



Sent from Central California Office

Writer's E-Mail: brett@suttonhague.com
File No.: 4829.01

June 10, 2024

VIA ONLINE PORTAL ONLY

California Labor and Workforce Development Agency
801 K. Street, Suite 2101
Sacramento, CA 95814

SENT VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Aerotek, Inc.
c/o Becky DeGeorge
Registered California Agent for Service of Process
2710 Gateway Oaks Drive, Suite 150N
Sacramento, CA 95833

Allegis Group, Inc.
c/o Becky DeGeorge
Registered California Agent for Service of Process
2710 Gateway Oaks Drive, Suite 150N
Sacramento, CA 95833

Solv Energy, LLC
c/o Becky DeGeorge
Registered California Agent for Service of Process
2710 Gateway Oaks Drive, Suite 150N
Sacramento, CA 95833

**Re: *Oscar Martinez v. Aerotek, Inc. et al.*
Cal. Labor Code § 2699.3 Notice of Labor Code Violations**

Dear Sir or Madam:

Pursuant to California Labor Code section 2699.3(a)(1), Oscar Martinez (hereinafter "Complainant"), on behalf of himself and all other similarly situated aggrieved current and former employees of Aerotek, Inc., Allegis Group, Inc., and/or Solv Energy, LLC (hereinafter "Defendants") hereby gives written notice of his claims against Defendants. This notice is being provided via online portal to the California Labor and Workforce Development Agency ("LWDA") and via certified mail to Defendants.

Based on the following summary of the facts and theories upon which Complainant will base his claims, Complainant requests that the LWDA regard this correspondence as written notice of Complainant's intent to seek civil penalties against Defendants under the Labor Code Private Attorneys General Act of 2004 ("PAGA"). The specific provisions of the California Labor Code that Defendants have violated and which require this notice include, but are not limited to Labor Code sections 201, 203, 204, 210, 216, 225.5, 226, 226.3, 226.7, 256, 432, 510, 512, 558, 1174, 1194, 1197, 1197.1, 1198.5, 1199, 2810.5.

Northern California Office
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Tel (775) 284-2770
Fax (775) 313-9877

Southern Nevada Office
6671 Las Vegas Boulevard S, #210
Las Vegas, NV 89119
Tel (702) 270-3065
Fax (702) 920-8944

This notice also serves as Complainant's reasonable attempt at settlement with Defendants. If Defendants are interested in settling this matter before a lawsuit is filed, they must contact Sutton Hague Law Corporation's Central California office within fourteen calendar days of the postmarked date of this letter. This settlement attempt is in accordance with applicable California law. *Graham v. Daimler-Chrysler Corp.* (2004) 34 Cal. 4th 553, 561.

THE EMPLOYERS

Upon information and belief, Defendant Aerotek, Inc. is a Maryland corporation doing business in California. Upon information and belief, Defendant Allegis Group, Inc. is a Maryland corporation doing business in California. Upon information and belief, Defendant Solv Energy, LLC is a Delaware limited liability company doing business in California. Complainant is informed and believes that Defendants, and each of them, are and were negligently, tortiously, comparatively, carelessly, recklessly, willfully, knowingly, or intentionally proximately the cause of or contributed to cause the damages hereinafter alleged, or in some other manner is responsible in whole or in part for the damages which have been, are being, and will be suffered by Complainant and the aggrieved employees as alleged herein.

COMPLAINANT AND THE AGGRIEVED EMPLOYEES

Complainant Oscar Martinez is and/or was an employee of Defendants and has worked as a nonexempt hourly employee of Defendants while in the state of California. At all relevant times, Complainant was an "aggrieved employee" as defined in California Labor Code section 2699(c). In relevant part, California Labor Code Section 2699(c) defines an aggrieved employee as "any person who was employed by the alleged violator and against whom one or more of the alleged violations was committed."

LABOR CODE VIOLATIONS

A. Failure to Pay Minimum Wage

California employers are required to compensate employees for all time worked. *See Armenta v. Osmose, Inc.* (2005) 135 Cal. App. 4th 314, 324 ("The minimum wage standard applies to each hour worked by [employees] for which they were not paid."). Complainant and the aggrieved employees were not paid the minimum required wages and proper regular time wages for all hours worked because Defendants required them to work off the clock without compensation by, among other things, failing to relieve Complainant from all duties during unpaid meal periods and by requiring Complainant to perform certain duties while off-the-clock, including but not limited to preliminary and post-liminary duties, time spent at security checkpoints, and uncompensated travel time.

B. Failure to Pay Overtime

California law requires employers to pay overtime equal to one and one-half times the regular rate of pay for each hour worked beyond eight hours in a workday and beyond forty hours in a workweek. *See*

Cal. Code Regs. tit 8, § 11010, subd. 3(A). Employers must pay overtime equal to double the regular rate of pay for each hour worked beyond twelve hours in a workday and for all hours worked in excess of eight hours on the seventh consecutive day of work in a workweek. *See id.* Defendants violated California's overtime laws by, among other things, failing to pay Complainant and the aggrieved employees for all hours worked on workdays and during workweeks for which Complainant and the aggrieved employees were entitled to receive overtime compensation based on the number of hours worked, due in part to Defendants' failure to relieve Complainant of all duty during unpaid meal periods and by requiring Complainant to perform certain duties while off-the-clock, including but not limited to preliminary and post-liminary duties, time spent at security checkpoints, and uncompensated travel time. Complainant is also informed and believes that Defendants failed to correctly calculate the overtime and double time rates at which Complainant was entitled to be compensated because Defendants failed to correctly calculate Complainant's regular rate of pay.

C. Failure to Provide Meal Periods

California law requires employers to provide employees with a duty-free, 30-minute meal period when the employees work more than five hours in a workday, to begin no later than the end of the fifth hour of work. *See* Cal. Code Regs. tit 8, § 11010, subd. 11(A). Employers must also provide employees with a second duty-free, 30-minute meal period when the employees work more than 10 hours in a workday, to begin no later than the end of the tenth hour of work. *See id.* at 11(B). Employers must pay employees an additional hour of pay at their regular rate of compensation for each day on which the employer fails to provide a meal period. *See id.* at 11(D) ("If an employer fails to provide an employee a meal period in accordance with the applicable provisions of this order, the employer shall pay the employee one hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided."). Also, employers may not round time punches in the meal period context. *Donohue v. AMN Services, LLC* (2021) 11 Cal.5th 58, 68-69.

Defendants failed to provide Complainant and the aggrieved employees with a reasonable opportunity to take 30-minute, uninterrupted, and duty-free meal periods in accordance with California law by, among other things, depriving employees of the opportunity to take meal periods and requiring employees to remain on duty during meal periods and available to perform certain tasks and/or respond to communications from other employees, which resulted in regular interruptions to employees' meal periods. Defendants also failed to maintain compliant meal period policies and/or failed to comply with their own policies and procedures for providing Complainant and other aggrieved employees with code-compliant meal periods. Defendants also prohibited Complainant and other aggrieved employees from leaving the work premises during meal periods. Defendant also violated California's meal period laws by failing to pay an additional hour of pay at the regular rate of compensation for days on which a meal period was not provided.

D. Failure to Provide Rest Periods

California law requires employers to provide employees with a reasonable opportunity to take a paid, duty-free 10-minute rest period for each four hours worked, or major fraction thereof. Cal. Labor

Code § 226.7; Cal. Code Regs., tit. 8, § 11010, subd. 12. During these periods, the employer must relieve employees of all duty and relinquish all control over its employees activities such that the period is taken on a truly “duty-free” basis. *See Augustus v. ABM Security Services, Inc.* (2016) 2 Cal. 5th 257. Employers must pay employees an additional hour of pay at the employees’ regular rate of compensation for each day on which the employer fails to provide a rest period. Cal. Code Regs., tit. 8, § 11010 (12)(B).

Defendants failed to provide a reasonable opportunity to take duty-free rest periods to any of its employees, for each four hours worked or major fraction thereof. This occurred for various reasons, including but not limited to Defendants depriving employees of the opportunity to take rest periods and requiring employees to remain on duty during rest periods and available to perform certain tasks and/or respond to communications from other employees, which resulted in regular interruptions to employees’ rest periods. Defendants also failed to maintain compliant rest period policies and/or failed to comply with their own policies and procedures for providing Complainant and other aggrieved employees with code-compliant rest periods. Defendants also prohibited Complainant and other aggrieved employees from leaving the work premises during rest periods. Defendants also violated California’s rest period laws by failing to pay an additional hour of pay at the regular rate of compensation for days on which a rest period was not provided.

E. Failure to Timely Pay All Wages

California law provides that “all wages . . . earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays.” Cal. Labor Code § 204(a). Due to Defendants’ failure to, among other things, pay Complainant and the aggrieved employees all minimum and overtime wages as described above, Defendants did not timely pay Complainant and the aggrieved employees all wages due and payable in accordance with Labor Code section 204.

F. Failure to Pay All Wages Due and Owing at the Time of Termination

California law requires employers to pay all wages owed to employees immediately upon termination of employment. Cal. Labor Code § 201. Due to Defendants’ failure to, among other things, pay the aggrieved employees all minimum and overtime wages as described above, Defendants did not properly and timely pay Complainant and the aggrieved employees all wages due and owing at the time of termination.

G. Failure to Pay Wages Due and Payable Upon Demand

California Labor Code section 216 provides: “[i]n addition to any other penalty imposed by this article, any person, or an agent, manager, superintendent, or officer thereof, is guilty of a misdemeanor, who: (a) having the ability to pay, willfully refuses to pay wages due and payable after demand has been made; (b) falsely denies the amount or validity thereof, or that the same is due, with intent to secure for herself, her employer or other person, any discount upon such indebtedness, or with intent to annoy, harass, oppress, hinder, delay, or defraud, the person to whom such indebtedness is due.” California Labor

Code section further 225.5 provides any person who violates Section 216 is further liable for additional civil penalties. This letter constitutes Complainant's demand for the payment of all wages which are due to him based on the facts described herein, but which currently remain unpaid.

H. Failure to Provide Accurate Itemized Wage Statements

California law requires employers to provide employees with a wage statement that accurately shows the following: 1) gross wages earned, 2) total hours worked by the employee, 3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, 4) all deductions, 5) net wages earned, 6) the inclusive dates of the period for which the employee is paid, 7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, 8) the name and address of the legal entity that is the employer, and 9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. *See* Cal. Labor Code § 226.

The wage statements Defendants provided to Complainant and the aggrieved employees did not comply with Labor Code section 226 due to, among other things, Defendants' failure to pay Complainant and the aggrieved employees all minimum, overtime, and meal/rest period premium wages as described above, resulting in inaccurate and non-compliant wage statements.

I. Failure to Maintain Adequate Time and Payroll Records

California law requires employers to maintain, for a minimum of three (3) years, "payroll records showing the hours worked daily by and the wages paid to . . . employees . . ." Cal. Labor Code § 1174. Complainant is informed and believes that Defendants failed to keep proper records of their employees' hours worked and wages due to, among other things, the inaccurate and incomplete information on the wage statements it issued to employees. Complainant is informed and believes that other employees of Defendants were also subjected to the same violations.

J. Failure to Provide Notice of Pay

California law requires that employers provide "notice of pay" to employees with specified information. Complainant is informed and believes that Defendants failed to provide this information, as required by law, to one or more of their employees in the past year. Cal. Lab. Code § 2810.5.

As a result of the conduct described herein, Defendants have violated the above-referenced California Labor Code provisions, as well as other laws, and is liable for all applicable premiums, statutory and civil penalties, interest, attorneys' fees, and costs as provided by law. The civil penalties Complainant and other aggrieved employees seek to recover include, but are not limited to, the statutory and civil penalties specified in the California Labor Code sections indicated above, and all other civil penalties provided for by California Labor Code sections 2699(f) and 2699.5.

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We look forward to receiving your reply pursuant to California Labor Code section 2699.3(a)(2)(A).

Sincerely,

A handwritten signature in blue ink, appearing to read 'S. Sutton', with a stylized flourish extending to the right.

S. Brett Sutton
SUTTON HAGUE LAW CORPORATION