

EXHIBIT A

Chantal McCoy Payton, Esq.
CPayton@PaytonEmploymentLaw.com

Robert Torres, Esq.
RTorres@PaytonEmploymentLaw.com

Marissa L. Simmons, Esq.
MSimmons@PaytonEmploymentLaw.com

Hayon Abdulhafiz, Esq.
Hayon@PaytonEmploymentLaw.com



Los Angeles

11500 W. Olympic Boulevard, Suite 400
Los Angeles, California 90064
Telephone: (424) 334-3194
Facsimile: (424) 334-3194

Antelope Valley

3807 W. Sierra Highway, Suite 206
Acton, California 93510
Telephone: (661) 434-1144
Facsimile: (661) 434-1144

Reply to sender at CPayton@PaytonEmploymentLaw.com or by mail to Antelope Valley address

March 18, 2020

VIA CERTIFIED MAIL AND ONLINE SUBMISSION TO THE LWDA

Labor & Workforce Development Agency
By online Submission

**Fresenius Medical Care Holdings, Inc.
d.b.a. Fresenius Medical Care North
America**

c/o C T Corporation System
Agent for Service of Process
818 W. Seventh Street, Suite 930
Los Angeles, CA 90017

Via Certified Mail, Certified Mail #
7018 1130 0001 0856 2689

Fresenius USA, Inc.
c/o C T Corporation System
Agent for Service of Process
818 W. Seventh Street, Suite 930
Los Angeles, CA 90017

Via Certified Mail, Certified Mail #
7018 1130 0001 0856 2696

**Bio-Medical Applications of California,
Inc.**

c/o C T Corporation System
Agent for Service of Process
818 W. Seventh Street, Suite 930
Los Angeles, CA 90017

Via Certified Mail, Certified Mail #
7018 1130 0001 0856 2672

**RE: Mary Ann Frani, et al. adv. Fresenius Medical Care Holdings, Inc., et al. - PAGA
Claim Notice**

Dear PAGA Administrator:

This law firm in conjunction with Infinity Law Group LLP represents Ms. Mary Ann Fran and Mr. Jansen Diaz (hereinafter "Plaintiffs"), employees of Fresenius Medical Care Holdings, Inc. d.b.a. Fresenius Medical Care North America; Fresenius USA, Inc.; and Bio-Medical Applications of California, Inc. (hereinafter "Defendants") with business addresses of 920 Winter Street, Waltham, Massachusetts 02451-1457.

In compliance with Labor Code § 2699.3, and your agency's right to investigate these violations, this letter shall serve as notice of Labor Code violations committed by Defendants, including Labor Code sections 201, 202, 203, 204, 210, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, and 2698 *et seq.*, 2802, as well as the provisions of the IWC Wage Orders

PAYTON EMPLOYMENT LAW

Labor & Workforce Development Agency

March 18, 2020

Page 2 of 5

which pertain to the payment of compensation for all hours worked, payment of daily, weekly, and seventh-day overtime and doubletime compensation, payment of minimum wage compensation, and payment of all expense reimbursement due during employment and upon separation of employment; the maintenance of accurate records of hours worked, the provision of legally compliant meal and rest periods; the timely payment of wages during employment and upon termination; and the itemized pay statement requirements.

Plaintiff Mary Ann Frani has been employed by Defendants as a “Registered Nurse” for approximately the past five years. Plaintiff Jansen Diaz has been employed by Defendants as a “Patient Care Technician / Preceptor III” from approximately 2007 to the present time. Plaintiffs seek to represent themselves and all other all current and former California non-exempt/hourly employees of Defendants, including but not limited to employees holding job titles such as “Registered Nurse,” “LVN,” “Medical Assistant,” “Nurse,” “Patient Care Technician I,” “Patient Care Technician II,” “Patient Care Technician III,” and similar job titles (“Aggrieved Employees”) to pursue appropriate penalties, statutory damages, damages, unpaid wages, prejudgment interest, costs, attorneys’ fees, restitution, and all other just compensation and/or recoverable items of damages for Defendants’ violations of the California Labor Code.

I. NATURE OF THE ALLEGATIONS AND STATUTORY VIOLATIONS

The specific provisions of this code that our clients allege have been violated by Defendants, and the facts and theories to support the alleged violations are detailed as follows:

a. Failure to Pay Minimum, Overtime, or Double-time Wages

Defendants failed and fail to compensate Aggrieved Employees for all hours worked, including minimum wage and overtime hours, as a result of maintaining an explicit policy of requiring or permitting Plaintiffs and Aggrieved Employees to perform off-the-clock work, including during non-compliant meal periods, and refusing to compensate Plaintiffs and Aggrieved Employees for all overtime and doubletime work performed at the applicable overtime rate and/or doubletime rate.

Defendants failed to compensate Aggrieved Employees the mandated minimum wage for hours worked while Aggrieved Employees were on-call. To the extent that Aggrieved Employees were compensated anything for the on-call work that they performed, they were compensated far below the minimum wage. Aggrieved Employees were compensated \$8.50 per hour or even less for on-call work performed during the Class Period.

Additionally, the on-call hours that the Aggrieved Employees worked were not factored into overtime and doubletime calculations. Resultantly, Aggrieved Employees were paid far less than the legal overtime and doubletime rates for overtime and doubletime hours worked, or were not paid for such hours at all.

Upon information and belief, Defendants engage in a widespread practice of requiring, suffering, and/or permitting Plaintiffs and the Aggrieved Employees to work hours and unlawfully deducting such hours from the Aggrieved Employees’ checks, and resultantly, paying without any lawful basis to, thereby compensating such persons for fewer hours than actually worked.

PAYTON EMPLOYMENT LAW

Labor & Workforce Development Agency

March 18, 2020

Page 3 of 5

Plaintiffs and other Aggrieved Employees regularly worked in excess of eight (8) or twelve (12) hours per day and/or forty (40) hours per workweek and/or on the seventh consecutive day in a given workweek, but Defendants, as a matter of policy, failed and fail to pay all applicable minimum wage, overtime or double-time compensation for all hours actually worked by employees as required by Labor Code §§ 204, 510, 1194, 1194.2 and Industrial Welfare Commission Wage Order (“Wage Order”) 4-2001, § 3.

Moreover, Defendants required Plaintiffs and other Aggrieved Employees to travel to and between multiple Defendants’ locations to perform work for Defendants. Defendants, however, failed to pay these employees for this additional time spent traveling, and thus, denied them the payment of all required minimum, overtime, and double-time wages due, in violation of Labor Code §§ 510, 1194 and 1194.2.

b. Failure to Pay Wages Due Upon Termination

As Defendants failed to pay all wages due, including all minimum, overtime and double-time wages, upon termination of the employment relationship between Defendants and Plaintiffs and former Aggrieved Employees, Defendants willfully failed to pay such employees all wages earned and owed in violation of California Labor Code §§ 201 and 202. Pursuant to § 203 of the Labor Code, Plaintiffs and former Aggrieved Employees are now also entitled to recover up to thirty (30) days of wages due to Defendants’ willful failure to comply with the statutory requirements of sections 201 and 202 of the Labor Code.

c. Failure to Provide Meal Breaks

Defendants failed and continue to fail to maintain a policy and/or practice that provides employees with off-duty meal periods as required by California law. Plaintiffs and other Aggrieved Employees were regularly required to work and worked in excess of five (5) hours a day and at times in excess of ten (10) hours a day without being provided at least half-hour meal periods in which they were relieved of all duties, as required by Labor Code §§ 226.7, 512, and Wage Order 4-2001, § 11. Defendants failed and continue to fail to pay Plaintiffs and other Aggrieved Employees the premium compensation mandated by Labor Code § 226.7(b) for these missed meal periods.

d. Failure to Provide Rest Breaks

Defendants failed and continue to fail to maintain a policy and/or practice that provides Plaintiffs and other Aggrieved Employees with off-duty rest periods as required by California law. Such employees regularly work in excess of four hours or a major fraction thereof during workdays without being provided at least a ten-minute rest period in which they were relieved of all duties, as required by Labor Code §§ 226.7, 512 and Wage Order 4-2001, § 12. Defendants failed and continue to fail to pay Plaintiffs and other Aggrieved Employees the premium compensation mandated by Labor Code § 226.7(b) for these missed rest periods.

e. Failure to Furnish Accurate Itemized Wage Statements

Defendants failed to issue accurate and complete wage statements to Plaintiffs and other Aggrieved Employees. As Plaintiffs and other Aggrieved Employees were not paid all wages due for all minimum, overtime and double-time wages, as discussed above, the wage statements fail to set forth all gross wages earned, in violation of Labor Code § 226(a)(1), the total hours worked, in

PAYTON EMPLOYMENT LAW**Labor & Workforce Development Agency****March 18, 2020**

Page 4 of 5

violation of Labor Code § 226(a)(2), and net wages earned, in violation of Labor Code § 226(a)(5), and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked, in violation of Labor Code § 226(a)(9).

Moreover, and independent of the above allegations, Defendants have violated and continue to violate California Labor Code § 226(a) by willfully failing to furnish Plaintiffs and Aggrieved Employees with accurate, itemized wage statements showing the actual hours worked on a daily basis and properly distinguishing overtime from non-overtime work, in violation of Labor Code § 226(a)(2) and (a)(9), respectively.

f. Failure to Reimburse Expenses

Defendants have violated and continue to violate California Labor Code § 2802 by willfully failing to reimburse Plaintiffs and other Aggrieved Employees with all expenses they incurred in the performance of their job duties for Defendants. Plaintiffs and other Aggrieved Employees would routinely travel to and between multiple Defendants' locations to perform work for Defendants and would incur costs for travel, including gas, automobile insurance and maintenance costs. Plaintiffs and other Aggrieved Employees also incurred costs associated with use of their personal cell phones. Defendants failed to reimburse Plaintiffs and other Aggrieved Employees for all costs associated with the use of their personal vehicles and personal cell phones, in violation of Labor Code § 2802.

g. Failure to Pay All Wages in a Timely Fashion

Defendants consistently failed and continue to fail to pay employees all wages earned and owed within the time periods specified in Labor Code §§ 204(d) and 210 twice each calendar month on the regular paydays, including, but not limited to, minimum wages, overtime wages, doubletime wages, and premium pay for missed meal periods and missed rest periods. Accordingly, Defendants have violated and continue to violate California Labor Code §§ 204(d) and 210.

h. Failure to Keep Accurate Payroll Records of Daily Hours Worked

Defendants failed and continue to fail to maintain adequate payroll and time-clock records showing the total hours worked daily and wages paid to employees in violation of Labor Code § 1174.

II. CONCLUSION

Defendants' violations were extensive, voluminous, and not subject to simple itemization. As in the ordinary course, it is understood that additional legal implications of the above violations under the California Labor Code and/or applicable Wage Orders are evident from or derivative from the facts referenced in this letter or the circumstances of Plaintiffs' employment. It is the intention of Plaintiffs to pursue penalties and other available relief in connection with all such claims regardless of whether specifically itemized here.

As a result of the foregoing violations, Defendants are liable for civil penalties pursuant to California Labor Code §§ 210, 226.3, 558, 1174.5, and 2698 et seq. Pending a full investigation, any later discovered violations may also be subject to our enforcement.

PAYTON EMPLOYMENT LAW

Labor & Workforce Development Agency

March 18, 2020

Page 5 of 5

In view of the duties imposed on your agency and this office by the statutes cited above, please be advised we will advance our calendars sixty-five (65) days of the date of this letter.

Very truly yours,



Payton Employment Law
Chantal McCoy Payton

Cc: Ilya Filmus, Esq., Infinity Law Group LLP

PROOF OF SERVICE**STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 3807 W. Sierra Highway, Suite 206, Acton, CA 93510.

On the date set forth below, I served the document(s) described as:

MARY ANN FRANI, ET AL. ADV. FRESENIUS MEDICAL CARE HOLDINGS, INC., ET AL. - PAGA CLAIM NOTICE

on the person(s) listed below:

Fresenius Medical Care Holdings, Inc.

d.b.a. Fresenius Medical Care North America
c/o C T Corporation System
Agent for Service of Process
818 W. Seventh Street, Suite 930
Los Angeles, CA 90017

Fresenius USA, Inc.

c/o C T Corporation System
Agent for Service of Process
818 W. Seventh Street, Suite 930
Los Angeles, CA 90017

Bio-Medical Applications of California, Inc.

c/o C T Corporation System
Agent for Service of Process
818 W. Seventh Street, Suite 930
Los Angeles, CA 90017

 X (BY CERTIFIED MAIL) I placed the above-described documents in an envelope, sealed the envelope and deposited it with the United States Postal Service to be sent by certified mail with return receipt requested on the date set forth below with the postage thereon fully prepaid.

 X (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Dated: March 18, 2020


Chantal McCoy Payton

PROOF OF SERVICE