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VIA ONLINE SUBMISSION

California Labor & Workforce Development Agency
ATTN: PAGA Administrator
(<https://dir.govfa.net/308>)

Subject: *Ruben Avalos Silva v. South County Packing, Inc., et al.*

Dear PAGA Administrator:

This office represents Ruben Avalos Silva in connection with his claims under the California Labor Code. Mr. Avalos Silva was an employee of SOUTH COUNTY PACKING, INC.; RAVA RANCHES, INC.; FRESH FARMS, INC.; and/or FRESH FOODS, INC. For the purpose of this letter, Mr. Avalos Silva collectively refers to these entities as "RAVA."

The employers may be contacted directly at the addresses below:

SOUTH COUNTY PACKING, INC.
700 AIRPORT DR
KING CITY, CA 93930

SOUTH COUNTY PACKING, INC.
PO BOX 1600
KING CITY, CA 93930

RAVA RANCHES, INC.
700 AIRPORT DR
KING CITY, CA 93930

RAVA RANCHES, INC.
PO BOX 1600
KING CITY, CA 93930

FRESH FARMS, INC.
700 AIRPORT DR
KING CITY, CA 93930

FRESH FOODS, INC.
700 AIRPORT DR
KING CITY, CA 93930

FRESH FOODS, INC.
P.O. BOX 1600
KING CITY, CA 93930

Mr. Avalos Silva intends to seek civil penalties, attorneys' fees, costs, and other available relief for violations of the California Labor Code, which are recoverable under sections 2698, *et seq.*, the Labor Code Private Attorneys General Act of 2004 ("PAGA"). Mr. Avalos Silva seeks relief on behalf of himself, the State of California, and other persons who are or were employed by RAVA as a non-exempt, hourly paid employee in California and who received at least one wage statement ("aggrieved employees"). This letter is sent in compliance with the notice and reporting requirements of California Labor Code section 2699.3.

RAVA employed Mr. Avalos Silva as an hourly paid, non-exempt employee from approximately January 2009 to September 2023. Mr. Avalos Silva worked for RAVA as a Pest Control employee, assigned to work at RAVA's Bella Vista Ranch location in King City, California. During his employment, Mr. Avalos Silva typically worked ten (10) or more hours per day and six (6) days per week. By the end of his employment, Mr. Avalos Silva was compensated approximately \$18.50 per hour. His job duties included, without limitation, responding to changes in pest activity by adding traps in heavily infested areas; monitoring, cleaning, and maintaining bait in mouse and small animal traps; disposing of animal corpses found in the farming area; and reporting and documenting traces of animals or pests in the farming area.

RAVA committed each of the following Labor Code violations against Mr. Avalos Silva, the facts and theories of which follow, making him an "aggrieved employee" pursuant to California Labor Code section 2699(c)(1):¹

RAVA's Company-Wide and Uniform Payroll and HR Practices

SOUTH COUNTY PACKING, INC.; RAVA RANCHES, INC.; FRESH FARMS, INC.; and/or FRESH FOODS, INC. are California corporations. Together, they operate an agricultural company that harvests high quality produce. Upon information and belief, RAVA maintains a single, centralized Human Resources (HR) department at its corporate headquarters in King City, California, for all non-exempt, hourly paid employees working for RAVA in California, including Mr. Avalos Silva and other aggrieved employees. At all relevant times, RAVA issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Mr. Avalos Silva and other aggrieved employees, regardless of their location or position.

Upon information and belief, RAVA maintains a centralized Payroll department at its corporate headquarters in King City, California, which processes payroll for all non-exempt, hourly paid employees working for RAVA in California, including Mr. Avalos Silva and other aggrieved employees. Further, RAVA issues the same formatted wage statements in the same manner for all non-exempt, hourly paid employees working in California, including Mr. Avalos Silva and other aggrieved employees, irrespective of their location, position, or manner in which each employee's employment ended. In other words, RAVA utilized the same methods and formulas when calculating wages due to Mr. Avalos Silva and other aggrieved employees in California.

Violation of California Labor Code §§ 510 and 1198 – Unpaid Overtime

California Labor Code sections 510 and 1198 and the applicable Industrial Welfare Commission ("IWC") Wage Order require employers to pay employees working more than eight (8) hours in a day or more than forty (40) hours in a workweek at the rate of time-and-one-half (1 ½) times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek. The applicable IWC Wage Order further provides that employers are required to pay employees working more than twelve (12) hours in a day overtime compensation at a rate of two (2) times their regular rate of pay.

¹ These facts, theories, and claims are based on Mr. Avalos Silva's experience and counsel's review of those records currently available relating to Mr. Avalos Silva's employment. Discovery conducted in litigation of wage and hour claims such as these often reveals additional claims that the aggrieved employee was not initially aware of (because the aggrieved employee was not aware of the law's requirements, the employer misinformed its employee of the law's requirements, or because the employer effectively hid the violations). Thus, Mr. Avalos Silva reserves the right to supplement this letter with additional facts, theories, and claims if he becomes aware of them subsequent to the submission of this letter.

An employee's regular rate of pay includes all remuneration for employment paid to, or on behalf of, the employee, including nondiscretionary bonuses and incentive pay.

RAVA willfully failed to pay all overtime wages owed to Mr. Avalos Silva and other aggrieved employees. During the relevant time period, Mr. Avalos Silva and other aggrieved employees were not paid overtime premiums for all of the hours they worked in excess of eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40) hours in a week, because all hours that they worked were not recorded.

First, during the relevant time period, RAVA had, and continues to have, a company-wide policy and/or practice of discouraging and impeding Mr. Avalos Silva and other aggrieved employees from recording hours worked that were outside of their scheduled shifts. Specifically, RAVA's company-wide policy and/or practice is to require employees to fill out handwritten timesheets each day and to submit them to management for review and approval. When completing these handwritten timesheets, RAVA's management would pressure Mr. Avalos Silva and other aggrieved employees to record only their scheduled shift start and end-times, instead of their actual hours worked.

Alternatively, on information and belief, RAVA rounded clock-in and clock-out times to the nearest quarter hour to limit the time employees were eligible to be compensated for. RAVA's rounding policy resulted in the failure to compensate Mr. Avalos Silva and other aggrieved employees fully for all hours worked, causing Mr. Avalos Silva and other aggrieved employees to not be paid overtime wages for all of the overtime hours they actually worked. Taken together, RAVA's timekeeping policies are, and continue to be, unfair and have, over time, resulted in the underpayment of wages to Mr. Avalos Silva and other aggrieved employees. To the extent RAVA's rounding policy took away time worked that was eligible for overtime, Mr. Avalos Silva and other aggrieved employees were denied overtime pay for all hours worked.

In addition to requiring Mr. Avalos Silva and other aggrieved employees to fill out handwritten timesheets each day that were only to include their scheduled shift start and shift end-times, RAVA also required employees to clock in on an electronic timekeeping system for the start and end of their shifts, but upon information and belief, RAVA did not utilize these electronic time records for timekeeping or payroll purposes. Nonetheless, RAVA only provided Mr. Avalos Silva and other aggrieved employees with two (2) timekeeping machines at its Bella Vista Ranch yard for them to clock in for a shift, thus forcing Mr. Avalos Silva and other aggrieved employees to wait in line off-the-clock and under RAVA's control, time for which they were not paid. For instance, Mr. Avalos Silva and other aggrieved employees would arrive early in order to clock in for the start of their shifts, and were required to wait in a line of approximately 60-70 employees for up to 20 minutes to clock in, but they were not permitted to record this time worked on their handwritten timesheets.

Pursuant to RAVA's timekeeping policies and/or practices, RAVA had, and continues to have, a company-wide policy and/or practice of requiring Mr. Avalos Silva and other aggrieved employees to perform tasks off-the-clock before and after their shifts. For example, about five (5) times per week, Mr. Avalos Silva was required to continue working after his scheduled shift end-time, completing tasks such as parking RAVA's tractors and unloading equipment, which could take up to 15 minutes, before he could leave for the day. Because RAVA prohibited Mr. Avalos Silva and other aggrieved employees from recording their actual hours worked, Mr. Avalos Silva and other aggrieved employees were not paid for all hours worked.

Additionally, Mr. Avalos Silva and other aggrieved employees were required to respond to phone communications from supervisors before and after their shifts and/or on their days off. For instance, Mr. Avalos Silva was required to answer work-related phone calls and text messages from his supervisor, to

discuss the statuses of assignments. Moreover, RAVA implemented, on a company-wide basis, an employer-imposed requirement that Mr. Avalos Silva and other aggrieved employees undergo mandatory COVID-19 temperature checks and/or health screenings before clocking in for their scheduled shifts. Prior to his shift, Mr. Avalos Silva was required to spend time undergoing a mandatory temperature check, sanitize his hands, and place on a protective breathing mask, before being permitted to clock in for his shift. Thus, RAVA required Mr. Avalos Silva and other aggrieved employees to work off-the-clock and did not compensate them for this time worked.

Second, RAVA had, and continues to have, a company-wide policy and/or practice of understaffing while assigning heavy workloads. RAVA's policies and/or practices resulted in a failure to provide Mr. Avalos Silva and other aggrieved employees with adequate meal period coverage, and thus, Mr. Avalos Silva and other aggrieved employees were not always afforded uninterrupted 30-minute meal periods during shifts when they were entitled to receive a meal period. RAVA also had a practice of failing to adhere to a schedule for meal periods which, in conjunction with the assignment of heavy workloads, further caused Mr. Avalos Silva and other aggrieved employees to not be relieved of their duties for compliant meal periods. For example, Mr. Avalos Silva often worked straight through his meal periods, due to a lack of coverage. Additionally, Mr. Avalos Silva would have his meal periods interrupted by supervisors wanting to discuss certain equipment he was to use or work areas to focus on once he returned from his meal period. Thus, Mr. Avalos Silva and other aggrieved employees worked through their meal periods in order to complete their assigned workloads. RAVA did not pay Mr. Avalos Silva and other aggrieved employees for the time they continued to perform tasks during meal periods.

Third, during the relevant time period, on information and belief, RAVA implemented a company-wide policy and/or practice of automatically deducting meal periods from Mr. Avalos Silva's and other aggrieved employees' time records, instead of allowing employees to clock in and out for meal periods. As a result of this policy, RAVA falsified and deducted meal periods from Mr. Avalos Silva's and other aggrieved employees' time records even when meal periods were missed, short, and/or interrupted. Alternatively, on information and belief, because RAVA frowned upon employees accruing meal period penalties, RAVA's management pressured Mr. Avalos Silva and other aggrieved employees to record compliant meal periods on their timesheets regardless of whether they had received a compliant meal period or not, in order to strictly limit meal penalties that would need to be paid by RAVA. Thus, RAVA did not record all hours worked during meal periods, and Mr. Avalos Silva and other aggrieved employees performed work during meal periods for which they were not paid.

RAVA knew or should have known that as a result of these company-wide practices and/or policies, Mr. Avalos Silva and other aggrieved employees were performing assigned duties off-the-clock before and after their shifts and during meal periods, and were suffered or permitted to perform work for which they were not paid. Because Mr. Avalos Silva and other aggrieved employees regularly worked shifts of eight (8) hours a day or more, or forty (40) hours a week or more, some of this off-the-clock work qualified for overtime premium pay. Therefore, Mr. Avalos Silva and other aggrieved employees were not paid overtime wages for all of the overtime hours they actually worked.

RAVA's failure to pay Mr. Avalos Silva and other aggrieved employees the balance of overtime compensation, as required by California law, violates the provisions of California Labor Code sections 510 and 1198. Mr. Avalos Silva and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring RAVA into compliance with the applicable IWC Wage Order and Labor Code sections 510 and 1198, pursuant to Labor Code sections 558 and/or 2699(a), (f), and (k).

Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 – Unpaid Minimum Wages

California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 require employers to pay employees the minimum wage fixed by the IWC. The payment of a lesser wage than the minimum so fixed is unlawful. Compensable work time is defined in Wage Order No. 14-2001 as “the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.” Cal. Code Regs. Tit. 8, § 11140(2)(G) (defining “Hours Worked”).

First, as set forth above, during the relevant time period, RAVA maintained a company-wide policy and/or practice of pressuring employees to record only their scheduled hours instead of hours actually worked, thereby shorting Mr. Avalos Silva and other aggrieved employees for work performed outside their scheduled shifts. Moreover, due to RAVA’s policy of rounding or underreporting Mr. Avalos Silva’s and other aggrieved employees’ clock-in and clock-out times in its timekeeping system to the nearest quarter hour, RAVA failed to compensate Mr. Avalos Silva and other aggrieved employees fully for all hours worked.

Pursuant to these timekeeping practices, Mr. Avalos Silva and other aggrieved employees were required to complete assigned tasks before and after their scheduled shifts and on their days off, including, but not limited to, arriving to work early and having to wait in a line of employees to complete clock in procedures, parking tractors and unloading equipment before they being allowed to leave for the day, answering phone calls and text messages from supervisors, and undergoing mandatory COVID-19 temperature checks and/or health screenings, without being compensated for the time they worked.

Second, due to RAVA’s policies and/or practices of understaffing its jobsites while assigning heavy workloads and failing to adhere to a schedule for meal periods, Mr. Avalos Silva and other aggrieved employees were prevented from taking all uninterrupted meal periods to which they were entitled and were required to work off-the-clock during meal periods, have their meal periods interrupted, and/or were otherwise not relieved of all duties during unpaid meal periods.

Third, as stated above, on information and belief, during the relevant time period, RAVA implemented a company-wide policy and/or practice of automatically deducting meal periods from Mr. Avalos Silva’s and other aggrieved employees’ time records, even when meal periods were missed, short, and/or interrupted. Alternatively, as stated, because RAVA frowned upon employees accruing meal period penalties, RAVA’s management pressured employees to record compliant meal periods on their timesheets regardless of whether they had received a compliant meal period or not. Thus, RAVA did not record all hours worked during meal periods, and Mr. Avalos Silva and other aggrieved employees performed work during meal periods for which they were not paid.

Thus, RAVA did not pay at least minimum wages for all hours worked by Mr. Avalos Silva and other aggrieved employees. Also, to the extent that these off-the-clock hours did not qualify for overtime premium payment, RAVA did not pay at least minimum wages for those hours worked off-the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198.

Accordingly, RAVA regularly failed to pay at least minimum wages to Mr. Avalos Silva and other aggrieved employees for all of the hours they worked in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Mr. Avalos Silva and other aggrieved employees are entitled to recover civil penalties, attorneys’ fees, costs, and interest thereon, and seek injunctive relief to bring

RAVA into compliance with the applicable IWC Wage Order and Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198, pursuant to Labor Code sections 1197.1 and/or 2699(a), (f), and (k).

Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 – Failure to Provide Meal Periods

California Labor Code sections 226.7, 512(a), 516, and 1198 and the applicable IWC Wage Order require employers to provide meal periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. Pursuant to Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order, an employer may not require, cause or permit an employee to work for a period of more than five (5) hours per day without providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee. Under California law, first meal periods must start after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (2012). Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order also require employers to provide a second meal period of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1) additional hour of pay at the employee's regular rate, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

Under California law, an employer cannot evade meal period requirements via the use of "on-duty" meal agreements because it understaffs its locations. *Abdullah v. U.S. Sec. Assocs.*, 731 F.3d 952, 963 (9th Cir. Cal. 2013). In addition, an employee must be provided with the opportunity to eat his or her meal while performing the duties required and any on-duty meal period must, like any off-duty meal period, be at least 30 minutes long. *L'Chaim House, Inc., et al. v. Division of Labor Standards Enforcement*, 38 Cal. App. 5th 141 (2019).

During the relevant time period, as stated, RAVA had, and continues to have, a company-wide policy and/or practice of understaffing while assigning heavy workloads, which has resulted in a lack of meal period coverage and prevented Mr. Avalos Silva and other aggrieved employees from taking all timely, uninterrupted meal periods to which they were entitled. Further, as stated, RAVA had a company-wide practice and/or policy of failing to adhere to a schedule for meal periods, which further caused Mr. Avalos Silva and other aggrieved employees to not be relieved of their duties for compliant meal periods.

RAVA's practices and policies prevented Mr. Avalos Silva and other aggrieved employees from taking all compliant meal periods to which they were entitled. As a result, Mr. Avalos Silva and other aggrieved employees had to work through all or part of their meal periods, had their meal periods interrupted, and/or had to wait extended periods of time before taking meal periods. For example, as stated, Mr. Avalos Silva would often work straight through his meal periods and had his meal periods interrupted by supervisors to discuss certain equipment he was to use for completing tasks and work areas to target after he returned from his meal period. Additionally, Mr. Poor sometimes took his meal periods late, after the fifth hour of work, due to the lack of coverage and failure to adhere to a schedule for meal periods.

As also stated, on information and belief, RAVA implemented a company-wide policy and/or practice of automatically deducting meal periods from Mr. Avalos Silva's and other aggrieved employees' time records, instead of allowing employees to clock in and out for meal periods. As a result of this policy, RAVA deducted 30 minutes from Mr. Avalos Silva's and other aggrieved employees' time records even when meal periods were missed, short, interrupted, and/or late. Alternatively, as stated, because RAVA frowned upon employees accruing meal period penalties, RAVA's managers pressured employees to

record compliant meal periods on their timesheets regardless of whether they had received a compliant meal period or not. For example, Mr. Avalos Silva's supervisors told him to always record his scheduled meal period time on his timesheets, even when he could not take them at that time. Also, to the extent that RAVA's rounding policy reported that Mr. Avalos Silva and other aggrieved employees were provided with timely, full 30-minute meal periods when, in fact, the meal periods were taken after the fifth hour of work or were less than 30 minutes, Mr. Avalos Silva and other aggrieved employees did not receive meal period penalties for these improperly rounded meal periods. Thus, RAVA systematically failed to correctly record meal periods. Mr. Avalos Silva and other aggrieved employees did not sign valid meal period waivers on days that they were entitled to meal periods and were not relieved of all duties.

RAVA knew or should have known that as a result of its company-wide policies and/or practices, Mr. Avalos Silva and other aggrieved employees were prevented from being relieved of all duties and required to perform some of their assigned duties during meal periods. RAVA further knew or should have known that it did not pay Mr. Avalos Silva and other aggrieved employees meal period premiums when meal periods were late, interrupted, shortened, and/or missed. To the extent RAVA required Mr. Avalos Silva and other aggrieved employees to sign written "on-duty" meal period agreements, such agreements are invalid as the nature of the work performed by Mr. Avalos Silva and other aggrieved employees and do not necessitate an "on-duty" meal period under California law.

Moreover, RAVA engaged in a company-wide practice and/or policy of not paying meal period premiums owed when compliant meal periods are not provided. Because of this practice and/or policy, Mr. Avalos Silva and other aggrieved employees have not received premium pay for all missed, late, and interrupted meal periods.

Accordingly, RAVA failed to provide all meal periods in violation of California Labor Code sections 226.7, 512(a), 516, and 1198. Mr. Avalos Silva and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring RAVA into compliance with the applicable IWC Wage Order and Labor Code sections 226.7, 512(a), 516, and 1198, pursuant to Labor Code sections 558 and/or 2699(a), (f), and (k).

Violation of California Labor Code §§ 226.7, 516, and 1198 – Failure to Authorize and Permit Rest Periods

California Labor Code sections 226.7, 516, and 1198 and the applicable IWC Wage Order require employers to provide rest periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC. The applicable IWC Wage Order provides that "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period" and that the "rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof" unless the total daily work time is less than three and one-half (3 ½) hours.

To comply with its obligation to authorize and permit rest periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer must "relinquish any control over how employees spend their break time, and relieve their employees of all duties—including the obligation that an employee remain on call. A rest period, in short, must be a period of rest." *Augustus, et al. v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 273 (2016).

During the relevant time period, RAVA regularly failed to authorize and permit Mr. Avalos Silva and other aggrieved employees to take a ten (10) minute rest period per each four (4) hour period worked or major fraction thereof. As with meal periods, RAVA's company-wide practices, including understaffing and assigning heavy workloads, prevented Mr. Avalos Silva and other aggrieved employees from being relieved of all duties to take rest periods. Additionally, RAVA failed to adhere to a schedule for rest periods, which, coupled with RAVA's failure to provide adequate rest period coverage, further led to Mr. Avalos Silva and other aggrieved employees not being authorized and permitted to take rest periods.

Furthermore, upon information and belief, RAVA maintained a company-wide on-premises rest period policy, which effectively required that Mr. Avalos Silva and/or other aggrieved employees remain on the work premises during their rest periods. Because Mr. Avalos Silva and/or other aggrieved employees were restricted from leaving the premises during rest periods, they were denied the ability to use their rest periods freely for their own purposes, such as running personal errands. Thus, RAVA effectively maintained control over Mr. Avalos Silva and/or other aggrieved employees during rest periods.

As a result of RAVA's practices and policies, Mr. Avalos Silva and other aggrieved employees worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without receiving all uninterrupted 10-minute rest periods to which they were entitled. For example, about three (3) times per week, Mr. Avalos Silva had to miss his rest periods, because of the lack of rest period coverage and RAVA's failure to adhere to a schedule for rest periods for employees. When Mr. Avalos Silva was able to take rest periods, they would sometimes be interrupted by supervisors to discuss work-related issues.

RAVA also has engaged in a company-wide practice and/or policy of not paying rest period premiums owed when compliant rest periods are not authorized and permitted. Because of this practice and/or policy, Mr. Avalos Silva and other aggrieved employees have not received premium pay for all missed rest periods.

Accordingly, RAVA failed to authorize and permit all rest periods in violation of California Labor Code sections 226.7, 516, and 1198. Mr. Avalos Silva and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring RAVA into compliance with the applicable IWC Wage Order and Labor Code sections 226.7, 516, and 1198, pursuant to Labor Code sections 558 and/or 2699(a), (f), and (k).

Violation of California Labor Code §§ 226(a), 1174(d), and 1198 – Non-Compliant Wage Statements and Failure to Maintain Accurate Payroll Records

California Labor Code section 226(a) requires employers to make, keep and provide true, accurate, and complete employment records. RAVA has not provided Mr. Avalos Silva and other aggrieved employees with properly itemized wage statements. Labor Code section 226(e) provides that if an employer fails to comply with providing an employee with properly itemized wage statements as set forth in 226(a), then the employee is entitled to recover the greater of all actual damages or \$50 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not to exceed \$4,000. Further, Labor Code section 226.3 provides that any employer who violates section 226(a) shall be subject to a civil penalty in the amount of \$250 per employee per violation in an initial citation and \$1,000 per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage statement or fails to keep the required records pursuant to Section 226(a).

During the relevant time period, RAVA has knowingly and intentionally provided Mr. Avalos Silva and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. For example, RAVA issued uniform wage statements to Mr. Avalos Silva and other aggrieved employees that fail to correctly list: gross wages earned; total hours worked; net wages earned; and all applicable hourly rates in

effect during the pay period, including rates of pay for overtime wages, and the corresponding number of hours worked at each hourly rate. Specifically, RAVA violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

Because RAVA did not record the time Mr. Avalos Silva and other aggrieved employees spent working off-the-clock, improperly rounded their total hours worked, and deducted time from their records for meal periods that were interrupted and/or missed (and therefore time for which they should have been paid), RAVA did not list the correct amount of gross wages and net wages earned by Mr. Avalos Silva and other aggrieved employees in compliance with section 226(a)(1) and section 226(a)(5), respectively. For the same reason, RAVA failed to accurately list the total number of hours worked by Mr. Avalos Silva and other aggrieved employees, in violation of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay period and the corresponding accurate number of hours worked at each hourly rate, in violation of section 226(a)(9).

The wage statement deficiencies also include, among other things, failing to list the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; failing to list all deductions; failing to list the inclusive dates of the period for which aggrieved employees were paid; failing to list 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; failing to list the name and address of the legal entity that is the employer; and/or failing to state all hours worked as a result of not recording or stating hours worked off-the-clock.

California Labor Code section 1174(d) provides that “[e]very person employing labor in this state shall . . . [k]eep a record showing the names and addresses of all employees employed and the ages of all minors” and “[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments” Labor Code section 1174.5 provides that employers are subject to a \$500 civil penalty if they fail to maintain accurate and complete records as required by section 1174(d). During the relevant time period, and in violation of Labor Code section 1174(d), RAVA willfully failed to maintain accurate payroll records for Mr. Avalos Silva and other aggrieved employees showing the daily hours they worked and the wages paid thereto as a result of failing to record the off-the-clock hours that they worked and improperly rounding Mr. Avalos Silva’s and other aggrieved employees’ total hours worked.

California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Order. Section 1198 further provides that “[t]he employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period. During the relevant time period, RAVA engaged in company-wide practices and/or policies of failing to record actual hours worked (including falsifying time records by recording that compliant meal periods were taken regardless if or when meal periods were actually taken), and thereby failed to keep accurate records of work period and meal period start and end times for Mr. Avalos Silva and other aggrieved employees, in violation of section 1198.

Because RAVA failed to provide the correct net and gross wages earned, applicable rates of pay, and number of total hours worked on wage statements, Mr. Avalos Silva and other aggrieved employees have been prevented from verifying, solely from information on the wage statements themselves, that they were paid correctly and in full. Instead, Mr. Avalos Silva and other aggrieved employees have had to

look to sources outside of the wage statements themselves and reconstruct time records to determine whether in fact they were paid correctly and the extent of underpayment, thereby causing them injury.

Mr. Avalos Silva and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, and seek injunctive relief to bring RAVA into compliance with the applicable IWC Wage Order and Labor Code sections 226(a), 1174(d), and 1198, pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f), and (k).

Violation of California Labor Code § 204 – Failure to Timely Pay Wages During Employment

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. Alternatively, California Labor Code section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

During the relevant time period, RAVA failed to pay Mr. Avalos Silva and other aggrieved employees all wages due to them, including, but not limited to, overtime wages, minimum wages, and/or meal and rest period premiums, within any time period specified by California Labor Code sections 204.

Mr. Avalos Silva and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring RAVA into compliance with Labor Code section 204, pursuant to Labor Code sections 210 and/or 2699(a), (f), and (k).

Violation of California Labor Code §§ 201 and 202 – Failure to Timely Pay Final Wages Upon Termination

California Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

During the relevant time period, RAVA willfully failed to pay Mr. Avalos Silva and other aggrieved employees who are no longer employed by RAVA all their earned wages, including, but not limited to, overtime wages, minimum wages, and/or meal and rest period premiums, either at the time of discharge, or within seventy-two (72) hours of their leaving RAVA's employ.

Mr. Avalos Silva and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring RAVA into compliance with Labor Code sections 201 and 202, pursuant to Labor Code sections 256 and/or 2699(a), (f), and (k).

Violation of California Labor Code §§ 551 and 552 – Failure to Provide One Day’s Rest in Seven

California Labor Code section 551 provides that every person employed in any occupation of labor is entitled to one day’s rest in seven. California Labor Code section 552 prohibits employers from requiring employees to work more than six consecutive days without a day of rest. California Labor Code section 556 exempts an employer from the day-of-rest requirement when the total hours worked by an employee do not exceed 30 hours in any week or six (6) hours in any one day thereof.

During the relevant period, RAVA scheduled Mr. Avalos Silva and other aggrieved employees to work six (6) or more hours per day and seven (7) consecutive days in a workweek. Because Mr. Avalos Silva and other aggrieved employees worked over 30 hours per week and over six (6) hours per day in any one day in a workweek, they were not exempt from the day-of-rest requirement. To the extent that Mr. Avalos Silva and other aggrieved employees may have signed purported waivers of their right to a day’s rest in seven, such waivers are invalid.

Thus, RAVA caused Mr. Avalos Silva and other aggrieved employees to work more than six days in seven, in violation of Labor Code sections 551 and 552. Mr. Avalos Silva and other aggrieved employees are entitled to recover civil penalties, attorneys’ fees, costs, and interest thereon, and seek injunctive relief to bring RAVA into compliance with Labor Code sections 551 and 552, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 2802 – Unreimbursed Business Expenses

California Labor Code section 2802 requires employers to pay for all necessary expenditures and losses incurred by the employee in the performance of his or her job. The purpose of Labor Code section 2802 is to prevent employers from passing off their cost of doing business and operating expenses on to their employees. *Cochran v. Schwan’s Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144 (2014). The applicable wage order, IWC Wage Order No. 14-2001, provides that: “[w]hen tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft.”

First, during the relevant time period, Mr. Avalos Silva and other aggrieved employees were required to use their personal mobile devices, including, but not limited to, cellular phones, and/or mobile data to carry out their job duties, but RAVA failed to reimburse them for the costs of their work-related mobile device expenses. For example, Mr. Avalos Silva was required to use his personal cellular phone to respond to calls from his manager to discuss work-related matters, such as instructions on job duties. Although RAVA required Mr. Avalos Silva and other aggrieved employees to utilize their personal mobile devices and/or mobile data to carry out their work-related responsibilities, RAVA failed to reimburse them for these costs.

Second, during the relevant time period, RAVA required Mr. Avalos Silva and other aggrieved employees to purchase supplies and equipment necessary for the performance of their duties, but failed to reimburse them for their out-of-pocket costs. For example, Mr. Avalos Silva spent approximately \$250 on tools he used for making repairs to RAVA’s tractors, including but not limited to, a set of sockets, wrenches, and lug nuts, because RAVA failed to provide him with the necessary supplies which were required for him to complete his assigned duties. Additionally, RAVA sometimes failed to provide Mr. Avalos Silva and other aggrieved employees with protective eyewear and protective gloves, which they had to wear while completing their assigned pest control duties. Because RAVA did not always provide its employees with protective eyewear and protective gloves, about once per month, Mr. Avalos Silva was

forced to split the costs of a boxes of protective eyewear and protective gloves, but was not reimbursed for these expenses.

RAVA could have provided Mr. Avalos Silva and other aggrieved employees with the actual equipment for use on the job, such as company mobile devices and supplies and equipment; or, RAVA could have reimbursed employees for the costs of their mobile device usage, and supply and equipment expenses. Instead, RAVA passed these operating costs off onto Mr. Avalos Silva and other aggrieved employees. At all relevant times, Mr. Avalos Silva did not earn at least two (2) times the minimum wage.

Thus, RAVA had, and continues to have, a company-wide policy and/or practice of not reimbursing employees for expenses necessarily incurred in violation of California Labor Code section 2802. Mr. Avalos Silva and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring RAVA into compliance with the applicable IWC Wage Order and Labor Code section 2802, pursuant to Labor Code section 2699(a), (f), and (k).

Violation of California Labor Code § 2810.5(a)(1)(A)-(C) – Failure to Provide Notice of Material Terms of Employment

California's Wage Theft Prevention Act was enacted to ensure that employers provide employees with basic information material to their employment relationship at the time of hiring, and to ensure that employees are given written and timely notice of any changes to basic information material to their employment. Codified at California Labor Code section 2810.5, the Wage Theft Prevention Act provides that at the time of hiring, an employer must provide written notice to employees of the rate(s) of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, the regular payday designated by the employer, and any allowances claims as part of the minimum wage, including meal or lodging allowances. Effective January 1, 2015, an employer's written notice pursuant to section 2810.5 must also include a statement that the employee may accrue and use sick leave; has a right to request and use accrued paid sick leave; may not be terminated or retaliated against for using or requesting the use of accrued paid sick leave; and has the right to file a complaint against an employer who retaliates.

RAVA failed to provide Mr. Avalos Silva and other aggrieved employees written notice that lists all the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C). Specifically, RAVA failed to provide Mr. Avalos Silva and other aggrieved employees with the hourly rate(s) of pay, including the overtime rate(s) of pay, in violation of section 2810.5(a)(1)(A). Instead, the wage theft form that RAVA provided to Mr. Avalos Silva is blank where the aforementioned wage information should be filled in. RAVA's failure to provide Mr. Avalos Silva and other aggrieved employees with written notice of basic information regarding their employment with RAVA is in violation of Labor Code section 2810.5.

Mr. Avalos Silva and other aggrieved employees are therefore entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring RAVA into compliance with Labor Code section 2810.5, pursuant to Labor Code section 2699(a), (f), and (k).

California Labor Code § 558(a)

California Labor Code section 558(a) provides "[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid . . . (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was

underpaid . . .” Labor Code section 558(c) provides that “[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law.” RAVA, at all relevant times, was an employer or person acting on behalf of an employer(s) who violated Mr. Avalos Silva’s and other aggrieved employees’ rights by violating various sections of the California Labor Code.

Accordingly, Mr. Avalos Silva seeks the remedies set forth in Labor Code section 558 for himself, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 1194, 2699(a), 2699(k), 2699.3(a) and 2699.3(c), 2699.5, and 558, Mr. Avalos Silva, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties and injunctive relief for himself, all other aggrieved employees, and the State of California against RAVA for violations of California Labor Code sections 201, 202, 204, 226(a), , 226.7, 510, 512(a), 516, 551, 552, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5.

Therefore, on behalf of all aggrieved employees, Mr. Avalos Silva seeks all applicable civil penalties related to these violations of the California Labor Code pursuant to PAGA.

Pre-Litigation Demand

This notice shall further serve as Mr. Avalos Silva’s reasonable attempt to settle his dispute with RAVA prior to litigation. Pursuant to *Graham v. Daimler Chrysler Corp.*, 34 Cal. 4th 553 (2004), this notice serves to inform RAVA of Mr. Avalos Silva’s aforementioned grievances and the proposed remedies as detailed below, while affording RAVA a reasonable opportunity to satisfy Mr. Avalos Silva’s demands.

Demand is hereby made that RAVA shall, within 30 calendar days of this notice, agree, in writing to the following corrective actions:

1. RAVA shall pay Mr. Avalos Silva and all other aggrieved employees employed by RAVA at any time during the past three years from the date of this notice unpaid wages and compensation for the above-referenced violations.
2. RAVA shall comply with all California labor laws and ensure that its non-exempt employees are paid overtime wages and minimum wages for all hours worked, provided lawful meal and rest periods.
3. RAVA shall conduct a survey or interview all current and former aggrieved employees in California who worked for RAVA in the past three years to obtain information from them regarding the above-referenced violations, including, but not limited to: the number of meal periods which were not provided and the number of rest periods which were not authorized and permitted, and the number of employees who were required to pay for mobile device expenses and supply and equipment expenses, with the investigation to be completed within 60 days.
4. RAVA shall pay Mr. Avalos Silva and each aggrieved employee one hour of pay at his or her regular rate of pay for each work day he or she was not provided one or more meal periods, as required by Labor Code sections 226.7, 512(a), 516, and 1198. RAVA also shall pay Mr. Avalos Silva and each aggrieved employee one hour of pay at his or her regular rate of pay for each work day he or she was not authorized and permitted one or more rest periods, as required by Labor Code sections 226.7, 516, and 1198.
5. RAVA shall pay accrued legal interest to Mr. Avalos Silva and all aggrieved employees at the rate of 10% per annum for said unpaid wages.

6. RAVA shall provide Mr. Avalos Silva and all aggrieved employees employed by RAVA at any time during the past three years from the date of this notice corrected wage statements that include the requisite information set forth in Labor Code section 226(a).
7. RAVA shall pay waiting time penalties, equal to 30 days of pay, to each former aggrieved employee who was not paid all wages due as described herein.
8. RAVA shall provide all aggrieved employees who worked over thirty (30) hours per week and over six (6) hours per day in a workweek with one day's rest in seven, as required by Labor Code sections 551 and 552.
9. RAVA shall reimburse those aggrieved employees who were required to pay for any business expenses incurred for RAVA's benefit, including, but not limited to, costs of mobile device usage, supply and equipment expenses, or other expenditures, as required by Labor Code section 2802.
10. RAVA shall provide all aggrieved employees written notice of basic information regarding their employment that includes the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C).
11. RAVA shall pay all penalties arising from the violations of the Labor Code and IWC Wage Order sections referenced above and pursuant to PAGA, Labor Code sections 2698, *et seq.*, including, but not limited to, penalties under Labor Code sections 210, 226.3, 256, 558, 1174.5, 1197.1, and 2699, and IWC Wage Order No. 14-2001, section 18.

Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

Alexander Lima
Capstone Law APC
1875 Century Park East, Suite 1000
Los Angeles, CA 90067
(310) 556-4811

Best Regards,

A handwritten signature in black ink, appearing to read 'Alexander Lima', followed by three dots.

Alexander Lima

Copy: SOUTH COUNTY PACKING, INC. (via U.S. Certified Mail); RAVA RANCHES, INC. (via U.S. Certified Mail); FRESH FARMS, INC. (via U.S. Certified Mail); and/or FRESH FOODS, INC. (via U.S. Certified Mail)

Capstone Law, APC
1875 Century Park, East, 1000
Los Angeles, CA. 90067



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Los Angeles, CA. 90067

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2. A-85590-8540 0000 2406 2440 1

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RAVA RANCHES, INC.
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RAVA RANCHES, INC.
700 AIRPORT DR
KING CITY, CA 93930



2. A 0500 0040 0000 2406 2457

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PO BOX 1600
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B. Received by (<i>Printed Name</i>)	
C. Date of Delivery	
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D. Is delivery address different from item 1? ☐ Yes ☐ No
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3. Service Type

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KING CITY, CA 93930

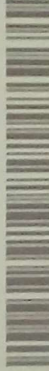
FRESH FARMS, INC.
700 AIRPORT DR
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700 AIRPORT DR
KING CITY, CA 93930

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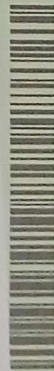
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☐ Adult Signature Restricted Delivery	☐ Registered Mail Restricted Delivery
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