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August 16, 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

Gemini Motor Transport, L.P.
Attn: Legal Department
10601 N. Pennsylvania Ave.
Oklahoma City, OK 73120

Gemini Motor Transport, L.P.
Attn: Legal Department
910 Majors Court
Bakersfield, CA 93308

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

To: The California Labor and Workforce Development Agency; Gemini Motor Transport, L.P.

From: Rason Teague and Carlos Bayona, on behalf of themselves 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 current employees Rason Teague (“Mr. Teague”) and Carlos Bayona (“Mr. Bayona”) to seek compensation and all other available relief, including civil penalties on their behalf and on the behalf of all those similarly aggrieved (collectively with Mr. Teague and Mr. Bayona, “Claimants”) who have been injured by Gemini Motor Transport, L.P.’s (“Gemini”) violations of the California Labor Code. Mr. Teague and Mr. Bayona, on behalf of themselves and all other similarly aggrieved current and former hourly nonexempt employees of Gemini, intend 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:

Gemini operates throughout California but is a nationwide for-hire fuel and specialty products motor carrier and is currently the primary carrier for Love's Travel Stops & Country Stores.

Claimant Mr. Teague works for Gemini as an hourly, nonexempt employee in the position of Commercial Driver, earning \$31.70 per hour plus nondiscretionary bonuses from approximately April 2021 through the present. Claimant Mr. Bayona also works for Gemini as an hourly, nonexempt employee in the position of Commercial Driver, earning \$35.00 per hour plus nondiscretionary bonuses from approximately April 2011 through the present. Mr. Teague, on behalf of himself and all other similarly aggrieved current and former employees in California in various positions, are or were engaged in transporting cargo for Gemini. As part of their employment with Gemini, Claimant and other hourly, nonexempt employees, collectively, "hourly nonexempt employees," are or were assigned to and required to suffer and permitted to work without pay, while performing tasks collectively including, but not limited to, performing pre- and post-trip inspections of their tractor and trailer; driving to refineries/loading facilities to fill up tanker with fuel, diesel, renewable diesel, or bio; driving to truck stops to deliver their tanker's load; and collecting and turning in bills of lading and other paperwork to Gemini.

Claimant Mr. Teague regularly works five (5) days per week for 11-14 hours or more hours per day. Claimant Mr. Bayona regularly works five (5) days per week for 10-12 hours or more hours per day. During the entire course of their employment, Gemini has failed to provide Mr. Teague and Mr. Bayona and those similarly aggrieved with some agreed-upon overtime pay. Gemini has also failed to pay minimum wages to Mr. Teague and Mr. Bayona 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. 9-2001. As a consequence, Gemini 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. 9-2001. In violation of Labor Code sections 510, 1194, 1197, and 1182.12, Gemini 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.

Gemini has also failed and continues to fail to pay all wages owed every pay period in violation of Labor Code section 204. Likewise, Gemini has failed and continues to fail to provide timely, accurate wage statements to Mr. Teague and Mr. Bayona and other aggrieved persons in violation of Labor Code section 226(a). Gemini 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 the costs for the cell phone expenses, in violation of Labor Code section 2802. Mr. Teague and Mr. Bayona are informed and believe that such violations are ongoing, systematic, and continuous. Mr. Teague and Mr. Bayona intend to bring an action against Gemini under the Private Attorneys General Act ("PAGA") to recover wages and penalties as provided by California law.¹

¹ Without limitation, Mr. Teague, 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, 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,

Theories of Labor Code Violations and Remedies:

Claimant Mr. Teague has been employed by Gemini from approximately April 2021 through approximately the present as a Commercial Driver. Claimant Mr. Bayona has been employed by Gemini from approximately April 2011 through approximately the present also as a Commercial Driver. For a period of at least four (4) years prior to August 2024, but for our purposes here, one (1) year prior, Gemini 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**. Gemini 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. 9-2001. First, part-way through performance, Gemini informed Claimants that they were reducing bonus percentages calculated on total earnings, which Claimants become eligible for based on their tenure. Second, 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 (1) during meal periods while clocked out, Claimants had to collect and complete load information/paperwork to then submit that information by scanning it in Translfo at Love's Truck Stops to turn in this information to Gemini and (2) time for phone calls requesting bills of lading and other paperwork that occurred off-shift on Claimants' days off. 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. With that, Gemini's corresponding failure to provide premium pay at the correct regular rate, if any premiums were paid at all constitutes Gemini's failure to pay minimum wages and all hours worked every pay period in violation of Labor Code sections 204, 226(a), 510, 1182.12, 1194, and 1197. 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. 9-2001.

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, Gemini 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. Teague and Mr. Bayona and Claimants regularly worked overtime hours. Gemini 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, Gemini failed to provide Mr. Teague and Mr. Bayona 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 9-2001, section 3.

Claimants were at all times entitled to be provided timely and accurate **wage statements** from Gemini pursuant to Labor Code section 226. Because Gemini 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

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.

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 Gemini for all necessary, **business-related expenses** they incurred in executing their duties for Gemini. 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." Gemini, however, has failed to fully reimburse Mr. Teague and Mr. Bayona 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 use the applications GeoTab Drive, Slack, Gemini's Driver Forms, and Transflo. Accordingly, Claimants are entitled to recover their unreimbursed expenditures and losses pursuant to Labor Code section 2802.

Gemini's uniform failure to pay minimum and overtime wages, failure to furnish timely and accurate wage statements, failure to reimburse all necessary, business-related expenses violate Labor Code sections 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. Teague and Mr. Bayona, acting in the public interest as a private attorney general, seek assessment and collection of civil penalties for themselves, all other aggrieved employees, and the State of California against Gemini for violations of California Labor Code sections 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 cursive script that reads "Cheryl A. Kenner".

Cheryl A. Kenner