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September 26, 2024

NOTICE OF LABOR CODE VIOLATIONS CALIFORNIA LABOR CODE SECTIONS 2698 *et seq.*

VIA CERTIFIED U.S. MAIL
- Electronic Return Receipt -

Clean Energy
4675 MacArthur Ct., Suite 800
Newport Beach, CA 92660

- PAGA Notice & Filing Fee -
Submitted electronically to the Labor and
Workforce Development Agency

Dear LWDA Officer and Company Representatives:

This letter serves as written notice under Labor Code section 2699.3 on behalf of **DONALD NEWBY** (“Plaintiff(s)”) and all other “aggrieved employees” of the following “Defendant(s)”:

CLEAN ENERGY

Defendant(s) shall mean and include the foregoing in addition to any other related employer entities, individuals under Labor Code sections 558 and 558.1, and all others who may be later added upon further investigation and discovery as liable employers.

This office serves as legal counsel for Plaintiff. If the California Labor and Workforce Development Agency (“LWDA”) does not investigate the facts, allegations, and violations set forth in this notice within the statutorily prescribed 65-day period under Labor Code section 2699.3, Plaintiff intends to commence a civil action against Defendants as a proxy and agent of the State of California under the Private Attorneys General Act (“PAGA”). “PAGA allows an ‘aggrieved employee’—a person affected by at least one Labor Code violation committed by an employer—to pursue penalties for all the Labor Code violations committed by that employer.” *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal. App. 5th 745, 751; *Kim v. Reins International California, Inc.* (2020) 9 Cal. 73, 79. Plaintiff maintains standing to pursue these claims against Defendants as an aggrieved employee.

Through this notice, Plaintiff requests that Defendants complete an internal investigation and audit of the wage and hour and employment practices at issue and make a good faith effort to correct any violations. Plaintiff attempts to identify the non-compliant policies and practices affecting the aggrieved employees so that the parties may resolve the underlying damages and penalties in judgment or settlement approved by the Superior Court of California under Labor Code section 2699(k). Defendants are notified that any attempt to resolve this case should be conducted in coordination with Plaintiff's counsel to protect the interests of Plaintiff, the aggrieved employees, and the State of California via the LWDA. Plaintiff advises Defendants this letter should be also considered a reasonable attempt at settlement of this matter, subject to an exchange of additional documents and information. *Graham v. Daimler Chrysler Corp.* (2004) 24 Cal. 4th 553, 561.

- BACKGROUND -

Defendants employed Plaintiff during the PAGA Period in the position of Natural Gas Technician 1 from about July 1, 2023, to Present. During their employment Plaintiff and the other aggrieved employees were subject to the wage and hour and employment protections set forth in the California Labor Code and IWC Wage Orders.

Through this notice, Plaintiff informs the LWDA of the Labor Code violations set forth herein. The “aggrieved employees” include Plaintiff and the following individuals:

All current and former non-exempt employees who worked for Defendants in the State of California during one-year period preceding the date of this notice through the current date and the date of trial in any pending action (the “aggrieved employees” and the “PAGA Period”).

Plaintiff reserves the right to expand or narrow the definition of the “aggrieved employees” in the forthcoming civil action. Furthermore, Plaintiff seeks all recoverable civil penalties for Defendants’ violations and reserves the right to supplement this notice as further investigation is completed and further facts, witnesses, and violations are uncovered.

- PAGA CLAIMS -

Unpaid Hours Worked/Minimum Wage Violation of Labor Code §§ 1194, 1197, 1198; IWC Wage Orders

Defendants violated Labor Code sections 1194, 1197, and 1198, along with the California Minimum Wage Order, the applicable local minimum wage ordinances, and the “Hours and Days of Work” and “Minimum Wages” sections of the applicable IWC Wage Orders with respect to the aggrieved employees.

Labor Code section 1194 renders it unlawful for an employee to receive less than the legal minimum wage for hours worked in California. Labor Code section 1197 further mandates

that “[t]he minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a lower wage than the minimum so fixed is unlawful.” Labor Code section 1198 renders “employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]” unlawful. The California Minimum Wage Order and the applicable sections of the IWC Wage Orders further require payment of minimum wages for all hours worked. The “Minimum Wages” sections of the applicable IWC Wage Order provide that “[e]very employer shall pay to each employee, on the established payday for the period involved, not less than the applicable minimum wage for all hours worked in the payroll period, whether the remuneration is measured by time, piece, commission, or otherwise.” The foregoing California wage laws require payment of “not less than the applicable minimum wage *for all hours worked* in the payroll period” and California law does not allow averaging of pay over the hours worked in the pay period, even if the total pay results in an average above the minimum wage. *Armenta v. Osmose, Inc.* (2005) 135 Cal. App. 3d 314, 324.

Defendants failed to pay Plaintiff and the aggrieved employees at the lawful minimum wage rate for all hours worked, resulting in unpaid minimum wages.

First, Defendant did not pay Plaintiff and the aggrieved employees for all hours spent on-call. Rather, Defendant would only compensate Plaintiff for time responding to on-call requests to return work or only pay employees a lump sum of \$75.00 for each Saturday or Sunday they were on-call. However, the lump sum of \$75.00 per day was insufficient because Plaintiff and aggrieved employees were expected to be on-call for 24 hours, each weekend day that they were on-call.

Additionally, Defendant maintained a practice of not compensating Plaintiff or aggrieved employees for stand-by time during the week. Rather, Defendant would only compensate Plaintiff or aggrieved employees with overtime wages if they reported to a worksite while they were on call on a weekday and not for the time spent on standby. For example, Plaintiff would go home after his scheduled 8-hour weekday shift, but he was required to remain within San Diego County so that he could answer on-call requests and report to a worksite promptly. Plaintiff would respond to on-call requests at least two to four times per week. However, Plaintiff was only compensated for reporting to the worksite and only paid overtime wages for that work, rather than also receiving standby premium pay for the hours he was under Defendant’s control.

As illustrated below, during the pay period of July 8, 2024, to July 21, 2024, Plaintiff only earned wages for two hours of “Stand-By On Call” time at a rate of \$75.00. However, as shown in the schedule below, Plaintiff was scheduled to be on-call seven times during that same pay period.

July 2024

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1	2	3	4 Andrew Desert and SD	5	6 Eddie on call
7 Eddie on call	8 Bryan on call	9 Bryan on call	10 Bryan on call	11 Bryan on call	12 Bryan on call	13 Bryan on call
14 Bryan on call	15 Donald day and on call	16 Donald day and on call	17 Donald day and on call	18 Donald day and on call	19 Donald day and on call	20 Donald on call
21 Donald on call	22 Jose On Call	23 Jose On Cal	24 Jose On Call	25 Jose On Call	26 Jose on Call	27 Jose On Call
28 Jose On call	29 Donald day and on cal	30 Donald day and on cal	31 Donald day and on cal		I	

Picture of Plaintiff's July schedule showing he was on call seven times during the pay period from July 8, 2024 to July 21, 2024.



Clean Energy

Clean Energy

Clean Energy

4675 MacArthur Ct

Suite 800

Newport Beach, CA 92660

949-437-1000

Pay Details

Donald Newby III

Employee Number 111888

SSN XXX-XX-XXXX

Job Service Technician 1

Pay Rate \$31.6217

Pay Frequency Biweekly

Pay Group CE Non-Exempt

Location CA-San Diego County

Division CE01 - Clean Energy (CE)

Region 112 - California

Department OPS - Operations

Pay Statement

Period Start Date 07/08/2024

Period End Date 07/21/2024

Pay Date 07/26/2024

Document 125961

Net Pay \$1,986.06

Earnings

Pay Type	Hours	Pay Rate	Current	YTD
GTL			\$2.27	\$33.65
Holiday	0.000000	\$0.0000	\$0.00	\$1,497.94
Overtime	4.250000	\$47.4326	\$201.59	
Overtime	1.050000	\$47.4326	\$49.80	
Overtime	-0.130000	\$47.4326	(\$6.17)	\$3,026.20
Premium	1.000000	\$31.6217	\$31.62	\$504.08
PrvIngWgeFringe	-1.440000	\$5.0600	(\$7.29)	\$221.01
Regular	-1.440000	\$31.6217	(\$45.54)	
Regular	32.000000	\$31.6217	\$1,011.89	
Regular	40.000000	\$31.6217	\$1,264.87	
Regular	-2.680000	\$31.6217	(\$84.75)	\$34,171.71
Sick	0.000000	\$0.0000	\$0.00	\$1,497.94
StandBy-On Call	2.000000	\$75.0000	\$150.00	\$1,050.00
Vacation	8.000000	\$31.6217	\$252.97	\$758.91
Total Hours 82.050000				

Extract of Plaintiff's wage statement from the pay period covering July 8, 2024, to July 21, 2024, showing he was only paid for 2 hours of "Standby/On Call" time, despite being on-call seven times during that pay period.

Second, due to the high demand of the job and understaffing, Plaintiff and the aggrieved employees routinely worked off the clock. For example, Defendant regularly required Plaintiff to take phone calls from the dispatch team to discuss work tasks during his meal periods, while he was off the clock. As a result, Defendant underpaid Plaintiff and aggrieved employees for all hours worked.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, up to the maximum amount allowed as set forth under the Labor Code.

Unpaid Overtime
Violation of Labor Code §§ 510, 1194, 1198; IWC Wage Orders

Defendants violated Labor Code sections 510, 1194, and 1198, along with the "Hours and Days of Work" sections of the applicable IWC Wage Orders with respect to the aggrieved employees.

Labor Code section 510 requires "[a]ny work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee;" and "any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee;" and "any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee." Labor Code section 1194 renders it unlawful for an employee to receive less than the legal overtime rate for overtime hours worked in California. Labor Code section 1198 renders "employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]" unlawful. The IWC Wage Orders further require payment of overtime wages for all overtime hours worked, including the "Hours and Days of Work" sections.

Defendants failed to pay Plaintiff and the aggrieved employees overtime wages and the lawful rate of pay for overtime hours worked, resulting in unpaid overtime wages.

First, as discussed in the "Unpaid Hours Worked" section above, Defendant underpaid on-call pay by only paying a lump sum of \$75.00 per on-call day that was on Saturday or Sunday, thus, when Plaintiff and the aggrieved employees worked on-call hours after full 8-hour workdays, Defendant underpaid the aggrieved employees overtime wages due for the time the Plaintiff and the aggrieved employees worked on-call hours.

Second, to the extent that the “On Call Time” constitutes a non-discretionary bonus or incentive and not wages because it was a predetermined sum that the aggrieved employees expected and earned each time they were “on call” in the pay period, Defendants failed to include these additional forms of remuneration into the regular rate of pay. Defendants instead unlawfully paid Plaintiff and, on information and belief, the aggrieved employees at 1.5x their straight hourly rate.



Clean Energy
4675 MacArthur Ct
Suite 800
Newport Beach, CA 92660
949-437-1000

Pay Statement

Period Start Date 04/29/2024
Period End Date 05/12/2024
Pay Date 05/17/2024
Document 123072
Net Pay \$2,131.74

Pay Details

Employee Number 111888
SSN XXX-XX-XXXX
Job Service Technician 1
Pay Rate \$31.6217
Pay Frequency Biweekly

Pay Group CE Non-Exempt
Location CA-San Diego County
Division CE01 - Clean Energy (CE)
Region 112 - California
Department OPS - Operations

Earnings

Pay Type	Hours	Pay Rate	Current	YTD
GTL			\$2.27	\$22.30
Holiday	0.000000	\$0.0000	\$0.00	\$992.00
Overtime	5.920000	\$47.4326	\$280.80	
Overtime	0.370000	\$47.4326	\$17.55	\$1,611.78
Premium	3.000000	\$31.6217	\$94.87	\$219.49
PrvngWgeFringe	0.000000	\$0.0000	\$0.00	\$109.43
Regular	32.000000	\$31.6217	\$1,011.89	
Regular	32.000000	\$31.6217	\$1,011.89	\$22,429.63
Sick	0.000000	\$0.0000	\$0.00	\$1,244.97
StandBy-On Call	2.000000	\$75.0000	\$150.00	\$750.00
Vacation	8.000000	\$31.6217	\$252.97	
Vacation	8.000000	\$31.6217	\$252.97	\$505.94
Total Hours 89.290000				

Extract of Plaintiff's wage statement from the pay period of April 29, 2024 to May 12, 2024, showing Plaintiff earned \$150 for “On Call” work but was paid overtime at 1.5x his straight rate.

Third, Defendant failed to compensate Plaintiff and the aggrieved employees for all overtime hours worked while off-the-clock. As discussed above, Defendant engaged in an unlawful policy and practice of requiring Plaintiff and the aggrieved employees to communicate with Defendant regarding work-related tasks while off-the-clock. Plaintiff was frequently required to take phone calls from colleagues to discuss work tasks during his meal period.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, up to the maximum amount allowed as set forth under the Labor Code.

Unpaid Paid Sick Leave **Violation of Labor Code §§ 246 through 248.7**

Defendants violated Labor Code sections 246 through 248.7 with respect to the aggrieved employees.

Labor Code section 246 requires employers to provide paid sick leave to its workforce on the terms set forth in the statute. Employers must comply with the accrual, use, and notice provisions of Labor Code sections 246, 246.5, 247, and must further ensure that they maintain the paid sick leave records required by Labor Code section 247.5. Employers have the option of providing 24 hours of paid sick leave to employees or to allow employees to accrue paid sick leave each pay period. If an employer chooses the accrual method, employees must accrue sick leave at a rate of one hour for every thirty hours worked in a given pay period as set forth in Labor Code section 246(b)(1). Under the accrual method, employees must begin accruing paid sick leave at the commencement of employment.

Employers must pay sick leave in accordance with one of the three permissible methods provided in Labor Code section 246(l): (1) “the same manner as the regular rate of pay for the workweek;” (2) “by dividing the employee’s total wages, not including overtime premium pay, by the employee’s total hours worked in the full pay periods of the prior 90 days;” or (3) “for exempt employee ... in the same manner as the employer calculates wages for other forms of paid leave time.” Labor Code sections 248.6 and 248.7 similarly require paid sick leave to be paid at a regular rate-based calculation in excess of the base hourly rate and at the lawful accrual rate.

Under Labor Code section 246(i), employers must provide employees “with written notice of the amount of paid sick leave available ... for use on either the employee’s itemized wage statement ... or in a separate writing provided on the designated pay date with the employee’s payment of wages.”

To the extent the aggrieved employees earned paid sick leave, Defendants did not pay sick leave at the lawful rate of pay throughout the relevant period. The lawful rate of pay had to factor in bonuses, shift differentials, and all other forms of compensation, such as “On Call” pay. However, based on Defendants’ noncompliance with the regular rate of pay requirement applicable to overtime, and meal and rest period premiums, Plaintiff alleges that the regular rate miscalculation equally applies to paid sick leave with respect to the aggrieved employees, resulting in underpayments.

The failure to calculate and pay paid sick leave at one of the lawful rates set forth in Labor Code § 246(l)(1)-(3) and 247 et seq. was applied as a matter of common policy and practice to aggrieved employees in those periods where they earned additional payments, bonuses, or other forms of non-excludable remuneration and also received paid sick leave.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unpaid Meal Period Premium Wages
Violation of Labor Code §§ 226.7, 512, 1198; IWC Wage Orders

Defendants violated Labor Code sections 226.7, 512, and 1198, along with the related sections of the IWC Wage Orders with respect to the aggrieved employees.

Labor Code section 512 and the IWC Wage Orders require that employers provide an uninterrupted 30-minute meal period after no more than five hours of work and a second meal period after no more than 10 hours of work. *See Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal. 4th 1004, 1049. Labor Code section 226.7 requires that if a meal period is late, missed, short, or interrupted, the employer must pay one additional hour of pay at the employee's "regular rate" of compensation. *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal. 5th 858, 862 ("We hold that the terms are synonymous: "regular rate of compensation" under section 226.7(c), like "regular rate of pay" under section 510(a), encompasses all nondiscretionary payments, not just hourly wages"). "[T]ime records showing noncompliant meal periods raise a rebuttable presumption of meal period violations, including at the summary judgment stage." *Donohue v. AMN Services, LLC* (2021) 11 Cal. 5th 58, 61. Labor Code section 1198 renders "employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]" unlawful. The IWC Wage Orders, including Section 11 (Meal Periods), further require one uninterrupted 30-minute meal period after no more than five hours of work and a second meal period after no more than 10 hours of work and an additional hour of pay at the employee's regular rate of compensation for each workday that a compliant meal period is not provided. Pursuant to Section 11(A) of the IWC Wage Orders, the California Supreme Court has held that the on-duty meal period exception is "exceedingly narrow" and applies only when (1) "the nature of the work prevents the employee from being relieved of all duty" and (2) *both* "the employer and employee have agreed, in writing, to the on-duty meal period." *Augustus v. AMB Security Services, Inc.* (2016) 2 Cal. 5th 257, 266-276 (emphasis added). If these two requirements are not met, then the employer owes the employee one hour of premium pay for each non-compliant meal period taken under the purported on-duty meal arrangement. *Naranjo v. Spectrum Security Services, Inc.* (2019) 40 Cal. 5th 444, 459.

Plaintiff and other aggrieved employees routinely experienced missed, late, short, or interrupted meal periods due to the pressures to keep up with the high demands of the job and understaffing. Specifically, Plaintiff suffered missed and interrupted meal periods due to insufficient coverage. Plaintiff was often the only employee on site and did not have coverage to take his meal periods. Additionally, when Plaintiff missed his meal period, he was instructed to waive his meal premium. On other occasions, Plaintiff's meal periods were interrupted by calls from dispatch. Upon information and belief, when Defendant did not provide compliant meal periods, Defendant failed to pay Plaintiff and aggrieved employees a meal period premium in violation of Labor Code section 226.7.

Additionally, to the extent the "On Call" payments were considered a non-discretionary bonus or incentive, Defendants failed to include these payments into the regular rate of pay each time

Plaintiff earned a meal period premium and additional remuneration in the same pay period. This practice resulted in unpaid premiums which should have been paid at the regular rate.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, up to the maximum amount allowed as set forth under the Labor Code.

Unpaid Rest Period Premium Wages
Violation of Labor Code §§ 226.7, 516, 1198; IWC Wage Orders

Defendant violated Labor Code sections 226.7, 516, and 1198, and the related sections of the IWC Wage Orders with respect to Plaintiff and the aggrieved employees.

Labor Code sections 226.7 and 516 and the IWC Wage Orders require that employers authorize and permit an uninterrupted 10-minute rest period for each four-hour period (or major fraction thereof) that an employee works. Labor Code section 226.7 requires that if a rest period is non-compliant, the employer must pay one additional hour of pay at the employee's "regular rate" of compensation. *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal. 5th 858, 862 ("We hold that the terms are synonymous: "regular rate of compensation" under section 226.7(c), like "regular rate of pay" under section 510(a), encompasses all nondiscretionary payments, not just hourly wages"). Labor Code section 1198 renders "employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]" unlawful. The IWC Wage Orders, including Section 12 (Rest Periods), further require one uninterrupted 10-minute rest period for each four-hour period (or major fraction thereof) worked and an additional hour of pay at the employee's regular rate of compensation for each workday that a compliant rest period is not authorized or permitted.

Defendant failed to provide all rest periods to which employees were entitled and failed to pay rest period premiums to Plaintiff and other aggrieved employees. As stated above "Unpaid Meal Period Premium" section, due to the high demands of the job, and understaffing Plaintiff and other aggrieved employees were not always able to take all their rest periods. Upon information and belief, Defendant has a policy and practice of not paying rest period premiums to employees who were unable to take rest periods.

Additionally, to the extent the "On Call" payments were considered a non-discretionary bonus or incentive, Defendants failed to include these payments to the regular rate of pay each time Plaintiff earned a rest period premium and additional remuneration in the same pay period. This practice resulted in unpaid premiums which should have been paid at the regular rate. As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Untimely Payment of Wages During Employment
Violation of Labor Code §§ 204, 204b, 210

Defendants violated Labor Code sections 204 and/or 204b and 210, as applicable, with respect to Plaintiff and the aggrieved employees.

Labor Code section 204(a) requires payment of “all wages” for non-exempt employees at least twice each calendar month. Labor Code section 204(d) states all wages due must be paid “not more than seven calendar days following the close of the payroll period.” Labor Code section 204b applies to employees paid on a weekly basis and also requires the payment for all labor within the required pay periods. Labor Code section 210 provides “every person who fails to pay the wages of an employee as provided in Section ... 204 ... shall be subject to a civil penalty” of \$100 for an initial violation and \$200 plus 25% of the amount unlawfully withheld for a subsequent violation.

Because Defendants failed to pay all wages and premiums in each pay period in which such wages were earned at the lawful rate, Defendants violated Labor Code section 204 and/or 204b (for weekly employees, as applicable). Defendants violated Labor Code sections 204 and 204b by failing to pay all wages and premiums owed on the regular pay days scheduled each pay period within seven calendar days of the close of the payroll period, as a result of the policies and practices set forth in this notice.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, up to the maximum amount allowed as set forth under the Labor Code.

Non-Compliant Wage Statements
Violation of Labor Code §§ 226, 226.3

Defendants violated Labor Code sections 226(a) and 226.3 with respect to the aggrieved employees by failing to furnish itemized wage statements each pay period that accurately list all information required by Labor Code section 226(a)(1) through (9).

Labor Code section 226(a) requires an employer to furnish wage statements to employees semimonthly or at the time of each payment of wages, “an accurate itemized statement in writing showing:” (1) gross wages earned, (2) total hours worked, (3) the number of piece rate units earned and applicable piece-rate in effect, (4) all deductions, (5) net wages earned, (6) the inclusive dates of the pay period, (7) the name of the employee and last four digits of SSN or an EIN, (8) the name and address of the legal name of the employer, and (9) all applicable hourly rates in effect during the pay period and the number of hours worked at each hourly rate by the employee.

Defendants failed to provide accurate itemized wage statements to the aggrieved employees each pay period as a result of the policies and practices set forth in this notice. Defendants violated Labor Code section 226(a)(1) and (5) by not listing the correct “gross wages earned” or “net wages earned,” as the employees earned wages and premiums that were not paid, resulting in an inaccurate reflection, and recording of “gross wages earned” on those wage statements.

Defendants violated Labor Code section 226(a)(2) by failing to accurately list employees’ “total hours worked,” as the wage statements do not properly total the hours worked due to Defendants failure to list stand by time for “on call” hours.

Plaintiff and other aggrieved employees cannot promptly and easily determine from the wage statement alone the wages paid or earned without reference to other documents or information. Indeed, these wage statement violations are significant because they sow confusion among Plaintiff and other aggrieved employees with respect to what amounts were owed and paid, at what rates, the number of hours worked, and how those amounts were or should be calculated. The wage statements reflect a false statement of earnings and concealed the underlying problems and underpayments of employee wages.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, up to the maximum amount allowed as set forth under the Labor Code.

Failure to Maintain Accurate Records **Violation of Labor Code § 1174; IWC Wage Orders**

Defendants violated Labor Code sections 1174 and the IWC Wage Orders by failing to maintain accurate employee payroll records with respect to Plaintiff and other aggrieved employees.

Labor Code section 1174 requires that employers maintain accurate “payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments.” Section 7(A) of the IWC Wage Orders, which may be enforced through Labor Code section 1198, mandates similar recordkeeping obligations.

Because of the policies and practices set forth in this notice, including the failure to accurately account for wages earned or hours worked, Defendants failed to accurately maintain records in accordance with Labor Code section 1174 and the IWC Wage Orders.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, up to the maximum amount allowed as set forth under the Labor Code.

Attorneys' Fees and Costs
Labor Code § 2699(g)

Plaintiff has been compelled to retain the services of counsel to protect the interests of other aggrieved employees and the State of California. Plaintiff continues to incur attorneys' fees and costs, which are recoverable under California law, including Labor Code section 2699(g).

- LITIGATION HOLD NOTICE -

This letter imposes a duty upon all defendants and their respective employees, officers, directors, executives, attorneys, human resource and payroll personnel, accountants, and other agents to preserve all physical and electronic evidence, including electronically stored information and emails, which relate to the employment of Plaintiff and the aggrieved employees specified in this notice. Evidence includes, but is not limited to, Defendants' written employment and payroll policies and handbooks; the aggrieved employees' personnel files and payroll records, such as paystubs, time records, wage statements, compensation reports, as well as the underlying electronically data in Excel or similar format. Memoranda and internal and external correspondence relating to the subject matter of this notice shall also be maintained. Failure to preserve and retain relevant evidence may constitute spoliation of evidence and result in an adverse inference or sanctions.

If you have any questions regarding the scope of your obligations to preserve evidence, please consult your legal counsel and always err on the side of caution. Periodic or regularly scheduled purges or deletions of information covered by this hold must be suspended immediately.

- CONCLUSION -

If the LWDA does not pursue enforcement, Plaintiff intends to bring representative claims on behalf of the State of California and the aggrieved employees seeking civil penalties for violations of the Labor Code and the IWC Wage Orders, along with attorneys' fees, costs, interest, and other appropriate relief.

Please advise if the LWDA intends to investigate any of the factual or legal allegations set forth in this notice. Defendants may contact Plaintiff's counsel with any questions regarding this letter or the forthcoming lawsuit.

Sincerely,

A handwritten signature in black ink, appearing to read "Mariela R. Romo". The signature is fluid and cursive, with a large initial "M" and a distinct "R" at the end.

Mariela R. Romo

Cc Plaintiff Donald Newby

Clean Energy Human Resources
hr@cleanenergyfuels.com