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January 11, 2022

Via Online Filing (LWDA) and Certified Mail (Employers)

California Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612
<http://www.dir.ca.gov/Private-Attorneys-General-Act>

AYA Healthcare Services, Inc.
5930 Cornerstone Court West, Suite 300
San Diego, CA 92121
Certified Mail Receipt: 7021 0950 0000
7376 6405

Agent for Service of Process for
AYA Healthcare Services, Inc.:
CSC-Lawyers Incorporating Service
2710 Gateway Oaks Drive, Suite 150N
Sacramento, CA 95833
Certified Mail Receipt: 7021 0950 0000
7376 6429

PMG Group U.S.A., Inc.
25 Broadway
San Francisco, CA 94111
Certified Mail Receipt: 7021 0950 0000
7376 6412

Agent for Service of Process for
PMG Group U.S.A., Inc.:
CT Corporation System
330 N. Brand Blvd., Suite 700
Glendale, CA 91203
Certified Mail Receipt: 7021 0950 0000
7376 6399

Re: NOTICE PURSUANT TO LABOR CODE SECTIONS 2698 *et seq.*

To Whom It May Concern:

PLEASE TAKE NOTICE that Plaintiff Roberta Brown, on behalf of herself and all others similarly situated, hereby submits this notice to the LWDA of her Complaint against her former employers AYA Healthcare Services, Inc., PMG Group U.S.A., Inc., and DOES 1 through 50 inclusive (collectively "Defendants") pursuant to Labor Code sections 2698 *et seq.* This notice is timely as it is provided within one year of the violations

All Labor Code violations and related allegations specified herein or in the attached complain pertain to all entities or individuals named herein, even if not so specified.

Plaintiff alleges that Defendants committed the violations set forth herein against both herself and the group of aggrieved employees that she will seek to represent: Any and all persons

who are or were employed by Defendants, either directly or indirectly, in the State of California as non-exempt employees during the relevant time period.

During the relevant time period as defined by the statute, Plaintiff was employed by Defendants as a non-exempt, hourly employee at a PMG Group U.S.A., Inc. site through temporary staffing agency Defendant AYA Healthcare Services, Inc. Plaintiff alleges that Defendants were joint employers that jointly controlled the terms and conditions of Plaintiff's employment.

Pursuant to *Huff v. Securitas Security Services*, 23 Cal. App. 5th 745, 751 (2018), an employee who brings a representative action and was affected by at least one of the violations alleged in the complaint has standing to pursue penalties on behalf of the state not only for that violation, but for violations affecting other employees as well. Accordingly, Plaintiff has standing to pursue penalties on behalf of the state for violations affecting all the aggrieved employees working for Defendants in California regardless of their classification, job title, locations, or whether they were hired directly or through a labor contractor or staffing agency.

Failure to Pay Minimum Wages

During all relevant periods, the California Labor Code sections 204, 1194, 1197, 1198, and wage orders 4-2001 and 5-2001 required that Defendants fully and timely pay its non-exempt, hourly employees all wages earned and due for all hours worked. Employers are required to pay at least minimum wage for each hour worked. Labor Code section 1194(a) provides that notwithstanding any agreement to work for a lesser wage, 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. The IWC Wage Orders define "hours worked" as "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so." At all times relevant, Plaintiff and Aggrieved Employees consistently worked hours for which they were not paid because Defendants frequently required Plaintiff and Aggrieved Employees to work off the clock. Plaintiff and the Aggrieved Employees were not paid for all hours worked including on-call time. In addition, Plaintiff and the Aggrieved Employees were not paid for all hours worked because of Defendants' unlawful rounding practices and deduction from hours worked for purported meal periods.

Failure to Provide Lawful Meal Periods

Pursuant to Labor Code §512 and the IWC Wage Orders, no employer shall employ an employee for a work period of more than five (5) hours without providing a meal break of not less than thirty (30) minutes in which the employee is relieved of all his or her duties, except that when a work period of not more than six (6) hours will complete the day's work the meal period may be waived by mutual consent of the employer and employee. Defendants failed to provide Plaintiff and Aggrieved Employees timely and uninterrupted first meal periods of not less than thirty (30) minutes within the first five hours of a shift. As a consequence of Defendants' policies and

practices, labor budgets, requirements, demands, coverage, and staffing, Plaintiff and Aggrieved Employees were often required to forego such meal periods, take shortened or interrupted meal periods, and/or commence their meal periods into and beyond the fifth hour of their shifts. In addition, Defendants failed to record meal breaks as required by law.

Further, Plaintiff and the Aggrieved Employees were not paid one hour of pay at their regular rate for each day that a meal period was not lawfully provided in violation of Labor Code section 226.7 and *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal.5th 858).

Failure to Authorize and Permit Lawful Rest Periods

Pursuant to Labor Code section 226.7, 1198, IWC wage orders 4-2001, and 5-2001 applicable to Plaintiff's and Aggrieved Employees' employment by Defendants, "Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period....[The] authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours worked or major fraction thereof....Authorized rest period time shall be counted as hours worked, for which there shall be no deduction from wages." Despite said requirement of the IWC wage orders applicable to Plaintiff's and Aggrieved Employees' employment with Defendants, Defendants failed and refused to authorize and permit lawful, net ten (10) minutes rest periods for every four (4) hours worked, or major fraction thereof. As a function of Defendants policies, procedures, work demands, schedules, and staffing and coverage practices, Defendants' failed to authorize and permit rest periods as required by law.

Further, Defendants failed to pay rest period premiums at the correct regular rate for the Plaintiff and Aggrieved Employees as required by Labor Code section 226.7 and *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal.5th 858.

Failure to Timely Pay Wages During Employment

Labor Code section 204 requires that all wages are due and payable twice in each calendar month. The wages required by Labor Code §§ 226.7, 510, 1194 and other sections became due and payable to each employee in each month that he or she was not provided with a meal period or rest period or paid minimum wage, straight or overtime wages to which he or she was entitled. Defendants violated Labor Code § 204 by systematically refusing to pay wages due under the Labor Code.

Labor Code section 210 (a) provides that "In addition to, and entirely independent and apart from, any other penalty provided in this article, every person who fails to pay the wages of each employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 204.11, 205, 205.5, and 1197.5, shall be subject to a penalty as follow:

- (1) For any initial violation, one hundred dollars (\$100) for each failure to pay each employee.
- (2) For each subsequent violation, or any willful or intentional violation, two hundred

dollars (\$200) for each failure to pay each employee, plus 25 percent of the amount unlawfully withheld.

Failure to Timely Pay Wages Owed at Separation

Labor Code §§ 201 and 202 require Defendants to pay their employees all wages due, including without limitation vacation, within seventy-two (72) hours of separation of employment. Section 203 of the Labor Code provides that if an employer willfully fails to timely pay such wages the employer must, as a penalty, continue to pay the subject employee's wages until the back wages are paid in full or an action is commenced. In addition, irrespective of any derivative violations for the above-specified issues, Defendants failed to timely pay Plaintiff and, upon information and belief, other Aggrieved Employees earned compensation at the time of termination despite their obligations under Labor Code 201 and 202. More than thirty (30) days have passed since some Aggrieved Employees left Defendants' employ, and on information and belief, they have not received payment pursuant to Labor Code §203.

Failure to Provide Accurate Itemized Employee Wage Statement Provisions

Labor Code section 226(a) reads in pertinent part: "Every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee... (4) all deductions... (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only 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 each the pay period and the corresponding number of hours worked at each hourly rate by the employee....".

Further, the IWC Wage Orders require in pertinent part: Every employer shall keep accurate information with respect to each employee including the following: (3) Time records showing when the employee begins and ends each work period. Meal periods, split shift intervals, and total daily hours worked shall also be recorded...(5) Total hours worked in the payroll period and applicable rates of pay...." Labor Code section 1174 of the California also requires Defendants to maintain and preserve, in a centralized location, among other items, records showing the names and addresses of all employees employed and payroll records showing the hours worked daily by, and the wages paid to, its employees. On information and belief and based thereon, Defendants have knowingly and intentionally failed to comply with Labor Code section 1174, including by implementing the policies and procedures and committing the violations alleged in the preceding causes of action and herein. Defendants' failure to comply with Labor Code section 1174 is unlawful pursuant to Labor Code section 1175.

Defendants have failed to record many of the items delineated in applicable Industrial Wage Orders and Labor Code section 226, and required under Labor Code section 1174, including by virtue of the fact that each wage statement which failed to accurately compensate Plaintiff and

Aggrieved Employees for all hours worked and for missed and non-provided meal and rest periods, or which failed to include compensation for all minimum wages earned or overtime hours worked, was an inaccurate wage statement. In addition, certain wage statements inaccurately stated the name of the employer and failed to accurately state total hours worked.

Unlawful Deductions

Plaintiff further asserts that Defendants violated Labor Code sections 221-224 by unlawfully deducted certain sums from earned wages. By way of example, Plaintiff and the aggrieved employees were to be paid a certain promised sum for on-call time. Yet, upon information and belief, Defendants failed to pay such on-call time at the promised rates and deducted certain portions of such on-call earnings from subsequent earnings for hours worked.

All Labor Code allegations set forth herein or in the attached complaint pertain to all entities or individuals named herein, even if not so specified.

Please advise by certified mail within sixty-five (65) days of the post mark on this letter if the LWDA intends to investigate these claims.

Thank you, and please contact me if you have any questions or require additional information.

Very Truly Yours,

/s/ Christina M. Lucio

Christina M. Lucio, Esq.