

Case Management Conference
2025-02-21 8:30AM in 11B

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Attorneys for Plaintiff, Martin Carrillo Gonzalez

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN JOAQUIN – UNLIMITED JURISDICTION

MARTIN CARRILLO GONZALEZ,

Plaintiff,

vs.

HYPONEX CORPORATION; and DOES
1-10, inclusive,

Defendants.

Case No.: STK-CV-UOE-2024-0010404

COMPLAINT FOR DAMAGES,
PENALTIES, AND DECLARATORY
RELIEF

1. RETALIATION IN VIOLATION OF
LABOR CODE §§ 6311 & 1102.5
2. WRONGFUL TERMINATION IN
VIOLATION OF PUBLIC POLICY
3. FAILURE TO PROVIDE RECORDS IN
VIOLATION OF LABOR CODE §
226(c)
4. INDIVIDUAL PAGA/DECLARATORY
RELIEF
5. REPRESENTATIVE PAGA

JURY TRIAL DEMANDED

Plaintiff Martin Carrillo Gonzalez (“Gonzalez”) brings this action against defendants for compensatory damages, interest, costs, and attorneys’ fees resulting from the Defendants Hyponex Corporation (“Hyponex”) and DOES 1-10 unlawful conduct (“Defendants”), and as grounds therefore alleges:

1 **PARTIES**

2 1. Plaintiff Gonzalez is and, at all times relevant herein, was, an individual residing
3 in San Joaquin County, California.

4 2. Defendant Hyponex is a Delaware Corporation registered to do business in
5 California, with its principal place of business in the State of Ohio.

6 3. Gonzalez is not aware of the true names and capacities of the defendants sued
7 herein as Does 1-10, whether individual, corporate, associate, or otherwise, and therefore sues
8 such defendants by these fictitious names. Gonzalez will amend this complaint to allege their
9 true names and capacities when ascertained. Gonzalez is informed and believes, and on that
10 basis alleges, that each of the fictitiously named defendants is responsible in some manner for the
11 occurrences herein alleged and that Gonzalez' damages and penalties herein alleged were legally
12 caused by such defendants. Unless otherwise indicated, each defendant was acting within the
13 course and scope of said agency and/or employment, with the knowledge and/or consent of said
14 co-defendant. Collectively, Defendants Hyponex and DOES 1-10 are referred to herein as
15 "Defendants."

16 **VENUE AND JURY TRIAL DEMAND**

17 4. Venue is proper in this Court because the unlawful acts alleged herein as to
18 Gonzalez took place in San Joaquin County, which is also the location of the place where
19 Gonzalez worked for Hyponex. Gonzalez hereby demands a jury trial.

20 **GENERAL ALLEGATIONS**

21 5. Defendants hired Gonzalez to work as a heavy equipment operator at their plant
22 in Linden, California, in September of 2012. Gonzalez operated a large front-end loader for
23 Defendants. Gonzalez successfully performed his job and received raises over the course of his
24 employment.

25 6. At a regularly scheduled safety meeting on April 5, 2024, Gonzalez complained
26 that it was unsafe to operate the heavy equipment because recent rain fall had left standing water
27 in the path of his operation, leaving a narrow path and making it dangerous for him and fellow
28

1 employees. Plaintiff had been trained in the safe operation of heavy equipment, and had been
2 instructed that he was required to report any unsafe conditions, and that he was not to operate
3 heavy machinery that created a safety risk to him or others.

4 7. Gonzalez reasonably believed that continued operation of the front-end loader in
5 this context constituted a safety risk to himself and fellow employees.

6 8. In direct retaliation for that safety complaint, Defendants placed Gonzalez on
7 administrative leave on April 8, 2024. Soon thereafter, it terminated his employment, stating a
8 pretextual basis that he was operating the heavy equipment too fast. He had never been told this
9 before he made his safety complaint.

10 9. Because of Defendants unlawful conduct, Plaintiff Gonzalez has suffered
11 damages as set forth below.

12 10. On May 15, 2024, Plaintiff Gonzalez sent a notice to the Labor and Workplace
13 Development Agency ("LWDA") notifying it that Defendants had, among other provisions,
14 violated Labor Code sections 6311 and 1102.5. A true and correct copy of this notice is attached
15 as Exhibit 1 and is incorporated by this reference.

16 11. On May 16, 2024, Plaintiff Gonzalez requested employment records, in form of
17 wage statements, from Defendants pursuant to Labor Code section 226(b). Defendants
18 acknowledged receipt of this request on May 20, 2024. Defendants failed to provide records
19 until June 18, 2024. Pursuant to Labor Code §226(c), the records were due to be provided within
20 21 calendar days. Because the records were untimely provided, Gonzalez sent a second notice to
21 the LWDA on June 21, 2024. A true and correct copy of this notice to the LWDA is attached as
22 Exhibit 2 and is incorporated by this reference.

23 12. The Private Attorney General Act ("PAGA"), as set forth at California Labor
24 Code § 2698 et seq., is and at all times relevant herein was applicable to Plaintiff's employment.

25 13. Pursuant to Labor Code § 2699(a) any provision of the Labor Code which
26 provides for a civil penalty to be assessed and collected by the Labor and Workforce
27 Development Agency LWDA for violations of the Labor Code may, as an alternative, be
28

1 recovered through a civil action brought by an aggrieved employee on behalf of himself or
2 herself and other current or former employees pursuant to the procedures outlined in Labor Code
3 § 2699.3. California Labor Code § 2699(a).

4 14. Pursuant to PAGA, an “Aggrieved Employee” is “any person who was employed
5 by the alleged violator and against whom one or more of the alleged violations was committed.”
6 Labor Code § 2699(c).

7 15. Because of Defendants violations of Labor Code sections 6311, 1102.5, and
8 226(c), Gonzalez is an “aggrieved employee” Aggrieved Employee as defined by Labor Code §
9 2699(c).

10 16. Defendants other current and former employees are also Aggrieved Employees in
11 that one or more of the alleged violations were also committed against them during their time of
12 employment with Defendants.

13 17. Pursuant to Labor Code § 2699(a) any provision of the Labor Code which
14 provides for a civil penalty to be assessed and collected by the Labor and Workforce
15 Development Agency (“LWDA”) for violations of the Labor Code may, as an alternative, be
16 recovered through a civil action brought by an aggrieved employee on behalf of himself or
17 herself and other current or former employees pursuant to the procedures outlined in Labor Code
18 § 2699.3. California Labor Code § 2699(a).

19 18. As set forth above, Plaintiff provide notice to the LWDA of violations of the
20 Labor Code. The LWDA did not exercise jurisdiction of the noticed claims within 65 days of
21 receiving notice, thereby empowering Plaintiff with standing to bring claims under the PAGA.

22 **FIRST CAUSE OF ACTION**
23 **VIOLATION OF LABOR CODE §§ 1102.5, and 6311**
24 **(RETALIATION)**
Against All Defendants

25 19. Plaintiff Gonzalez hereby realleges and incorporates by reference all paragraphs
26 and allegations in this Complaint, except to the extent any paragraph or allegation is inconsistent
27 with the allegations of this cause of action.

28 20. Labor Code § 6311 provides:

1 No employee shall be laid off or discharged for refusing to perform work in the
2 performance of which this code, including Section 6400, any occupational safety or
3 health standard, or any safety order of the division or standards board will be violated,
4 where the violation would create a real and apparent hazard to the employee
5 or their fellow employees. Any employee who is laid off or discharged in violation of this
6 section or is otherwise not paid because the employee refused to perform work in the
7 performance of which this code, any occupational safety or health standard, or any safety
8 order of the division or standards board will be violated and where the violation would
9 create a real and apparent hazard to the employee or their fellow employees shall have a
10 right of action for wages for the time the employee is without work as a result of the
11 layoff or discharge.”in relevant part, “[n]otwithstanding any agreement to work for a
12 lesser wage, any employee receiving less than the legal minimum wage or the legal
13 overtime compensation applicable to the employee is entitled to recover in a civil action
14 the unpaid balance of the full amount of this minimum wage or overtime compensation.

15 21. Labor Code section 1102.5:

16 (b) An employer, or any person acting on behalf of the employer, shall not retaliate
17 against an employee for disclosing information, or because the employer believes that the
18 employee disclosed or may disclose information, to a government or law enforcement
19 agency, to a person with authority over the employee or another employee who has the
20 authority to investigate, discover, or correct the violation or noncompliance, or for
21 providing information to, or testifying before, any public body conducting an
22 investigation, hearing, or inquiry, if the employee has reasonable cause to believe that the
23 information discloses a violation of state or federal statute, or a violation of or
24 noncompliance with a local, state, or federal rule or regulation, regardless of whether
25 disclosing the information is part of the employee’s job duties.” provides that the
26 minimum wage for employees fixed by the commission is the minimum wage to be paid
27 to employees, and the payment of a lesser wage is unlawful.
28

1 22. Nevertheless, Defendants placed Gonzalez on administrative leave and then
2 terminated his employment in retaliation for his safety complaint to Defendants in violation of
3 Labor Code sections 6311 and 1102.5.

4 23. As a result of the conduct of Defendants, Gonzalez has been directly and legally
5 caused to sustain compensatory economic damages, including lost earnings and benefits – past
6 and future; all in an amount to be determined according to proof at trial, including interest
7 thereon.

8 24. As a result of the conduct of Defendants, Gonzalez has been directly and legally
9 caused to suffer nonpecuniary losses, including damages for emotional and mental distress,
10 trauma, anguish, humiliation, embarrassment, fright, shock, pain, discomfort and anxiety and
11 other like losses. The exact nature, duration, and extent of said emotional injuries, which are
12 ongoing, is presently unknown to Gonzalez.

13 25. As a result of the conduct of Defendants, Plaintiff is entitled to reasonable
14 attorney's fees, including litigation expenses and costs of suit pursuant to Labor Code §
15 1102.5(j).

16 **SECOND CAUSE OF ACTION**
17 **WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY**
18 **(*Tameny v. ARCO, Inc.*)**
 Against All Defendants

19 26. Plaintiff Gonzalez hereby realleges and incorporates by reference all paragraphs
20 and allegations in this Complaint, except to the extent any paragraph or allegation is inconsistent
21 with the allegations of this cause of action.

22 27. In *Tameny v. ARCO, Inc.* (1980) 27 Cal.3d 167, the California Supreme Court an
23 action lies in tort for an employee who has been terminated in contravention to the fundamental
24 principles of public policy.

25 28. When Defendants terminated Plaintiff Gonzalez, they intentionally and willfully
26 violated the fundamental principles of public policy, including those set forth in Labor Code §§
27 1102.5, and 6311.
28

29. As a result of Defendants' conduct, Plaintiff Gonzalez has suffered compensatory damages, including special damages, including lost earnings and benefits – past and future.

30. As a result of the conduct of Defendants, Gonzalez has been directly and legally caused to suffer nonpecuniary losses, including damages for emotional and mental distress, trauma, anguish, humiliation, embarrassment, fright, shock, pain, discomfort and anxiety and other like losses. The exact nature, duration, and extent of said emotional injuries, which are ongoing, is presently unknown to Gonzalez.

THIRD CAUSE OF ACTION
VIOLATION OF LABOR CODE § 226(c)
(Failure to Timely Provide Wage Statements)
Against All Defendants

31. Plaintiff Gonzalez hereby realleges and incorporates by reference all paragraphs and allegations in this Complaint, except to the extent any paragraph or allegation is inconsistent with the allegations of this cause of action.

32. As set forth above, Plaintiff Gonzalez requested wage statements from Defendants on May 16, 2024, and Defendants acknowledged receipt of that request on May 20, 2024.

33. Labor Code § 226(c) provides that employers are to provide wage statements within 21 calendar days of the request.

34. Nevertheless, Defendants did not provide records until June 18, 2024, in violation of Labor Code § 226(c).

35. The penalty for violation of Labor Code § 226(c) is \$750 pursuant to Labor Code § 226(f).

FOURTH CAUSE OF ACTION
VIOLATION OF LABOR CODE §§ 2698 *et seq.*
(Individual PAGA/Declaratory Relief)
Against All Defendants

36. Plaintiff Gonzalez hereby realleges and incorporates by reference all paragraphs and allegations in this Complaint, except to the extent any paragraph or allegation is inconsistent with the allegations of this cause of action.

37. As set forth above, Plaintiff alleges that he is an Aggrieved Employee as defined under the PAGA. Specifically, Plaintiff contends that Defendants violated Labor Code sections 226(c), 1102.5, and 6311.

38. On information and belief, Plaintiff believes that Defendants dispute whether Plaintiff is an Aggrieved Employee under the PAGA.

39. Therefore, a real and actual controversy exists whether Plaintiff is an Aggrieved Employee.

40. Plaintiff seeks a judicial declaration that he is in fact an Aggrieved Employee under the PAGA.

41. In addition, Plaintiff is entitled to a civil penalty for each violation of the Labor Code that he suffered pursuant. Plaintiff therefore seeks civil penalties under the PAGA for the violations as to him as set forth below.

FIFTH CAUSE OF ACTION
VIOLATION OF LABOR CODE §§ 2698 *et seq.*
(PAGA)
Against All Defendants

42. Plaintiff Gonzalez hereby realleges and incorporates by reference all paragraphs and allegations in this Complaint, except to the extent any paragraph or allegation is inconsistent with the allegations of this cause of action.

43. Pursuant to Labor Code section 2699(a), any provision of the Labor Code which provides for a civil penalty to be assessed and collected by the LWDA for violations of the Labor Code may be recovered through a civil action brought by an Aggrieved Employee on behalf of himself or herself and other current or former employees pursuant to the procedures outlined in Labor Code section 2699.3.

44. Plaintiff was employed by Defendants and the alleged violations were committed against him during his time of employment. Plaintiff is an Aggrieved Employee as defined by Labor Code section 2699(c) and as set forth above. Other current and former employees are also aggrieved employees in that one or more of the alleged violations were committed against them during their time of employment with Defendants.

45. Pursuant to Labor Code section 2699(f), the civil penalty recoverable in a PAGA action is that which is provided for by the Labor Code or, where no civil penalty is specifically provided, one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation.

46. Pursuant to California Labor Code section 2699(g), an Aggrieved Employee may recover the civil penalty on behalf of himself or herself and other current or former employees against whom one or more of the alleged violations was committed. Furthermore, employees who prevail in any such action shall be entitled to an award of reasonable attorney's fees and costs.

47. As set forth above, Defendants violated the California Labor Code and other aggrieved employees have been damaged as set forth above.

48. Wherefore, Plaintiff requests relief as hereafter provided.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Gonzalez prays judgment against each defendant as follows.

As to the First Cause of Action:

1. For compensatory damages in the form of economic and non-economic damages in an amount unknown, but in excess of the jurisdictional minimum of this superior court;
2. For attorneys fees and costs pursuant to Labor Code § 1102.5, and any other applicable statute;
3. For prejudgment and post-judgment interest according to any applicable provision of law or as otherwise permitted by law, including that available under Civil Code sections 3287(a) and 3289(b);
4. For such other and further relief as the Court deems just and proper.

As to the Second Cause of Action:

1. For compensatory damages, including wages for all hours worked, in an amount according to proof;
2. For prejudgment and post-judgment interest according to any applicable provision of law or as otherwise permitted by law, including but not limited to that available under Civil Code §§ 3287(a) and 3289(b); and
3. For such other and further relief as the court deems just and proper.

As to the Third Cause of Action:

1. For \$750 pursuant to Labor Code § 226(f);
2. For prejudgment and post-judgment interest according to any applicable provision of law or as otherwise permitted by law, including but not limited to that available under Civil Code §§ 3287(a) and 3289(b); and
3. For such other and further relief as the court deems just and proper.

As to the Fourth Cause of Action:

1. For civil penalties for each violation of Labor Code §§ 6311, 226(c), and 1102.5;
2. For prejudgment and post-judgment interest according to any applicable provision of law or as otherwise permitted by law, including but not limited to Civil Code §§ 3287(a) and 3289(b);
3. For a judicial declaration that Plaintiff Gonzalez is an “Aggrieved Employee” under the PAGA;
4. For costs of suit; and
5. For such other and further relief as the court deems just and proper.

As to the Fifth Cause of Action:

1. For civil penalties under the PAGA for all violations of the Labor Code as set forth above and 2699(f);
2. For attorneys’ fees and costs under Labor Code § 2699(g);

1 3. For prejudgment and post-judgment interest according to any applicable provision
2 of law or as otherwise permitted by law, including those available under Civil
3 Code §§ 3287(a) and 3289(b); and

4 4. For such other and further relief as the court deems just and proper.

5 **DATED:** August 26, 2024

MAYALL HURLEY, P.C.

6
7 By



WILLIAM J. GORHAM III

Attorneys for Plaintiff Martin Carrillo Gonzalez

Exhibit 1

NORTHERN CALIFORNIA
118 WEST OAK STREET
LODI, CALIFORNIA 95240
[BY APPT. ONLY – NO SERVICE ACCEPTED]
2453 GRAND CANAL BLVD.
STOCKTON, CALIFORNIA 95207
SOUTHERN CALIFORNIA
360 EAST 2ND STREET, SUITE 800
LOS ANGELES, CALIFORNIA 90012
[BY APPT. ONLY – NO SERVICE ACCEPTED]



112 SOUTH CHURCH STREET
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STEVEN A. MALCOUN
MARK E. BERRY
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NICHOLAS F. SCARDIGLI
ROBERT J. WASSERMANN
JENNY D. BAYSINGER
JOHN P. BRISCOE
VLADIMIR J. KOZINA

May 15, 2024

SUBMITTED VIA ONLINE CLAIM NOTICE

<https://dir.govfa.net/308>

The State of California Labor and Workforce Development Agency

SENT VIA CERTIFIED MAIL

Hyponex Corporation
14111 Scottslawn Road
Marysville, OH 43041

Re: Martin Carrillo Gonzalez

To Whom It May Concern:

This firm represents Martin Carrillo Gonzalez (“Gonzalez”) relating to his employment in a non-exempt hourly position as a Heavy Equipment Operator with Hyponex Corporation (“Scotts Miracle-Gro” or “Employer”), in Linden, California. In accordance with California Labor Code § 2699.3, this letter shall serve as Mr. Gonzalez’ written notice regarding the following violations, and facts and theories supporting the violations, on his behalf and, as a proxy for the Labor and Workforce Development Agency (“LWDA”), on behalf of current and other former California employees of Employer. Notice to the LWDA has been submitted online, in accordance with the process described on the California Department of Industrial Relations’ website at <http://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-Act.html>.

In September of 2012, Scotts Miracle-Gro hired Mr. Gonzalez as a heavy equipment operator. His duties primarily consisted of operating a large front-end loader to transport and deposit soil in the Scotts Miracle-Gro plant’s yard, to its processing plant for processing. He did so without discipline for over 11 years.

On or about Friday April 5, 2024, at a regularly scheduled safety meeting, Mr. Gonzalez complained that because of eroded areas in the yard due to rainfall, it was unsafe for him and those around him, to operate the large front-end loader. Mr. Gonzalez, based on regular safety meetings, believed that Scotts Miracle-Gro was serious about safety at the plant. When he returned to work on Monday, April 8, 2024, Scotts Miracle-Gro placed him on administrative leave and soon thereafter, his employment was terminated – allegedly because of reports that he had been driving the front-end

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Re: Martin Carrillo Gonzalez
May 15, 2024
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loader too fast. Scotts Miracle-Gro's stated reason was pretext, and he was in fact fired because of the safety complaint he made at the safety meeting on April 5, 2024.

Labor Code § 6311 provides, in part:

"No employee shall be laid off or discharged for refusing to perform work in the performance of which this code, including Section 6400, any occupational safety or health standard, or any safety order of the division or standards board will be violated, where the violation would create a real and apparent hazard to the employee or their fellow employees. Any employee who is laid off or discharged in violation of this section or is otherwise not paid because the employee refused to perform work in the performance of which this code, any occupational safety or health standard, or any safety order of the division or standards board will be violated and where the violation would create a real and apparent hazard to the employee or their fellow employees shall have a right of action for wages for the time the employee is without work as a result of the layoff or discharge."

Labor Code § 1102.5 provides, in part:

"(b) An employer, or any person acting on behalf of the employer, shall not retaliate against an employee for disclosing information, or because the employer believes that the employee disclosed or may disclose information, to a government or law enforcement agency, to a person with authority over the employee or another employee who has the authority to investigate, discover, or correct the violation or noncompliance, or for providing information to, or testifying before, any public body conducting an investigation, hearing, or inquiry, if the employee has reasonable cause to believe that the information discloses a violation of state or federal statute, or a violation of or noncompliance with a local, state, or federal rule or regulation, regardless of whether disclosing the information is part of the employee's job duties."

In acting as it did, Employer violated Labor Code §§ 1102.5 and 6311. On information and belief, and on that basis, it is alleged that Employer has likewise committed violations of Labor Code §§ 1102.5 and 6311 with respect to other of its former and current employees within the last year and beyond.

Scotts Miracle-Gro also had a pattern, practice, and policy of incorrectly paying overtime to its non-exempt employees. Mr. Gonzalez, and other former and current employees, commonly worked overtime. However, within the last year, as to Mr. Gonzalez, when he worked on a premium pay shift, Scotts Miracle-Gro paid him at the incorrect overtime rate for both overtime and double time. This is clear because even though Mr. Gonzalez would work an entire pay period at premium shift (therefore increasing his hourly pay by \$1 per hour), his overtime and double time rates were paid based on an hourly rate that was *less than* his applicable hourly rate (of base pay plus \$1 per hour). This violates Labor Code section 510(a), which requires that overtime be paid at based on the "regular rate of pay."

Labor Code § 1194(a), provides:

LWDA; Hyponex Corporation
Re: Martin Carrillo Gonzalez
May 15, 2024
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“(a) Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney’s fees, and costs of suit.”

On information and belief, and on that basis, it is alleged that Employer has likewise committed overtime underpayments in violation of the Labor Code §§ 510 and 1194 with respect to other of its former and current employees, within the last year and beyond.

Because Scotts Miracle-Gro failed to pay Mr. Gonzalez overtime due and payable to him, it failed to pay him all wages due to him when it terminated his employment, in violation of Labor Code § 201(a). On information and belief, and on that basis, it is alleged that Employer has likewise committed failure to pay all wages due to other former employees who quit or are fired in violation of Labor Code §§ 201 and 202.

Because of the violations set forth above, the wage statements Employer furnished to Mr. Gonzalez and other of its non-exempt employees violate California Labor Code section 226(a) insofar as they fail to accurately show:

- a. The gross wages earned, in violation of section 226(a)(1);
- b. The net wages earned, in violation of section 226(a)(5); and
- c. All applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate in violation of section 226(a)(9).

In light of the above violations, Mr. Gonzalez is an “aggrieved employee” and has standing under the PAGA to bring an action for civil penalties. As set forth above, Employer has violated Labor Code sections 201-203 (failure to pay all wages due at cessation of employment and penalty provision), 226(a) (inaccurate wage statements), 226.3 (penalty provision for inaccurate wage statements), 1194 and 510 (overtime), 1102.5 and 6311 (retaliation for safety complaint) as well as and the applicable IWC Wage Orders. Because of these violations, Scotts Miracle-Gro is subject to civil penalties.

In addition to these penalties, attorneys’ fees and costs are to be awarded to legal counsel to a party acting as proxy to the LWDA pursuant to Labor Code § 2699(g), and any other applicable statute providing for such reimbursement of fees and costs.

If the LWDA believes that it needs additional information to determine whether to investigate these claims, please contact me immediately to request the additional information, which I will provide to the extent it is available to me or to my client, Mr. Gonzalez.

If the LWDA does not intend to investigate these violations, Mr. Gonzalez intends to file a civil complaint against Employer pursuant to the Labor Code Private Attorneys General Act of 2004

LWDA; Hyponex Corporation
Re: Martin Carrillo Gonzalez
May 15, 2024
Page 4 of 4

(Labor Code §§ 2698 – 2699.5), on his behalf and, as a proxy for the LWDA, on behalf of all aggrieved current and former employees. Thank you for your attention to this matter.

Sincerely,

By  **MAYAIL HURLEY P.C.**

WILLIAM J. GORHAM, III


MAYALL HURLEY
EMPLOYMENT LAWYERS
112 S. CHURCH STREET
LODI, CALIFORNIA 95240



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MAY 15 2024

Hyponex Corporation
14111 Scottslawn Road
Marysville, OH 43041



May 20, 2024

Dear Julie Zeyen:

The following is in response to your request for proof of delivery on your item with the tracking number:
9489 0090 0027 6615 8338 48.

Item Details

Status:	Delivered, Left with Individual
Status Date / Time:	May 20, 2024, 2:08 pm
Location:	MARYSVILLE, OH 43040
Postal Product:	First-Class Mail®
Extra Services:	Certified Mail™
	Return Receipt Electronic

Shipment Details

Weight:	0.9oz
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Recipient Signature

Signature of Recipient:	SK Prath
Address of Recipient:	1411 Scot's

Note: Scanned image may reflect a different destination address due to Intended Recipient's delivery instructions on file.

Thank you for selecting the United States Postal Service® for your mailing needs. If you require additional assistance, please contact your local Post Office™ or a Postal representative at 1-800-222-1811.

Sincerely,
United States Postal Service®
475 L'Enfant Plaza SW
Washington, D.C. 20260-0004

Exhibit 2

NORTHERN CALIFORNIA
118 WEST OAK STREET
LODI, CALIFORNIA 95240
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2453 GRAND CANAL BLVD.
STOCKTON, CALIFORNIA 95207

SOUTHERN CALIFORNIA
360 EAST 2ND STREET, SUITE 800
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ROBERT J. WASSERMANN
JENNY D. BAYSINGER
JOHN P. BRISCOE
VLADIMIR J. KOZINA

June 21, 2024

SUBMITTED VIA ONLINE CLAIM NOTICE

<https://dir.govfa.net/310>

The State of California Labor and Workforce Development Agency

SENT VIA CERTIFIED MAIL

Hyponex Corporation
14111 Scottslawn Road
Marysville, OH 43041

Re: Martin Carrillo Gonzalez
LWDA Case No.: LWDA-CM-1028436-24

To Whom It May Concern:

This firm represents Martin Carrillo Gonzalez (“Gonzalez”) relating to his employment in a non-exempt hourly position as a Heavy Equipment Operator with Hyponex Corporation (“Scotts Miracle-Gro” or “Employer”), in Linden, California. On May 15, 2024, Mr. Gonzalez filed the above-referenced claim with the Labor and Workforce Development Agency (“LWDA”), on behalf of current and other former California employees of Employer. In accordance with California Labor Code § 2699.3, this letter shall serve as Mr. Gonzalez’ written notice regarding the following additional violation, and facts and theories supporting the violation, on his behalf and, as a proxy for other current and former California employees of Employer. Notice to the LWDA has been submitted online, in accordance with the process described on the California Department of Industrial Relations’ website at <http://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-Act.html>.

On May 16, 2024, Mr. Gonzalez sent Employer, by certified mail, the request for records that is attached as Exhibit 1 hereto. Employer signed for receipt of the request on May 20, 2024. Employer provided records on June 18, 2024. Employer’s response is untimely pursuant to Labor Code § 226(c):

An employer who receives a written or oral request to inspect or copy records pursuant to subdivision (b) pertaining to a current or former employee shall comply with the request as soon as practicable, but no later than 21 calendar days from the date of the

LWDA; Hyponex Corporation
Re: LWDA Case No.: LWDA-CM-1028436-24
June 21, 2024
Page 2 of 2

request. A violation of this subdivision is an infraction. Impossibility of performance, not caused by or a result of a violation of law, shall be an affirmative defense for an employer in any action alleging a violation of this subdivision. An employer may designate the person to whom a request under this subdivision will be made.

In light of the above violation, Mr. Gonzalez is an "aggrieved employee" and has standing under the PAGA to bring an action for civil penalties, for violations of Labor Code §226(c), as well as other violations of the Labor Code as to current and former employees of Employer.

In addition to these penalties, attorneys' fees and costs are to be awarded to legal counsel to a party acting as proxy to the LWDA pursuant to Labor Code § 2699(g), and any other applicable statute providing for such reimbursement of fees and costs.

If the LWDA believes that it needs additional information to determine whether to investigate these claims, please contact me immediately to request the additional information, which I will provide to the extent it is available to me or to my client, Mr. Gonzalez.

If the LWDA does not intend to investigate these violations, Mr. Gonzalez intends to file a civil complaint against Employer pursuant to the Labor Code Private Attorneys General Act of 2004 (Labor Code §§ 2698 – 2699.5), on his behalf and, as a proxy for the LWDA, on behalf of all aggrieved current and former employees. Thank you for your attention to this matter.

Sincerely,

MAYALL HURLEY P.C.
By 
WILLIAM J. GORHAM, III

Enc.

Exhibit 1

NORTHERN CALIFORNIA
118 WEST OAK STREET
LODI, CALIFORNIA 95240
[BY APPT. ONLY - NO SERVICE ACCEPTED]
2453 GRAND CANAL BLVD.
STOCKTON, CALIFORNIA 95207
SOUTHERN CALIFORNIA
380 EAST 2ND STREET, SUITE 800
LOS ANGELES, CALIFORNIA 90012
[BY APPT. ONLY - NO SERVICE ACCEPTED]



112 SOUTH CHURCH STREET
LODI, CALIFORNIA 95240
TELEPHONE: (209) 477-3833
WWW.MAYALLLAW.COM

VLADIMIR F. KOZINA
STEVEN A. MALCOUN
MARK E. BERRY
WILLIAM J. GORHAM, III
NICHOLAS F. SCARDIGLI
ROBERT J. WASSERMANN
JENNY D. BAYSINGER
JOHN P. BRISCOE
VLADIMIR J. KOZINA

May 16, 2024

SENT VIA CERTIFIED MAIL

Hyponex Corporation
14111 Scottslawn Road
Marysville, OH 43041

Re: Martin Carrillo Gonzalez

To Whom It May Concern:

This office represents Martin Carrillo Gonzalez in connection with civil claims arising from his employment with Hyponex Corporation, d.b.a. Scotts Miracle-Gro, in Linden California.

Mr. Gonzalez hereby requests to inspect and obtain copies of the following items:

1. Mr. Gonzalez's itemized wage statements, pursuant to Labor Code § 226(b);
2. All documents signed by Mr. Gonzalez relating to the obtaining or holding of his employment, pursuant to Labor Code § 432; and
3. Mr. Gonzalez's personnel records, pursuant to Labor Code § 1198.5(b) and/or any applicable collective bargaining agreements.

Enclosed is a signed authorization from Mr. Gonzalez, designating this firm as his representative and authorizing it to obtain the items listed above on his behalf. Please direct copies of these items to me at my Lodi office at 112 South Church Street, Lodi, California 95240. If you have any questions concerning these requests, do not hesitate to contact me.

Sincerely,

MAYALL HURLEY P.C.

By

A handwritten signature in blue ink, appearing to read 'W. J. Gorham, III', written over a horizontal line.

WILLIAM J. GORHAM, III

Enclosure

AUTHORIZATION OF CLIENT

I, Martin Carrillo Gonzalez, hereby authorize Mayall Hurley P.C., my attorneys, to request from Hyponex Corporation, and obtain on my behalf, the itemized statements and personnel records requested above pursuant to Labor Code §§ 226, ~~257.5~~, 432, and 1198.5.

Dated: May 15, 2024

By

MARTIN
CARRILLO
Martin Carrillo Gonzalez


MAYALL HURLEY
EMPLOYMENT LAWYERS
112 S. CHURCH STREET
LODI, CALIFORNIA 95240

UNITED STATES
POSTAL SERVICE
CERTIFIED MAIL



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\$ 007.36⁰
MAY 16 2024

Hyponex Corporation
14111 Scottslawn Road
Marysville, OH 43041



May 20, 2024

Dear Julie Zeyen:

The following is in response to your request for proof of delivery on your item with the tracking number:
9489 0090 0027 6615 8338 31.

Item Details

Status:	Delivered, Left with Individual
Status Date / Time:	May 20, 2024, 2:08 pm
Location:	MARYSVILLE, OH 43040
Postal Product:	First-Class Mail®
Extra Services:	Certified Mail™ Return Receipt Electronic

Shipment Details

Weight:	0.6oz
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Recipient Signature

Signature of Recipient:	SK Pruthi
Address of Recipient:	1411 Scotls

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MAYALL HURLEY
EMPLOYMENT LAWYERS
112 S. CHURCH STREET
LODI, CALIFORNIA 95240



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JUN 21 2024

Hyponex Corporation
14111 Scottslawn Road
Marysville, OH 43041



June 25, 2024

Dear Julie Zeyen:

The following is in response to your request for proof of delivery on your item with the tracking number:
9489 0090 0027 6615 8337 56.

Item Details

Status:	Delivered, Left with Individual
Status Date / Time:	June 25, 2024, 2:51 pm
Location:	MARYSVILLE, OH 43040
Postal Product:	First-Class Mail®
Extra Services:	Certified Mail™
	Return Receipt Electronic

Shipment Details

Weight:	1.4oz
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Recipient Signature

Signature of Recipient:

Address of Recipient:

14111
Scu HS

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