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October 25, 2024

VIA ONLINE SUBMISSION

California Labor & Workforce Development Agency
ATTN: PAGA Administrator
(<https://dir.govfa.net/308>)

Subject: *Gino Perez v. Western Milling, LLC, et al.*

Dear PAGA Administrator:

This office represents Gino Perez in connection with his claims under the California Labor Code. Mr. Perez was an employee of WESTERN MILLING, LLC; VISERION MILLING, LLC; VISERION INTERNATIONAL, LLC; and/or VISERION COMMODITIES LLC. For the purpose of this letter, Mr. Perez collectively refers to these entities as "WESTERN MILLING."

The employers may be contacted directly at the addresses below:

WESTERN MILLING, LLC
31120 WEST ST
GOSHEN, CA 93227

VISERION MILLING, LLC
385 BROADWAY
BOULDER, CO 80302

VISERION INTERNATIONAL, LLC
385 BROADWAY
BOULDER, CO 80302

VISERION COMMODITIES LLC
385 BROADWAY
BOULDER, CO 80302

Mr. Perez intends to seek civil penalties, attorneys' fees, costs, and other available relief for violations of the California Labor Code, which are recoverable under sections 2698, *et seq.*, the Labor Code Private Attorneys General Act of 2004 ("PAGA"). Mr. Perez seeks relief on behalf of himself, the State of California, and other persons who are or were employed by WESTERN MILLING as a non-exempt, hourly paid employee in California and who received at least one wage statement ("aggrieved employees"). This letter is sent in compliance with the notice and reporting requirements of California Labor Code section 2699.3.

WESTERN MILLING employed Mr. Perez as an hourly paid, non-exempt employee from approximately April 2024 to July 2024. Mr. Perez worked for WESTERN MILLING as a Maintenance Mechanic in McFarland, California. During his employment, Mr. Perez typically worked twelve (12) hours per day, and five (5) days per week. At the time Mr. Perez's employment

with WESTERN MILLING ended, he earned approximately \$25.50 per hour. His job duties included, without limitation, doing electrical and fabrication work, and repairing grain augers.

WESTERN MILLING has committed each of the following Labor Code violations against Mr. Perez, the facts and theories of which follow, making him an “aggrieved employee” pursuant to California Labor Code section 2699(c)(1):¹

WESTERN MILLING’s Company-Wide and Uniform Payroll and HR Practices

WESTERN MILLING, LLC is a California limited liability company; VISION MILLING, LLC and VISION INTERNATIONAL, LLC are Delaware limited liability companies; and VISION COMMODITIES LLC is a Colorado limited liability company. Together, they operate commercial feed mills that produce animal and plant feed. Upon information and belief, WESTERN MILLING maintains a single, centralized Human Resources (HR) department at its corporate headquarters in Boulder, Colorado, and Goshen, California, for all non-exempt, hourly paid employees working for WESTERN MILLING in California, including Mr. Perez and other aggrieved employees. At all relevant times, WESTERN MILLING issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Mr. Perez and other aggrieved employees, regardless of their location or position.

Upon information and belief, WESTERN MILLING maintains a centralized Payroll department at its corporate headquarters in Boulder, Colorado, and Goshen, California, which processes payroll for all non-exempt, hourly paid employees working for WESTERN MILLING in California, including Mr. Perez and other aggrieved employees. Further, WESTERN MILLING issues the same formatted wage statements in the same manner for all non-exempt, hourly paid employees in California, including Mr. Perez and other aggrieved employees, irrespective of their location, position, or manner in which each employee’s employment ended. In other words, WESTERN MILLING utilized the same methods and formulas when calculating wages due to Mr. Perez and other aggrieved employees in California.

Violation of California Labor Code §§ 510 and 1198 – Unpaid Overtime

California Labor Code sections 510 and 1198 and the applicable Industrial Welfare Commission (“IWC”) Wage Order require employers to pay employees working more than eight (8) hours in day or more than forty (40) hours in a workweek at the rate of time-and-one-half (1 ½) times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek. The applicable IWC Wage Order further provides that employers are required to pay employees working more than twelve (12) hours in a day overtime compensation at a rate of two (2) times their regular rate of pay. An employee’s regular rate of pay includes all remuneration for employment paid to, or on behalf of, the employee, including nondiscretionary bonuses and incentive pay.

¹ These facts, theories, and claims are based on Mr. Perez’s experience and counsel’s review of those records currently available relating to Mr. Perez’s employment. Discovery conducted in litigation of wage and hour claims such as these often reveals additional claims that the aggrieved employee was not initially aware of (because the aggrieved employee was not aware of the law’s requirements, the employer misinformed its employee of the law’s requirements, or because the employer effectively hid the violations). Thus, Mr. Perez reserves the right to supplement this letter with additional facts, theories, and claims if he becomes aware of them subsequent to the submission of this letter.

WESTERN MILLING willfully failed to pay all overtime wages owed to Mr. Perez and other aggrieved employees. During the relevant time period, Mr. Perez and other aggrieved employees were not paid overtime premiums for all of the hours they worked in excess of eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40) hours in a week, because all hours that they worked were not recorded.

First, during the relevant period, WESTERN MILLING had, and continues to have, a company-wide policy and/or practice of requiring Mr. Perez and other aggrieved employees to perform tasks off-the-clock after their scheduled shifts and on their days off. For example, at the beginning of his employment, Mr. Perez was required to attend training sessions and orientation meetings for a total of about 2-3 hours while off the clock. As a further example, after clocking out at the end of his shifts, WESTERN MILLING sometimes required Mr. Perez to continue performing tasks such as attaching bolts to machinery. Also, Mr. Perez was required to review and approve his timesheets off-the-clock on a weekly basis. Moreover, WESTERN MILLING's managers contacted Mr. Perez on his personal cellular phone about 3-4 times per week about work-related matters when he was not scheduled to work. Thus, WESTERN MILLING failed to track the time Mr. Perez and other aggrieved employees spent working after their scheduled shifts and on their days off, and Mr. Perez and other aggrieved employees received no compensation for this time.

Second, WESTERN MILLING had, and continues to have, company-wide policies and/or practices of understaffing its locations while assigning heavy workloads. WESTERN MILLING's policies and/or practices resulted in a failure to provide Mr. Perez and other aggrieved employees with adequate meal period coverage, and thus, Mr. Perez and other aggrieved employees were not always afforded uninterrupted 30-minute meal periods during shifts when they were entitled to receive a meal period. WESTERN MILLING also had a practice of failing to schedule meal periods, which further caused Mr. Perez and other aggrieved employees to not be relieved of their duties for compliant meal periods. WESTERN MILLING did not compensate Mr. Perez and other aggrieved employees for the time they spent working off the clock during unpaid meal periods.

Third, WESTERN MILLING had, and continues to have, a policy and/or practice of requiring that Mr. Perez and other aggrieved employees carry their personal mobile devices, including, but not limited, their cellular phones, and respond to it at all times, including during meal periods. For example, Mr. Perez would regularly have his meal periods interrupted because he was required to answer calls from WESTERN MILLING's management. Thus, Mr. Perez and other aggrieved employees worked through meal periods and/or had them interrupted to handle their assigned workloads and responsibilities, and WESTERN MILLING did not pay Mr. Perez and other aggrieved employees for the time they continued to perform tasks during meal periods.

WESTERN MILLING knew or should have known that as a result of these company-wide practices and/or policies, Mr. Perez and other aggrieved employees were performing their assigned duties off-the-clock outside of their shifts and during meal periods, and were suffered or permitted to perform work for which they were not paid. Because Mr. Perez and other aggrieved employees worked shifts of eight (8) hours or more a day, or forty (40) hours a week or more, some of this off-the-clock work qualified for overtime premium pay. Therefore, Mr. Perez and other aggrieved employees were not paid overtime wages for all of the overtime hours they actually worked.

WESTERN MILLING's failure to pay Mr. Perez and other aggrieved employees the balance of overtime compensation, as required by California law, violates the provisions of California Labor

Code sections 510 and 1198. Mr. Perez and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring WESTERN MILLING into compliance with the applicable IWC Wage Order and Labor Code sections 510 and 1198, pursuant to Labor Code sections 558 and/or 2699(a), (f), and (k).

Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 – Unpaid Minimum Wages

California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 require employers to pay employees the minimum wage fixed by the IWC. The payment of a lesser wage than the minimum so fixed is unlawful. Compensable work time is defined in IWC Wage Order No. 8-2001 as "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so." Cal. Code Regs. tit. 8, § 11080(2)(G) (defining "Hours Worked").

First, as set forth above, during the relevant time period, WESTERN MILLING had a company-wide policy and/or practice of requiring Mr. Perez and other aggrieved employees to perform various work-related tasks while off-the-clock, including attending training sessions and orientation meetings, completing maintenance and repair tasks, reviewing timesheets, and responding to phone calls from managers. Thus, WESTERN MILLING failed to track the time Mr. Perez and other aggrieved employees spent working off-the-clock, and Mr. Perez and other aggrieved employees received no compensation for this time.

Second, as also stated, due to WESTERN MILLING's policies and/or practices of understaffing its locations while assigning heavy workloads, failing to schedule meal periods, and requiring employees to respond to phone calls during meal periods, Mr. Perez and other aggrieved employees were impeded from taking all uninterrupted meal periods to which they were entitled and were required to work off-the-clock during meal periods, have their meal periods interrupted, and/or were otherwise not relieved of all duties during unpaid meal periods.

WESTERN MILLING did not pay at least minimum wages for all hours worked by Mr. Perez and other aggrieved employees. To the extent that these off-the-clock hours did not qualify for overtime premium payment, WESTERN MILLING did not pay at least minimum wages for those hours worked off-the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198.

Accordingly, WESTERN MILLING regularly failed to pay at least minimum wages to Mr. Perez and other aggrieved employees for all of the hours they worked in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Mr. Perez and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring WESTERN MILLING into compliance with the applicable IWC Wage Order and Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198, pursuant to Labor Code sections 1197.1 and/or 2699(a), (f), and (k).

Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 – Failure to Provide Meal Periods

California Labor Code sections 226.7, 512(a), 516, and 1198, and the applicable IWC Wage Order require employers to provide meal periods and to pay an employee one (1) additional hour of pay at

the employee's regular rate for each work day that a meal or rest period is not provided. Pursuant to Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order, an employer may not require, cause or permit an employee to work for a period of more than five (5) hours per day without providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee. Under California law, first meal periods must start after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (2012). Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order also require employers to provide a second meal period of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1) additional hour of pay at the employee's regular rate, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

First, as stated, WESTERN MILLING had, and continues to have, company-wide policies and/or practices of understaffing while assigning heavy workloads, which has resulted in a lack of meal period coverage and prevented Mr. Perez and other aggrieved employees from taking all timely, uninterrupted meal periods to which they were entitled. Further, as stated, WESTERN MILLING had a company-wide practice and/or policy of failing to schedule meal periods, which further caused Mr. Perez and other aggrieved employees to not be relieved of their duties for compliant meal periods. Moreover, as stated, WESTERN MILLING had a company-wide policy and/or practice of requiring that Mr. Perez and other aggrieved employees carry their personal mobile devices and to respond to requests at all times, including during meal periods.

As a result, Mr. Perez and other aggrieved employees had to work through all or part of their meal periods, had their meal periods interrupted, and/or had to wait extended periods of time before taking meal periods. For example, Mr. Perez's meal periods were regularly interrupted by managers contacting him about work-related matters. Additionally, he sometimes had to take his meal periods late, after the fifth hour of his shift, due to lack of coverage and heavy workload.

Second, because WESTERN MILLING frowned upon employees accruing meal period premiums, WESTERN MILLING's management pressured employees to record compliant meal periods, upon threat of discipline, even when they had not received compliant meal periods, in order to strictly limit the meal period premiums that WESTERN MILLING would otherwise owe. For example, Mr. Perez was required to clock out for his meal period to record that he had received compliant meal periods on shifts when he had not, in fact, received these timely meal periods.

Third, WESTERN MILLING did not always provide Mr. Perez and other aggrieved employees with second 30-minute meal periods on days that they worked in excess of 10 hours in one day. During his employment, Mr. Perez regularly worked shifts in excess of ten (10) or more hours per day but was not always provided a second 30-minute meal period. Additionally, when he was able to take a second meal period, Mr. Perez's second meal periods were often interrupted to speak with managers. Mr. Perez and other aggrieved employees did not sign valid meal period waivers on days that they were entitled to meal periods and were not relieved of all duties.

At all times herein mentioned, WESTERN MILLING knew or should have known that, as a result of these policies, Mr. Perez and other aggrieved employees were prevented from being relieved of all duties and required to perform some of their assigned duties during meal periods. WESTERN MILLING further knew or should have known that WESTERN MILLING did not pay Mr. Perez and

other aggrieved employees meal period premiums when meal periods were missed, shortened, interrupted, and/or late.

Furthermore, WESTERN MILLING engaged in a company-wide practice and/or policy of not paying all meal period premiums owed when compliant meal periods are not provided. Because of this practice and/or policy, Mr. Perez and other aggrieved employees have not received premium pay for all missed, late, and interrupted meal periods.

Accordingly, WESTERN MILLING failed to provide all meal periods in violation of California Labor Code sections 226.7, 512(a), 516, and 1198. Mr. Perez and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring WESTERN MILLING into compliance with the applicable IWC Wage Order and Labor Code sections 226.7, 512(a), 516, and 1198, pursuant to Labor Code sections 558 and/or 2699(a), (f), and (k).

Violation of California Labor Code §§ 226.7, 516, and 1198 – Failure to Authorize and Permit Rest Periods

California Labor Code sections 226.7, 516, and 1198, and the applicable IWC Wage Order require employers to provide rest periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC. The applicable IWC Wage Order provides that "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period" and that the "rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof" unless the total daily work time is less than three and one-half (3 ½) hours.

To comply with its obligation to authorize and permit rest periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer must "relinquish any control over how employees spend their break time, and relieve their employees of all duties—including the obligation that an employee remain on call. A rest period, in short, must be a period of rest." *Augustus, et al. v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 273 (2016).

During the relevant time period, WESTERN MILLING regularly failed to authorize and permit Mr. Perez and other aggrieved employees to take a ten (10) minute rest period per each four (4) hour period worked or major fraction thereof. As with meal periods, WESTERN MILLING's company-wide practices, including understaffing and assigning heavy workloads, and its requirement that employees carry their personal mobile devices at all times, including during rest periods, prevented Mr. Perez and other aggrieved employees from being relieved of all duty to take rest periods. Additionally, WESTERN MILLING failed to schedule rest periods, which, coupled with WESTERN MILLING's failure to provide adequate rest period coverage, further led to Mr. Perez and other aggrieved employees not being authorized and permitted to take rest periods.

Furthermore, upon information and belief, during the relevant time period, WESTERN MILLING maintained and implemented a company-wide on-premises rest period policy, which effectively required that Mr. Perez and/or other aggrieved employees remain on the work premises during their rest periods. Because Mr. Perez and other aggrieved employees were restricted from leaving the

premises during rest periods, they were denied the ability to use their rest periods freely for their own purposes, such as running personal errands. Thus, WESTERN MILLING effectively maintained control over Mr. Perez and other aggrieved employees during rest periods.

As a result of WESTERN MILLING's practices and policies, Mr. Perez and other aggrieved employees worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without receiving all uninterrupted rest periods to which they were entitled. For example, about 2-3 times per week, Mr. Perez had to forgo his rest periods due to the heavy workload. He regularly had to forgo his third rest breaks for shifts over 10 hours for the same reason. Whenever Mr. Perez was able to take his rest periods, they were regularly interrupted by managers calling Mr. Perez on his personal cellular phone to discuss work-related matters.

WESTERN MILLING has also engaged in a company-wide practice and/or policy of not paying rest period premiums owed when compliant rest periods are not authorized and permitted. Because of this practice and/or policy, Mr. Perez and other aggrieved employees have not received premium pay for all missed rest periods.

Accordingly, WESTERN MILLING failed to authorize and permit all rest periods in violation of California Labor Code sections 226.7, 516, and 1198. Mr. Perez and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring WESTERN MILLING into compliance with the applicable IWC Wage Order and Labor Code sections 226.7, 516, and 1198, pursuant to Labor Code sections 558 and/or 2699(a), (f), and (k).

Violation of California Labor Code §§ 226(a), 1174(d), and 1198 – Non-Compliant Wage Statements and Failure to Maintain Accurate Payroll Records

California Labor Code section 226(a) requires employers to make, keep and provide true, accurate, and complete employment records. Labor Code section 226(e) provides that if an employer fails to comply with providing an employee with properly itemized wage statements as set forth in 226(a), then the employee is entitled to recover the greater of all actual damages or \$50 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not to exceed \$4,000. Further, Labor Code section 226.3 provides that any employer who violates section 226(a) shall be subject to a civil penalty in the amount of \$250 per employee per violation in an initial citation and \$1,000 per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage statement or fails to keep the required records pursuant to Section 226(a).

During the relevant time period, WESTERN MILLING has knowingly and intentionally provided Mr. Perez and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. For example, WESTERN MILLING issued uniform wage statements to Mr. Perez and other aggrieved employees that fail to correctly list: gross wages earned; total hours worked; net wages earned; the address of the legal entity that is the employer; and all applicable hourly rates in effect during the pay period, including rates of pay for overtime wages, and the corresponding number of hours worked at each hourly rate. Specifically, WESTERN MILLING violated sections 226(a)(1), 226(a)(2), 226(a)(5), 226(a)(8), and 226(a)(9).

Because WESTERN MILLING did not record the time Mr. Perez and other aggrieved employees spent working off-the-clock and deducted time from their records for meal periods that were

interrupted and/or missed (and therefore time for which they should have been paid), WESTERN MILLING did not list the correct amount of gross wages and net wages earned by Mr. Perez and other aggrieved employees in compliance with section 226(a)(1) and section 226(a)(5), respectively. For the same reason, WESTERN MILLING failed to accurately list the total number of hours worked by Mr. Perez and other aggrieved employees, in violation of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay period and the corresponding accurate number of hours worked at each hourly rate, in violation of section 226(a)(9).

Further, and separate from these violations, WESTERN MILLING issued uniform wage statements to Mr. Perez and other aggrieved employees that failed to correctly list the address of the legal entity of the actual employer in violation of 226(a)(8). The purpose of section 226(a)(8) is to provide California employees with transparency as to the true identity of their employer, to allow the employee to contact their employer during employment or in the future for various reasons, including filing an administrative claim, judicial claim, or other action to seek relief against their employer, to obtain unemployment benefits, etc. This includes providing employees with a physical address of the employer and not a Post Office Box. Mr. Perez’s and other aggrieved employees’ wage statements incorrectly list the employer’s address as “PO BOX 1029, GOSHEN, CA 93227” but, according to the California Secretary of State’s website, the correct address is “31120 WEST ST, GOSHEN, CA 93227.” *See example paystub below.*

Western Milling, LLC PO Box 1029, Goshen, CA 93227 Business Phone #: 559-302-1000	1 of 1
Western Milling, LLC PO Box 1029 Goshen, CA 93227	Pay Date: 06/21/2024 Voucher #: (348060)

Deposited To The Account(s) Of	Deposit #	Account Type	Account #	Transit ABA	Deposit
Gino Perez	1	Checking	[REDACTED]	[REDACTED]	1,101.26

The wage statement deficiencies also include, among other things, failing to list the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; failing to list all deductions; failing to list the inclusive dates of the period for which aggrieved employees were paid; failing to list the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number; failing to list the name of the legal entity that is the employer; and/or failing to state all hours worked as a result of not recording or stating hours worked off-the-clock.

California Labor Code section 1174(d) provides that “[e]very person employing labor in this state shall . . . [k]eep a record showing the names and addresses of all employees employed and the ages of all minors” and “[k]eep, 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 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” Labor Code section 1174.5 provides that employers are subject to a \$500 civil penalty if they fail to maintain accurate and complete records as required by section 1174(d). During the relevant time period, and in violation of Labor Code section 1174(d), WESTERN MILLING willfully failed to maintain accurate payroll records for Mr. Perez

and other aggrieved employees showing the daily hours they worked and the wages paid thereto as a result of failing to record the off-the-clock hours that they worked.

California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Order. Section 1198 further provides that “[t]he employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period. During the relevant time period, WESTERN MILLING engaged in company-wide practices and/or policies of failing to record actual hours worked, and thereby failed to keep accurate records of work period start and end times for Mr. Perez and other aggrieved employees, in violation of section 1198. Furthermore, in light of WESTERN MILLING’s failure to provide Mr. Luna and other aggrieved employees with second 30-minute meal periods to which they were entitled, AGI kept no records of meal start and end times for second meal periods.

Because WESTERN MILLING failed to provide the correct net and gross wages earned, applicable rates of pay, and number of total hours worked on wage statements, Mr. Perez and other aggrieved employees have been prevented from verifying, solely from information on the wage statements themselves, that they were paid correctly and in full. Instead, Mr. Perez and other aggrieved employees have had to look to sources outside of the wage statements themselves and reconstruct time records to determine whether in fact they were paid correctly and the extent of underpayment, thereby causing them injury.

Mr. Perez and other aggrieved employees are entitled to recover civil penalties, attorneys’ fees, costs, and interest thereon, and seek injunctive relief to bring WESTERN MILLING into compliance with the applicable IWC Wage Order and Labor Code sections 226(a), 1174(d), and 1198, pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f), and (k).

Violation of California Labor Code § 204 – Failure to Timely Pay Wages During Employment

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. Alternatively, California Labor Code section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

During the relevant time period, WESTERN MILLING failed to pay Mr. Perez and other aggrieved employees all wages due to them, including, but not limited to, overtime wages, minimum wages, meal and rest period premiums, and/or reporting time pay, within any time period specified by California Labor Code section 204.

Mr. Perez and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring WESTERN MILLING into compliance with Labor Code section 204, pursuant to Labor Code sections 210 and/or 2699(a), (f), and (k).

Violation of California Labor Code §§ 201 and 202 – Failure to Timely Pay Final Wages Upon Termination

California Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

On information and belief, WESTERN MILLING has a company-wide practice or policy of paying departing employees their final wages late, instead of adhering to the time requirements set forth in Labor Code sections 201 and 202. For example, Mr. Perez was terminated from his employment on or around July 18, 2024; however, he received his final paycheck on or around July 19, 2024. Thus, WESTERN MILLING failed to pay Mr. Perez his final wages immediately, in violation of California Labor Code section 201.

In addition, WESTERN MILLING willfully failed to pay Mr. Perez and other aggrieved employees who are no longer employed by WESTERN MILLING all their earned wages, including, but not limited to, overtime wages, minimum wages, meal and rest period premiums, and/or reporting time pay, either at the time of discharge, or within seventy-two (72) hours of their leaving WESTERN MILLING's employ.

Mr. Perez and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring WESTERN MILLING into compliance with Labor Code sections 201 and 202, pursuant to Labor Code sections 256 and/or 2699(a), (f), and (k).

Violation of California Labor Code § 1198 and California Code of Regulations Title 8, Section 11080 Subdivision 5(A) – Failure to Pay Reporting Time Pay

California Labor Code section 1198 dictates that no employer may employ an employee under conditions of labor that are prohibited by the applicable IWC wage order. California Labor Code section 1198 further requires that “. . . the standard conditions of labor fixed by the commission shall be the . . . standard conditions of labor for employees. The employment of any employee . . . under conditions of labor prohibited by the order is unlawful.”

California Code of Regulations, Title 8, section 11080(5)(A) provides that “[e]ach workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee's usual or scheduled day's work, the employee shall be paid for half the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee's regular rate of pay, which shall not be less than the minimum wage.” The “primary purpose of the reporting time regulation” is “to guarantee at least partial compensation for employees who report to work expecting to work a specified number of hours, and who are deprived of that amount because of inadequate scheduling or lack of proper notice by the employer.” *Aleman v. AirTouch Cellular*, 209 Cal. App. 4th 556 (2012).

During the relevant time period, WESTERN MILLING violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11080(5)(A), because WESTERN MILLING failed to pay Mr. Perez and other aggrieved employees reporting time pay when they reported to work for their usual or scheduled shift but were put to work for less than half of their usual or scheduled day's work.

On information and belief, WESTERN MILLING had a company-wide practice of sending Mr. Perez and other aggrieved employees home early from their shifts, including before they had worked at least half of their usual or scheduled shift, but would not pay Mr. Perez and other aggrieved employees for half of their usual or scheduled shift. For example, at least once during his employment, WESTERN MILLING's managers sent Mr. Perez home before he had an opportunity to work at least half of his scheduled shift, but on information and belief, Mr. Perez was only paid for the time he had worked. Although Mr. Perez and other aggrieved employees would report to work based on the schedule that WESTERN MILLING provided to them, WESTERN MILLING would send them home before they had worked at least half of their scheduled shifts without giving them reporting time pay.

Accordingly, Mr. Perez and other aggrieved employees were not properly compensated with reporting time pay in violation of California Labor Code section 1198 and California Code of Regulations, Title 8, section 11080(5A). Mr. Perez and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring WESTERN MILLING into compliance with the applicable IWC Wage Order and Labor Code section 1198, pursuant to Labor Code sections 2699(a), (f), and (k).

Violation of California Labor Code § 1198 and California Code of Regulations Title 8, Section 11080 Subdivision 15 – Failure to Maintain Work Temperature Providing Reasonable Comfort

California Labor Code section 1198 dictates that no employer may employ an employee under conditions of labor that are prohibited by the applicable IWC Wage Order. California Labor Code section 1198 further requires that “. . . the standard conditions of labor fixed by the commission shall be the . . . standard conditions of labor for employees. The employment of any employee . . . under conditions of labor prohibited by the order is unlawful.”

California Code of Regulations, Title 8, sections 11080(15)(A) and (B) provide that “[t]he temperature maintained in each work area shall provide reasonable comfort consistent with industry-wide standards for the nature of the process and the work performed If excessive heat or humidity is created by the work process, the employer shall take all feasible means to reduce such excessive heat or humidity to a degree providing reasonable comfort.” California law requires an employer to endeavor to provide a safe and healthy workplace (Cal. Code Regs. tit. 8, § 3203).

Upon information and belief, WESTERN MILLING violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11080(15), because WESTERN MILLING failed to maintain a temperature in work areas that provided reasonable comfort consistent with industry-wide standards for the nature of the process and the work performed and failed to take all feasible means to reduce excessive heat or humidity to a degree providing reasonable comfort.

During the relevant time period, Mr. Perez and other aggrieved employees were subjected to excessive heat and/or humidity resulting in temperatures equaling or exceeding 82 degrees

Fahrenheit. WESTERN MILLING failed to provide Mr. Perez and other aggrieved employees with reasonable comfort by maintaining the indoor temperature within the range of industry standards by providing adequate air conditioning, in violation of California Labor Code section 1198 and in IWC Wage Order No. 8-2001, subdivision 15. For example, Mr. Perez and other aggrieved employees who were present in WESTERN MILLING's facilities were not provided sufficient air conditioning or fans, and would be required to work indoors at 82 degrees Fahrenheit or more. Accordingly, WESTERN MILLING failed to maintain, in its work areas, a temperature providing reasonable comfort for its employees, Mr. Perez and other aggrieved employees, in violation of California Labor Code section 1198 and California Code of Regulations, Title 8, section 11080(15).

Mr. Perez and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring WESTERN MILLING into compliance with the applicable IWC Wage Order and Labor Code section 1198, pursuant to Labor Code sections 2699(a), (f), and (k).

Violation of California Labor Code § 2802 – Unreimbursed Business Expenses

California Labor Code section 2802 requires employers to pay for all necessary expenditures and losses incurred by the employee in the performance of his or her job. The purpose of Labor Code section 2802 is to prevent employers from passing off their cost of doing business and operating expenses on to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144 (2014). The applicable wage order, IWC Wage Order No. 8-2001, provides that: "[w]hen tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft."

During the relevant time period, WESTERN MILLING, on a company-wide basis, required Mr. Perez and other aggrieved employees to use their personal mobile devices, including, but not limited to, cellular phones and/or mobile data, to carry out their job duties but failed to fully reimburse them for the costs of their work-related mobile device and/or mobile data expenses. For example, Mr. Perez used his personal mobile device to communicate with WESTERN MILLING's management through phone calls and text messages, to take and send pictures to management, and to review his timesheets. Although WESTERN MILLING required Mr. Perez and other aggrieved employees to use their personal mobile devices and mobile data to carry out their work-related duties, WESTERN MILLING failed to fully reimburse them for their costs incurred.

WESTERN MILLING could have provided Mr. Perez and other aggrieved employees with the actual equipment for use on the job, such as company mobile devices, or WESTERN MILLING could have reimbursed employees for the costs of their mobile device usage. Instead, WESTERN MILLING passed these operating costs onto Mr. Perez and other aggrieved employees.

Thus, WESTERN MILLING had, and continues to have, a company-wide policy and/or practice of not reimbursing employees for expenses necessarily incurred in violation of California Labor Code section 2802. Mr. Perez and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring WESTERN MILLING into compliance with the applicable IWC Wage Order and Labor Code section 2802, pursuant to Labor Code sections 2699(a), (f), and (k).

California Labor Code § 558(a)

California Labor Code section 558(a) provides “[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid” Labor Code section 558(c) provides that “[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law.” WESTERN MILLING, at all relevant times, was an employer or person acting on behalf of an employer(s) who violated Mr. Perez’s and other aggrieved employees’ rights by violating various sections of the California Labor Code.

Accordingly, Mr. Perez seeks the remedies set forth in Labor Code section 558 for himself, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 1194.5, 2699(a), 2699(k), 2699.3(a) and 2699.3(c), 2699.5, and 558, Mr. Perez acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties and injunctive relief for himself, all other aggrieved employees, and the State of California against WESTERN MILLING for violations of California Labor Code sections 201, 202, 204, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, and 2802.

Therefore, on behalf of all aggrieved employees, Mr. Perez seeks all applicable civil penalties related to these violations of the California Labor Code pursuant to PAGA.

Pre-Litigation Demand

This notice shall further serve as Mr. Perez’s reasonable attempt to settle his dispute with WESTERN MILLING prior to litigation. Pursuant to *Graham v. Daimler Chrysler Corp.*, 34 Cal. 4th 553 (2004), this notice serves to inform WESTERN MILLING of Mr. Perez’s aforementioned grievances and the proposed remedies as detailed below, while affording WESTERN MILLING a reasonable opportunity to satisfy Mr. Perez’s demands.

Demand is hereby made that WESTERN MILLING shall, within 30 calendar days of this notice, agree, in writing to the following corrective actions:

1. WESTERN MILLING shall pay Mr. Perez and all other aggrieved employees employed by WESTERN MILLING at any time during the past three years from the date of this notice unpaid wages and compensation for the above-referenced violations.
2. WESTERN MILLING shall comply with all California labor laws and ensure that its non-exempt employees are paid overtime wages and minimum wages for all hours worked and provided lawful meal and rest periods.
3. WESTERN MILLING shall conduct a survey or interview all current and former aggrieved employees in California who worked for WESTERN MILLING in the past three years to obtain information from them regarding the above-referenced violations, including, but not limited to: the number of meal periods which were not provided; the number of rest periods which were not authorized and permitted; and the number of employees who were required to

pay for mobile device expenses or other expenditures in the discharge of their duties, with the investigation to be completed within 60 days.

4. WESTERN MILLING shall pay Mr. Perez and each aggrieved employee one hour of pay at his or her regular rate of pay for each work day he or she was not provided one or more meal periods, as required by Labor Code sections 226.7, 512(a), 516, and 1198. WESTERN MILLING also shall pay Mr. Perez and each aggrieved employee one hour of pay at his or her regular rate of pay for each work day he or she was not authorized and permitted one or more rest periods, as required by Labor Code sections 226.7, 516, and 1198.
5. WESTERN MILLING shall provide aggrieved employees who are required to report for work and do report but are not put to work or are furnished less than half their usual or scheduled day's work, with pay for half the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours, at the aggrieved employee's regular rate of pay.
6. WESTERN MILLING shall reimburse Mr. Perez and all aggrieved employees who were required to pay for any business expenses incurred for WESTERN MILLING's benefit, including, but not limited to, personal mobile device expenses and other expenditures, as required by Labor Code section 2802.
7. WESTERN MILLING shall pay accrued legal interest to Mr. Perez and all aggrieved employees at the rate of 10% per annum for said unpaid wages.
8. WESTERN MILLING shall provide Mr. Perez and all aggrieved employees employed by WESTERN MILLING at any time during the past three years from the date of this notice corrected wage statements that include the requisite information set forth in Labor Code section 226(a).
9. WESTERN MILLING shall pay waiting time penalties, equal to 30 days of pay, to each former aggrieved employee who was not paid all wages due as described herein.
10. WESTERN MILLING shall maintain a temperature in work areas that provide reasonable comfort consistent with industry-wide standards for the nature of the process and the work performed and take all feasible means to reduce excessive heat to a degree providing reasonable comfort, as required by California Labor Code section 1198 and California Code of Regulations, Title 8, section 11080(15).
11. WESTERN MILLING shall pay all penalties arising from the violations of the Labor Code and IWC Wage Order sections referenced above and pursuant to PAGA, Labor Code sections 2698, et seq., including, but not limited to, penalties under Labor Code sections 210, 226.3, 256, 558, 1174.5, 1197.1, and 2699, and Wage Order No. 8-2001, section 20.

Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

Sairah Budhwani
Capstone Law APC
1875 Century Park East, Suite 1000
Los Angeles, CA 90067
(310) 556-4811

Best Regards,

A handwritten signature in black ink, reading "Sairah Budhwani". The signature is fluid and cursive, with a small dot at the end.

Sairah Budhwani

Copy: WESTERN MILLING, LLC (via U.S. Certified Mail); VISERION MILLING, LLC (via U.S. Certified Mail); VISERION INTERNATIONAL, LLC (via U.S. Certified Mail); VISERION COMMODITIES LLC (via U.S. Certified Mail)

Capstone Law, APC
1875 Century Park, East, 1000
Los Angeles, CA 90067



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WESTERN MILLING, LLC
31120 WEST ST
GOSHEN, CA 93227

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31120 WEST ST
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Capstone Law, APC
1875 Century Park East, 1000
Los Angeles, CA 90067



7022 2410 0000 2265 0588

VISERION MILLING, LLC
385 BROADWAY
BOULDER, CO 80302

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385 BROADWAY
BOULDER, CO 80302



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☐ Addressee

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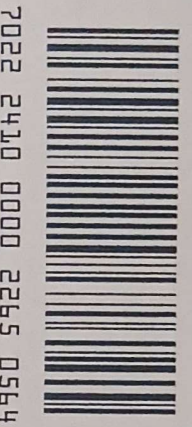
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BOULDER, CO 80302

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Capstone Law, APC
1875 Century Park, East, 1000
Los Angeles, CA. 90067



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INTERNATIONAL, LLC
385 BROADWAY
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INTERNATIONAL, LLC
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COMMODITIES LLC
385 BROADWAY
BOULDER, CO 80302



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