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WWW.LELAWFIRM.COM

July 24, 2020

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

To: California Labor and Workforce Development Agency
Attn. PAGA Administrator
1515 Clay Street, Suite 801
Oakland, California 94612
Via Online Submission Only

Department of Industrial Relations
Accounting Unit
455 Golden Gate Avenue, 10th Floor
San Francisco, California 94102
\$75 PAGA Payment Sent Via Certified Mail Number: **7019 0700 0002 2123 6172**

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Corporation Service Company Which Will Do Business in California as CSC - Lawyers
Incorporating Service (C1592199)
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Sacramento, CA 95833
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AYA HEALTHCARE SERVICES, INC.
5930 Cornerstone Court West, Suite 300
San Diego, California 92121
Certified Mail Number: **7019 0700 0002 2123 4819**

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From: MELISSA GUILLEN, on behalf of herself and other current and former aggrieved
California-based hourly non-exempt employees of AYA HEALTHCARE SERVICES,
INC.; AYA HEALTHCARE, INC.; and AYA HEALTHCARE LOCAL, LLC
c/o Joseph Lavi, Esq.
Vincent C. Granberry, Esq.
Courtney M. Miller, Esq.
LAVI & EBRAHIMIAN, LLP
8889 West Olympic Boulevard, Suite 200
Beverly Hills, California 90211

Sahag Majarian II, Esq.
LAW OFFICES OF SAHAG MAJARIAN II
18250 Ventura Boulevard
Tarzana, California 91356

Factual Statement and Theories of Labor Code Violations

Aggrieved employee MELISSA GUILLEN (“Employee”) was formerly employed by
AYA HEALTHCARE SERVICES, INC.; AYA HEALTHCARE, INC.; and AYA
HEALTHCARE LOCAL, LLC (collectively “Employers”) as an hourly non-exempt employee
from on or about April 30, 2020, through on or about July 17, 2020.

1. Failure to Pay the Minimum Wage Rate of Pay for All Hours Worked

First, Employee alleges that during her employment, Employers failed to pay her and other
current and former aggrieved California-based hourly non-exempt employees with compensation
at the minimum wage rate of pay for all the hours that they worked in violation of California Labor
Code sections 1194 and 1197. Labor Code section 1197 provides, “The minimum wage for
employees fixed by the commission is the minimum wage to be paid to employees, and the
payment of a less wage than the minimum so fixed is unlawful.” Labor Code section 1194 states,
“...any employee receiving less than the legal minimum wage or the legal overtime compensation
applicable to the employee is entitled to recover in a civil action the unpaid balance of the full

amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees, and costs of suit."

Employee alleges that during her employment, Employers failed to pay Employee and other current and former aggrieved California-based hourly non-exempt employees all wages at the applicable minimum wage for all hours worked based on the following:

- Employers maintained a policy, practice, and/or procedure that required Employee and other current and former aggrieved California-based hourly non-exempt employees to undergo off-the-clock COVID-19 medical screenings including, but not limited to, temperature checks and/or medical questionnaires, prior to clocking in for their shifts. Employee and other current and former aggrieved California-based hourly non-exempt employees were not paid for this time.

Employers' aforementioned policy, practice, and/or procedure resulted in time each day in which Employee and other current and former aggrieved California-based hourly non-exempt employees were subject to the control of Employers without being compensated for that time.

Based on these violations, Employee intends to seek civil penalties pursuant to the Private Attorneys General Act ("PAGA"), California Labor Code §2698, *et seq.* and Labor Code §1197.1, subdivisions (a)(1)-(2), on behalf of the Labor and Workforce Development Agency ("LWDA") against Employers if authorized to file a representative action on behalf of the State of California. As a derivative claim of Employers' failure to pay wages at a minimum wage rate for all hours worked, Employee will also seek statutory penalties under Labor Code 226(a)(1) because the failure to pay such minimum wages for all hours worked rendered Employee's and other current and former aggrieved California-based hourly non-exempt employees' pay calculations inaccurate and in violation of Labor Code § 226(e)(2)(B)(i).

2. *Failure to Pay Overtime Wages for Overtime Hours Work*

Second, Employee alleges that during her employment, Employer failed to pay her and other current and former aggrieved California-based hourly non-exempt employees for the overtime hours they worked at their overtime rate of pay.

Labor Code section 510, subdivision (a), states in relevant part:

"Eight hours of labor constitutes a day's work. Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek

shall be compensated at the rate of no less than twice the regular rate of pay of an employee.”

Finally, Labor Code section 1194 provides, “...any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney’s fees, and costs of suit.”

Employee alleges that during her employment, Employers failed to pay Employee and other current and former aggrieved California-based hourly non-exempt employees overtime wages for overtime hours worked based on the following:

- Employers maintained a policy, practice, and/or procedure that required Employee and other current and former aggrieved California-based hourly non-exempt employees to undergo off-the-clock COVID-19 medical screenings including, but not limited to, temperature checks and/or medical questionnaires, prior to clocking in for their shifts. Employee and other current and former aggrieved California-based hourly non-exempt employees were not paid for this time.

Employers’ aforementioned policy, practice, and/or procedure resulted in time each day in which Employee and other current and former aggrieved California-based hourly non-exempt employees were subject to the control of employers without being compensated for that time. To the extent that the foregoing unpaid time resulted Employee and other current and former aggrieved California-based hourly non-exempt employees being subject to the control of Employers when they worked more than eight (8) hours in a workday or forty (40) hours in a workweek, Employers failed to pay Employee and other current and former aggrieved California-based hourly non-exempt employees for all of the overtime hours that they worked at their overtime rate of pay.

Based on these violations, Employee intends to seek civil penalties pursuant to PAGA, California Labor Code §2698, *et seq.*, and Labor Code § 1197.1, subdivisions (a)(1)-(2), on behalf of LWDA against Employers if authorized to file a representative action on behalf of the State of California. As a derivative claim of Employers’ failure to pay overtime wages for overtime hours worked, Employee will also seek statutory penalties under Labor Code 226(a)(1) because the failure to pay such overtime wages rendered Employee’s and other current and former aggrieved California-based hourly non-exempt employees’ pay calculations inaccurate and in violation of Labor Code § 226(e)(2)(B)(i).

3. *Failure to Provide Accurate Wage Statements*

The aforementioned derivative violations of Labor Code § 226, namely Employers’ failure to pay all wages at the applicable minimum wage for all hours worked and failure to pay overtime wages for overtime hours worked, rendered Employee’s and other current and former aggrieved California-based hourly non-exempt employees’ pay calculations inaccurate. Based on these violations, Employee will seek civil penalties under Labor Code § 226.3, PAGA, and Labor Code

§ 2698, *et seq.*, on behalf of LWDA, against Employers if authorized to file a representative action on behalf of the State of California.

4. *Failure to Timely Pay Final Wages*

As a result of the aforementioned violations of the Labor Code, Employee alleges that she and other current and aggrieved California-based hourly non-exempt employees were not paid their final wages in a timely manner as required by Labor Code § 203. Unpaid wages at the applicable minimum wage, overtime wages, and meal period and/or rest break premium wages, were not paid at the time aggrieved employees separated from Employers. Employee is informed and believes, and thereon alleges, that former aggrieved California-based hourly non-exempt employees who separated from Employers, whether voluntarily or involuntarily, were not paid all wages due in a timely manner, including any unpaid wages at the applicable minimum wage and overtime wages, as required by Labor Code §§ 201, 202, and 203.

Based on these violations, Employee will seek civil penalties under PAGA and Labor Code § 2698, *et seq.*, on behalf of LWDA, against Employers if authorized to file a representative action on behalf of the State of California.

5. *Employers' Other Violations of the California Labor Code*

Finally, pursuant to *Huff v. Securitas Security Services USA, Inc.* (2018) 25 Cal.App.5th 745 (“*Huff*”), as an aggrieved employee, Employee has standing to, and intends to, on behalf of LWDA, pursue civil penalties against Employers for any and all other Labor Code violations committed by Employers. In *Huff*, the California Courts of Appeal held that an employee alleging a single violation of the California Labor Code under PAGA may also bring PAGA claims against the employer for all other alleged Labor Code violations, even those suffered by other employees of the same employer. According to the *Huff* decision, Employee, as an “aggrieved” employee affected by at least one Labor Code violation may, and hereby does, pursue penalties on behalf of LWDA for unrelated Labor Code violations by Employers.

Conclusion

My client intends to file a representative action pursuant to PAGA concerning her wage claims as warranted by Employers’ violations of Labor Code sections 201, 202, 203, 226, 510, 1194, 1197, and the IWC Wage Orders. This letter is being sent to you as an inquiry into whether LWDA wishes to investigate my client's allegations for any civil penalties associated with the Employers’ alleged violations of the Labor Code. Thank you for your assistance and cooperation in his matter. Please contact me at the above-listed information.

Very truly yours,
LAVI & EBRAHIMIAN, LLP

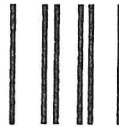


Courtney M. Miller, Esq.

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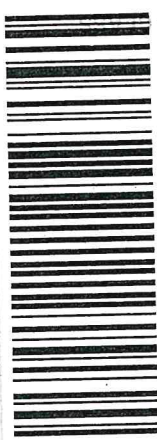
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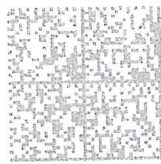
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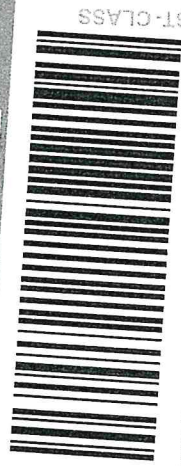
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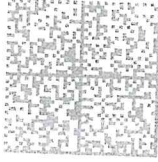
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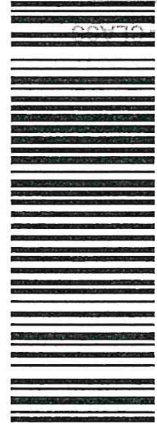
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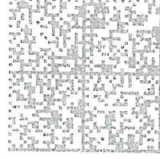
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PS Form 3811, July 2015 PSN 7530-02-000-9053

Instructions

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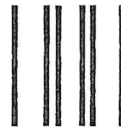
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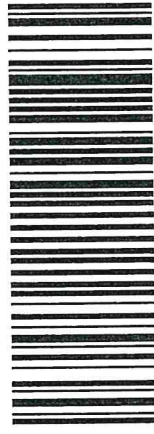
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 (C1592199)
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3. Service Type

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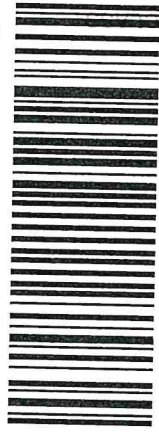
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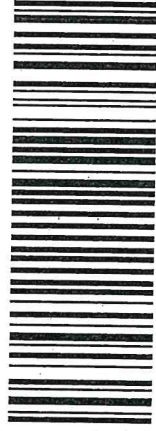
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