

HAINES LAW GROUP
EMPLOYMENT ATTORNEYS

November 4, 2024

VIA LWDA WEBSITE

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

Re: *Carlos Morales v. Pioneer Circuits, Inc.*

To Whom It May Concern:

Please be advised that this law firm represents Carlos Morales (“Mr. Morales”) in claims arising from his employment with Pioneer Circuits, Inc., a California Corporation and Does 1 through 100 (collectively, “Defendants”). Mr. Morales is an “aggrieved employee” within the meaning of Labor Code § 2699.3 as to all of the violations alleged herein. The purpose of this letter is to comply with Labor Code § 2699.3, which requires aggrieved employees to notify their employer and the Labor and Workforce Development Agency (“LWDA”) of the specific provisions of the Labor Code allegedly violated. For purposes of this letter, “aggrieved employees” includes all individuals employed by Defendants in California as independent contractors during the one year immediately preceding the date of this letter through the present.

Defendants are in the business of manufacturing and assembling circuit boards in Santa Ana, California. Mr. Morales has worked for Defendants since June 2013 in the solder mask department. Although Mr. Mores was initially hired as a non-exempt employee, in 2013, Defendants reclassified Mr. Morales as an independent contractor. Despite this reclassification, Mr. Morales continued to perform the same tasks as he had done as a non-exempt employee, such as building circuit boards. However, after Mr. Morales’ employment reclassification, Defendants no longer paid Mr. Morales overtime, no longer provided Mr. Morales with meal periods, and no longer authorized and permitted Mr. Morales to take rest periods. Mr. Morales is informed and believes that Defendants have reclassified other similarly aggrieved individuals as independent contractors, even though they perform the same tasks as employees.

Mr. Morales and other similarly aggrieved employees regularly work over 8 hours per workday and/or over 40 hours per workweek. However, as a result of being misclassified as independent contractors, Defendants failed to pay Mr. Morales and other similarly aggrieved employees *any* overtime compensation, regardless of how many hours they work. In fact, although Defendants’ timekeeping system has attempted to credit Mr. Morales and similarly aggrieved employees with overtime compensation, Defendants and their agents have manually modified their compensation to deny overtime pay earned.

In addition, Defendants engaged in a practice of time shaving which has resulted in Mr. Morales and similarly aggrieved employees not being paid for all the hours actually worked. Although Defendants' timekeeping system accurately records how much time Mr. Morales and similarly aggrieved employees work each day, Defendants and their agents round down / shave the timekeeping records in violation of California law. *See Camp v. Home Depot U.S.A., Inc.* (2022) 84 Cal.App.5th 638, 654 ("[I]f an employer, as in this case, can capture and has captured the exact amount of time an employee has worked during a shift, the employer must pay the employee for "all the time" worked.") As a result, Mr. Morales and similarly aggrieved employees are not paid for all overtime wages owed.

Defendants maintained unlawful meal period policies/practices that fail to provide timely, duty-free 30-minute first meal periods commencing before the end of the fifth hour of work, as well as second meal periods for shifts in excess of 10.0 hours. Mr. Morales and similarly aggrieved employees often begin work around 4:30am (although sometimes as early as 2:30am). Yet, Defendants instruct Mr. Morales and similarly aggrieved employees to take one meal at a scheduled time (around 10:30 am) which regularly results in a late meal period under California law. *See Brinker Restaurant Corp. v. Superior Court*, 53 Cal. 4th 1004, 1042 (2012) (holding that "first meal periods must start after no more than five hours" of work). Furthermore, Defendants do not provide Mr. Morales and similarly aggrieved employees with second meal periods whenever they work shifts in excess of 10.0 hours in a workday. Moreover, Mr. Morales and similarly aggrieved employees are not permitted to leave Defendants' premises during the scheduled meal time in violation of California law. *See Augustus v. ABM Security Services, Inc.*, 2 Cal 5th 257, 259 (holding that California law required employer to relieve employees of all duties and relinquish control over how employees spend their time during breaks).

On occasions when Defendants did not provide Mr. Morales and similarly aggrieved employees with all lawful meal periods to which they are entitled, Defendants failed to pay an additional hour of premium pay at the regular rate of pay for each workday in which a meal period violation occurs, as required by Labor Code § 226.7.

Furthermore, Defendants failed to authorize and permit Mr. Morales and similarly aggrieved employees to take a paid rest period for every 4-hour period worked, or major fraction thereof, because Defendants require Mr. Morales and similarly aggrieved employees to work through the entirety of their shift. These shifts often last in excess of 10 hours yet no rest periods are authorized and permitted aside from the scheduled meal period. On the rare occasion that Mr. Morales and similarly aggrieved employees are able to take a rest break, Defendants require Mr. Morales and similarly aggrieved employees to remain on the premises. *See Augustus, supra*, 2 Cal 5th at 259. Accordingly, Defendants are liable for rest period premiums for each failure to provide an uninterrupted 10-minute paid rest period for every 4 hours worked, or major fraction thereof.

On occasions when Defendants do not authorize and permit Mr. Morales and similarly aggrieved employees to take all lawful rest periods to which they are entitled, Defendants failed to pay Mr. Morales and similarly aggrieved employees an additional

hour of premium pay at the regular rate of pay for each workday in which a rest period violation occurred, as required by Labor Code § 226.7.

As a result of Defendants misclassifying Mr. Morales and similarly aggrieved employees as an independent contractors, Defendants failed to issue wage statements and instead issue “invoices” which lack most of the required information required by Labor Code § 226(a) (including gross wages earned, total hours worked, net wages earned, all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee).

Overtime Wage Violations

Defendants are required to properly pay Mr. Morales and other aggrieved employees for all overtime hours worked pursuant to California Labor Code § 1194 and Wage Order 1. Wage Order 1 § 3 requires an employer to pay an employee “one and one-half (1½) times the employee’s regular rate of pay for all hours worked in excess of eight (8) hours” per work day and/or in excess of 40 hours of work in the workweek. Wage Order 1, § 3 also requires an employer to pay an employee double the employee’s regular rate of pay for work in excess of twelve hours each work day and/or for work in excess of eight hours on the seventh consecutive day of work in the workweek. Defendants have caused Mr. Morales and other aggrieved employees to work overtime hours but have not compensated Mr. Morales or other aggrieved employees at one and one-half times their regular rate of pay for all such hours.

Minimum Wage Violations

Wage Order 1, § 4 and California Labor Code §§ 1197 and 1182.12 establish the right of employees to be paid minimum wages for all hours worked, in amounts set by state law. Labor Code §§ 1194(a) and 1194.2(a) provide that an employee who has not been paid the legal minimum wage as required by Labor Code § 1197 may recover the unpaid balance together with attorneys’ fees and costs of suit, as well as liquidated damages in an amount equal to the unpaid wages and interest accrued thereon. Defendants have failed to conform their pay practices to the requirements of the law by failing to pay Mr. Morales and other aggrieved employees for all hours worked including, but not limited to, all hours they are subject to the control of Defendants and/or suffered or permitted to work under the California Labor Code and Wage Order 1.

Meal Period Violations

As alleged above, Defendants have failed to provide Mr. Morales and other aggrieved employees with all required and compliant meal periods. *See* Labor Code §§ 226.7 and 512; Wage Order 1, § 11. As a result, Mr. Morales and other aggrieved employees are owed an additional hour of wages at their regular rate of compensation for each workday they experienced a meal period violation. *See* Labor Code § 226.7 (“If an employer fails to provide an employee a meal or rest or recovery period in accordance with

... [an] order of the Industrial Welfare Commission ... 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 or rest or recovery period is not provided.”).

Rest Period Violations

As described above, Defendants have also failed to authorize and permit Mr. Morales and other aggrieved employees to take all required and compliant rest periods. *See* Labor Code §§ 226.7 and 516; Wage Order 1, § 12. As a result, Mr. Morales and other aggrieved employees are owed an additional hour of wages at their regular rate of compensation for each workday that all rest periods were not authorized and permitted. *See* Labor Code § 226.7.

Wage Statement Violations

Defendants knowingly and intentionally, as a matter of uniform policy and practice, have failed to furnish Mr. Morales and other aggrieved employees with complete and accurate wage statements with respect to gross wages earned, total hours worked, net wages earned, all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee, in violation of Labor Code § 226 *et seq.* Defendants' failures in furnishing Mr. Morales and other aggrieved employees with complete and accurate itemized wage statements have resulted in actual injury, as said failures have led to, among other things, the non-payment of all overtime and minimum wages, as well as meal and rest period premium wages, and deprived them of the information necessary to identify the discrepancies in Defendants' reported data and whether they have been paid all wages earned.

As an “aggrieved employee”, Mr. Morales will initiate a civil action on behalf of himself and other aggrieved employees to recover damages, statutory penalties, and civil penalties resulting from the wage and hour violations alleged herein. Based on Mr. Morales own investigation, and on information and belief, Defendants committed and continue to commit the following Labor Code violations:

- a. Defendants violated Labor Code §§ 204, 510, 558, 1194 and 1198 by failing to pay Mr. Morales and other aggrieved employees all overtime compensation earned;
- b. Defendants violated Labor Code §§ 1182.12, 1194, 1194.2, and 1197 by failing to pay Mr. Morales and other aggrieved employees the statutory minimum wage for all hours worked;
- c. Defendants violated Labor Code §§ 226.7, 512, and 558, by failing to provide meal periods as required by law and failing to pay meal period premiums to Mr. Morales and other aggrieved employees at these employees' respective regular rates of compensation for meal period violations;

- d. Defendants violated Labor Code §§ 226.7, 516, and 558 by failing to authorize and permit Mr. Morales and other aggrieved employees to take all lawful rest periods to which they are entitled, and failing to pay rest period premiums to Mr. Morales and other aggrieved employees at these employees' respective regular rates of compensation for rest period violations;
- e. Defendants violated Labor Code § 226 by failing to furnish Mr. Morales and other aggrieved employees with accurate and compliant itemized wage statements;
- f. Defendants violated Labor Code §§ 558 and 1174 by failing to maintain accurate records on behalf of Mr. Morales and aggrieved employees; and
- g. Defendants violated Labor Code § 204 by failing to pay Mr. Morales and other aggrieved employees all wages earned at least twice during each calendar month.

Pursuant to Labor Code § 2699.3, please notify us and Defendants 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



Andrew J. Rowbotham, Esq.

Cc: Pioneer Circuits, Inc., c/o Robert Lee, Agent for Service of Process, 3021 South Shannon St, Santa Ana, CA 92704