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December 10, 2024

Submitted Online to LWDA

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

Via Mail

Moon Law Group, PC
725 S. Figueroa St., Suite 3100
Los Angeles, CA 90017

**Re: *Sun Park v. Coway USA, Inc.*
LWDA-CM-1060221-24**

Dear LWDA Representative:

Barnes and Thornburg, LLP represents Coway USA, Inc. (“Company”). We have been retained to represent the Company’s interests with respect to the above-captioned matter. Please direct all further correspondence regarding this matter to my attention.

In our capacity as the Company’s labor and employment counsel, we have received the November 5, 2024 correspondence from Moon Law Group, PC, submitted online and was received by the Company on November 12, 2024, regarding the PAGA claims Ms. Sun Park (“Claimant”) asserts on behalf of herself and other allegedly aggrieved employees. The gravamen of Claimant’s claims is that she and other employees were not paid overtime; were not allowed to take legally compliant meal and rest breaks; were not provided accurate wage statements; were not reimbursed for business expenses; were not paid all accrued vacation wages at termination; were not paid all wages at termination; and were not paid at least twice per month. Claimant has stated her intention to pursue a PAGA claim against the Company and has submitted the November 5th letter.

The purpose of the letter was to satisfy administrative requirements of PAGA so that Claimant could pursue a claim against the Company and attempt to recover penalties authorized under PAGA. However, Claimant has categorically failed to satisfy the administrative requirements of PAGA. The administrative requirements of PAGA are set forth in *Labor Code* section 2699.3(a), which states that a plaintiff must provide the employer and the LWDA “the specific provisions of this code alleged to have been violated, *including the facts and theories to support the alleged violation.*”

In interpreting this provision, courts have explained that “the Ninth Circuit requires an exceedingly detailed level of specificity for Section 2699.3(a)(1) to be satisfied.” *Soto v. Castlerock Farming and Transport, Inc.*, 2012 WL 1292519, at *8 (E.D. Cal. April 16, 2012). In *Soto*, the court derived its rule from an unpublished Ninth Circuit Appellate Court decision which the district court found to be persuasive: *Archila v. KFC U.S. Props., Inc.*, 420 Fed. Appx. 667, 699 (9th Cir. 2011). In both cases, the courts noted that letters lacking specific factual allegations are insufficient to exhaust the administrative requirements of PAGA because such letters do not adequately describe the “facts and theories,” which serve as the basis of the purported PAGA violation. (*Soto*, at 8). Recent California appellate decisions have likewise strictly construed PAGA’s administrative requirements (e.g., *Brown v. Ralphs Grocery Co.*, 28 Cal. App. 5th 824 (2018), and *Khan v. Dunn-Edwards Corp.*, 19 Cal. App. 5th 804 (2018) (In both cases, the Court found fatal defects in Plaintiff’s PAGA Notice).

Here, the November 5, 2024 letter fails to identify sufficient facts to allow the Company to investigate and cure any alleged violations. To begin, there is no allegation regarding the number of potential violations, the dates and times of the violations and/or any manner in which an amount to resolve any deficiency could be calculated. Additionally, the correspondence does not allow the Company to identify specific employees whose rights have been allegedly violated. Notably, throughout the letter, Claimant vaguely refers to “aggrieved employees” and there is no consistent definition of who this claim is being brought on behalf of and if it is for a specific time period. As a result, the term “aggrieved employees” is unclear. And, such vague and generalized language prohibits the Company from curing, investigating or responding to Claimant’s allegations.

Notably, the Company maintains compliant timekeeping and meal and rest period policies, which permit and encourage employees to take all legally-required breaks and provides for the payment of meal period premiums when a rest or meal period is missed or is untimely. In addition, the Company’s timekeeping policy requires employees to remain clocked-in during all hours worked and strictly prohibits off the clock work. Claimant acknowledged understanding and receipt of the Company’s timekeeping and meal and rest period policies. Thus, contrary to Claimant’s allegations, she was provided the opportunity to take her meal and rest breaks and acknowledged in writing that she was aware of the Company’s meal and rest period policies.

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In short, Claimant's letter falls short of the standard set forth in *Soto*. Based on Claimant's failure to comply with the administrative requirement of PAGA, we submit this letter to request that LWDA notify Claimant and her counsel that she may not pursue claims against the Company. Alternatively, we submit this letter to request that the LWDA require Claimant to provide additional information to support her administrative complaint, and to preserve the company's defenses in any subsequent civil complaint that may be filed, so that the Company may have a meaningful opportunity to remediate and cure any violations if necessary. Please do not hesitate to contact our office with any questions you may have.

Sincerely,

Soo Park

BARNES & THORNBURG LLP
Soo Y. Park
Attorneys for Coway USA, Inc.