

Clerk of the Superior Court
By S. Allen Thurston, Deputy Clerk

Nazo Koulloukian, SBN 263809
nazo@koullaw.com
Hilary Silvia, Of-Counsel SBN 237993
hilary@koullaw.com
KOUL LAW FIRM, APC
3435 Wilshire Blvd., Suite 1710
Los Angeles, CA 90010
Telephone: (213) 761-5484
Facsimile: (818) 561-3938

Sahag Majarian, Esq. SBN 146621
sahagii@aol.com
Garen Majarian, Esq. SBN 334104
garen@majarianlawgroup.com
MAJARIAN LAW GROUP, APC
18250 Ventura Blvd.
Tarzana, CA 91356
Telephone: (818) 609-0807
Facsimile: (818) 609-0892

Attorneys for Plaintiff,
YAZMIN GALAN RUIZ on behalf of
herself, all aggrieved employees, and the State
of California as a Private Attorneys General

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

YAZMIN GALAN RUIZ, individuals, on
behalf of herself, all aggrieved employees, and
the State of California as a Private Attorneys
General,

Plaintiff,

vs.

PRO ENERGY SERVICES GROUP, LLC., a
Delaware Limited Liability Company, and
DOES 1-50, inclusive,

Defendant.

) Case No.:

) **REPRESENTATIVE ACTION**

) **Violation of the Private Attorneys General
Act of 2004, Cal. Labor Code §2698 *et seq.***

1 Plaintiff YAZMIN GALAN RUIZ brings this PAGA representative action complaint on
2 behalf of herself, all aggrieved employees, and the State of California as a Private Attorneys
3 General, and alleges as follows:

4 NATURE OF THE ACTION

5 1. Plaintiff YAZMIN GALAN RUIZ worked as an employee for Defendant PRO
6 ENERGY SERVICES GROUP, LLC. and Does 1-50 (collectively “Defendant”). Plaintiff
7 YAZMIN GALAN RUIZ worked for Defendant at various assigned job sites within California,
8 including Santa Barbara and Joshua Tree until December 2023. Plaintiff brings this action pursuant
9 to the Private Attorneys General Act of 2004 (“PAGA”), Cal. Labor Code §2698 *et seq.*, on a
10 representative basis. All current and former hourly, nonexempt employees of Defendant within
11 one year of serving notice on the LWDA to the present are aggrieved employees.

12 2. Defendant failed to comply with California Labor Code requirements due to erroneous,
13 willful and intentional employment practices and policies. Plaintiff brings this representative
14 action on behalf of herself, all other similarly situated aggrieved employees, and the State of
15 California, based upon the claims articulated below. Plaintiff provided initial and second notice of
16 the claims pursuant to §2698 *et seq.*, to the Labor and Workforce and Development Agency
17 (“LWDA”) and Division of Occupational Safety and Health (“DOSH”) as illustrated by the
18 attached Exhibits, the content of which are expressly incorporated herein. The LWDA and DOSH
19 have not provided any notice to Plaintiff following the exhaustion of the notice periods required
20 by 2699.3. Accordingly, Plaintiff now brings this Complaint for civil penalties under the Private
21 Attorneys General Act (“PAGA”), Labor Code §2698 *et seq.*

22 3. Defendant has had a consistent policy and/or practice of: (1) failing to provide a place
23 of employment that is safe and healthful; and (2) failure to provide potable water. Defendant is
24 therefore liable for civil penalties under the Cal. Labor Code, including the Private Attorney
25 General Act (“PAGA”), Labor Code §2698 *et seq.*, as described more fully herein.

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THE PARTIES

4. Plaintiff YAZMIN GALAN RUIZ is a resident of the State of California and worked for Defendant at its assigned job sites at various locations in California, including Santa Barbara and Joshua Tree, until December 2023.

5. Defendant PRO ENERGY SERVICES GROUP, LLC, is a Delaware Limited Liability Company with a primary place of business in Escondido, California, authorized to do business and doing business in California with the capacity to sue and to be sued in the county of San Diego, State of California.

6. Plaintiff is unaware of the true names, capacities, relationships, and extent of participation in the conduct alleged herein, of the Defendant sued as DOES 1 through 50, but is informed and believes and thereon alleges that said Defendant is legally responsible for the wrongful conduct alleged herein and therefore sues Defendant by such fictitious names, Plaintiff will amend this complaint when their true names and capabilities are ascertained.

7. Plaintiff is informed and believes and thereon alleges that each Defendant, directly or indirectly, or through agents or other persons, employed Plaintiff and other aggrieved employees of the representative class, and exercised control over their wages, hours, and working conditions. Plaintiff is informed and believes and thereon allege that each Defendant acted in all respects pertinent to this action as the agent of the other Defendants, carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendant is legally attributable to the other Defendants.

JURISDICTION AND VENUE

8. Venue is proper in this judicial district because Defendant conducts business in this county and each Defendant has legal obligations to Plaintiff and many of the aggrieved employees in this case that arose in this county.

9. The statutory penalties sought by Plaintiff exceed the minimal jurisdictional limits of the Superior Court and will be established according to proof at trial. Based on information, investigation and analysis, Plaintiff alleges that the amount in controversy, including claims for

1 monetary damages, penalties and attorney's fees is more than twenty-five thousand dollars
2 (\$25,000).

3 10. The California Superior Court has jurisdiction in this matter because Plaintiff is a
4 resident of California and Defendant is qualified to do business in California and regularly conduct
5 business in California. Further, there is no federal question at issue as the claims herein are based
6 solely on California law.

7 **PAGA REPRESENTATIVE ACTION ALLEGATIONS**

8 11. During the relevant time period, Defendant committed various violations of the
9 California Labor Code as alleged below in more detail. Defendant enforces multiple policies that
10 violate state law, which are intended to increase profits to the detriment of aggrieved employees.

11 12. On information and belief, this representative action represents over fifty current and
12 former aggrieved employees.

13 13. For at least one (1) year prior to the date of service notice on the LWDA, and continuing
14 to the present, Defendant engaged in unlawful employment practices that resulted in violations of
15 numerous Labor Code sections, as set forth more fully below.

16 14. Plaintiff and all current and former hourly, nonexempt employees within one year of
17 filing this action to the present are aggrieved employees within the meaning of Labor Code 2699,
18 *et seq.* (See Labor code §2699(c).)

19 15. Defendant, and each of them, have committed the following violations of the California
20 Labor Code:

21 **Failure to Provide Place Of Employment That Is Safe And Healthful**

22 (Cal. Labor Code §§6400, 6401, 6402, 6403, 6404, 6407, 2698 *et seq.*,)

23 16. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and
24 incorporate said paragraphs herein by reference.

25 17. Cal. Labor Code § 6400(a) provides that every employer shall furnish employment
26 and a place of employment that is safe and healthful for the employees therein. Cal. Labor Code
27 §6401 provides that "every employer shall furnish and use safety devices and safeguards, and shall
28 adopt and use practices, means, methods, operations, and processes which are reasonably adequate

1 to render such employment and place of employment safe and healthful. Pursuant to Cal. Labor
2 Code §6402, no employer shall require, or permit any employee to go or be in any employment or
3 place of employment which is not safe and healthful. Cal. Labor Code §6403 states that no
4 employer shall fail or neglect to provide and use safety devices and safeguards reasonably adequate
5 to render the employment and place of employment safe, or to adopt and use methods and
6 processes reasonably adequate to render the employment and place of employment safe, or to do
7 every other thing reasonably necessary to protect the life, safety, and health of employees. Cal.
8 Labor Code § 6404 provides that no employer shall occupy or maintain any place of employment
9 that is not safe and healthful. §6407 requires that employers comply with OSHA.

10 18. Failure to Provide Shade 8 CCR 3395 (d) requires:

- 11 A. Shade shall be present when the temperature exceeds 80 degrees Fahrenheit.
12 When the outdoor temperature in the work area exceeds 80 degrees Fahrenheit,
13 the employer shall have and maintain one or more areas with shade at all times
14 while employees are present that are either open to the air or provided with
15 ventilation or cooling. The amount of shade present shall be at least enough to
16 accommodate the number of employees on recovery or rest periods, so that they
17 can sit in a normal posture fully in the shade without having to be in physical
18 contact with each other. The shade shall be located as close as practicable to the
19 areas where employees are working. Subject to the same specifications, the
20 amount of shade present during meal periods shall be at least enough to
21 accommodate the number of employees on the meal period who remain onsite.

22 19. Defendants failed to provide adequate shade to employees working outdoors, often in
23 temperatures exceeding 80 degrees. Labor Code sections 6300, 6310 and 6400, *et seq.* require all
24 employers to provide a safe and secure workplace. Because Defendants did not provide shade
25 required by 8 CCR 3395 at their “outdoor places of employment,” Plaintiff and employees were
26 exposed to a high risk of suffering heat illness and jeopardizing their life, safety, and health.
27 Because shade is required, failure to provide adequate shade results in insufficient rest and
28 recovery periods, as well as an unsafe work environment.

1 20. Failure to Permit Cool-Down Recovery Periods. Even on summer days when
2 temperatures in rose well above ninety degrees Fahrenheit, Defendants did not permit employees
3 to take cool-down rest breaks. During many projects, including when Plaintiff worked at the
4 Crestline project in Joshua Tree, no breaks, including cool-down rest periods, were provided
5 because employees were pressured to meet cleaning post quotas. Plaintiff's supervisor even told
6 her that her break time was the time she spent moving from one post (or work location) to another.
7 This created an unsafe work environment for Plaintiff and aggrieved employees.

8 21. 8 CCR 3395(d)(3) provides in part that employees working for employers that maintain
9 "outdoor places of employment" "shall be allowed and encouraged to take a preventative cool-
10 down rest in the shade when they feel the need to do so to protect themselves from overheating."
11 Employers who fail to provide required recovery periods are liable for damages under Labor Code
12 226.7 as well as Section 6300 *et seq.* In this instance, because Defendants did not provide shade
13 or recovery periods required by the Labor Code and 8 CCR 3395 at their "outdoor places of
14 employment," Plaintiff and aggrieved employees were exposed to a high risk of suffering heat
15 illness and jeopardizing their life, safety, and health, violating the above-listed labor code
16 provisions.

17 22. Failure to Provide Restroom Facilities. Defendants failed to provide restroom and
18 handwashing facilities to employees working on projects, and failed to ensure that adequate
19 restroom and handwashing facilities were available within a reasonable distance from assigned
20 work locations.

21 **Failure to Provide Potable Drinking Water**

22 (Cal. Labor Code §2441, 6400, 6401, 6402, 6403, 6404, 6407, 2698 *et seq.*)

23 23. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and
24 incorporate said paragraphs herein by reference.

25 24. California Labor Code §2441 requires employers to provide fresh, free, and pure
26 drinking water for employees, at reasonable and convenient times and places. Although Plaintiff
27 is not bringing a claim directly under the CCR, the CCR illuminates workplace requirements
28 imposed on employers and whether an employer has complied with Labor Code §6300 *et seq.* in

1 providing a safe and healthful workplace. 8 CCR §3395 requires the provision of “potable drinking
2 water meeting the requirements of §§1524, 3363, and 3457, as applicable, including but not limited
3 to the requirements that it be fresh, pure, suitably cool, and provided to employees free of charge.”⁸
4 CCR § 3457(c) further requires the provision of potable drinking water and single-use cups.
5 Claimant and aggrieved employees were not provided with water that meets this criteria free of
6 cost. For example, when Plaintiff was stationed in both Santa Barbara and Joshua Tree, due to
7 inadequate water supplies, Plaintiff had to purchase water and ice for herself and her coworkers.
8 Plaintiff and aggrieved employees were not reimbursed for this expense.

9 25. Finally, Defendants have violated Labor Code §432.5 for forcing Plaintiff and
10 aggrieved employees to sign employment related contracts and documents that contained unlawful
11 terms of employment.

12 **FIRST CAUSE OF ACTION**

13 **Against Defendant for Violation of the Private Attorneys General Act (“PAGA”)**

14 **(California Labor Code §2698 *et seq.*)**

15 26. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and
16 incorporate said paragraphs herein by reference.

17 27. Plaintiff is an “aggrieved employee” under PAGA, as she was employed by Defendants
18 during the applicable statutory period and suffered one or more of the Labor Code violations set
19 forth herein. Accordingly, Plaintiff seeks to recover on behalf of herself and all other current and
20 former aggrieved employees of Defendants, the civil penalties provided by PAGA, plus reasonable
21 attorneys’ fees and costs.

22 28. Plaintiff seeks to recover the PAGA civil penalties through a representative action
23 permitted by PAGA and the California Supreme Court in *Arias v. Superior Court* (2009) 46 Cal.
24 4th 969. Therefore, class certification of the PAGA claims brought herein is not required.

25 29. Plaintiff seeks civil penalties pursuant to PAGA for violations of the following Labor
26 Code provisions:

- 27 A. Failure to Provide Place Of Employment That Is Safe And Healthful (Cal.
28 Labor Code §§6400, 6401, 6402, 6403, 6404, 6407, 2698 *et seq.*)

1 B. Failure to Provide Potable Drinking Water (Cal. Labor Code §2441, 6400,
2 6401, 6402, 6403, 6404, 6407, 2698 et seq)

3 30. Labor Code §2698 *et seq.* imposes a civil penalty of one hundred dollars (\$100) per
4 pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay
5 period, per aggrieved employee for subsequent violations for all Labor Code provisions for which
6 a civil penalty is not specifically provided.

7 31. Plaintiff and the other current and former employees of Defendants are aggrieved
8 employees. They were or are employed by Defendant, and each of them, and the violations alleged
9 herein were committed against them.

10 32. At the time of each violation, Defendants employed one or more employees.

11 33. As a result of the aforesaid wrongful and illegal conduct of Defendants, and each of
12 them, Plaintiff and aggrieved employees are entitled to civil penalties in an amount to be
13 determined at trial, pre-judgment interest, costs and attorneys' fees.

14 34. Exhaustion of Administrative Requirements: Plaintiff has complied with all procedural
15 requirements of Labor Code §2699.3 prior to filing this Complaint. By the Notice attached as
16 Exhibits 1 and 2, submitted online to the LWDA and DOSH and served by certified mail upon
17 Defendant, Plaintiff through counsel notified the LWDA, DOSH, and Defendant of the specific
18 Labor Code provisions that Defendant has violated. The LWDA and DOSH did not respond to
19 Plaintiff's Notices within the statutory timeframe, and Plaintiff has therefore exhausted
20 administrative remedies. Pursuant to Labor Code §2699.3, Plaintiff may now pursue her PAGA
21 claims in this action on behalf of aggrieved employees and the State of California.

22 **PRAYER FOR RELIEF**

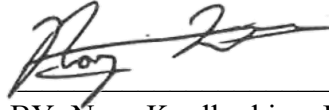
23 WHEREFORE, Plaintiff, individually and on behalf of the aggrieved employees, prays for
24 judgement against Defendant as follows:

- 25 1. An award of civil penalties pursuant to PAGA and the Cal. Labor Code in an amount to be
26 determined at trial, but at least the jurisdictional amount of this Court;
- 27 2. An award of reasonable attorneys' fees and costs pursuant to California Labor Code §2699(g)
28 and/or other applicable law;

- 1 3. Pre-judgement and post-judgement interest as provided by law; and
2 4. Such other and further relief that the Court may deem just and proper.
3

4 DATED: September 26, 2024

KOUL LAW FIRM, APC

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8 BY: Nazo Koulloukian, Esq.
9 Attorneys for Plaintiff YAZMIN GALAN RUIZ,
and all aggrieved employees
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EXHIBIT 1



Nazo@Koullaw.com

P (213) 761 – 5484

F (818) 561 – 3938

3435 WILSHIRE BLVD

SUITE 1710

LOS ANGELES, CA 90010

www.koullaw.com

May 17, 2024

Via E-filing:

California Labor & Workforce
Development Agency
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102

Via E-filing:

Division of Occupational Safety and Health
1515 Clay Street, Suite 1901
Oakland, CA 94612

Via Certified U.S. Mail:

Pro Energy Services Group, LLC
2060 ALDERGROVE AVENUE
ESCONDIDO, CA 92029

Re: PAGA Notice Pursuant to California Labor Code §2699
Claimant: Yazmin Galan Ruiz
Employer: Pro Energy Services Group, LLC

Dear Sir or Madam:

Claimant Yazmin Galan Ruiz has retained Nazo Koulloukian, Esq. of the KOUL LAW FIRM, APC, and Sahag Majarian, II, and Garen Majarian of the Majarian Law Group, APC, to represent her, and all other aggrieved employees, for wage and hour claims against her former employer, Pro Energy Services Group, LLC. (hereafter “Employer”). Claimant worked for Employer until December 2023 in California at various assigned job sites within California, including Santa Barbara and Joshua Tree.

Employer has violated, and/or has caused to be violated, several Labor Code provisions and is therefore liable for civil penalties under Cal. Labor Code §2698 *et seq.* We request that your agency investigate the claims alleged below or permit Claimant to seek civil penalties under the Private Attorney General Act (“PAGA”), Labor Code §2698 *et seq.*, on behalf of the Labor and Workforce and development Agency (“LWDA”) and the State of California in a representative action. This letter will serve as notice of these allegations pursuant to Cal. Lab. Code §2699.3. Based on information and belief, Employer continues to commit all the violations alleged herein.

As alleged below, Claimant personally suffered some of the Labor Code violations committed by Employer, while other violations, though not personally suffered by her, were suffered by other Aggrieved Employees. As held in *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal.App.5th 745, 758, "[b]y the plain language of the statute, an aggrieved employee need only suffer one of the Labor Code violations alleged against his or her employer to be able to bring a PAGA claim on behalf of himself or herself and current or former employees who suffered any Labor Code violation at the hands of the employer. Claimants need not have actually suffered all of the Labor Code violations that they alleges to have taken place for purposes of seeking PAGA penalties." (citation omitted). Accordingly, Claimant plans to pursue penalties for all the violations committed by Employer against the Aggrieved Employees, including those she did not personally suffer.

Failure to Provide Place Of Employment That Is Safe And Healthful

(Cal. Labor Code §§6400, 6401, 6402, 6403, 6404, 6407, 2698 et seq.)

Cal. Labor Code § 6400(a) provides that every employer shall furnish employment and a place of employment that is safe and healthful for the employees therein. Cal. Labor Code §6401 provides that "every employer shall furnish and use safety devices and safeguards, and shall adopt and use practices, means, methods, operations, and processes which are reasonably adequate to render such employment and place of employment safe and healthful. Pursuant to Cal. Labor Code §6402, no employer shall require, or permit any employee to go or be in any employment or place of employment which is not safe and healthful. Cal. Labor Code §6403 states that no employer shall fail or neglect to provide and use safety devices and safeguards reasonably adequate to render the employment and place of employment safe, or to adopt and use methods and processes reasonably adequate to render the employment and place of employment safe, or to do every other thing reasonably necessary to protect the life, safety, and health of employees. Cal. Labor Code § 6404 provides that no employer shall occupy or maintain any place of employment that is not safe and healthful. §6407 requires that employers comply with OSHA.

Failure to Provide Shade

8 CCR 3395 (d) requires:

Shade shall be present when the temperature exceeds 80 degrees Fahrenheit. When the outdoor temperature in the work area exceeds 80 degrees Fahrenheit, the employer shall have and maintain one or more areas with shade at all times while employees are present that are either open to the air or provided with ventilation or cooling. The amount of shade present shall be at least enough to accommodate the number of employees on recovery or rest periods, so that they can sit in a normal posture fully in the shade without having to be in physical contact with each other. The shade shall be located as close as

practicable to the areas where employees are working. Subject to the same specifications, the amount of shade present during meal periods shall be at least enough to accommodate the number of employees on the meal period who remain onsite.

Employer failed to provide adequate shade to employees working outdoors, often in temperatures exceeding 80 degrees. Labor Code sections 6300, 6310 and 6400, *et seq.* require all employers to provide a safe and secure workplace. Because Employer did not provide shade required by 8 CCR 3395 at their “outdoor places of employment,” Claimant and employees were exposed to a high risk of suffering heat illness and jeopardizing their life, safety, and health. Because shade is required, failure to provide adequate shade results in insufficient rest and recovery periods, as well as an unsafe work environment.

Failure to Permit Cool-Down Recovery Periods

Even on summer days when temperatures in rose well above ninety degrees Fahrenheit, Employer did not permit employees to take cool-down rest breaks. During many projects, including when Claimant worked at the Crestline project in Joshua Tree, no breaks, including cool-down rest periods, were provided because employees were pressured to meet cleaning post quotas. Claimant’s supervisor even told her that her break time was the time she spent moving from one post (or work location) to another. This created an unsafe work environment.

8 CCR 3395(d)(3) provides in part that employees working for employers that maintain “outdoor places of employment” “shall be allowed and encouraged to take a preventative cool-down rest in the shade when they feel the need to do so to protect themselves from overheating.” Employers who fail to provide required recovery periods are liable for damages under Labor Code 226.7 as well as Section 6300 *et seq.* In this instance, because Employer did not provide shade or recovery periods required by the Labor Code and 8 CCR 3395 at their “outdoor places of employment,” Claimant and employees were exposed to a high risk of suffering heat illness and jeopardizing their life, safety, and health, violating the above-listed labor code provisions.

Failure to Provide Restroom Facilities

Employer failed to provide restroom and handwashing facilities to employees working on projects, and failed to ensure that adequate restroom and handwashing facilities were available within a reasonable distance from assigned work locations.

Failure to Provide Potable Drinking Water
(Cal. Labor Code §2441, 6400, 6401, 6402, 6403, 6404, 6407, 2698 *et seq*)

California Labor Code §2441 requires employers to provide fresh, free, and pure drinking water for employees, at reasonable and convenient times and places. Although Claimant is not bringing a claim directly under the CCR, the CCR illuminates workplace requirements imposed on employers and whether an employer has complied with Labor Code §6300 *et seq.* in providing a safe and healthful workplace. 8 CCR §3395 requires the provision of “potable drinking water meeting the requirements of §§1524, 3363, and 3457, as applicable, including but not limited to the requirements that it be fresh, pure, suitably cool, and provided to employees free of charge.”⁸ CCR § 3457(c) further requires the provision of potable drinking water and single-use cups. Claimant and aggrieved employees were not provided with water that meets this criteria free of cost. For example, when Claimant was stationed in both Santa Barbara and Joshua Tree, due to inadequate water supplies, Claimant had to purchase water and ice for herself and her coworkers. She was not reimbursed for this expense.

Finally, Employer has violated Labor Code §432.5 for forcing Claimant and aggrieved employees to sign employment related contracts and documents that contained unlawful terms of employment.

Conclusion

Employer has violated a number of California wage and hour laws. Claimant respectfully requests that the agency investigate the above allegations and hereby provides notice of the allegations pursuant to PAGA’s provisions. Alternatively, Claimant requests that the agency inform her if it does not intend to investigate these violations so that she may pursue her claims as a representative action in civil court.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Nazo Koulloukian', with a horizontal line extending to the right.

Nazo Koulloukian, Esq.
Attorneys for Claimant

EXHIBIT 2



Nazo@Koullaw.com

P (213) 761 – 5484

F (818) 561 – 3938

3435 WILSHIRE BLVD

SUITE 1710

LOS ANGELES, CA 90010

www.koullaw.com

July 23, 2024

SECOND NOTICE

Via E-filing:

California Labor & Workforce
Development Agency
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102

Via E-filing:

Division of Occupational Safety and Health
1515 Clay Street, Suite 1901
Oakland, CA 94612

Via Certified U.S. Mail:

Pro Energy Services Group, LLC
2060 ALDERGROVE AVENUE
ESCONDIDO, CA 92029

Re: PAGA Notice Pursuant to California Labor Code §2699
Claimant: Yazmin Galan Ruiz
Employer: Pro Energy Services Group, LLC

LWDA No.: LWDA-CM-1029107-24

Dear Sir or Madam:

Claimant Yazmin Galan Ruiz has retained Nazo Koulloukian, Esq. of the KOUL LAW FIRM, APC, and Sahag Majarian, II, and Garen Majarian of the Majarian Law Group, APC, to represent her, and all other aggrieved employees, for wage and hour claims against her former employer, Pro Energy Services Group, LLC. (hereafter “Employer”). Claimant worked for Employer until December 2023 in California at various assigned job sites within California, including Santa Barbara and Joshua Tree.

Employer has violated, and/or has caused to be violated, several Labor Code provisions and is therefore liable for civil penalties under Cal. Labor Code §2698 *et seq.* We request that your agency investigate the claims alleged below or permit Claimant to seek civil penalties under the Private Attorney General Act (“PAGA”), Labor Code §2698 *et seq.*, on behalf of the Labor and Workforce and development Agency (“LWDA”) and the State of California in a representative action. This letter will serve as notice of these allegations pursuant to Cal. Lab. Code §2699.3. Based on information and belief, Employer continues to commit all the violations alleged herein.

As alleged below, Claimant personally suffered some of the Labor Code violations committed by Employer, while other violations, though not personally suffered by her, were suffered by other Aggrieved Employees. As held in *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal.App.5th 745, 758, "[b]y the plain language of the statute, an aggrieved employee need only suffer one of the Labor Code violations alleged against his or her employer to be able to bring a PAGA claim on behalf of himself or herself and current or former employees who suffered any Labor Code violation at the hands of the employer. Claimants need not have actually suffered all of the Labor Code violations that they alleges to have taken place for purposes of seeking PAGA penalties." (citation omitted). Accordingly, Claimant plans to pursue penalties for all the violations committed by Employer against the Aggrieved Employees, including those she did not personally suffer.

Failure to Provide Place Of Employment That Is Safe And Healthful

(Cal. Labor Code §§6400, 6401, 6402, 6403, 6404, 6407, 2698 et seq.)

Cal. Labor Code § 6400(a) provides that every employer shall furnish employment and a place of employment that is safe and healthful for the employees therein. Cal. Labor Code §6401 provides that "every employer shall furnish and use safety devices and safeguards, and shall adopt and use practices, means, methods, operations, and processes which are reasonably adequate to render such employment and place of employment safe and healthful. Pursuant to Cal. Labor Code §6402, no employer shall require, or permit any employee to go or be in any employment or place of employment which is not safe and healthful. Cal. Labor Code §6403 states that no employer shall fail or neglect to provide and use safety devices and safeguards reasonably adequate to render the employment and place of employment safe, or to adopt and use methods and processes reasonably adequate to render the employment and place of employment safe, or to do every other thing reasonably necessary to protect the life, safety, and health of employees. Cal. Labor Code § 6404 provides that no employer shall occupy or maintain any place of employment that is not safe and healthful. §6407 requires that employers comply with OSHA.

Failure to Provide Shade

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practicable to the areas where employees are working. Subject to the same specifications, the amount of shade present during meal periods shall be at least enough to accommodate the number of employees on the meal period who remain onsite.

Employer failed to provide adequate shade to employees working outdoors, often in temperatures exceeding 80 degrees. Labor Code sections 6300, 6310 and 6400, *et seq.* require all employers to provide a safe and secure workplace. Because Employer did not provide shade required by 8 CCR 3395 at their “outdoor places of employment,” Claimant and employees were exposed to a high risk of suffering heat illness and jeopardizing their life, safety, and health. Because shade is required, failure to provide adequate shade results in insufficient rest and recovery periods, as well as an unsafe work environment.

Failure to Permit Cool-Down Recovery Periods

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8 CCR 3395(d)(3) provides in part that employees working for employers that maintain “outdoor places of employment” “shall be allowed and encouraged to take a preventative cool-down rest in the shade when they feel the need to do so to protect themselves from overheating.” Employers who fail to provide required recovery periods are liable for damages under Labor Code 226.7 as well as Section 6300 *et seq.* In this instance, because Employer did not provide shade or recovery periods required by the Labor Code and 8 CCR 3395 at their “outdoor places of employment,” Claimant and employees were exposed to a high risk of suffering heat illness and jeopardizing their life, safety, and health, violating the above-listed labor code provisions.

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Employer failed to provide restroom and handwashing facilities to employees working on projects, and failed to ensure that adequate restroom and handwashing facilities were available within a reasonable distance from assigned work locations.

Failure to Provide Potable Drinking Water
(Cal. Labor Code §2441, 6400, 6401, 6402, 6403, 6404, 6407, 2698 *et seq*)

California Labor Code §2441 requires employers to provide fresh, free, and pure drinking water for employees, at reasonable and convenient times and places. Although Claimant is not bringing a claim directly under the CCR, the CCR illuminates workplace requirements imposed on employers and whether an employer has complied with Labor Code §6300 *et seq.* in providing a safe and healthful workplace. 8 CCR §3395 requires the provision of “potable drinking water meeting the requirements of §§1524, 3363, and 3457, as applicable, including but not limited to the requirements that it be fresh, pure, suitably cool, and provided to employees free of charge.”⁸ CCR § 3457(c) further requires the provision of potable drinking water and single-use cups. Claimant and aggrieved employees were not provided with water that meets this criteria free of cost. For example, when Claimant was stationed in both Santa Barbara and Joshua Tree, due to inadequate water supplies, Claimant had to purchase water and ice for herself and her coworkers. She was not reimbursed for this expense.

Finally, Employer has violated Labor Code §432.5 for forcing Claimant and aggrieved employees to sign employment related contracts and documents that contained unlawful terms of employment.

Conclusion

Employer has violated a number of California wage and hour laws. Claimant respectfully requests that the agency investigate the above allegations and hereby provides notice of the allegations pursuant to PAGA’s provisions. Alternatively, Claimant requests that the agency inform her if it does not intend to investigate these violations so that she may pursue her claims as a representative action in civil court.

Respectfully submitted,



Nazo Koulloukian, Esq.
Attorneys for Claimant