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September 18, 2024

Transmitted via Online Upload

California Labor and Workforce Development Agency
ATTN: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

RE: Nick Hatch and Aryhk Kolidakis v. ACE PARKING MANAGEMENT, INC., ACE PARKING FACILITIES, INC., ACE PARKING, INC., ACE PARKING III, LLC, Keith Jones, and John Baumgardner

Dear PAGA Administrator,

The purpose of this correspondence is to notify you that **Nick Hatch and Aryhk Kolidakis** ("Plaintiffs"), on behalf of themselves and all others similarly situated, intend to assert the legal rights granted to them under the Private Attorneys General Act (the "Act"), as set forth in California Labor Code ("Labor Code") §§ 2698 et seq. This correspondence includes the current facts and theories to support the violations alleged herein. This correspondence will also be sent to the agent for service of process for **ACE PARKING MANAGEMENT, INC., ACE PARKING FACILITIES, INC., ACE PARKING, INC., ACE PARKING III, LLC, Keith Jones, and John Baumgardner** ("ACE Parking") via certified mail. Therefore, this correspondence serves to satisfy the notice requirements of the Act. By uploading and sending this correspondence in the manner set forth in the Act, Plaintiffs are complying with the Act's statutory notice requirements.

Factual Statement and Theories of Liability

Nick Hatch was employed by ACE Parking as a non-exempt hourly employee from approximately January 2019 to November 2019, and from approximately October 2023 to September 2024. Aryhk Kolidakis was employed by ACE Parking as a non-exempt hourly employee from approximately August 2023 to August 2024. Throughout their employment, Plaintiffs were assigned to work for ACE Parking at multiple locations in California. For example, Aryhk Kolidakis was assigned to work at various locations including Four Points



Sheraton San Diego, San Diego ANDAZ, Moxy, Pali, Hilton Bayfront, Grand Hyatt, Hotel Republic, and Westin Hotel, among other locations. Nick Hatch was also assigned to work at various locations, primarily in San Diego, including US Grant, Hilton Bayfront, and Grand Hyatt, among other locations.

ACE PARKING MANAGEMENT, INC. is a California corporation that does business in California. It is in the business of providing services in hospitality, parking, mobility, transportation and/or valet industries. See <https://aceparking.com>. ACE Management's headquarters are located in San Diego, California. ACE Parking Management is believed to be owned, operated, and/or managed by ACE Parking, Inc.

ACE PARKING FACILITIES, INC. is a California corporation that does business in California. It is in the business of providing services in hospitality, parking, mobility, transportation and/or valet industries. See <https://aceparking.com>. ACE Parking Facilities' headquarters are located in San Diego, California. ACE Parking Facilities is believed to be owned, operated, and/or managed by ACE Parking, Inc.

ACE PARKING, INC. is a California corporation that does business in California. It is in the business of providing services in hospitality, parking, mobility, transportation and/or valet industries. See <https://aceparking.com>. ACE Parking is headquartered in San Diego, California. ACE Parking is believed to own, operate, and/or manage ACE Parking Management, Ace Parking III and ACE Parking Facilities, Inc.

ACE PARKING III, LLC is a California limited liability company that does business in California. It is in the business of providing services in hospitality, parking, mobility, transportation and/or valet industries. See <https://aceparking.com>. ACE Parking III' headquarters are located in San Diego, California. ACE Parking III is believed to be owned, operated, and/or managed by ACE Parking, Inc.

Keith Jones is believed to have incorporated ACE Parking entities named herein, and is also believed to have been the Owner and/or Secretary of ACE Parking entities during Plaintiffs' employment. Mr. Jones is believed to have been employed by ACE Parking and is alleged to have acted on behalf of ACE Parking and/or to have acted individually or as an officer, agent, or employee of ACE Parking. Therefore, Mr. Jones may be liable for the violations of law described herein. *Atempa v. Pedrazzani* (2018) 27 Cal.App.5th 809, 811-813; Labor Code §1197.1(a).

John Baumgardner is believed to have incorporated ACE Parking entities named herein, and is also believed to have been the Chief Executive Officer of ACE Parking entities during Plaintiffs' employment. Mr. Baumgardner is believed to have been employed by ACE Parking



and is alleged to have acted on behalf of ACE Parking and/or to have acted individually or as an officer, agent, or employee of ACE Parking. Therefore, Mr. Baumgardner may be liable for the violations of law described herein. *Atempa v. Pedrazzani* (2018) 27 Cal.App.5th 809, 811-813; Labor Code §1197.1(a).

Plaintiffs assert that they and other individuals currently or formerly employed by ACE Parking in the state of California as non-exempt employees (collectively referred to herein as “Employees”), were subject to the same and/or similar policies, practices, guidelines, procedures and/or culture described herein. Plaintiffs further assert that they and all other Employees have suffered, and will continue to suffer, the same and/or similar Labor Code violations described herein.

Any and all claims alleged in this correspondence are asserted on behalf of Plaintiffs and all other current or former Employees who were employed by ACE Parking in California, during the applicable statutory period and who have suffered the same and/or similar Labor Code violations alleged herein, as well as any other violations of the PAGA arising out of their employment with ACE Parking that may be later discovered since investigation is ongoing.

Because investigation is ongoing, Plaintiffs reserve their right to assert any and all related facts, claims and/or theories discovered after the sending of this correspondence on behalf of themselves and the current or former Employees that they seek to represent against ACE Parking and/or other persons that may be discovered after the sending of this correspondence. Such other persons include, but are not limited to, those persons who have acted as an agent, subsidiary, servant, employee, co-conspirator, alter-ego, and/or joint venture of ACE Parking, as well as those persons who caused and/or concurrently contributed to the various acts and/or omissions of each and every one of the others, including ACE Parking, in proximately causing the wrongful conduct, harm, and/or damages alleged herein or otherwise participated in and/or ratified any or all of the acts or omissions complained of herein, and those who are acting within the authority and scope of ACE Parking. *Atempa v. Pedrazzani*, 27 Cal.App.5th at 811-813.

I. ACE Parking Failed to Pay Minimum, Regular, Overtime and/or Double Time Wages in Violation of Labor Code §§ 204, 206, 210, 212, 216, 221, 225.5, 510, 558, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198 and 1199 and IWC Wage Order No. 4-2001 and/or 9-2001.

Labor Code § 204 establishes the fundamental right of an employee in California to be timely paid wages for their work. Pursuant to Labor Code § 1197, an employer is prohibited from paying or causing its employees to be compensated at a rate less than the fixed minimum, as set by the commission, for all time worked. See also Labor Code § 1199 (making such conduct a misdemeanor); IWC Wage Order No. 4-2001 and/or 9-2001, subdiv.



4. Additionally, it is unlawful for an employer to employ persons for more than eight hours per day and/or forty hours per workweek without compensating them at the rate of one and one-half or two times the employee's regular pay rate, depending on the number of hours worked. Labor Code §§ 510, 1198; see also IWC Wage Order No. 4-2001 and/or 9-2001, subdiv. 3(A). Pursuant to Labor Code § 1194, an employee is permitted to recover any unpaid balance of the minimum wage or overtime compensation not paid for all hours worked. Moreover, any employer who causes an employee to be paid a wage lower than that of the fixed minimum is required to pay a civil penalty. Labor Code § 1197.1; see also IWC Wage Order No. 4-2001 and/or 9-2001, subdiv. 20(A).

Plaintiffs assert that as a policy, practice, guideline, procedure and/or culture ACE Parking does not properly compensate its Employees for all hours worked. Plaintiffs contend that ACE Parking required them and other Employees to perform work on behalf of ACE Parking without compensation.

As a policy, practice, guideline, procedure and/or culture, ACE Parking often required its Employees to work off the clock. For example, Plaintiffs and other Employees were often required to clock in and out on a time sheet that had to be approved by the supervisor. Recording any overtime is disfavored and unauthorized. Employees are instructed to not record overtime without prior authorization from the supervisor. The company policy is that overtime has to be "pre-approved," and Employees often risk discipline when recording any overtime. However, because ACE Parking Employees are required to engage in their job duties at all times, including assisting customers, organizing and/or cleaning, they are often required to work more than the scheduled shift length to complete the assigned tasks and duties. Plaintiffs allege that the supervisors often edit their and other Employees' time sheets to shave hours worked, and/or engage in time rounding, so that they do not receive the proper minimum and/or overtime wages. Employees are often instructed by ACE Parking to punch out, and keep working in order to finish the assigned jobs. For example, Plaintiffs and other Employees were often instructed to clock out at the end of the scheduled shift time, and stay longer to continue working, including to help with rushes when it is busy and/or to assist customers. Employees are also required to report to work earlier than the scheduled start of the shift, in order to change into the required uniform, without compensation for that time. Plaintiffs and other Employees thus often work off the clock, before clocking in and after clocking out, without compensation for that time.

In addition, Plaintiffs and other Employees regularly work off the clock during the time ACE Parking deducts from their time records as "meal breaks," even though the Employees are not provided with a legally compliant meal break. ACE Parking regularly required its Employees to record a meal break despite being unable to take a break, and instead instructed Employees to work through breaks. Plaintiffs and other Employees were often



instructed and required to clock out for a meal break, and continue working, including assisting customers.

ACE Parking also regularly modified its Employees' time sheets, and inserted a meal break, when in fact Employees had no opportunity to take a legally compliant break. As such, ACE Parking often adjusts its Employees' time records to reflect meal breaks of 30 min in length, regardless of whether Employees are provided with meal breaks.

As such, Plaintiffs assert that ACE Parking has a policy, practice, guideline, procedure, and/or culture of automatically deducting a thirty-minute meal period from the hours worked by its Employees regardless of whether they were actually provided with an opportunity to take a thirty-minute meal period free from all work activities. Employees thus regularly engage in work-related activities during the time that ACE Parking automatically deducts from their time worked.

In addition, Employees are required to complete various mandatory trainings and/or attend safety meetings while off the clock, without compensation.

Plaintiffs thus assert they and other Employees were often required to perform work on behalf of ACE Parking outside of the work hours recorded by ACE Parking, without proper compensation for minimum and overtime/double time wages.

In addition, Employees, including Plaintiffs, were regularly required to respond to calls and messages from their supervisors and/or managers outside of work hours without compensation for the time spent responding to calls and/or messages.

As such, Plaintiffs and other Employees did not receive the minimum, overtime and/or double time compensation they are entitled to. Thus, Plaintiffs allege ACE Parking regularly shaves and/or shortens Employees' hours worked and does not compensate its non-exempt employees for all time worked as required by California law.

Plaintiffs contend that as a policy, practice, guideline, procedure and/or culture, ACE Parking regularly requires Employees to work more than 8 hours per day and/or 40 hours per week, without being paid the appropriate overtime and/or double time compensation. Because ACE Parking failed to appropriately pay overtime and/or double time compensation to Employees who worked more than 8 hours per day and/or 40 hours per week, ACE Parking did not pay its non-exempt employees in accordance with California law.

Additionally, Plaintiffs allege that ACE Parking fails to timely pay all earned wages. For instance, the paychecks Plaintiffs and other Employees receive from ACE Parking do not



include compensation for all hours worked as described herein. Therefore, it was difficult to track what hours Employees were being paid for and at what rate. Plaintiffs assert that despite notifying ACE Parking of the error, ACE Parking did not promptly remedy the issues by paying all wages earned and due.

Based on the foregoing, Plaintiffs assert that ACE Parking engaged in conduct that violated California law by failing to compensate them and other ACE Parking Employees appropriately.

II. ACE Parking Failed to Provide Legally Compliant Meal Periods or Compensation in Lieu Thereof, in Violation of Labor Code §§ 204, 226.7 and 512 and IWC Wage Order No. 4-2001 and/or 9-2001

Labor Code § 512 states, “[a]n employer shall not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes.” Additionally, an employer is not permitted to employ a person for a work period of more than ten hours per day without providing the employee with a second meal period of at least thirty minutes. Labor Code § 512. Meal periods of no less than 30 minutes must be provided before the end of the employee’s fifth and tenth hours of work, respectively. *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1041. California law further obligates employers to completely relieve their employees of all work and work-related responsibilities during the entirety of the legally required meal periods. *Id.* at 1040. In order to comply with their meal period obligations, employers must also relinquish all control over its employees, and cannot impede or discourage their employees from taking uninterrupted, work-free meal periods. *Id.* An employee who is required to perform any work-related task at any point during his or them meal period has not received a meal period in accordance with California law. Labor Code § 226.7.

If an employer fails to provide an employee with a legally compliant meal period, the employer **must** pay the employee one additional hour of pay at the employee’s regular rate of compensation for each workday that a legally compliant meal period was not provided. Labor Code § 226.7; IWC Wage Order No. 4-2001 and/or 9-2001, subdiv. 11(D). Premium wages under Labor Code § 226.7 are wages due payable in accordance with the Labor Code. *Murphy v. Kenneth Cole Productions, Inc.* (2007) 40 Cal.4th 1094, 1103-1114; see also Labor Code § 204.

As a policy, practice, guideline, procedure and/or culture ACE Parking regularly requires their non-exempt employees to work more than 5 hours per workday. However, despite regularly working more than 5 hours per workday, Employees, such as Plaintiffs, were not provided with the reasonable opportunity to take meal periods that occurred before the 5th hour of



work and/or that were free from all work and work-related responsibilities during the entirety of the 30-minute meal period.

Additionally, even though ACE Parking Employees often worked more than 10 hours in a day, ACE Parking failed to provide them with a second meal period of at least thirty minutes.

Plaintiffs assert that the demanding work schedule assigned to ACE Parking Employees did not allow time for legally compliant meal periods. Moreover, Plaintiffs allege that as a policy, practice, guideline, procedure and/or culture ACE Parking does not schedule any meal periods for its non-exempt employees.

As discussed herein, Plaintiffs contend that ACE Parking has a policy, practice, guideline, procedure, and/or culture of automatically deducting 30 minutes for a meal period regardless of whether Employees were provided with the opportunity to take a legally compliant meal period. As such, ACE Parking often adjusted its' Employees timesheets to reflect meal breaks, even though a compliant meal break was not taken.

Plaintiffs therefore contend that ACE Parking has a policy, practice, guideline, procedure and/or culture that requires ACE Parking Employees to engage in their job duties for the entire duration of their work shift. As a result, ACE Parking Employees are not provided with legally compliant meal periods.

Plaintiffs assert that ACE Parking instructed them and other Employees to work through meal breaks, and engage in work related activities at all times. As discussed above, while "clocked out" for a meal break, Employees were regularly required to clean or assist customers, among other duties. As such, Employees were not able to take legally compliant meal breaks.

Plaintiffs also contend that ACE Parking requires Employees to carry a personal cell phone for the entire duration of their work shift, including during meal periods. ACE Parking Employees were also expected to be readily available to perform work on behalf of ACE Parking during meal periods, such as by responding to calls and/or messages, among other things. As a result, ACE Parking Employees were not provided with meal periods that were free from work or interruption.

Thus, Employees were not provided with the opportunity to take meal periods that were free from work-related responsibilities. By imposing unbearable work schedules onto its non-exempt employees, ACE Parking compelled, encouraged and/or otherwise directed its non-exempt employees to work through their meal periods.



Plaintiffs further contend that ACE Parking does not have a procedure for Employees to document non-compliant meal periods. As a result, ACE Parking does not compensate Employees the required meal period premiums for non-compliant meal periods.

In addition, Plaintiffs allege that ACE Parking failed to provide Plaintiffs and other Employees with suitable seating. Labor Code Section 1198, Wage Order No. 4 and/or 9-2001, Section 14. Plaintiffs allege ACE Parking regularly did not provide Employees with any break rooms, nor a place to sit throughout the entire duration of their shifts. ACE Parking further did not allow Employees to sit when it did not interfere with the performance of their duties, including during breaks.

Based on the foregoing, Plaintiffs contend ACE Parking has failed to comply with its meal period obligations under California law by not providing Employees with legally compliant meal periods or compensation in lieu thereof.

III. ACE Parking Failed to Provide Legally Compliant Rest Periods or Compensation in Lieu Thereof in Violation of Labor Code §§ 204, 226.7 and IWC Wage Order No. 4-2001 and/or 9-2001

IWC Wage Order No. 4-2001 and/or 9-2001, subdiv. 12(A) requires employers to authorize and permit off-duty rest periods for every four hours worked, or major fraction thereof. Unless an employer relieves its employees of any and all work-related duties and also relinquishes all control over how its employees spend their time during rest periods, the employer has not authorized and permitted lawful off-duty rest periods. *Augustus v. ABM Security Services, Inc.* (2016) 2 Cal.5th 257, 269. If an employer fails to provide an employee with an off-duty rest period in accordance with California law, the employer is required to pay an employee one additional hour of pay at the employee's regular rate of compensation for each workday in which a lawful rest period was not provided. Labor Code § 226.7; See also IWC Wage Order No. 4-2001 and/or 9-2001, subdiv. 12(B). Premium wages under Labor Code § 226.7 are wages due payable in accordance with the Labor Code. *Murphy*, 40 Cal.4th at 1103-1114; see also Labor Code § 204.

Plaintiffs and other Employees employed by ACE Parking typically work more than 4 hours per workday. However, Plaintiffs allege that as a policy, practice, guideline, procedure and/or culture, ACE Parking regularly fails to authorize and permit Employees to take off-duty rest periods for every four hours worked, or major fraction thereof, in violation of California law. Plaintiffs contend they and other Employees were denied legal rest periods largely due to ACE Parking's requirement that Employees are to be readily available to perform their work duties at all times, such as respond to calls and messages, and assist customers, among other duties, as discussed herein.



In addition, Plaintiffs allege that ACE Parking fails to schedule enough Employees so that Plaintiffs and other Employees could be relieved from their duties to take their meal and rest periods.

Plaintiffs further assert that ACE Parking does not have a policy, practice, guideline, procedure and/or culture for Employees to record non-compliant rest periods and/or fails to compensate Employees the required rest period premium for non-compliant rest periods. ACE Parking's conduct thus constitutes a violation of California law.

IV. ACE Parking Failed to Timely Pay Wages Owed Upon Termination in Violation of Labor Code §§ 201-203, 210, 213, 227.3, 256

Under Labor Code § 201, when an employer discharges an employee, all wages earned and unpaid at the time of discharge are immediately due and payable. Similarly, if an employee does not have a written contract for a definite period and quits his or them employment, the employee's wages are due and payable no later than 72 hours thereafter, unless the employee has given 72-hours previous notice of his/them intention to quit, then the employee is entitled to his/them wages at the time of quitting. Labor Code § 202(a). If an employer willfully fails to pay all wages owed to an employee in accordance with Labor Code §§ 201 and 202, the employee's wages are to continue as a penalty, equal to one day of wages at the employee's regular rate of pay, starting from the date at which such wages were due until paid or until an action is commenced. Labor Code § 203. However, the wages are not to continue for more than a period of thirty days. *Id.*

Plaintiffs contend that ACE Parking has a policy, practice, guideline and/or culture of not timely paying all wages owed upon discharge nor paying the required waiting time penalties. For instance, as discussed herein, ACE Parking failed to compensate Employees for all hours worked, failed to pay the appropriate overtime wages to Employees for hours worked in excess of eight per day and/or forty per week, and failed to pay the required meal and/or rest period premiums to ACE Parking Employees for non-compliant meal and/or rest periods.

Plaintiffs therefore contend that ACE Parking failed to pay all wages owed to former Employees who separated from ACE Parking within the statutory period in violation of California law.



V. ACE Parking Failed to Provide Paid Sick Days and Written Notice of the Amount of Sick Leave Available in Violation of Labor Code § 246.

California law requires that an employer provide 24 hours (or 3 days) of paid sick leave per year for full-time employees. Labor Code § 246. Employees are to earn a minimum of 1 hour of paid leave for every 30 hours worked. *Id.*

Plaintiffs allege that ACE Parking has a policy, practice, guideline, procedure and/or culture of failing to provide Employees with one hour of paid sick leave for every 30 hours worked in accordance with California law.

Plaintiffs further allege that ACE Parking also failed to provide Employees with paid sick days since they were unable to accrue any such paid sick days at the rate provided by law as a result of ACE Parking's failure to account for all time worked.

Plaintiffs also contend that ACE Parking has a policy, practice, procedure, guideline and/or culture of failing to provide written notice to Employees of their available sick leave, as such amounts are not included on the wage statements, nor are they provided with the information in separate writing on the designated pay date along with their wages. Accordingly, ACE Parking has failed to comply with California law.

VI. ACE Parking Failed to Furnish Legally Compliant Wage Statements in Violation of Labor Code §§ 226, 226.3 and IWC Wage Order No. 4-2001 and/or 9-2001

An employer is required to provide its employees with accurate and itemized wage statements. Labor Code § 226(a). Pursuant to Labor Code § 226(a), each wage statement must show "(1) gross wages earned, (2) total hours worked by the employee...(4) all deductions...(5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or them social security number or an employee identification number other than the social security number, (8) the name and address of the legal entity that is the employer...(9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate..." See also IWC Wage Order No. 4-2001 and/or 9-2001, subdiv. 7(A).

ACE Parking failed to comply with Labor Code § 226 because they failed to provide Plaintiffs and other current or former Employees with legally compliant wage statements. Plaintiffs contend that ACE Parking failed to provide wage statements that accurately reflect the gross wages and/or net wages earned due to ACE Parking's failure to compensate Employees for all time worked, failure to pay the appropriate overtime compensation to Employees for hours worked beyond eight hours per day and/or forty hours per week, and



failure to pay premium wages Employees for non-compliant meal and/or rest periods, as discussed herein.

ACE Parking also failed to provide wage statements that properly include the pay period information for each wage statement, the accurate rate of pay, the required available sick time and/or the name of the legal entity that employed the ACE Parking Employees in violation of California law.

During the statutory period, ACE Parking thus failed to comply with the requirements outlined by California law by failing to provide legally compliant wage statements to all current or former ACE Parking Employees.

VII. ACE Parking Failed to Maintain Accurate Payroll Records in Violation of California Labor Code §§ 226(a) and 1174 and IWC Wage Order No. 4-2001 and/or 9-2001

Labor Code § 1174 requires every employer to “keep a recording showing the names and addresses of all employees employed...” Labor Code § 1174 further requires “[e]very person employing labor in this state [to] keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily and the wages paid. Such records are to be kept according to the rules established by the commission for such purpose and must be kept on file for no less than three years. Id. An employer is further obliged under Labor Code § 226(b) to keep the information required by Labor Code § 226(a) and afford current or former employees the right to inspect or copy records pertaining to their employment. See also IWC Wage Order No. 4-2001 and/or 9-2001, subdivs. 7, 19 and 20.

As discussed herein, ACE Parking has a policy, practice, guideline, procedure and/or culture of failing to maintain accurate employee information and payroll records which accurately reflect, for example, the gross and net wages earned as well as the total hours of time worked each day by Plaintiffs and other ACE Parking Employees.

Additionally, Plaintiffs are informed and believe that ACE Parking fails to maintain a copy of all documents related to the hiring and/or employment of ACE Parking Employees, and/or fails to provide ACE Parking Employees with the opportunity to inspect or copy such documents upon request in violation of California law. Therefore, Plaintiffs contend that ACE Parking failed to comply with Labor Code §§ 226 and 1174.



VIII. ACE Parking Failed to Provide Copies of Signed Documents in Violation of Labor Code § 432

Pursuant to Labor Code § 432, an employer is obligated, upon request, to provide its employees with a copy of any and all documents signed in connection with obtaining or holding employment.

As stated herein, Plaintiffs assert, based on information and belief, that ACE Parking failed to maintain a copy of all documents signed by Employees that relate to their hiring by and/or employment with ACE Parking, and/or failed to provide a copy of such documents to Employees who requested a copy thereof in violation of Labor Code § 432. Therefore, Plaintiffs allege that ACE Parking has failed to comply with California law.

IX. ACE Parking Failed to Reimburse Non-Exempt Employees for Necessary Work Expenses in Violation of Labor Code §§ 2800 and 2802, 2804 and IWC Wage Order No. 4-2001 and/or 9-2001

Labor Code § 2800 states that an employer shall indemnify employee losses caused by the employer's want of ordinary care. Accordingly, pursuant to Labor Code § 2802, an employee is entitled to reimbursement from his or them employer for all expenses or losses incurred as a result of employment. Moreover, when an employer requires uniforms to be worn by non-exempt employees, the employer shall provide and maintain such uniforms. IWC Wage Order No. 4-2001, subdiv. 9 defines "uniform" to include apparel of distinct color or design.

Plaintiffs assert that as a policy, practice, guideline and/or procedure, ACE Parking requires its Employees to wear a distinctive uniform as a condition of their employment. In addition, ACE Parking requires its Employees to wear specific apparel while working on behalf of ACE Parking, including black shoes, black pants, and black belt. As a practice or procedure, ACE Parking neither provides Employees with black shoes, black pants, and black belt, nor reimburses its Employees for the cost of purchasing and/or maintaining the required uniform in violation of California law.

Plaintiffs and other Employees are required to use their personal cell phones for work-related issues, including responding to calls and/or messages from supervisors and co-workers, among other things. However, ACE Parking fails to reimburse Employees for a percentage of the cell phone bill.

ACE Parking has, therefore, failed to reimburse Plaintiffs and other Employees for necessary work expenses in violation of California law.



X. Plaintiffs May be Entitled to Attorneys' Fees and Costs

The Act provides that “any employee who prevails in any action shall be entitled to an award of reasonable attorney’s fees and costs. Labor Code § 2699(g)(1). Therefore, in the event that Plaintiffs and/or another similar representative is successful in a civil action against ACE Parking, they are entitled to an award of attorneys’ fees and costs. See also Labor Code §§ 218.5, 1194, 1193.6; Code Civ. Proc. § 1021.5.

Conclusion

As described herein, Plaintiffs contend that they constitute an “aggrieved employee” as the term is defined by Labor Code § 2699(c). Plaintiffs allege that the current or former Employees that they seek to represent also constitute “aggrieved employees” under the statute. As discussed herein, ACE Parking violated the Labor Code and the relevant IWC Wage Order and thereby deprived Plaintiffs and other current or former Employees of their statutory rights and protections afforded to them. Plaintiffs have thus satisfied the prerequisites of the Act to serve as a representative of all current or former ACE Parking Employees, the general public, and the state of California in order to enforce California labor laws and to seek civil penalties for the provisions both set forth herein as well as for those which may be later discovered on behalf of themselves and all others similarly situated.

Accordingly, if the Labor and Workforce Development Agency neither acts, nor declines to intervene within sixty-five days from the date of this correspondence, Plaintiffs may elect to initiate and/or amend a civil action, on behalf of themselves and all others similarly situated, to include the persons and allegations described herein and/or those discovered after sending this correspondence, subject to Labor Code §§ 2698 et seq., as well as other related claims arising out of their employment with ACE Parking.

Sincerely,

Consumer & Employment Lawyers



R. Craig Clark
Alicja A. Urtnowski

Cc: Via Certified Mail





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