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August 7, 2024

Mr. HARLES FRANCO JR
Bakersfield Concrete & Construction
17955 ROSEDALE HWY
BAKERSFIELD, CA 93314

IN RE: Rafael Garcia v. Bakersfield Concrete & Construction

Dear Sir:

Our firm represents the interests of *Rafael Garcia* ("Plaintiff"), against Bakersfield Concrete & Construction (referred to as the "Defendant"). Plaintiff worked for about 23 years as a driver, laborer, and leader/manager, \$21/hour, premium wage rate \$38/hour, until November 2023. His supervisor was Tony Gonzalez.

Attached is his signed authorization.

Our client, pursuant to written authorization provided herewith, requests his personnel files, wage statements, payroll records and time records.

Labor Code Section 1174 and the industrial Welfare Commission Wage Act provide employees with a right to request a copy of their records (including clock-in and clock out records). Labor Code Section 1198.5 provides that current and former employees have a right to receive a copy of their personnel files and records that relates to the employee's performance and any grievances. Production of such records shall be made no more than 30 days after a request has been made. Similarly Labor Code Section 226 (b) provides that current and former employees have a right to receive a copy of their personnel records. Production of such records shall be made no more than 30 days after a request has been made.

Furthermore, by this letter your company and all managerial personnel and employees are given notice not to destroy, conceal, or otherwise alter, any paper or electronic files, and other data generated and/or stored by your computer and storage media--- including hard drives, floppy discs, backup tapes, or any other electronic data, including voice mail. Your failure to comply with this request can result in severe sanctions being imposed against you and your business, by the court and liability in tort, and charges of the spoliation of evidence and potential evidence.

Through discovery, we expect to obtain from you a number of documents and things, including files served on your company's computers, and computer storage media. In order to avoid spoliation, you will need to provide the documents originally requested in their original media. Do not reuse any media to provide this data.

Although we may bring a motion seeking an order preserving documents or things from destruction or alteration, your obligation to preserve documents for delivery in this case arises in equity independent of any order or motion. Electronic documents and the storage media in which they reside contain relevant, discovery information beyond that which may be found in printed materials. Therefore, even when a paper copy exists, we seek all documents in their electronic form, along with information about these files contained in the new media. We also seek paper printout of only those documents that contain unique information after they were printed out (such as paper documents containing handwriting, signatures, marginalia, drawings, annotations, highlighting, and redaction) along with paper documents for which no corresponding electronic file exists.

Our discovery requests will ask for certain on the hard drives, floppy discs, and backup media used on your company's employee's computers, some of which data are not readily available to any ordinary computer user, such as deleted files and file fabrics. As you may know, although a user may erase or delete a file, all that is really erased is a reference to that file in a table on the hard disc; unless overwritten with new data, a deleted file can be as intact on a disc as any active file that you will see in a directory listing.

Courts have made it clear that all information available on electronic storage media is discoverable, whether readily readable active or deletable and readily if recovered. Accordingly, electronic data and storage media that may be subject to our discovery requests, and that you, your employees, are obliged to maintain and not alter or destroy, include but are not limited to the following:

Introduction: Description of files and file types maintained:

All digital or analogue electronic files, including deleted files and file fragments, stored in machine readable format, stored on magnetic, optical or other storage media, including the hard drives and floppy discs used by you and your employees on the company's computers and backup media, (e.g., hard drives, backup discs, floppies, jazz cartridges, CD-ROMs, or otherwise, whether such files have been reduced to paper printouts or not. More specifically, you and your employees are to preserve all emails, both sent and received, whether internally or externally generated, all word processed files, including drafts and revisions, all spreadsheets, including drafts and revisions, all spreadsheets, including all drafts and revisions, all databases, all CADS (computer-aided design files), including drafts and revisions, all presentations data or slide shows, produced by presentation software (such as Microsoft powerpoint), all graphs, charts and other data produced by project management software (such as Microsoft Project) all data generated by calendaring, task management and personnel information management (PIM)

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software, (such as Microsoft Outlook or Lotus Notes) all data created with the use of professional data assistants (PDAs) such as Palm Pilots, HP Jordans, Cassiopeia, Or other Windows CE or Pocket PC devices, all data created with document management software, all internet or web-generated history browsers, cache or cookie files generated at the work station, of each employee or agent in your company's employ, and on any and all backup storage media, and any and all files generated by users, through the use of computers or telecommunications, including but not limited to voice mail.

Further you are to preserve any logs or logs of network use by employees or otherwise, whether kept in paper or electronic form, and to preserve all copies of your back up tapes, and the software necessary to construct the data on those tapes, so that there can be made a complete hit by hit mirror penitentiary image copy of the storage media of each and every personal computer (and/or work station) and network server in your control or custody and image copies of all hard drives retained by you that are no longer in service but in use at any time from January 2015 to the present.

You are also not to compact, press, purge or otherwise dispose of files or parts of files unless a true and correct copy of the files is made.

You are to preserve and not destroy all passwords, encryption procedures (including related software), network access codes, ID names, manuals, tutorials, written instructions, decompression or reconstruction software, and all other information or things necessary to access, view and reconstruct, the documents that we are requesting through discovery. This request for preservation extends to all employees, agents, and managerial employees.

Please preserve any and all pictures, camera and video recording, monitoring and depicting our client, while he worked for you. We also request production of any and all pictures and recordings of our client, in your possession.

In order to ensure that your duty to preserve documents is met, please serve a copy of this letter on all persons who have any custodial or management responsibility as to the documents.

Please forward copies of the requested documents to us immediately.

Very truly yours,
/s/Farrah Mirabel, Esq.

LAW OFFICES OF FARRAH MIRABEL

Enc.

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