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**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF CALIFORNIA

SANDRIKA MEDLOCK, et al.,  
Plaintiffs,  
v.  
TACO BELL CORP., et al.,  
Defendants.

Case No. 1:07-cv-01314-SAB  
ORDER DENYING DEFENDANTS’  
MOTION FOR JUDGMENT ON THE  
PLEADINGS OR, IN THE ALTERNATIVE,  
FOR SUMMARY JUDGMENT  
ECF NO. 401

On April 22, 2014, Defendants Taco Bell Corp. and Taco Bell of America, Inc. (“Defendants”) filed a motion for judgment on the pleadings or, in the alternative, for summary judgment with respect to Plaintiffs’ claims under California’s Private Attorneys General Act (“PAGA”).

The hearing on Defendants’ motion took place on May 21, 2014. Matthew Theriault appeared in person on behalf of Plaintiffs. Tracy Kennedy and Morgan Forsey appeared in person on behalf of Defendants. Jerusalem F. Beligan (Plaintiffs), Monica Balderrama (Plaintiffs), Patrick Clifford (Plaintiffs) and Nora K. Stiles (Defendants) also appeared via telephone. For the reasons set forth below, the Court denies Defendants’ motion.

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1 **I.**

2 **BACKGROUND**

3 In these consolidated actions, Plaintiffs assert class claims against Defendants arising  
4 from the alleged violations of California’s Labor Code relating to the payment of minimum  
5 wages and overtime and the provision of meal and rest breaks. The operative complaint is the  
6 First Amended Consolidated Complaint filed on May 17, 2011. (ECF No. 230.) One of the  
7 claims asserted in this action is under PAGA, which authorizes “aggrieved employees, acting as  
8 private attorneys general, to recover civil penalties for Labor Code violations...” Arias v.  
9 Superior Court, 46 Cal. 4th 969, 980 (2009).

10 Defendants now seek judgment on the pleadings or, in the alternative, summary  
11 judgment, with respect to Plaintiffs’ PAGA claims on the ground that Plaintiffs failed to exhaust  
12 their administrative remedies prior to filing suit.

13 **II.**

14 **LEGAL STANDARDS**

15 Federal Rule of Civil Procedure 12(c) states:

16 (c) Motion for Judgment on the Pleadings. After the pleadings  
17 are closed--but early enough not to delay trial--a party may move  
for judgment on the pleadings.

18 When ruling on a motion for judgment on the pleadings, the allegations of the non-moving party  
19 must be accepted as true, while the allegations of the moving party which have been denied are  
20 assumed to be false. Hal Roach Studios, Inc. v. Richard Feiner and Co., Inc., 896 F.2d 1542,  
21 1550 (9th Cir. 1989) (citing Doleman v. Meiji Mutual Life Ins. Co., 727 F.2d 1480, 1482 (9th  
22 Cir. 1984)). “Judgment on the pleadings is proper when the moving party clearly establishes on  
23 the face of the pleadings that no material issue of fact remains to be resolved and that it is  
24 entitled to judgment as a matter of law.” Id. (citing Doleman, 727 F.2d at 1482). “However,  
25 judgment on the pleadings is improper when the district court goes beyond the pleadings to  
26 resolve an issue; such a proceeding must properly be treated as a motion for summary  
27 judgment.” Id. (citing Fed. R. Civ. P. 12(c)).

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1 Motions for summary judgment are governed by Federal Rule of Civil Procedure 56.  
2 Under Federal Rule of Civil Procedure 56, “[a] party may move for summary judgment ... if the  
3 movant shows that there is no genuine dispute as to any material fact and the movant is entitled  
4 to judgment as a matter of law.” Summary judgment must be entered “against a party who fails  
5 to make a showing sufficient to establish the existence of an element essential to that party’s  
6 case...” Celotex Corp. v. Catrett, 477 U.S. 317, 322 (1986). “[A] party seeking summary  
7 judgment always bears the initial responsibility of informing the district court of the basis for its  
8 motion, and identifying those portions of ‘the pleadings, depositions, answers to interrogatories,  
9 and admissions on file, together with the affidavits, if any,’ which it believes demonstrate the  
10 absence of a genuine issue of material fact.” Id.

11 **III.**  
12 **DISCUSSION**

13 Defendants contend that the issue of exhaustion may be raised on a motion for judgment  
14 on the pleadings because Plaintiffs’ administrative claim may be considered on such a motion  
15 because it is a document which the complaint necessarily relies upon. In the alternative,  
16 Defendants contend that their motion should be construed as a motion for summary judgment.  
17 For the reasons set forth below, the Court need not resolve this threshold issue because,  
18 regardless of whether Defendants’ argument is presented on a motion for judgment on the  
19 pleadings or on a motion for summary judgment, Defendants are not entitled to judgment.

20 **A. Failure to Exhaust**

21 Defendants contend that Plaintiffs’ PAGA claims fail because Plaintiffs’ failed to  
22 properly exhaust their administrative remedies associated with their PAGA claims. PAGA’s  
23 exhaustion requirement is set forth in California Labor Code § 2699.3, which states:

24 (a) A civil action by an aggrieved employee pursuant to  
25 subdivision (a) or (f) of Section 2699 alleging a violation of any  
26 provision listed in Section 2699.5 shall commence only after the  
27 following requirements have been met:

28 (1) The aggrieved employee or representative shall give  
written notice by certified mail to the Labor and Workforce  
Development Agency and the employer of the specific provisions  
of this code alleged to have been violated, including the facts and  
theories to support the alleged violation.

1 Defendants concede that Plaintiffs sent a written notice but contends that the written  
2 notice was insufficient because it did no state sufficient facts to provide adequate notice of a  
3 PAGA violation. Defendants cite several cases where PAGA suits were dismissed because the  
4 administrative claim materials sent to the Labor and Workforce Development Agency  
5 (“LWDA”) were deemed insufficient to satisfy Section 2699.3’s exhaustion requirement.

6 In Archila v. KFC U.S. Properties, Inc., 420 Fed Appx. 667, 669 (9th Cir. 2011), the  
7 Ninth Circuit determined that claim materials were insufficient because “[t]he demand letter  
8 merely lists several California Labor Code provisions Archila alleges KFC violated and requests  
9 that KFC conduct an investigation.” Further, “none of the materials Archila submitted to KFC or  
10 the LWDA contain[ed] ‘facts and theories’ to support his allegations.” Id.

11 While the Ninth Circuit’s language in Archila appears to be limited in application to  
12 circumstances where the letter to the LWDA contain absolutely no facts and theories, other  
13 courts have extended Archila’s reach to claim letters which only allege facts that amount to  
14 recitation of the elements of a statutory violation. In Ovieda v. Sodexo Operations, LLC, NO  
15 CV 12-1750-GJK (SSx), 2013 WL 3887873, at \*3-4 (C.D. Cal. Jul. 3, 2013), the notice to the  
16 LWDA was deemed insufficient because it “merely recite[d] the statutory requirements  
17 Defendants allegedly violated” with “no facts specific to Ovieda’s principal meal and rest break  
18 claim and unpaid wages claim and no information about what Defendants’ allegedly illegal  
19 policy and practices are.” Id.; see also Green v. Bank of America, Nat. Ass’n, No. 11-cv-04571-  
20 R-AGR, 2013 WL 4614122, at \*2 (C.D. Cal. May 30, 2013) (“Plaintiffs’ letters to the [LWDA]  
21 are conclusory: They merely recite the elements of the Wage Order provision at issue and fail to  
22 state ... even the most basic facts upon which plaintiffs’ claims rely.”); Alcantar v. Hobart  
23 Service, No. ED CV 11-1600 PSG (SPx), 2013 WL 228501, at \*2-4 (C.D. Cal. Jan. 22, 2013)  
24 (LWDA letter “vaguely list[ed] ways in which the California Labor Code provisions were  
25 violated and fail[ed] to allege specific facts...”); Soto v. Castlerock Farming and Transport, Inc.,  
26 No. CIV-F-09-0701 AWI JLT, 2012 WL 1292519 at \*8 (E.D. Cal. Apr. 16, 2012) (“...the Ninth  
27 Circuit requires an exceedingly detailed level of specificity for Section 2699.3(a)(1) to be  
28 satisfied...”)

1 Plaintiffs cite a number of cases where the exhaustion requirement is satisfied by a letter  
2 to the LWDA without an “exceedingly detailed level of specificity.” See Gonzalez v. Millard  
3 Mall Services, Inc., No. 09CV2076-AJB(WVG), 2012 WL 3629056, at \*5-6 (S.D. Cal. Aug. 21,  
4 2012) (“...the Court disagrees with the Soto[] court’s interpretation of the Ninth Circuit notice  
5 requirement that the notice must have an ‘exceedingly detailed level of specificity.’”); Cardenas  
6 v. McLane FoodServices, Inc., 796 F. Supp. 2d 1246, 1259-61 (C.D. Cal. 2011) (plaintiffs need  
7 not include “every potential fact or every future theory” in letter to LWDA to exhaust); Lessard  
8 v. Trinity Protection Services, Inc., No. 2:10-cv-01262, 2010 WL 3069265, at \*3 (E.D. Cal. Aug.  
9 3, 2010 (“Defendant’s reading of the notice provision of § 2699.3(a), however, stretches both the  
10 language and intent of the statute.”)).

11 The letter sent by Plaintiff Lisa Hardiman to the LWDA is subdivided into separate  
12 paragraphs for each group of statutory violations. For example, the letter provides the following  
13 factual allegations with respect to unpaid overtime:

14 **Violation of California Labor Code §§ 51, 1194, and 1198**

15 ... Ms. Hardiman and other aggrieved employees consistently  
16 worked overtime but were not paid for all the overtime hours they  
17 worked. Further, they regularly received incentives which were  
18 not incorporated into their overtime rate and thus was not paid at  
19 the proper overtime rate. Wages earned by Ms. Hardiman and  
other aggrieved employees in particular pay periods were not all  
paid during the same pay periods, and often overtime hours they  
worked in one pay period were paid late in another pay period at a  
pay rate less than the premium overtime rate.

20 (Def. Taco Bell’s Req. for Judicial Notice in Supp. of Mot. for Partial Summ. J. Pursuant to  
21 F.R.C.P. 56, Ex. 1, at pg. 2.) The Court finds that the content of the letter to the LWDA was  
22 sufficient to exhaust her claims pursuant to Section 2699.3. The letter provided more detail than  
23 the letters that were rejected in the cases cited by Defendants, as Plaintiffs alleged facts  
24 supporting a specific theory of liability: namely, that wages were not paid in the correct pay  
25 period, were not paid for all overtime hours worked and were paid at the incorrect rate because  
26 they did not factor in incentives. It is unclear why any further level of detail would be necessary.  
27 Defendants do not contend that the purpose of the exhaustion requirement was unfulfilled by  
28 Plaintiffs’ letter. It is also worth noting that the level of detail provided by Plaintiffs is similar, if

1 not identical, to the level of factual detail that would be deemed sufficient on a motion to dismiss  
2 standard under Federal Rule of Civil Procedure 12(b)(6). Accordingly, the Court rejects  
3 Defendants' argument that the letter to the LWDA was not sufficient to satisfy Section 2699.3's  
4 exhaustion requirement.

5 **B. Plaintiffs' PAGA Claims for Business Expense Violations**

6 Defendants contend that Plaintiffs failed to exhaust her claims under California Labor  
7 Code §§ 2800 and 2802 because Plaintiff Hardiman's letter to the LWDA does not mention  
8 anything about reimbursements for business expenses and does not even cite or refer to  
9 California Labor Code §§ 2800, 2802. Plaintiffs' LWDA letter very clearly refers to these code  
10 violations:

11 **Violation of California Labor Code §§ 2800 and 2802**

12 California Labor Code §§ 2800 and 2802 require employers to pay  
13 for all necessary expenditures and losses incurred by the employee  
14 in the performance of his or her job. Ms. Hardiman and other  
15 aggrieved employees incurred necessary business-related expenses  
and costs that were not fully reimbursed by TACO BELL  
FOUNDATION, INC. including and without limitation, required  
shoes, required clothing and related fees and deposits that resulted  
from their employment with Defendants.

16 Based upon the foregoing, the Court denies Defendants' motion for judgment on the  
17 pleadings or, in the alternative, for summary judgment.

18 **IV.**

19 **CONCLUSION AND ORDER**

20 Based upon the foregoing, the Court finds that Defendants have failed to demonstrate that  
21 Plaintiffs failed to exhaust their administrative remedies with respect to their PAGA claims prior  
22 to filing suit.

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1           Accordingly, it is HEREBY ORDERED that Defendants' motion for judgment on the  
2 pleadings or, in the alternative, for summary judgment is DENIED. (ECF No. 401.)

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5 IT IS SO ORDERED.

6       Dated: May 22, 2014

  
UNITED STATES MAGISTRATE JUDGE