

OTKUPMAN LAW FIRM, A LAW CORPORATION

5743 Corsa Ave, Suite 123
Westlake Village, CA 91362
Tel.: 818-293-5623
Fax: 888-850-1310

September 27, 2024

VIA ELECTRONIC FILING

Labor & Workforce Development Agency

VIA CERTIFIED MAIL

L. & R. Distributors Inc.
88 35th Street Building 4, 5th Floor
Brooklyn, NY 11232
Defendant certified mail # 9589 0710 5270 1505 8074 36

VIA CERTIFIED MAIL

Agent for Service of Process
Amanda Garcia
330 N Brand Blvd,
Glendale, CA 91203
Agent certified mail # 9589 0710 5270 1505 8074 43

VIA CERTIFIED MAIL

L & R Distributors, Inc.
88 35th Street
Building 4, 5th Fl Suite D
Brooklyn, NY 11232
Defendant certified mail # 9589 0710 5270 1505 8074 36

Re: ***Janine Marie Bello v. L. & R. Distributors Inc., L & R Distributors, Inc. – Labor Code Violations of L. & R. Distributors Inc., L & R Distributors, Inc. – Compliance Letter of California Labor Code § 2698 – Private Attorneys General Act***

Dear Sir or Madam:

This office represents Janine Marie Bello (“Plaintiff”), a former California employee of L. & R. Distributors Inc., L & R Distributors, Inc. (“Defendants”). The purpose of this letter is to comply with the Private Attorneys General Act of 2004, pursuant to California Labor Code § 2698 *et seq.*

Our client worked for Defendants in Southern California. Herein we set forth the facts and theories of California Labor Code violations which we allege Defendant engaged in with respect to our client and Defendant’s other California non-exempt employees.

Plaintiff began working for Defendants in or around January 2021. While working for Defendant as a Sales Representative, Plaintiff was earning twenty one dollars (\$21.00) per hour.

Plaintiff and Defendant's California employees were routinely unable, and not authorized to take their 10-minute rest periods and were also unable to take an uninterrupted 30-minute meal break for every shift they worked. Specifically, Plaintiff and Defendant's California employees were forced to continue working through their meal and rest breaks in order to assist Defendant's needs. Because of this, Plaintiff and Defendant's California employees were unable to take their required meal and rest breaks. Moreover, Defendant failed to pay premium wages of one hour's pay for each missed meal and rest break to Plaintiff and Defendant's California employees who were denied timely meal and rest breaks, in violation of Labor Code §§ 226.7, 512, and 558, and IWC Order No. 5-2001, Section 12.

Plaintiff and Defendant's California employees were required to work off the clock for Defendant. Plaintiff and Defendant California employees were asked to perform tasks prior to clocking in such as, checking emails, scheduling incoming calls, and preparing their car by loading books and equipment without being compensated for it. It took Plaintiff on the average of 1-2 hours to complete these tasks. Moreover, Plaintiff and Defendant's California employees were instructed to work for approximately 40-60 minutes after they had clocked out to finish their assignments such as responding to emails. Plaintiff and Defendant's California employees were also asked to perform tasks such as pulling up planograms for stores, prior to clocking in without being compensated for it. It took Plaintiff on the average of 1 hour to complete these tasks. Moreover, Plaintiff and Defendant's California employees were also required to use their personal cell phone for work-related activities, such as texting/calling supervisor/boss, texting/calling clients, download work app(s), without being compensated for it. Defendant did not compensate Plaintiff and Defendant's California employees if these tasks were completed outside of her regular work hours. These excess hours were not recorded on our client's and Defendant's California employees wage statements. Plaintiff and Defendant's California employees should have been compensated for that time, but she was not in violation of Labor Code Sections 510, 1194, and 1194.2. As a result, Plaintiff and Defendant's California employees were not paid for all hours worked including all straight time wages, and overtime wages. These failures to pay wages constitute violations of Labor Code § 510 and 1194.

Plaintiff, on behalf of himself and all other California employees of Defendant claims that Defendant has failed to pay all overtime wages due to non-exempt employees. Defendant pays their employees bonuses and commissions which are not included in the employees regular rate of pay for the purposes of computing the proper overtime rate. As a result, employees are not properly compensated for work performed in excess of eight (8) hours in a workday and work performed in excess of forty (40) hours in a workweek at a rate of no less than one and one-half times the regular rate of pay. These failures to pay all overtime wages constitute violations of Labor Code §§ 510, 1194, and 1194.2.

Defendant failed to issue Plaintiff and Defendant's California employees accurately itemized wage statements. As Defendant failed to compensate Plaintiff and Defendant's California employees with all wages due, as detailed above, their wage statements failed to accurately state all gross wages earned, in violation of Labor Code § 226(a)(1), total hours worked, in violation of Labor Code § 226(a)(2), net wages earned, in violation of Labor Code § 226(a)(5). Moreover, Plaintiff and the California employees wage statements' failed to accurately state the name and address of the legal entity that is the employer in violation of Labor Code § 226(a)(8), and all applicable hourly rates during the pay period and the corresponding number of hours worked, in violation of Labor Code § 226(a)(9), as a result of Defendant's failure to pay all overtime wages due. Since the wage statements provided to Plaintiff failed to accurately reflect the total number of Plaintiff's worked hours, these violations also violate Labor Code §§ 226(e) and 226.3 with respect to Plaintiff and Defendant's California employees.

Defendant knowingly and intentionally failed to provide Plaintiff and Defendant's California employees timely, accurate, itemized wage statements in accordance with Labor Code § 226 and keep accurate records as required by §1174(d). The statements provided to Plaintiff and Defendant's California employees, and the records maintained by Defendant, have not accurately reflected actual gross wages earned, including pay for all hours worked, overtime, and meal/rest premiums, and total hour worked.

Our client further alleges that Defendants paid her and Defendant's California employees their final wages beyond the time frames set forth in Labor Code §§ 201 and 202. As they were not paid all wages due and owing throughout the course of their employment as a result of Defendant's failure to pay all premium wages as detailed above, at the time of their separation, they were not paid all final wages due and owing for the entirety of their employment. This violates Labor Code §§ 201-203.

Defendant pays Plaintiff and it's California employees on a weekly basis and has failed to comply with Labor Code § 204(a) which holds that wages earned on a weekly basis must be paid no later than seven calendar days following the close of the payroll period. Due to the violations described above, Plaintiff and Defendant's California employees did not receive all of their wages earned in a timely manner as required by Labor Code § 204(a)(b).

Defendant failed to reimburse Plaintiff and Defendant's California employees for the equipment they purchased to perform work for Defendant such as, face masks, personal computer and home internet, printer ink, office supplies including pens, dusters, and knives. Defendant further failed to reimburse its California employees for using their personal cell phones for the benefit of Defendant. Plaintiff was required to use his personal vehicle for work and Defendant failed to reimburse Plaintiff and Defendant's California employees for vehicle expenses. Moreover, Defendant also failed to reimburse Plaintiff and Defendant's California employees for the mileage they incurred performing certain tasks or running errands on behalf of Defendant. Labor Code section 2802 provides that "[a]n employer shall indemnify his or her employee for all necessary

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expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties.” As such, Plaintiff and Defendant’s California employees have incurred reasonable and necessary expenses in the course of their job duties, which were not reimbursed by Defendant, in violation of Labor Code § 2802.

Defendant failed to pay all wages earned to Plaintiff and Defendant’s California employees as a result of the unlawful employment policies and practices herein. As a result of these practices, Plaintiff and Defendant’s California employees were underpaid for hours worked, including overtime and penalty wages, and this underpayment resulted in a failure to pay all wages owed twice per month. Due to this failure, Defendant is liable under Labor Code § 210 for failure to pay wages as required by law.

We invite Defendant or its attorney(s) to contact our office to discuss this matter, including whether an early resolution of the claims can be reached.

Our office awaits your response.

Very truly yours,

OTKUPMAN LAW FIRM

A handwritten signature in black ink, appearing to be 'Roman Otkupman', is written over a horizontal line.

ROMAN OTKUPMAN