



1001 WILSHIRE BOULEVARD,
LOS ANGELES, CALIFORNIA 90017
TEL: (213) 382-2222
FAX: (213) 382-2230

October 8, 2024

Via LWDA Website:

Labor & Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

Re: Rebecca Palos v Refrigeration Solutions, LLC
Written Notice Under Labor Code § 2699.3

Dear PAGA Administrator:

We represent Rebecca Palos (“Palos” or Claimant), who is a former non-exempt employee of Refrigeration Solutions, LLC (“Refrigeration”), doing business as “CoolSys” and Does 1-25 (collectively referred to as “Defendants”).

This letter shall serve as our client’s written notice to the Labor and Workforce Development Agency of the Labor Code violations she claims Defendants committed against her and all other current and former non-exempt employees of Defendants who worked in California. Our client provides this written notice in accordance with the Labor Code Private Attorneys General Act of 2004 (“PAGA”), Labor Code §§ 2698, et seq. Our client desires to file a civil action to enforce her rights under the Labor Code and seek compensation accordingly. Pursuant to Labor Code § 2699, and by way of this letter, our client also intends to represent all other current and former non-exempt employees of Defendants in California who have suffered at least one of the violations described herein during the relevant period.

A copy of this letter, along with the \$75.00 filing fee is being uploaded on the LWDA’s website for this purpose contemporaneously with the certified mailing of this letter to Defendants.

FACTUAL BACKGROUND

Refrigeration runs a commercial and industrial refrigeration business, where they provide refrigeration services to clients for various applications. As part of this business Defendants employ a fleet of customer account specialists. Claimant is one of those account specialists. Claimant has worked for Defendants as a customer account specialist since on or around February 10, 2020.

Defendants categorized Claimant and other non-exempt employees as salary exempt when they were not either paid a sufficient salary to be salary exempt and did and do not perform work appropriate to be salary exempt. Accordingly, Claimant and similarly situated aggrieved employees were not paid all wages, were not paid overtime premiums, were not provided meal and rest breaks, along with other derivative violations of the Labor Code the applicable Industrial Welfare Commission Wage Order (“IWC Wage Order”).

Derivatively, Defendants failed to pay Claimants and similarly situated employees all wages owed timely during employment and upon termination of employment and failed to and continues to fail to provide accurate wage statements and maintain accurate records as required by California law. Also, Defendant failed to provide accurate statements of accrued and used sick leave as required by the Paid Sick Leave Act.

Misclassification as Salary Exempt.

Defendant categorized Claimant and other non-exempt employees as salary exempt when they were not either paid a sufficient salary to be salary exempt and did and do not perform work appropriate to be salary exempt. Accordingly, Claimant and similarly situated aggrieved employees were not paid all wages, were not paid overtime premiums, were not provided meal and rest breaks, along with other derivative violations of the Labor Code the applicable Industrial Welfare Commission Wage Order (“IWC Wage Order”).

Claimant and similarly situated employees were not paid a salary sufficient to exempt Claimant or similarly situated employees from overtime and break requirements for significant portions of the time period relevant to this case.

Claimant and similarly situated employee did not do work appropriate to be exempt from overtime and meal and rest break requirements, in that Claimant and

similarly situated customer service agents service specific clients, and do no “work directly related to management policies or general business operations of his or her employer or his or her employer’s customers,” or “Who customarily and regularly exercised discretion and independent judgment.”

Failure to Pay all Hours Worked and Failure to Pay All Regular and Overtime

Wages:

Defendants failed to pay all hours worked. Defendant categorized Claimant and other non-exempt employees as salary exempt when they were not either paid a sufficient salary to be salary exempt and did and do not perform work appropriate to be salary exempt. Accordingly, Claimant and similarly situated aggrieved employees were not paid all wages, were not paid overtime premiums, were not provided meal and rest breaks, along with other derivative violations of the Labor Code the applicable Industrial Welfare Commission Wage Order (“IWC Wage Order”).

Claimant and similarly situated employees regularly worked more than eight hours a day and more than 40 hours a week but were paid only their flat salaries, and therefore are uncompensated for regular and overtime wages.

Failure to Authorize and Permit Rest Breaks:

Defendant miscategorized Claimant and similarly situated employees as being salary exempt from the requirements of overtime and meal and rest breaks. Accordingly, Defendant had no rest break policy which applied to Claimant and similarly situated employees.

Claimant and similarly situated employees were never authorized to take rest breaks, in that no one from management told them they were entitled to them.

Claimant and similarly situated employees worked through computer and phone systems that created constant contact and communication, such that without intentionally taking a break from those systems Claimant and similarly situated employees would never be relieved of all duty,

Failure to Provide Meal Breaks:

Defendants failed to provide legally adequate meal breaks.

Defendant miscategorized Claimant and similarly situated employees as being

salary exempt from the requirements of overtime and meal and rest breaks. Accordingly, Defendant had no meal break policy which applied to Claimant and similarly situated employees.

Claimant and similarly situated employees were never authorized to take meal breaks, in that no one from management told them they were entitled to them.

Claimant and similarly situated employees worked through computer and phone systems that created constant contact and communication, such that without intentionally taking a break from those systems Claimant and similarly situated employees would never be relieved of all duty, as such Claimant and similarly situated employees worked while eating and did not receive meal breaks as required by law.

Failure to Provide Reimbursement:

Defendants required Claimant and similarly situated employees to work from home. Defendants however failed to reimburse Claimant and similarly situated employees for the expenses related to setting up and using a home office.

Defendants did not and do not compensate Claimant and similarly situated employees for these costs incurred in the discharge of their duties and they are entitled to recover these expenses.

Failure to Provide Accurate Itemized Wage Statements and Keep Adequate

Records:

Defendants failed to record and maintain accurate records reflecting all time worked and all meal periods taken by Claimant and similarly situated employees because they deem them to be exempt, and similarly they do not report those hours worked on wage statements.

Defendants' failure to pay all wages due at the time of the termination of employment:

The Defendants failed to pay Claimants and similarly situated employees all wages due upon termination in violation of Labor Code 201, 202, and 203. Claimant and similarly situated employees are due rest break premium wages, sick leave wages, and overtime.

Claimants and similarly situated employees allege that Defendants failed to pay them wages due upon termination.

Unpaid hours to Claimant and similarly situated employees remained upon termination due to Defendant's discounting Claimant and similarly situated employees' hours worked for meal breaks despite Claimant and similarly situated employees not being relieved of duty for those meal breaks. As such, regular and overtime hours remained unpaid at the time of termination of Claimant and similarly situated employees.

FACTUAL BASES & LEGAL THEORIES

SUPPORTING ALLEGED VIOLATIONS OF THE LABOR CODE

Claimant alleges that Defendants' policies, procedures and workplace culture caused various and wide-ranging labor code provision violations, including but not limited to Labor Code §§ 200, 201, 202, 203, 204, 210, 226, 226.3, 226.7, 227.3, 245-249, 510, 512, 558, 1174, 1174.5, 1175, 1194, 1194.2, 1197, 1197.1, 1198, and 2802.

1. Defendants failed to properly notice Claimant and similarly situated employees of the sick leave they had and have accrued. (Violation of Labor Code §§ 246 through 248.6).

California Healthy Workplaces Healthy Families Act, ARTICLE 1.5. 'Paid Sick Days' [sections §§ 245-249] requires employers to notice employees of their paid sick leave accrued and used (See Labor Code § 246(i)). Defendants failed to accurately record and report the accrued and used sick leave of Claimant and other aggrieved employees.

Claimant will seek all available remedies, including PAGA penalties as provided for by California law.

2. Defendants failed to pay all Regular and Overtime Wages (Off-the-Clock Work). (Labor Code §§ 200, 204, 510, 1194 & 1198)

Labor Code section 1194(a) states "Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees and costs of suit." Liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon are

provided for under Labor Code section 1194.2.

Labor Code section 1197 states “The minimum wage for employees fixed by the commission or by any applicable state or local law, is the minimum wage to be paid to employees, and the payment of a lower wage than the minimum so fixed is unlawful.”

Labor Code section 1197.1 (a) states “Any employer or other person acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or local law, or by an order of the commission shall be subject to a civil penalty, restitution of wages, liquidated damages payable to the employee, and any applicable penalties imposed pursuant to Labor Code §203...”

As provided for in Section 1197.1(a)(1), for any initial violation that is intentionally committed, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee is underpaid. For each subsequent violation for the same specific offense, two hundred fifty dollars (\$250) for each underpaid employee for each pay period for which the employee is underpaid regardless of whether the initial violation is intentionally committed.

Labor Code section 1198 states “The maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.”

Section (B) of the “Minimum Wages” provision of the applicable IWC Wage Order states “Every employer shall pay to each employee, on the established payday for the period involved, not less than the applicable minimum wage for all hours worked in the payroll period, whether the remuneration is measured by time, piece, commission or otherwise.”

Labor Code section 510 requires employers to pay overtime wages to all non-exempt employees when they work overtime hours. Labor Code section 515(d) specifies that when a salary is paid to an employee who is not exempt that it compensates only for regular time wages.

As set forth above, Defendants misclassified Claimant and other aggrieved employees as exempt employees when they were not. Claimant and other aggrieved employees worked overtime hours but were only paid their “salaries” with no further compensation. As such, Claimant and other aggrieved employees were not paid for all hours worked and were not paid overtime premium wages.

As such, Claimant and other aggrieved employees are owed unpaid hours. Claimant will seek all available remedies, including PAGA penalties as provided for by California law.

3. Defendants refused and failed to provide legally compliant meal periods or compensation in lieu thereof (Violation of Labor Code §§ 226.7 and 512 and the applicable IWC Wage Order).

Pursuant to Labor Code § 512, no employer shall employ any person for a work period in excess of five (5) hours without providing a meal period of at least thirty (30) minutes. *See also* the applicable IWC Wage Order, item 11. During this meal period of no less than thirty (30) minutes, the employer must completely relinquish any and all control over the employee and the employee must not engage in any work-related activity for the employer. *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1040. If the employee performs any work for the employer during the thirty (30) minute meal period, the employee has not been provided a meal period in accordance with the law. *Id.* Additionally, California law does not permit an employer to employ an individual for a work period in excess of ten (10) hours without providing a second meal period of at least thirty (30) minutes. Labor Code § 512; the applicable IWC Wage Order, item 11. If the employer fails to provide an employee with a legally compliant meal period, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal period was not provided. Labor Code § 226.7; the applicable IWC Wage Order, item 11.

Defendant misclassified Claimant and similarly situated aggrieved employees as salary exempt, and therefore had no policy or practice of providing Claimant and similarly situated aggrieved employees meal breaks, or compensating them for missed

meal breaks.

Labor Code § 558 states: “(a) Any 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 in addition to an amount sufficient to recover underpaid wages.

(2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages.”

Claimant will seek all available remedies, including PAGA penalties as provided for by California law.

4. Defendants refused and failed to authorize and permit legally compliant rest periods or compensation in lieu thereof (Violation of Labor Code § 226.7 and the applicable IWC Wage Order).

The applicable IWC Wage Order, item 12 requires employers to authorize and permit off-duty rest periods during which an employee must be relieved of any and all work-related duties. *Augustus v. ABM Security Services, Inc.* (2016) 2 Cal.5th 257, 269. Additionally, a lawful off-duty rest period is not provided where an employer fails to relinquish control over how employees spend their time. *Id.* Under Labor Code § 226.7, an employer is required to pay an employee one (1) additional hour of pay at the employee’s regular rate of pay for each workday in which a lawful rest period was not provided. *See also* the applicable IWC Wage Order.

Defendant misclassified Claimant and similarly situated aggrieved employees as salary exempt, and therefore had no policy or practice of providing Claimant and similarly situated aggrieved employees meal breaks, or compensating them for missed meal breaks.

Labor Code section 558 states: “(a) Any 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 in addition to an amount sufficient to recover underpaid wages.

(2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages.”

Claimant will seek all available remedies, including PAGA penalties as provided for by California law.

5. Defendants failed to reimburse business expenses. (Labor Code § 2802)

Labor Code section 2802(a) provides in pertinent part, “[a]n 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.”

Labor Code section 2802(b) states, “[a]ll awards made by a court or by the Division of Labor Standards Enforcement for reimbursement of necessary expenditures under this section shall carry interest at the same rate as judgments in civil actions. Interest shall accrue from the date on which the employee incurred the necessary expenditure or loss.”

Furthermore, Labor Code section 2802(c) states “[f]or purposes of this section, the term ‘necessary expenditures or losses’ shall include all reasonable costs, including, but not limited to, attorney’s fees incurred by the employee enforcing the rights granted by this section.”

Defendants required Claimant and other aggrieved employees to work from home. Defendants however failed to reimburse Claimant and similarly situated employees for the expenses related to setting up and using a home office.

Defendants did not and do not compensate Claimant and other aggrieved employees for these costs incurred in the discharge of their duties and they are entitled to recover these expenses. Claimant will seek all available remedies, including PAGA penalties as provided

for by California law.

6. Defendants failed to timely pay wages. (Labor Code §§ 204 and 210 and the “Minimum Wages” section of the applicable IWC Wage Order)

Labor Code § 204 subsection (a) states in relevant part “All wages, other than those mentioned in Section 201, 201.3, 202, 204.1, or 204.2, earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month.”

Labor Code § 204 subsection (b)(1) states: “Notwithstanding any other provision of this section, 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.”

The “Minimum Wages” section of the applicable IWC Wage Order provides every employer shall pay to each employee, on the established payday for the period involved, not less than the applicable minimum wage for all hours worked in the payroll period.

Labor Code § 210(a) imposes a civil penalty for violation of Labor Code § 204 of one hundred dollars (\$100) for the initial violation for each failure to pay each employee and two hundred dollars (\$200) for each subsequent violation, or willful and intentional violation, plus 25 percent of the amount unlawfully withheld.

Due to Defendants not paying all hours and wages as described above, Defendants do not pay all wages. In addition, Defendants failed to pay meal and rest break premiums, Defendants failed to pay Claimant all minimum, regular, overtime, and meal and rest period wages due and owing either on the regular paydays or the payday for the next payroll period. Defendants willfully failed to pay all wages when required by § 204 of the Labor Code. Therefore, Defendants owe penalties to all affected employees including Claimant. Claimant will pursue all remedies for Defendants’ failure to pay

timely wages on behalf of themselves and other current and former aggrieved employees, including recovery of wages, attorney's fees, costs, and penalties to the extent allowed by law.

7. Defendants failed to provide accurate wage statements and maintain accurate records. (Labor Code §§ 226(a), 226(e)(1), 226.3, 1174, 1174.5, and the "Records" Section of the applicable IWC Wage Order)

Labor Code § 226(a) states in pertinent part that every employer shall provide an accurate itemized statement in writing with respect to each one of its employees showing: 1) gross wages earned; 2) total hours worked by an employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission; (3) the number of piece rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item; (5) net wages earned; (6) the inclusive dates of the period for which the employee is paid; (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number; (8) the name and address of the legal entity that is the employer...; and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

Labor Code § 226.3 provides that “Any employer who violates subdivision (a) of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation for which the employer fails to provide the employee a wage deduction statement or fails to keep the records required in subdivision (a) of Section 226.”

In addition, Labor Code § 226(e) imposes a penalty of 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 exceeding an aggregate penalty of \$4,000, and Claimants are entitled to an award of costs and reasonable

attorney's fees.

Section (B) of the “Records” provision of the applicable IWC Wage Order states that “Every employer shall semimonthly or at the time of each payment of wages furnish each employee, either as a detachable part of the check, draft, or voucher paying the employee’s wages, or separately, an itemized statement in writing showing: (1) all deductions; (2) the inclusive dates of the period for which the employee is paid; (3) the name of the employee or the employee’s social security number; and (4) the name of the employer, provided all deductions made on written orders of the employee may be aggregated and shown as one item.”

Labor Code § 1174(d) provides that an employer must 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 by and the wages paid to, employees employed at the respective establishments. These records shall be kept on file for not less than three years. Labor Code § 1174.5 provides for a civil penalty of five hundred dollars (\$500) for an employer who willfully fails to maintain the records pursuant to Labor Code section 1174(d).

Sections (7)(A)(4) and (5) of the “Records” provision of the applicable IWC Wage Order provides that employers shall keep accurate information with respect to each employee, including total wages paid each payroll period, total hours worked during the payroll period, and applicable rates of pay, as well as time records showing when each employee begins and ends each work period. The time records must also show meal periods, split shift intervals, and total daily hours worked.

Defendants failed to maintain records as set forth in § 1174 of the Labor Code and the “Records” section of the applicable IWC Wage Order including but not limited to, accurately recording applicable rates of pay.

Defendants also failed to provide accurate itemized wage statements as required by Labor Code §226.

Due to Defendants not paying for all hours worked, not paying at legally required rates and not paying meal and rest period premiums, Defendants do not record proper hours and wages, and do not provide legally compliant wage statements accurately

accounting for hours, wages, deductions, etc.. Nor do the wage statements properly state the name and address of the legal entity that is the employer.

Claimant will seek all available remedies, including PAGA penalties as provided for by California law.

8. Defendants failed to pay all wages due on termination. (Labor Code §§ 201, 202, 203, 204, 1198, 2699 et seq., and the “Minimum Wages” Section of the applicable IWC Wage Order)

Labor Code § 201 states “If an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately.”

Labor Code § 202 states “If an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 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.”

Labor Code § 203(a) states, in relevant part; “If an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.3, 201.5, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefore is commenced; but the wages shall not continue for more than 30 days.”

Labor Code § 204(a) states in pertinent part “All wages... earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays.”

Labor Code § 210(a) imposes a civil penalty for violation of Labor Code § 204 of one hundred dollars (\$100) for the initial violation for each failure to pay each employee and two hundred dollars (\$200) for each subsequent violation, plus 25 percent of the amount unlawfully withheld.

The “Minimum Wages” section of the applicable IWC Wage Order provides that every employer shall pay to each employee, on the established payday for the period

involved, not less than the applicable minimum wage for all hours worked in the payroll period.

Due to Defendants not paying all hours as alleged above, Defendants do not pay all wages. In addition, Defendants failed to pay meal and rest break premiums. In addition, Defendants failed to pay aggrieved all minimum, regular, overtime, and meal and rest period wages due and owing during and upon termination of employment. Defendants willfully failed to pay all wages when required by §§ 201 and 202 of the Labor Code. Therefore, Defendants owe waiting time penalties to all affected employees including Claimant. Claimant will pursue all remedies for Defendants' failure to pay timely wages on behalf of themselves and other current and former aggrieved employees, including recovery of wages, attorney's fees, costs, and penalties to the extent allowed by law.

Claimant will seek all available remedies, including PAGA penalties as provided for by California law.

CONCLUSION

The facts and claims contained herein are based on the information available at the time of this writing. If Claimant becomes aware of additional claims, additional compensation owed or other violations to her or any other current and former employee of Defendants, she reserves the right to revise these facts and/or add any new claims by amending this written notice.

If you have any questions or concerns regarding the above, do not hesitate to contact us.

Sincerely,

A handwritten signature in black ink, appearing to read 'Justin Hewgill', with a stylized flourish extending to the right.

Justin Hewgill
EMPLOYEE JUSTICE LEGAL GROUP

cc (by certified mail):

Refrigeration Solutions, LLC
1172 NATIONAL DRIVE, SUITE 50
SACRAMENTO, CA 95834

Refrigeration Solutions, LLC
45 S STATE COLLEGE BLVD, SUITE 200
BREA, CA 92821

Refrigeration Solutions, LLC
C/O 1505 Corporation CORPORATION SERVICE COMPANY
BECKY DEGEORGE
2710 GATEWAY OAKS DRIVE,
SACRAMENTO, CA