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**Submitted at https://www.dir.ca.gov with $75 filing fee**

PAGA Administrator
California Labor and Workforce Development Agency
PAGAfilings@dir.ca.gov

Re: DYNACAST, LLC and FORM TECHNOLOGIES LLC (collectively, "Employer")

**NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO LABOR CODE § 2699.3**

To: PAGA Administrator, California Labor and Workforce Development Agency and the Employer

From: GUILLERMO RUVALCABA ("Employee"), who was subjected to the wage and hour practices set forth below

The Employee, by way of the above-named counsel, submits this Notice, under and in compliance with the requirements of California Labor Code § 2699.3(a)/(c), and alleges the facts and theories to support the alleged violations as follows:

During the applicable time period, all individual Employers herein were and are members of and/or engaged in a joint venture, partnership and common enterprise, and were acting within the course and scope of, and in pursuance of said joint venture, partnership and common enterprise. Further, during this time period, the Employer employed the Employee and all other similarly situated aggrieved employees as hourly-paid, non-exempt employees, and utilized consistent policies and procedures regarding the Employee and all such other similarly situated aggrieved employees, as follows:

**First,** the Employee and all other similarly situated aggrieved employees performed work for the Employer while clocked out, including but not limited to interrupting some of their meal periods and other times when off the clock to discuss work-related tasks or projects, whether or not for that particular day. As such, the Employer failed to pay all straight time wages, minimum wages, and overtime wages due for the time the Employee and all other similarly situated aggrieved employees were subject, as stated, to the Employer's control, in violation of Labor Code §§ 510, 1194, 1197, and 1198 and the applicable Industrial Wage Order. As a result, the Employer owes penalties under Labor Code §§ 2699(f) and/or 558.

**Second,** the Employer failed to timely provide all legally compliant meal breaks (including second meal breaks) to the Employee and all other similarly situated aggrieved employees, as the Employee and all other similarly situated aggrieved employees did not always get full thirty minute uninterrupted meal breaks within the first five hours of their shift. As such, the Employee and all other similarly situated aggrieved employees sometimes worked over five hours but were not provided all legally compliant meal breaks. Further, the Employee and all other similarly situated aggrieved employees sometimes worked over ten hours but were not provided all legally compliant second meal breaks. For example, the Employee, on one or more occasions, experienced interrupted meal periods. In

fact, his Foreman [redacted] routinely interrupts his lunch periods to discuss work assignments for the rest of that day and/or other days. The Employee has seen this happen with other hourly-paid employees as well. Further, the Employee and other of Defendants' hourly-paid employees sometimes are required by Defendants to take late meal periods due to the requirements of the job. Finally, the Employee and all others similarly situated are required to carry and keep on either personal mobile telephones and/or company-owned walkie-talkies, and employees are required to respond to calls, whether or not those employees are off-the-clock or on a meal or rest period. On one or more occasions, the Employee's meal periods were interrupted by such work-related calls.

**Third,** the Employer failed to provide the Employee and all other similarly situated aggrieved employees with paid rest breaks, as the Employee and all other similarly situated aggrieved employees did not always get full ten minute uninterrupted rest breaks within the first four hours of their shift or major fraction thereof, and each subsequent four hours worked thereafter or major fraction thereof. As such, the Employee and all other similarly situated aggrieved employees were not always provided legally compliant rest breaks. For example, the Employee, on one or more occasions, experienced interrupted rest periods. In fact, his Foreman [redacted] routinely interrupts his rest periods to discuss work assignments for the rest of that day and/or other days. the Employee has seen this happen with other hourly-paid employees as well. Further, the Employee and other of Defendants' hourly-paid employees sometimes are required by Defendants to take late rest periods due to the requirements of the job. Finally, the Employee and all others similarly situated are required to carry and keep on either personal mobile telephones and/or company-owned walkie-talkies, and employees are required to respond to calls, whether or not those employees are off-the-clock or on a meal or rest period. On one or more occasions, the Employee's rest periods were interrupted by such work-related calls. The Employer did not pay a rest period penalty for any of these violations. As such, the Employer violated Labor Code § 226.7 and the applicable Industrial Wage Order § 12(A)/(B), and owes rest period wages and penalties pursuant to Labor Code §§ 2699(f) and/or 558.

**Fourth,** the Employee and all other similarly situated aggrieved employees incurred mobile phone-related expenses while performing reasonable and necessary work-related duties. For example, the Employee and other of Defendants' employees were required to carry personal mobile devices, and respond to them regarding work-related tasks, whenever called upon to do so. On more or more occasions, the Employee did in fact use his personal mobile device for Defendants' work-related tasks, and was offered or provided no reimbursement therefore. However, the Employer failed to reimburse for these mobile phone-related expenses. (See Cochran v. Schwan's Home Service, Inc. (2014) 228 Cal.App.4th 1137.) As such, the Employer violated Labor Code §§ 450 and 2802 by failing to reimburse the Employee and all other similarly situated aggrieved employees for all mileage-related expenses reasonably incurred in the course of their required work duties, and owes penalties pursuant to Labor Code § 2699(f).

As a derivative result of some or all of the above claims, the Employer has also allegedly violated Labor Code § 226 and the applicable Industrial Wage Order, the Employer is required to include certain information on a paystub. Here, because the Employer allegedly failed to pay all wages as set forth above, improper paystubs were issued by the Employer to the Employee and all other similarly situated aggrieved employees, and the Employee alleges that the Employer has derivatively violated Labor Code § 226, and owes penalties under Labor Code §§ 2699(f) and/or 226.3.

Finally, the Employer failed to list sick leave on the Employee's wage statement and all others similarly situated on and after July 1, 2015, in compliance with Labor Code §§ 245-249. Here, the Employer did not list any sick leave on the wage statement of the Employee and all others similarly situated. As such, the Employer owes penalties pursuant to Labor Code §§ 2699(f).

Under Labor Code § 2699.3(a)(2)(A), please advise within 65 calendar days of the postmark date of this notice whether the LWDA intends to investigate these alleged violations.

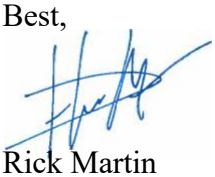
Further, under Labor Code § 2699.3(c)(2)(A), the Employer may cure the alleged violations within thirty-three (33) calendar days of the postmark date of this notice and within that period, give notice by certified mail if the alleged violation is cured, including a description of actions taken.

In addition, this letter clearly sets forth the Employee's grievances and proposed remedies, under the Labor Code, PAGA and otherwise, as set forth above. The Employee would like to engage in reasonable efforts to settle this dispute before filing a civil action against the Employer. The Employee gives the Employer the opportunity, prior to the expiration of the deadline for the LWDA to investigate, to meet the Employee's demands and settle this dispute.

We understand that if we do not receive a response within 65 calendar days of the postmark and filing date of this notice that the LWDA intends to investigate these allegations and/or a notice from the Employer that the alleged violations are cured, and/or if the alleged violations are not cured, then the Employee may immediately thereafter commence a civil action against the Employer under Labor Code § 2699.

Thank you for your consideration.

Best,



Rick Martin
Gregg Lander

cc: (via Certified Mail)
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