

October 16, 2024

VIA ONLINE SUBMISSION

Stewart Knox, Secretary
California Labor & Workforce
Development Agency
800 Capitol Mall, Suite 5000 (MIC-55)
Sacramento, CA 95814

VIA CERTIFIED MAIL

SGD Enterprises dba Four Seasons Landscaping
ATTN: Michael B. Eisenberg
Eisenberg & Associates
3580 Wilshire Blvd, Suite 1260
Los Angeles, California 90010

**NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO CALIFORNIA
LABOR CODE SECTION 2698, ET SEQ.**

To: The California Labor and Workforce Development Agency; SGD Enterprises
dba Four Seasons Landscaping

From: Bryant Salvador Rosales, on behalf of himself and all other current and former
nonexempt, hourly employees for violations of the California Labor Code

To Whom It May Concern:

Shegerian & Associates, Inc. has been retained by former employee Bryant Salvador Rosales (“Mr. Rosales” or “Claimant”) to seek compensation and all other available relief, including civil penalties on his behalf and on the behalf of all those similarly aggrieved (collectively, with Mr. Rosales, “Claimants”) who have been injured by violations of the California Labor Code. Mr. Rosales, on behalf of himself and all other similarly aggrieved current and former hourly nonexempt employees of SGD Enterprises dba Four Seasons Landscaping (collectively, “Four Seasons Landscaping”), 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.* of the Labor Code Private Attorneys General Act of 2004 (“PAGA”).

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Los Angeles, California 90012

11520 San Vicente Boulevard
Los Angeles, California 90049

6205 Lusk Boulevard, Suite 200
San Diego, California 92121

650 California Street, Suite 4-137
San Francisco, California 94108

90 Broad Street, Suite 804
New York, New York 10004

3764 Elizabeth Street
Riverside, California 92506

Factual Statement:

Four Seasons Landscaping provides residential, commercial, and institutional landscaping and tree services. Four Seasons Landscaping operates one location in Van Nuys, California.

Claimant worked for Four Seasons Landscaping at the Van Nuys location as an hourly, nonexempt employee of Four Seasons Landscaping in the position of Landscaper. Mr. Rosales, on behalf of himself and all other similarly aggrieved current and former employees of Four Seasons Landscaping are or were nonexempt, hourly employees who are or were engaged in landscaping for Four Seasons Landscaping in California. As part of their employment with Four Seasons Landscaping, Claimant and other nonexempt, hourly employees, collectively, “nonexempt, hourly employees,” are or were assigned to and required to suffer and permitted to work without pay, while performing tasks collectively including, but not limited to: landscaping.

During the entire course of his employment, Four Seasons Landscaping has failed to provide Mr. Rosales and all others similarly situated with overtime and double time pay at the regular rate and compliant meal periods and rest breaks. As a consequence, Four Seasons Landscaping has failed to comply with Labor Code sections 226.7, 510, and 512, and sections 3, 11, and 12 of all applicable Industrial Welfare Commission (“IWC”) Wage Orders, including but not limited to, IWC Wage Order No. 2-2001. Four Seasons Landscaping has also failed to pay minimum wages to Mr. Rosales and other nonexempt, hourly employees in violation of Labor Code sections 510, 1194, 1197, and 1182.12, and IWC Wage Order No. 2-2001, section 4. Not all reporting pay owed under Wage Order No. 2-2001, section 5 was paid to Mr. Rosales and Claimants either. In violation of Labor Code sections 510, 1194, 1197, and 1182.12, Four Seasons Landscaping has failed to compensate Claimants at a rate of 1.5 times their regular rate for all hours worked over eight (8) hours per workday and the first eight (8) hours worked on the seventh day of a workweek and at two (2) times their regular rate for hours worked over 12 hours per workday and eight (8) hours on the seventh day of a workweek.

Four Seasons Landscaping has also failed and continues to fail to pay all wages owed every pay period in violation of Labor Code section 204. Likewise, Four Seasons Landscaping has failed and continues to fail to provide timely, accurate wage statements to Mr. Rosales and other aggrieved persons in violation of Labor Code section 226(a). With regard to those no longer employed by Four Seasons Landscaping, including Mr. Rosales, Four Seasons Landscaping violated Labor Code section 203 by failing to pay all wages due upon separation. Four Seasons Landscaping has failed and continues to fail to fully reimburse Claimants for all necessary, business related expenses and losses they incurred, including, but not limited to, car usage required to perform work-related duties, in violation of Labor Code section 2802. Four Seasons Landscaping has also failed and continues to fail to provide Claimants with compliant recovery periods, as the Company did not provide them off-duty access to adequate shade when the outdoor temperature exceeded 80 degrees Fahrenheit in violation of Labor Code sections 226.7 and 6720. Mr. Rosales is informed and believes that such violations are ongoing, systematic, and continuous.

He intends to bring an action against Four Seasons Landscaping under the Private Attorneys General Act (“PAGA”) to recover wages and penalties as provided by California law.¹

Theories of Labor Code Violations and Remedies:

Claimant was continuously employed by Four Seasons Landscaping from approximately July 25, 2022 through August 26, 2024 as a Landscaper. The position of Landscaper generally entails landscaping. For a period of at least four (4) years prior to September 2024, but for our purposes here, one (1) year, Four Seasons Landscaping has failed and continues to fail to pay such employees all overtime wages, yet regularly requires and has required employees to work in excess of eight (8) hours per workday and/or 40 hours per workweek without adequate pay under Labor Code section 1194.

Claimants also were at all times entitled to the payment of minimum wages. Four Seasons Landscaping has failed and continues to fail to pay Claimants minimum wages for all hours worked as required by Labor Code sections 510, 1194, and 1194.2 and section 4 of IWC Wage Order No. 2-2001. For instance, Four Seasons Landscaping implemented policies and enforced practices requiring Claimants to work during a portion of their meal periods and rest breaks, the effects of which Four Seasons Landscaping could have mitigated through increased staffing. However, Four Seasons Landscaping instead chose to understaff its workforce and has an unlawful meal and rest break policy; thereby failing to authorize and permit its nonexempt employees from taking compliant meal periods and rest breaks. In effect, these policies and practices cause Claimants to remain on duty during meal periods and rest breaks, and therefore, constitute a failure on Four Seasons Landscaping’s part to provide compliant full-length meal periods and rest breaks. With that, Four Seasons Landscaping’s corresponding failure to provide premium pay in lieu of compliant rest breaks constitutes Four Seasons Landscaping’s failure to pay minimum wages and

¹ Without limitation, Mr. Rosales, if permitted, will seek any and all penalties otherwise capable of being collected by the Commission. This includes each provision as set forth in Labor Code section 2699.5 as follows:

The provisions of subdivision (a) of Section 2699.3 apply to any alleged violation of the following provisions: subdivision (k) of Section 96, Sections 98.6, 201, 201.3, 201.5, 201.7, 202, 203, 203.1, 203.5, 204, 204a, 204b, 204.1, 204.2, 205, 205.5, 206, 206.5, 208, 209, and 212, subdivision (d) of Section 213, Sections 221, 222, 222.5, 223, and 224, subdivision (a) of Section 226, Sections 226.7, 227, 227.3, 230, 230.1, 230.2, 230.3, 230A, 230.7, 230.8, and 231, subdivision (c) of Section 232, subdivision (c) of Section 232.5, Sections 233, 234, 351, 353, and 403, subdivision (b) of Section 404, Sections 432.2, 432.5, 432.7, 435, 450, 510, 511, 512, 513, 551, 552, 601, 602, 603, 604, 750, 751.8, 800, 850, 851, 851.5, 852, 921, 922, 923, 970, 973, 976, 1021, 1021.5, 1025, 1026, 1101, 1102, 1102.5, and 1153, subdivisions (c) and (d) of Section 1174, Sections 1194, 1197, 1197.1, 1197.5, and 1198, subdivision (b) of Section 1198.3, Sections 1199, 1199.5, 1290, 1292, 1293, 1293.1, 1294, 1294.1, 1294.5, 1296, 1297, 1298, 1301, 1308, 1308.1, 1308.7, 1309, 1309.5, 1391, 1391.1, 1391.2, 1392, 1683, and 1695, subdivision (a) of Section 1695.5, Sections 1695.55, 1695.6, 1695.7, 1695.8, 1695.9, 1696, 1696.5, 1696.6, 1697.1, 1700.25, 1700.26, 1700.31, 1700.32, 1700.40, and 1700.47, paragraphs (1), (2), and (3) of subdivision (a) of, and subdivision (e) of, Section 1701.4, subdivision (a) of Section 1701.5, Sections 1701.8, 1701.10, 1701.12, 1735, 1771, 1774, 1776, 1777.5, 1811, 1815, 2651., and 2673, subdivision (a) of Section 2673.1, Sections 2695.2, 2800, 2801, 2802, 2806, and 2810, subdivision (b) of Section 2929, and Sections 3095, 6310, 6311, and 6399.7.

all hours worked every pay period and upon separation in violation of Labor Code sections 201, 202, 203, 204, 226(a), 510, 1182.12, 1194, 1197, and 2802. Similarly, in other instances, Claimants were and are unable to take their rest breaks and in turn, continue to work through their rest breaks. Four Seasons Landscaping's failure to pay Claimants meal period and rest break premiums for noncompliant meal periods and rest breaks, as explained in further detail below, also constitutes a failure to pay minimum wages to Claimants. In addition to off-the-clock time worked but not ultimately paid during working meal breaks, not all hours that Claimants worked were recorded, adjusted, nor subsequently compensated. Therefore, Claimants are entitled to recover wages and/or penalties as provided by Labor Code section 1197.1 and section 20 of IWC Wage Order No. 2-2001.

At all times relevant herein, Claimants were entitled to the payment of overtime. That is, pursuant to Labor Code sections 510, 1194, 1197, and 1182.12, Four Seasons Landscaping was required to compensate Claimants at a rate of 1.5 times their regular rate for all hours worked over eight (8) hours per workday and the first eight (8) hours worked on the seventh day of a workweek and at two (2) times their regular rate for hours worked over 12 hours per workday and eight (8) hours on the seventh day of a workweek. For example, Four Seasons Landscaping requires Claimants to show up to the yard before leaving to a job site. However, this time is all uncompensated. Four Seasons Landscaping has failed to and continues to fail to pay Claimants overtime wages owed for off-the-clock time worked that would have been eligible for overtime, yet regularly required them to work these overtime hours without premium pay under Labor Code section 1194. In short, during the entire course of their employment, Four Seasons Landscaping has failed to provide Mr. Rosales and all others similarly situated with all overtime pay in violation of 226.7, 510, and 512 and all applicable IWC Wage Orders, including but not limited to section 3 of IWC Wage Order No. 2-2001.

Claimants were at all times entitled to off-duty, uninterrupted unpaid meal periods on time. Four Seasons Landscaping failed to provide meal periods to Mr. Rosales and all other similarly aggrieved employees as required by Labor Code sections 226.7 and 512 and section 11 of IWC Wage Order No.2-2001. Mr. Rosales and all similarly aggrieved persons took their meal periods late, had their meal periods interrupted, and remained on duty as they were required to perform work during their meal periods. And Four Seasons Landscaping did not compensate Claimants with an extra hour of pay at the regular rate of pay for noncompliant meal periods for each workday on which they occurred. Accordingly, since Four Seasons Landscaping required Mr. Rosales and others similarly situated to work during their meal periods in violation of Labor Code sections 226.7(a) and 512, Claimants seek all available penalties as set forth in Labor Code sections 558, IWC Wage Order No. 2-2001, section 20, and 2699(f).

Claimants were at all times entitled to take paid off-duty rest breaks. However, Four Seasons Landscaping failed to authorize and permit off-duty rest breaks to be taken by Mr. Rosales and all other similarly aggrieved employees engaged in the same tasks and function as required by Labor Code section 226.7 and section 12 of IWC Wage Order No. 2-2001. This was largely due to

requiring Claimants to remain on-duty during their rest breaks. Mr. Rosales and all similarly aggrieved persons were required to perform work during their rest breaks. Four Seasons Landscaping did not compensate Claimants with an extra hour of pay at the regular for noncompliant rest breaks for each workday on which they occurred. Therefore, Claimants are entitled to recover wages and/or penalties as provided by Labor Code section 558 and IWC Wage Order No. 2-2001, section 20. Furthermore, since Four Seasons Landscaping required its nonexempt employees to work during rest periods in violation of Labor Code section 226.7(b), Claimants seek as all available penalties as set forth in Labor Code sections 558 and 2699.

Claimants were at all times entitled to be provided timely and accurate wage statements from Four Seasons Landscaping pursuant to Labor Code section 226. Because Four Seasons Landscaping failed to pay Claimants their meal period and rest break premiums for noncompliant meal periods and rest breaks, failed to properly calculate the regular rate of pay, failed to pay Claimants minimum wages for all hours worked and overtime wages, Claimants' wage statements were inaccurate in reflecting meal period and rest break premium compensation owed, overtime and minimum wages, and all hours worked every pay period. As a consequence, Claimants' wage statements also do not reflect the accurate amount of gross wages owed. Accordingly, Claimants seek all available penalties as set forth in Labor Code sections 226(e) and 2699.

Claimants were entitled to be reimbursed by Four Seasons Landscaping for all necessary, business-related expenses they incurred in executing their duties for Four Seasons Landscaping. California Labor Code section 2802 provides that "An employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful." Four Seasons Landscaping, however, has failed to fully reimburse Claimants for all necessary, business-related expenses and losses they incurred, including, but not limited to, car usage. Accordingly, Claimants are entitled to recover their unreimbursed expenditures and losses pursuant to Labor Code section 2802.

Finally, Claimants were entitled to compliant recovery periods. Four Seasons Landscaping failed to pay Claimants an additional hour of pay when they were not provided with compliant recovery periods. Four Seasons Landscaping also failed to provide Claimants with compliant recovery periods because it did not provide them with recovery periods and Claimants were forced to work. Furthermore, Claimants were not provided off-duty access to shade and cold water when the outdoor temperature at the worksite exceeded 80 degrees Fahrenheit. Claimant will pursue all available remedies for Four Seasons Landscaping's violations on behalf of himself and other aggrieved current and former employees to the extent allowed by law.

Labor Code section 226.7(a) states that, "'recovery period' means a cooldown period afforded an employee to prevent heat illness." Labor Code section 226.7(b) states that, "[a]n employer shall not require an employee to work during a ... recovery period mandated pursuant

to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational and Health Standards Board, or the Division of Occupational Safety and Health.” Labor Code section 226.7(c) states that “[i]f an employer fails to provide an employee a ... recovery period in accordance with a state law, including, but not limited to, an applicable statute or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health, the employer shall pay the employee one additional hour of pay at the employee’s regular rate of compensation for each work day that the ... recovery period is not provided.”

California Code of Regulations, Title 8, Section 3395(d)(1) provides that, “[s]hade shall be present when the temperature exceeds 80 degrees Fahrenheit. When the outdoor temperature in the work area exceeds 80 degrees Fahrenheit, the employer shall have and maintain one or more areas with shade at all times while employees are present that are either open to the air or provided with ventilation or cooling ... [t]he shade shall be located as close as practicable to the areas where the employees are working.”

Four Seasons Landscaping’s uniform failure to pay overtime and minimum wages, failure to authorize and permit off-duty rest breaks and meal periods or pay Claimants premium compensation in lieu thereof, failure to furnish timely and accurate wage statements, and failure to provide compliant recovery periods violate Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512, 1182.12, 1194, 1197, 2802, and 6720, and as such, penalties are recoverable as set forth in Labor Code sections 210, 1194, *et seq.*, and 2699.

Claimants are entitled to recover unpaid wages, with interest, and are entitled to an award of attorneys’ fees as permitted by Labor Code section 1194, other penalties as permitted by Labor Code sections 210 and 2699, and waiting time penalties for former employees pursuant to Labor Code section 203.

Accordingly, Claimants seek the remedies set forth in the above-referenced Labor Code sections for themselves, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 2699(a), 2699.3(a), 2699.3(c), and 2699.5, Mr. Rosales, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for themselves, all other aggrieved employees, and the State of California against Four Seasons Landscaping for violations of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 6720.

Should you require any additional information, please feel free to contact me.

Sincerely,

LABOR AND WORKFORCE DEVELOPMENT AGENCY
SGD ENTERPRISES DBA FOUR SEASONS LANDSCAPING
October 16, 2024
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SHEGERIAN & ASSOCIATES, INC.

A handwritten signature in black ink, appearing to read "Erik Dos Santos". The signature is stylized, with the first name "Erik" written in a cursive-like font, followed by "Dos" and "Santos" in a more formal, slightly cursive script. The final "S" in "Santos" is large and loops back.

Erik Dos Santos