

August 23, 2024

VIA ONLINE SUBMISSION

Stewart Knox, Secretary
California Labor & Workforce
Development Agency
800 Capitol Mall, Suite 5000 (MIC-55)
Sacramento, CA 95814

VIA CERTIFIED MAIL

I Staff Business Services
Attn: Legal Department
2091 Raymer Ave.
Fullerton, CA 92833

Hidden Villa Ranch Produce, Inc.
Attn: Legal Department
2091 Raymer Ave.
Fullerton, CA 92833

I Staff Business Services
Attn: Legal Department
1700 Hamner Ave., #201
Norco, CA 92860

Hidden Villa Ranch Produce, Inc.
Attn: Legal Department
305 North Harbor Blvd., 205
Fullerton, CA 92832

NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO CALIFORNIA LABOR CODE
SECTION 2698, ET SEQ.

To: The California Labor and Workforce Development Agency; Hidden Villa Ranch Produce, Inc.; I Staff Business Services

From: Francisco Cabuto, on behalf of himself and all other current and former hourly nonexempt employees for violations of the California Labor Code

To Whom It May Concern:

Abramson Labor Group has been retained by former employee Francisco Cabuto (“Mr. Cabuto”) to seek compensation and all other available relief, including civil penalties on his behalf and on the behalf of all those similarly aggrieved (collectively with Mr. Cabuto, “Claimants”) who have been injured by Hidden Villa Ranch Produce, Inc. and I Staff Business Services’ (collectively, “Hidden Villa”) violations of the California Labor Code. Mr. Cabuto, on behalf of himself and all other similarly aggrieved current and former hourly nonexempt employees of Hidden Villa, 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.* of the Labor Code Private Attorneys General Act of 2004 (“PAGA”).

Factual Statement:

Hidden Villa is operating throughout California as a distributor of distributing shell eggs and egg products to the foodservice industry. I Staff Business Services (“I Staff”) is a staffing agency that supplies staff to Hidden Villa, among other companies.

Claimant Mr. Cabuto works for Hidden Villa as an hourly, nonexempt employee in the position of Forklift Operator/Warehousing, earning \$20.00 per hour from approximately October 2021 through May 29, 2024. Mr. Cabuto, on behalf of himself and all other similarly aggrieved current and former employees in California in various positions, are or were engaged in the warehousing of whole and liquid eggs and egg products for Hidden Villa. As part of their employment with Hidden Villa, Claimant and other hourly, nonexempt employees, collectively, “hourly nonexempt employees,” are or were assigned to and required to suffer and permitted to work, some with and some without pay, while performing tasks collectively including, but not limited to, driving the truck and trailer to move them to the dock for loading; driving the forklift to transport pallets of eggs; stacking pallets; organizing the warehouse; pulling orders per a printout and scanner and fulfilling those orders; cleaning floors, beams, walls; unloading trucks; attending weekly team meetings; and loading box trucks and long refrigerated trailers.

Claimant Mr. Cabuto regularly worked five (5) days per week for 12 hours or more hours per day. During the entire course of his employment, Hidden Villa failed to provide Mr. Cabuto and continues to fail to provide those similarly aggrieved with some overtime pay and compliant meal periods and rest breaks. Hidden Villa has also failed to pay minimum wages to Mr. Cabuto and other hourly, nonexempt employees in violation of Labor Code sections 510, 1194, 1197, and 1182.12, and section 4 of IWC Wage Order No. 8-2001. As a consequence, Hidden Villa has failed to comply with Labor Code sections 226.7, 510, and 512, and sections 3, 11, and 12 of all applicable Industrial Welfare Commission (“IWC”) Wage Orders, including but not limited to, IWC Wage Order No. 8-2001. In violation of Labor Code sections 510, 1194, 1197, and 1182.12, Hidden Villa has failed to compensate Claimants at a rate of one and one-half (1.5) times their regular rate for all hours worked over eight (8) hours per workday and the first eight (8) hours worked on the seventh day of a workweek and at two (2) times their regular rate for hours worked over twelve (12) hours per workday and eight (8) hours on the seventh day of a workweek.

Hidden Villa has also failed and continues to fail to pay all wages owed every pay period in violation of Labor Code section 204. Likewise, Hidden Villa has failed and continues to fail to provide timely, accurate wage statements to Mr. Cabuto and other aggrieved persons in violation of Labor Code section 226(a). With regard to those no longer employed by Hidden Villa, including Mr. Cabuto, Hidden Villa has violated Labor Code section 203 by failing to pay all wages due upon separation. Hidden Villa has failed and continues to fail to fully reimburse Claimants for all necessary, business-related expenses and losses they incurred, including, but not limited to, all costs incurred for cell phone expenses, which were required to carry out their duties, in violation of Labor Code section 2802. Mr. Cabuto is informed and believes that such violations are ongoing, systematic, and continuous. Mr. Cabuto intends to bring an action against Hidden Villa under the Private Attorneys General Act (“PAGA”) to recover wages and penalties as provided by California law.¹

¹ Without limitation, Mr. Cabuto, if permitted, will seek any and all penalties otherwise capable of being collected by the Commission. This includes each provision as set forth in Labor Code section 2699.5 as follows:

The provisions of subdivision (a) of Section 2699.3 apply to any alleged violation of the following provisions: subdivision (k) of Section 96, Sections 98.6, 201, 201.3, 201.5, 201.7, 202, 203, 203.1, 203.5, 204, 204a, 204b, 204.1, 204.2, 205, 205.5, 206, 206.5, 208, 209, and 212, subdivision (d) of Section 213, Sections 221, 222, 222.5, 223, and 224, subdivision (a) of Section 226, Sections 226.7, 227, 227.3, 230, 230.1, 230.2, 230.3, 230A,

Theories of Labor Code Violations and Remedies:

Claimant Mr. Cabuto was employed by Hidden Villa from approximately October 2021 through May 29, 2024 as a Forklift Operator/Warehousing. For a period of at least four (4) years prior to August 2024, but for our purposes here, one (1) year prior, Hidden Villa has violated and continues to violate the California Labor Code sections as detailed below.

Claimants also were at all times entitled to payment of **minimum wages**. Hidden Villa has failed and continues to fail to pay Claimants minimum wages for all hours worked as required by Labor Code sections 510, 1194, and 1194.2 and section 4 of IWC Wage Order No. 8-2001. First, Claimants worked a substantial amount of time while off-the-clock—meaning they were not punched in for work—and therefore, those working hours were not recorded and then compensated. This off-the-clock time primarily occurred because Claimants regularly started their day by quickly cleaning up the warehouse from leftover messes from the day before, all prior to clocking in. Claimants' off-the-clock time was never subsequently added and, therefore, uncompensated. Accordingly, Claimants were not paid for that time spent working off the clock. Second, Defendant enforces practices that effectively require Claimants to perform work during their meal periods and rest breaks, the effects of which Defendant could have mitigated by increasing staff to complete jobs more quickly to allow the crew to take rest breaks. However, Defendant instead chose to preserve smaller-than-optimum staffing levels, which forced meal periods and rest breaks into noncompliance. With that, Hidden Villa's corresponding failure to provide premium pay at the correct regular rate, if any premiums were paid at all, in lieu of compliant meal periods and rest breaks constitutes Hidden Villa's failure to pay minimum wages and all hours worked every pay period and upon separation in violation of Labor Code sections 201, 202, 203, 204, 226(a), 510, 1182.12, 1194, and 1197. Hidden Villa's failure to pay Claimants their meal period and rest break premiums for noncompliant meal periods and rest breaks, as explained in further detail below, also constitutes a failure to pay minimum wages to Claimants. Therefore, Claimants are entitled to recover wages and/or penalties as provided by Labor Code section 1197.1 and section 20 of IWC Wage Order No. 8-2001.

Claimants were at all times entitled to unpaid off-duty, uninterrupted **meal periods**. As explained in the preceding paragraph, Hidden Villa failed to authorize and permit timely, full-length meal periods for Mr. Cabuto and all other similarly aggrieved employees as required by Labor Code sections 226.7 and 512 and section 11 of IWC Wage Order No. 8-2001. Mr. Cabuto and Claimants regularly missed their meal periods, were interrupted with phone calls providing instructions when they did take meal periods, and they also took their meal periods late—after the end of the fifth hour—because that is when Hidden Villa authorized the cessation of work. Claimants also worked 12 hours without a second meal period and no valid second-meal period waiver exists. Nonetheless, Hidden Villa did not compensate Claimants with an extra hour of pay at the regular rate for noncompliant meal periods for each workday on which they occurred. Accordingly, since Hidden Villa required Mr. Cabuto and others similarly situated to work during their meal periods in violation of Labor Code sections 226.7(a) and 512, Claimants seek all available penalties as set forth in Labor Code sections 558, section 20 of IWC Wage Order No. 8-2001, and 2699(f).

230.7, 230.8, and 231, subdivision (c) of Section 232, subdivision (c) of Section 232.5, Sections 233, 234, 351, 353, and 403, subdivision (b) of Section 404, Sections 432.2, 432.5, 432.7, 435, 450, 510, 511, 512, 513, 551, 552, 601, 602, 603, 604, 750, 751.8, 800, 850, 851, 851.5, 852, 921, 922, 923, 970, 973, 976, 1021, 1021.5, 1025, 1026, 1101, 1102, 1102.5, and 1153, subdivisions (c) and (d) of Section 1174, Sections 1194, 1197, 1197.1, 1197.5, and 1198, subdivision (b) of Section 1198.3, Sections 1199, 1199.5, 1290, 1292, 1293, 1293.1, 1294, 1294.1, 1294.5, 1296, 1297, 1298, 1301, 1308, 1308.1, 1308.7, 1309, 1309.5, 1391, 1391.1, 1391.2, 1392, 1683, and 1695, subdivision (a) of Section 1695.5, Sections 1695.55, 1695.6, 1695.7, 1695.8, 1695.9, 1696, 1696.5, 1696.6, 1697.1, 1700.25, 1700.26, 1700.31, 1700.32, 1700.40, and 1700.47, paragraphs (1), (2), and (3) of subdivision (a) of, and subdivision (e) of, Section 1701.4, subdivision (a) of Section 1701.5, Sections 1701.8, 1701.10, 1701.12, 1735, 1771, 1774, 1776, 1777.5, 1811, 1815, 2651., and 2673, subdivision (a) of Section 2673.1, Sections 2695.2, 2800, 2801, 2802, 2806, and 2810, subdivision (b) of Section 2929, and Sections 3095, 6310, 6311, and 6399.7.

Claimants were at all times entitled to take paid, off duty 10-minute **rest breaks**. However, for the same reasons cited in the preceding paragraph regarding meal periods, Hidden Villa likewise failed to authorize and permit Mr. Cabuto and all other similarly aggrieved employees to take full-length, off-duty rest breaks as required by Labor Code sections 226.7 and section 12 of IWC Wage Order No. 8-2001. Claimants were not able to take their requisite number of 10-minutes rest breaks based on their shift duration; in fact, Claimants regularly worked through their rest breaks or their rest breaks were interrupted requiring immediate return to work because of a truck's arrival requiring the loading or unloading process to begin. Nonetheless, Hidden Villa did not compensate Claimants with an extra hour of pay at the regular rate for noncompliant rest breaks for each workday on which they occurred. Therefore, Claimants are entitled to recover wages and/or penalties as provided by Labor Code section 558 and section 20 of IWC Wage Order No. 8-2001. Furthermore, since Hidden Villa required their hourly nonexempt employees to perform work during rest periods in violation of Labor Code section 226.7(b), Claimants seek all available penalties set forth in Labor Code sections 558 and 2699.

At all times relevant herein, Claimants were entitled to the payment of **overtime**. That is, pursuant to Labor Code sections 510, 1194, 1197, and 1182.12, Hidden Villa was required to compensate Claimants at a rate of one-and-one-half (1.5) times their regular rate for all hours worked over eight (8) hours per workday and the first eight (8) hours worked on the seventh day of a workweek and at two (2) times their regular rate for hours worked over twelve (12) hours per workday and eight (8) hours on the seventh day of a workweek. Mr. Cabuto and Claimants regularly worked overtime hours. Hidden Villa has failed to and continues to fail to pay Claimants overtime wages owed for off-the-clock time worked that should have been compensated as overtime, yet regularly required them to work these overtime hours without premium pay under Labor Code section 1194. In short, during the entire course of their employment, Hidden Villa failed to provide Mr. Cabuto and continues to fail to provide all others similarly situated with all overtime pay in violation of 226.7, 510, and 512 and all applicable IWC Wage Orders, including but not limited to IWC Wage Order No. 8-2001, section 3.

Pursuant to Labor Code sections 201–203, Claimants who have since separated from Hidden Villa, including Mr. Cabuto, were entitled to be paid all **wages owed upon separation** within the statutorily allotted time—immediately (resignation with notice and termination) or within seventy-two (72) hours (resignation without notice). Claimants, including Mr. Cabuto, did not receive his final pay of all wages immediately upon being terminated nor did he receive the wages Hidden Villa did pay based on Hidden Villa's prior failings to pay all wages owed every pay period, including but not limited to minimum wage, overtime, and meal and rest premiums owed and for all hours worked, as explained above. Hidden Villa paid Mr. Cabuto his final wages at the time of the next regularly schedule paycheck one week following his termination.

Claimants were at all times entitled to be provided timely and accurate **wage statements** from Hidden Villa pursuant to Labor Code section 226. Because Hidden Villa failed to pay Claimants minimum wages for all hours worked before, during, and after their shifts and for all overtime wages due, Claimants' wage statements were inaccurate in reflecting overtime and minimum wages, and all hours worked every pay period. As a consequence, Claimants' wage statements also do not reflect the accurate amount of net and gross wages owed. Accordingly, Claimants seek all available penalties as set forth in Labor Code sections 226(e) and 2699.

Finally, Claimants were entitled to be reimbursed by Hidden Villa for all necessary, **business-related expenses** they incurred in executing their duties for Hidden Villa. California Labor Code section 2802 provides that "An employer shall indemnify his or his employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or his duties, or of his or his obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful." Hidden Villa, however, has failed to fully reimburse Mr. Cabuto and Claimants for all necessary, business-related expenses and losses they incurred, including,

but not limited to, all costs incurred for the expenses for the use of their personal cell phones required to receive instructions and to provide their locations on the premises. Accordingly, Claimants are entitled to recover their unreimbursed expenditures and losses pursuant to Labor Code section 2802.

Hidden Villa's uniform failure to pay minimum and overtime wages, failure to keep accurate time records, failure to furnish timely and accurate wage statements, and failure to reimburse all necessary, business-related expenses violate Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512, 1182.12, 1194, 1197, and 2802, and as such, penalties are recoverable as set forth in Labor Code sections 210, 1194, *et seq.*, and 2699.

Claimants are entitled to recover unpaid wages, with interest, and are entitled to an award of attorneys' fees as permitted by Labor Code section 1194, other penalties as permitted by Labor Code sections 210 and 2699, and waiting time penalties for former employees pursuant to Labor Code section 203.

Accordingly, Claimants seek the remedies set forth in the above-referenced Labor Code sections for themselves, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 2699(a), 2699.3(a), 2699.3(c), and 2699.5, Mr. Cabuto, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for themselves, all other aggrieved employees, and the State of California against Hidden Villa for violations of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1182.12, 1194, 1197, 1197.1, and 2802.

Should you require any additional information, please feel free to contact me.

Sincerely,

ABRAMSON LABOR GROUP

A handwritten signature in black ink that reads "Cheryl Kenner". The signature is written in a cursive, flowing style.

Cheryl A. Kenner