



1875 Century Park East, Suite 1000
Los Angeles, California 90067
310.556.4811 Main | 310.943.0396 Fax

NINEL KOCHARYAN
310.712.8146 Direct
Ninel.Kocharyan@capstonelawyers.com

April 7, 2025

VIA ONLINE SUBMISSION

California Labor & Workforce Development Agency
ATTN: PAGA Administrator
(<https://dir.govfa.net/418>)

Subject: *Rosalind Miles v. PAQ, Inc.*

Dear PAGA Administrator:

This office represents Rosalind Miles in connection with her claims under the California Labor Code, and this letter is sent in compliance with the notice requirements of the California Labor Code Private Attorneys General Act, California Labor Code section 2699.3. Ms. Miles was an employee of PAQ, INC. ("PAQ").

The employer may be contacted directly at the address below:

PAQ, INC.
3021 REYNOLDS RANCH PARKWAY 230
LODI, CA 95240

Ms. Miles intends to seek civil penalties, attorneys' fees, costs, and other available relief for violations of the California Labor Code, which are recoverable under sections 2698, *et seq.*, the Labor Code Private Attorneys General Act of 2004 ("PAGA"). Ms. Miles seeks relief on behalf of herself, the State of California, and other persons who are or were employed by PAQ as a non-exempt employee in a California retail store location ("aggrieved employees"). This letter is sent in compliance with the notice and reporting requirements of California Labor Code section 2699.3.

PAQ employed Ms. Miles as a non-exempt employee from approximately December 2023 to January 2025. Ms. Miles worked for PAQ as a Combo Clerk at its Food 4 Less store in Sacramento (4551 Mack Road, Sacramento, California 95823). Ms. Miles typically worked eight (8) hours per day and three (3) to five (5) days per week on a varied schedule. Ms. Miles's job duties included, without limitation, operating the cash register, handling customer transactions, and providing customer service.

PAQ committed each of the following Labor Code violations against Ms. Miles, the facts and theories of which follow, making her an “aggrieved employee” pursuant to California Labor Code section 2699(c)(1).¹ Ms. Miles’s relevant claims are as follows:

PAQ’s Company-Wide and Uniform HR Practices

PAQ, INC. is a California corporation that operates Food 4 Less supermarkets and Rancho San Miguel Markets in California. PAQ operates approximately 24 retail grocery store locations in California. Upon information and belief, PAQ maintains a centralized Human Resources (HR) department at its corporate headquarters in Lodi, California, for all non-exempt employees working for PAQ at retail stores in California, including Ms. Miles and other aggrieved employees. PAQ maintained uniform practices with respect to its provision of seats (or lack thereof) in its retail stores for all non-exempt employees in California, including Ms. Miles and other aggrieved employees, regardless of their location or position.

Violation of California Labor Code § 1198 and California Code of Regulations Title 8, Section 11070 Subdivision 14(A) – Failure to Provide Suitable Seating

California Labor Code section 1198 makes it illegal to employ an employee under conditions of labor that are prohibited by the applicable Industrial Welfare Commission (“IWC”) Wage Order. California Labor Code section 1198 requires that “. . . the standard conditions of labor fixed by the commission shall be the . . . standard conditions of labor for employees. The employment of any employee . . . under conditions of labor prohibited by the order is unlawful.” California Code of Regulations, Title 8, section 11070(14)(A) provides that “[a]ll working employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats.”

“The ‘nature of the work’ refers to an employee’s tasks performed at a given location for which a right to a suitable seat is claimed, rather than a ‘holistic’ consideration of the entire range of an employee’s duties anywhere on the jobsite during a complete shift. If the tasks being performed at a given location reasonably permit sitting, and provision of a seat would not interfere with performance of any other tasks that may require standing, a seat is called for.” *Kilby v. CVS Pharmacy, Inc.*, 368 P.3d 554, 558 (Cal. 2016). “Whether the nature of the work reasonably permits sitting is a question to be determined objectively based on the totality of the circumstances. An employer’s business judgment and the physical layout of the workplace are relevant but not dispositive factors. The inquiry focuses on the nature of the work, not an individual employee’s characteristics.” *Id.* The burden of proof to show suitable seating is not available is on the employer. *Id.* at 568. In other words, the employer must show that compliance is “infeasible because no suitable seating exists.” *See id.*

PAQ’s California retail stores are generally similar in their layout and design and there was, and continues to be, space at cash wraps and/or service counters that would allow for the presence and

¹ These facts, theories, and claims are based on Ms. Miles’s experience and counsel’s review of those records currently available relating to Ms. Miles’s employment. Discovery conducted in litigation of wage and hour claims such as these often reveals additional claims that the aggrieved employee was not initially aware of (because the aggrieved employee was not aware of the law’s requirements, the employer misinformed its employee of the law’s requirements, or because the employer effectively hid the violations). Thus, Ms. Miles reserves the right to supplement this letter with additional facts, theories, and claims if she becomes aware of them subsequent to the submission of this letter.

use of a seat or stool by Ms. Miles and other aggrieved employees during the performance of their work duties at the cash wraps and/or service counters. However, PAQ has designed its cash wraps and/or service counters to require Ms. Miles and other aggrieved employees to stand while performing their work duties at those locations. PAQ could have provided Ms. Miles and other aggrieved employees with suitable seats at cash wraps and/or service counters, with reasonable or no modification to the work area(s), but instead has denied and continues to deny them seats altogether or denies them suitable seats. As a result, Ms. Miles and other aggrieved employees are and have been forced to stand throughout the day. In addition, PAQ failed to expressly advise Ms. Miles and other aggrieved employees that they could utilize seats while performing their duties.

During her employment, Ms. Miles performed cashiering duties at the cash wrap and spent a significant portion of her day behind the cash wrap. Other aggrieved employees similarly spent a portion of their day at cash wraps and/or service counters performing cash register and/or other customer service duties. The nature of the work of an employee performing cashier and/or customer service duties can reasonably be accomplished from a seated position. Ms. Miles and other aggrieved employees could have handled customer transactions and performed other similar tasks at cash wraps and/or service counters at any of PAQ's stores while seated without affecting the quality and effectiveness of the performance of their job duties. However, as set forth herein, PAQ systematically, and on a company-wide basis, does not provide seats or does not provide suitable seats at cash wraps and/or service counters and expressly prohibits employees from sitting while working, forcing Ms. Miles and other aggrieved employees to stand throughout their work shifts.

PAQ violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11070(14)(A) because Ms. Miles and other aggrieved employees were not allowed to sit, even when the nature of their work would reasonably permit the use of seats, nor were they provided with suitable seats. PAQ's management did not inform Ms. Miles and other aggrieved employees that they were allowed to sit down, provide any means for them to sit down, or mention any policy regarding sitting. PAQ's failure to provide suitable seating to Ms. Miles and other aggrieved employees violates California Labor Code section 1198 and IWC Wage Order No. 7-2001, subdivision 14(A).

Ms. Miles and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring PAQ into compliance with the applicable IWC Wage Order and Labor Code section 1198, pursuant to Labor Code sections 1194.5 and/or 2699(a), (f), and (k).

Violation of California Labor Code § 1198 and California Code of Regulations Title 8, Section 11070 Subdivision 14(B) – Failure to Provide Suitable Seating

California Labor Code section 1198 makes it illegal to employ an employee under conditions of labor that are prohibited by the applicable IWC Wage Order. California Labor Code section 1198 requires that “. . . the standard conditions of labor fixed by the commission shall be the . . . standard conditions of labor for employees. The employment of any employee . . . under conditions of labor prohibited by the order is unlawful.” California Code of Regulations, Title 8, section 11070(14)(B) provides that “[w]hen employees are not engaged in the active duties of their employment and the nature of the work requires standing, an adequate number of suitable seats shall be placed in reasonable proximity to the work area and employees shall be permitted to use such seats when it does not interfere with the performance of their duties.”

The IWC states that subdivision 14(B) applies during “lulls in operation” when an employee, while still on the job, is not then actively engaged in any duties. *Kilby v. CVS Pharmacy, Inc.*, 368 P.3d 554, 565 (Cal. 2016), citing IWC, 1976 Wage Orders, Summary of Basic Provisions, Seats. When taken together, an employee is entitled to a seat under subdivision 14(A) if his or her actual tasks at a discrete location make seated work feasible, while working there. *Id.* However, if other job duties take the employee to a different location where he or she must perform tasks requiring standing, the employee would be entitled to a seat under subdivision 14(B) during “lulls in operation.” *Id.*

PAQ has not placed an adequate number of suitable seats within reasonable proximity to the work areas of employees who perform duties, whose nature require standing, and therefore has not permitted employees to use those seats when not actively engaged in performing their standing duties (i.e., during “lulls in operation”), even though sitting would not interfere with the performance of their job duties.

During her employment, Ms. Miles experienced lulls in her work at various times during a typical shift, especially when the store was not busy, such as very early in the morning. During these lulls, when Ms. Miles was not actively performing tasks (the nature of which require standing), Ms. Miles could have taken a moment to sit and rest her legs, back, and feet if seating was provided. PAQ could have provided Ms. Miles and other aggrieved employees with a suitable seat or stool within reasonable proximity of their work areas but instead denies employees seats and forces Ms. Miles and other aggrieved employees to stand throughout the day. Moreover, PAQ did not inform Ms. Miles and other aggrieved employees of their rights to a seat or stool under California law. PAQ’s failure to provide suitable seating to Ms. Miles and other aggrieved employees within reasonable proximity of their work areas and permit them to use those seats when not actively engaged in their standing duties violates California Labor Code section 1198 and IWC Wage Order No. 7-2001, subdivision 14(B).

Ms. Miles and other aggrieved employees are entitled to recover civil penalties, attorneys’ fees, costs, and interest thereon, and seek injunctive relief to bring PAQ into compliance with the applicable IWC Wage Order and Labor Code section 1198, pursuant to Labor Code sections 1194.5 and/or 2699(a), (f), and (k).

Ms. Miles, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties and injunctive relief for herself, all other aggrieved employees, and the State of California against PAQ for violations of California Labor Code section 1198 and the applicable IWC Wage Order.

Therefore, on behalf of all aggrieved employees, Ms. Miles seeks all applicable penalties related to these violations of the California Labor Code pursuant to PAGA.

Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

Ninel Kocharyan
Capstone Law APC
1875 Century Park East, Suite 1000
Los Angeles, CA 90067
(310) 556-4811

Best Regards,

A handwritten signature in cursive script, appearing to read "Ninel".

Ninel Kocharyan

Copy: PAQ, INC. (via U.S. Certified Mail)

SENDER: COMPLETE THIS SECTION

■ Complete items 1, 2, and 3.
 ■ Print your name and address on the reverse so that we can return the card to you.

PAQ, INC.
 3021 Reynolds Ranch Parkway
 Suite #230
 Lodi, CA 95240

9590 9402 7575 2098 7287 18

2. Article Number (Transfer from service label)
 7021 1970 0000 9011 3771

PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature
 X

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
 If YES, enter delivery address below: ☐ No

Service Type
☐ Adult Signature
☐ Adult Signature Restricted Delivery
☒ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery

☐ Priority Mail Express®
☐ Registered Mail™
☐ Registered Mail Restricted Delivery
☐ Signature Confirmation™
☐ Signature Confirmation Restricted Delivery

Restricted Delivery

Domestic Return Receipt

CAPSTONE LAW, APC
 1875 Century Park East
 Suite #1000
 Los Angeles, CA 90067

PAQ, INC.
 3021 Reynolds Ranch Parkway
 Suite #230
 Lodi, CA 95240

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF THE RETURN ADDRESS. FOLD AT DOTTED LINE.

CERTIFIED MAIL®

7021 1970 0000 9011 3771

7021 1970 0000 9011 3771

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
 Domestic Mail Only
 For delivery information, visit our website at www.usps.com

OFFICIAL USE

Certified Mail Fee
 Return Receipt (electronic)
 Certified
 Adult Signature
 Adult Signature Restricted Delivery
 Collect on Delivery
 Collect on Delivery Restricted Delivery

PAQ, INC.
 3021 Reynolds Ranch Parkway
 Suite #230
 Lodi, CA 95240

PS Form 3800, April 2015 PSN 7530-02-000-9053 See Reverse for Instructions