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October 4, 2021

VIA ONLINE SUBMISSION

California Labor and Workforce Development Agency
Attn: PAGA Administrator

VIA CERTIFIED MAIL (RETURN RECEIPT REQUESTED)

Agent of Service of Process for Arctic Glacier U.S.A., Inc.:
CT Corporation System (C0168406)
330 N. Brand Blvd., Ste. 700
Glendale, CA 91203

Re: Elias J. Sampson vs. Arctic Glacier U.S.A., Inc.

Dear Labor and Workforce Development Agency and Arctic Glacier U.S.A., Inc.:

Please allow this correspondence to serve as written notice required by California Labor Code § 2699.3(a)(1) of the specific provisions of the Labor Code allegedly violated by Arctic Glacier U.S.A., Inc. ("Arctic") and the facts and theories in support of said allegations. This firm represents Elias J. Sampson ("Claimant"); we hereby notify you that Claimant intends to seek penalties against Arctic under the Private Attorneys General Act of 2004, Cal. Lab. Code §§ 2698 et seq., on behalf of himself and all other aggrieved employees.

Specific Provisions of the Labor Code Allegedly Violated by Arctic

The specific provisions of the Labor Code allegedly violated by Arctic include the following: §§ 201, 202, 203, 204, 210, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 2800, and 2802.

Facts and Theories Supporting the Allegations Against Arctic

Claimant worked for Arctic in California. Claimant and other aggrieved were employees of Arctic classified as non-exempt employees or misclassified as exempt employees.

Arctic willfully misclassified Claimant and some aggrieved employees as exempt employees when, in reality, they were non-exempt employees. The realities of these workers' relationships with Arctic establish that, under conventional, legal, and economic tests, these workers were non-exempt employees of Arctic. Their job duties and/or their salary did not meet the test for exempt classification.

Arctic committed numerous violations of the Labor Code that provide protections to non-exempt employees, including but not limited to, failure to pay wages for all hours worked, failure to provide lawful meal and rest breaks, failure to provide accurate, itemized wage statements, failure to pay all wages due upon separation of employment, failure to reimburse business expenses, and failure to keep accurate records of hours worked.

Within the past year, Arctic failed to pay Claimant and other aggrieved employees at least the legal minimum wage and overtime wages for all hours worked. This conduct violates Labor Code §§ 201, 202, 203, 204, 210, 558, 1182.12, 1194, 1194.2, 1197, and 1198. Arctic failed to pay employees overtime pay when they worked hours entitling them to overtime pay and failed to pay at least minimum wage for hours worked outside of the presumed 40 hours for their salary. In addition to unpaid minimum wage and overtime violations due to the misclassification, Arctic failed to pay aggrieved employees minimum wage and overtime wages when they were required to work through their meal periods without pay or automatically deducted meal periods. Arctic also failed to pay Claimant and other aggrieved employees any wages for certain work, such as training and orientation. When Claimant and other aggrieved employees earned commissions, or other incentive pay, Arctic failed to properly adjust the overtime rate and thereby underpaid Claimant and other aggrieved employees.

Within the past year, Arctic failed to provide 30-minute uninterrupted meal periods within the appropriate time intervals to Claimant and other aggrieved employees as required by Labor Code Section 512 and Section 11 of the applicable Wage Order. Claimant and aggrieved employees either were not provided meal periods at the appropriate intervals, not relieved of all duty during meal periods, not given a delivery schedule that permitted meal periods, were required to work through their meal periods, had their meal periods automatically deducted or added to their time cards even though none were provided, or were interrupted during their meal periods. When Claimant and other aggrieved employees missed meal periods, Arctic violated Labor Code Section 226.7 and 512, as well as Section 11 of the applicable Wage Order, by failing to pay an additional hour of pay at the regular rate of pay to Claimant and other aggrieved employees.

Further, Arctic failed to authorize or permit ten-minute (10) rest periods every four (4) hours or major fraction thereof worked, because Claimant and other aggrieved employees were not told they could take rest periods, were required to work through their rest periods, were not authorized to take their rest periods, were discouraged from taking rest periods, did not receive a schedule that allowed time for rest periods, and/or were not authorized to take the required number of rest periods. When Claimant and other aggrieved employees did not receive rest periods, Arctic violated Labor Code Section 226.7 and section 12 of the applicable Wage Order by failing to pay an additional hour of pay at the regular rate of pay to Claimant and other aggrieved employees.

Further, Arctic violated Labor Code sections 2800 and 2802 when it failed to reimburse Claimant and other aggrieved employees for necessary business expenses. For example, employees were required to use their cell phones while out on routes to communicate with Arctic, buy their own masks and gloves, and pay for gas, among other expenses, but were not reimbursed for those expenses.

As a result of, and in addition to, these actions, Arctic violated Labor Code sections 226 and 226.3 by failing to provide itemized wage statements that accurately reported the following: (1) gross wages earned; (2) total hours worked by the employee; (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. Specifically, the paystubs failed to include the correct hourly rate, correct pay, and hours worked due to the unpaid wage violations described above, among other violations.

Arctic also failed to keep accurate and complete records of hours worked by, and wages paid to, aggrieved employees in violation of Labor Code §§ 1174 and 1175 due to the violations described above.

Lastly, due in part to the above violations, including the failure to pay wages for all hours worked, and/or as a result of the misclassification, Arctic also failed to pay all wages due and owing to Claimant and other aggrieved employees within the required time (in violation of Labor Code §§ 204 and 210) and following the end of these workers' employment with Arctic (in violation of Labor Code §§ 201, 202, 203) due to the violations above. Additionally, Claimant's final wages were not paid on time and he believes this happened to other employees as well.

Based on these violations, Claimant seeks attorneys' fees, interest, and penalties under the Labor Code. Attached hereto and incorporated herein is the class action complaint Claimant intends to file in the Superior Court, on behalf of himself and all other aggrieved employees. Claimant intends to amend the complaint to include a cause of action pursuant to Labor Code §§ 2698, et seq., after the minimum required review period elapses.

Thank you for your assistance on this issue. Should you have any questions or comments, please do not hesitate to contact the undersigned.

Very truly yours,

AEGIS LAW FIRM, PC



Jessica L. Campbell, Esq.

Enclosure(s)
Class Action Complaint