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VIA CERTIFIED U.S. MAIL – Return Receipt Requested

August 2, 2024

Labor and Workforce Development Agency
(via online submission)

American Modular Systems, Inc
Agent for Service: Daniel Sarich
787 Spreckels Ave.,
Manteca, CA 95336

Re: Labor Code § 2699 Notice by Aggrieved Employee Gaspar Rodriguez

This constitutes statutory notice pursuant to Labor Code § 2699.3(a)(1) for purposes of bringing a claim under the Private Attorneys General Act, Cal. Labor Code § 2699, et seq. (“PAGA”). Please consider this a request for the California Labor & Workforce Development Agency (“LWDA” or “Agency”) to take action against AMERICAN MODULAR SYSTEMS, INC (a California Corporation) (“DEFENDANT”), and its agents, managers and supervisors for violations of the California Labor Code described below. I am writing on behalf of GASPAR RODRIGUEZ, an aggrieved employee represented by this law firm (hereinafter “Aggrieved Plaintiff”) who seeks to assert a PAGA claim on behalf of the State of California and all other similarly situated current or former employees who have been employed by DEFENDANT in California during the relevant time period. Specifically, this notice is given on behalf of the following category of aggrieved employees:



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All non-exempt employees of AMERICAN MODULAR SYSTEMS, INC (a California Corporation) who performed work in California at any time on or after July 31, 2023.

PLEASE TAKE NOTICE THAT THIS IS ALSO A GENERAL LITIGATION PRESERVATION NOTICE to preserve all documents relating to all employees, including but not limited to all timekeeping and payroll records in paper form, native electronic form, and any other format in which they are generated and maintained in the regular course of business; all databases and computer or electronic systems that are used for timekeeping and payroll; all records and evidence in any way related to the facts and claims asserted in this letter; all records and evidence in any way related to claims of Aggrieved Plaintiff, the state and other current or former employees under the California Labor Code Private Attorney General (including underlying Labor Code and IWC orders), the California Government Code, and the Equal Employment Opportunity Act. These documents include but are not limited to all schedules (both current and former) all timekeeping records, all rest and meal period records, all duty and responsibility records, all records of customers of the facilities that include employee signatures or initials, all payroll records, all state or federal withholding records, all personnel files and other employment records, all records concerning the payment or nonpayment of wages, or provision or non-provision of state mandated Labor Code protections, as well as all documents pertaining to harassment or discrimination against employees, all communications relating to these records and documents, and all emails relating to these records and documents.

Further, pursuant to California Labor Code §§ 210, 558, 1197.1, and other provisions of the Labor Code, please consider this a notice to DEFENDANT'S owners, supervisors, managers, agents and all other persons acting on behalf of DEFENDANT and the employer who caused to be violated any provision of the California Labor Code or Wage Orders governing hours and days of work. As used herein, "DEFENDANT" refers to all liable persons and entities, including owners, supervisors, managers, agents, and any other person acting on behalf of DEFENDANT who "caused" the violations at issue.

DEFENDANT operates a construction business in Manteca, California, building and/or installing structural products including, without limitation, modular classrooms. In so doing, DEFENDANT directly employed Aggrieved Plaintiff and similarly situated aggrieved employees. Aggrieved Plaintiff worked for DEFENDANT as a laborer. Plaintiff has worked for DEFENDANT for over 23 years.

This investigation request and notice of California Labor Code violations concerns the systematic failure by DEFENDANT to pay current and former California non-exempt employees



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in compliance with provisions set out in the California Labor Code and in Wage Orders promulgated by the Industrial Welfare Commission. At the core of DEFENDANT'S violations is a policy of: systematically failing to pay all wages earned, systematically failing to pay overtime wages for all hours worked by employees in excess of eight hours in a work day and/or 40 hours in a workweek; systematically refusing to provide rest periods or to provide premium wages in lieu thereof; systematically refusing to provide meal periods or to provide premium wages in lieu thereof; systematically failing to provide accurate wage statements and systematically failing to pay of all wages owed upon separation from employment. These violations are a uniform policy applied to all non-exempt employees who performed work for DEFENDANT.

The facts and theories giving rise to these violations include, without limitation the following:

- DEFENDANT failed to provide Aggrieved Plaintiff timely meal periods, beginning at or before the fifth hour of work. Aggrieved Plaintiff and other employees were routinely required to finish their work assignments before being allowed to leave the work area to enjoy meal periods. This often caused them to begin such meal periods after the fifth hour of work. In addition, these meal periods were also untimely as a result of pre-shift work.
- DEFENDANT failed to provide full and complete 30-minute meal periods. Employees were required to be back at their workstations promptly at the conclusion of meal periods, and were thus required to shorten their breaks in order to arrive on time and avoid discipline.
- DEFENDANT failed to provide full and complete 10-minute rest breaks, as employees were required to spend significant portions of their rest breaks walking between their work area and a suitable resting facility.
- DEFENDANT failed to pay premium wages to remedy any meal and/or rest period violations.
- DEFENDANT failed to pay minimum wages for all hours worked, including off-the-clock pre-shift work. Employees were required to be at their workstations promptly at the beginning of their shift, and thus had to arrive to work early, without compensation, to await the commencement of their work shift. This pre-shift work also resulted in untimely meal periods.



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- DEFENDANT failed to pay overtime wages for all hours worked by, for example, failing to pay for off-the-clock pre-shift work and shortened meal periods. To the extent Aggrieved Plaintiff incurred unpaid time in such instances, it caused his daily hours to exceed the daily limit triggering the obligation to pay overtime wages.
- DEFENDANT failed to issue accurate itemized wage statements, as such wage statements failed to include earned wages for off-the-clock work or premium wages for meal and/or rest period violations.
- DEFENDANT failed to pay all wages upon termination to severed employees, given that DEFENDANT failed to pay earned wages for off-the-clock work or premium wages for meal and/or rest period violations.
- DEFENDANT refused to reimburse employees for hand tools (e.g., wrenches) and equipment (e.g., tool belts) which were required in order to perform their work.

Liability under the PAGA may be based on a wide variety of Labor Code predicate provisions, including but not limited to sections 98.6, 98.7, 201, 203, 210, 216, 218, 218.6, 223, 225, 226, 226.2, 226.7, 510, 512, 2810.5, 1174, 1175, 1194, 1194.2, 1197, 1197.1, 1199, and 2802, Industrial Welfare Commission Wage Orders, sections 2699 et seq. and all of the provisions listed in Labor Code section 2699.5 (including the penalty provisions related to these predicate provisions), among others. Any violation of these or any other Labor Code provisions serve as the basis for a PAGA claim by an aggrieved employee on behalf of themselves and other current and former employees.

Further, pursuant to Labor Code sections 210, 558, 558.1, 1197.1, 2699(f), and others, please consider this a notice to DEFENDANT and its owners, supervisors, managers, agents, and all other persons acting on behalf of DEFENDANT and the employers who caused to be violated any provision of the California Labor Code or IWC Wage Orders governing hours and days of work. DEFENDANT and its owners, supervisors, managers, agents, and all other persons acting on their behalf have complete authority to implement and carry out the illegal wage and hour policies described herein. These violations are a uniform policy applied to all non-exempt workers described and defined above.

The above provisions do not include all of the derivative penalties associated with the above provisions, which are listed throughout the Labor Code. If no action is taken within 65 days, we will assume that we may pursue this action under the theories described above against described



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entities above and their managers, agents, owners and other liable persons and entities (pursuant to sections 210, 558 and 1197.1 (and other provisions)).

Aggrieved Plaintiff Gaspar Rodriguez may be contacted through our office: Mallison & Martinez Attorneys at Law, 1939 Harrison Street, Suite 730, Oakland, California 94612.

Sincerely,

MALLISON & MARTINEZ

A handwritten signature in black ink, appearing to read "Dan Keller", is written over the printed name.

Dan Keller, Esq.