they will have just one case to monitor as it proceeds through litigation.”); *In re Equity Funding Corp. of Am. Sec. Litig.*, 416 F. Supp. 161, 176 (C.D. Cal. 1976) (“[A]rgument and consideration of class action issues has been made considerably easier by the consolidated complaint, because the court has not had to go through varying and conflicting class allegations that may have been stated in each separate complaint. . . .”).

In the instant action, Ms. Bello’s facts and claims are identical to those alleged in the pending cases filed by Ms. Ryhal and Ms. Evans. All of the matters are so materially similar that consolidation serves the interests of judicial economy. Both Ms. Bello’s claims and those alleged by Ms. Ryhal and Ms. Evans are styled as putative class actions during the same relevant period for identical alleged violations of the Applicable Labor Codes, with a particular focus on L&R’s policies regarding reimbursement of business expenses, payment of wages, and inaccurate wage statements. Although it is currently unknown whether Ms. Bello will seek class certification outside of PAGA, the cases filed by Ms. Ryhal and Ms. Evans seek recovery as a class in court based on the PAGA and statutory claims.

Because Ms. Bello’s claims focus on the same common issues of law and fact as those alleged by Ms. Ryhal and Ms. Evans, they must be construed as duplicative and already pending in court. Accordingly, it is respectfully requested that the LWDA respond to Ms. Bello in such a way as to preclude her from seeking duplicative relief, as her claims, as well as those of the purported class for which she seeks to represent under the PAGA, are currently being prosecuted by Ms. Ryhal and Ms. Evans. Should the LWDA fail to respond or permit Ms. Bello to seek duplicative relief, L&R will be severely prejudiced by being forced to defend a wholly unnecessary and redundant case.

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Ms. Bello's PAGA notice was submitted to the LWDA on September 27, 2024. Therefore, the subject response by L&R falls within with the limitations period in which an employer has to respond.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Robert L. Rosenthal".

Robert L. Rosenthal, Esq.

Enclosures

cc: L. & R. Distributors, Inc.

Janine Marie Bello c/o Otkupman Law Firm, a Law Corporation (via certified mail)