

HAINES LAW GROUP
EMPLOYMENT ATTORNEYS

November 26, 2024

VIA LWDA WEBSITE

Labor and Workforce Development Agency
Attn. PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612

Re: *Scot Holland v. Ralphs Grocery Company*

To Whom It May Concern:

Please be advised that this law firm represents Scot Holland (“Mr. Holland”) in claims arising from his employment with Ralphs Grocery Company; and Does 1 through 100 (collectively “Ralphs Grocery”). Mr. Holland is an “aggrieved employee” as defined by Labor Code Section 2698 *et seq.*, due to Ralphs Grocery’s numerous violations of the Labor Code as set forth below. The purpose of this letter is to comply with Labor Code Section 2699.3, which requires aggrieved employees to notify their employer and the Labor & Workforce Development Agency (“LWDA”) of the specific provisions of the Labor Code allegedly violated.

Ralphs Grocery has employed Plaintiff in the non-exempt job position of “Truck Driver” (or similarly titled position) since approximately January 2021.

During at least a portion of Mr. Holland’s employment with Ralphs Grocery, upon information and belief, Ralphs Grocery utilized a timekeeping system which resulted in Mr. Holland and other aggrieved employees not being compensated for all hours actually worked, whether by rounding, time-shaving, or otherwise. Specifically, although Mr. Holland and other aggrieved employees recorded their hours worked through an electronic timekeeping system, Defendants regularly, systematically, and impermissibly rounded the time worked by Mr. Holland and other aggrieved employees to the tenth of an hour, resulting in Mr. Holland and other aggrieved employees being underpaid for their time worked. Defendants’ timekeeping policies/practices were not even-handed and have resulted in Mr. Holland and other aggrieved employees not being compensated for all hours worked. Furthermore, Mr. Holland was required to arrive twenty minutes before his scheduled shifts to pick out a truck and bid for work routes, all prior to clocking in for his shifts, resulting in uncompensated work time. Due to Ralphs Grocery’s timekeeping policies/practices that fail to compensate for all hours worked, Mr. Holland and other aggrieved employees were not compensated for all required minimum wages.

Ralphs Grocery also failed to adequately reimburse Mr. Holland and other aggrieved employees for all reasonable and necessary work expenditures, including, but

not limited to, use of personal cellular phones, work boots, and hand tools for business purposes. Ralphs Grocery did not adequately reimburse Mr. Holland and other aggrieved employees for these expenses, even though they used these items for business purposes.

As a result of Ralphs Grocery's failure to compensate Mr. Holland and other aggrieved employees for all minimum wages, Ralph's Grocery maintained inaccurate payroll records and failed to issue accurate, compliant, itemized wage statements.

Minimum Wage Violations

Ralphs Grocery was required to pay Mr. Holland and other aggrieved employees an hourly rate at least equal to the minimum wage for each hour actually worked. *See* Labor Code §§ 1182.12, 1194, 1194.2, 1197; Wage Order 7, § 4. As alleged above, Ralphs Grocery failed to conform its pay practices to the requirements of the law by failing to pay Mr. Holland and other aggrieved employees for all hours worked, including, but not limited to, all hours they were subject to the control of Ralphs Grocery and/or suffered or permitted to work under the California Labor Code and Wage Order 7. As a result of these policies/practices, which fail to compensate for all hours worked, Mr. Holland and other aggrieved employees were deprived of all required minimum wages.

Wage Statement Violations

Ralphs Grocery was required to furnish Mr. Holland and other aggrieved employees with complete and accurate itemized wage statements that showed, among other things, their rates of pay, corresponding number of hours worked at each rate of pay, total gross wages earned, total net wages earned, and the address of the legal entity that is the employer. *See* Labor Code §§ 226(a) and 1174(d); Wage Order 7, § 7. As a result of Ralphs Grocery's failure to pay all minimum wages, Ralphs Grocery maintained inaccurate payroll records and issued inaccurate wage statements to Mr. Holland and other aggrieved employees in violation of Labor Code § 226. Ralphs Grocery's failure to comply with its wage statement obligations was knowing and intentional, and Mr. Holland and other aggrieved employees have suffered injury as a result.

Failure to Reimburse Employees for Necessary Business Expenditures

As alleged above, Ralphs Grocery failed to reimburse Mr. Holland and other aggrieved employees for necessary work expenses, including the use of their personal cell phones, work boots, and hand tools business purposes. Ralphs Grocery's policy of not providing reimbursement for necessary work-related expenses is in violation of Wage Order 7, § 9, and Labor Code §§ 2802 and 2804 ("An employer shall indemnify his or her employees 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 obedience to the directions of the employer.") Mr. Holland and other aggrieved employees are therefore entitled to reimbursement of such unpaid work expenses with interest.

Record Keeping Violations

Labor Code § 1174(d) requires that every person employing labor in California shall “[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...employees employed at the respective plants or establishments.” Section 2(k) of Wage Order 7 defines “hours worked” 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.” Ralphs Grocery failed to comply with Labor Code section 1174 by failing to keep payroll records showing the accurate number of hours worked daily by Mr. Holland and other aggrieved employees

As an “aggrieved employee,” Mr. Holland will initiate a civil action on behalf of himself and other aggrieved employees to recover civil penalties resulting from the wage and hour violations alleged herein. Based on Mr. Holland’s own investigation, and on information and belief, Ralphs Grocery committed and continues to commit the following Labor Code violations:

- a. Ralphs Grocery violated Labor Code §§ 1182.12, 1194, 1194.2, and 1197 by failing to pay Mr. Holland and other aggrieved employees the statutory minimum wage for all hours worked;
- b. Ralphs Grocery violated Labor Code § 226 by failing to furnish Mr. Holland and other aggrieved employees with accurate and compliant itemized wage statements;
- c. Ralphs Grocery violated Labor Code §§ 2802 and 2804 by failing to reimburse Mr. Flores and other aggrieved employees for all necessary expenditures incurred; and
- d. Ralphs Grocery violated Labor Code §§ 1174 and 1198 by failing to maintain accurate records on behalf of Mr. Holland and other aggrieved employees.

Pursuant to Labor Code Section § 2699.3(a)(2)(A), please notify us and Ralphs Grocery if the LWDA intends to investigate these alleged violations of the Labor Code. Please contact me should you require additional information.

Very truly yours,
HAINES LAW GROUP, APC


Paul K. Haines

cc: Ralphs Grocery Company (via certified mail)