

ELECTRONICALLY FILED
Merced Superior Court
5/6/2021 11:30 AM
Amanda Toste
Clerk of the Superior Court
By: Melissa Chavez, Deputy

DOUGLAS HAN (SBN 232858)
SHUNT TATAVOS-GHARAJEH (SBN 272164)
JASON ROTHMAN (SBN 304961)
JUSTICE LAW CORPORATION
751 N. Fair Oaks Avenue, Suite 101
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Attorneys for Plaintiff

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF MERCED**

JASMINE JOHNSON, individually, and on
behalf of aggrieved employees pursuant to the
Private Attorneys General Act (“PAGA”);

Plaintiff,

v.

TRUMPET BEHAVIORAL HEALTH, LLC, a
Delaware limited liability company;
QUALITY BEHAVIORAL OUTCOMES,
LLC, a Delaware limited liability company;
and DOES 1 through 100, inclusive;

Defendants.

Case No.: 21CV-01505

**COMPLAINT FOR CIVIL PENALTIES
FOR VIOLATION OF LABOR CODE
§ 2698 *et seq.* (PRIVATE ATTORNEYS
GENERAL ACT OF 2004)**

Plaintiff Jasmine Johnson (“Plaintiff”) hereby submits her Complaint against Defendant Trumpet Behavioral Health, LLC, Quality Behavioral Outcomes, LLC and DOES 1 through 100, inclusive (collectively, “Defendants”), on behalf of herself and other current and former aggrieved employees of Defendants for penalties as follows:

INTRODUCTION

1. This representative action is brought pursuant to Labor Code § 2698 *et seq.* (the Private Attorneys General Act of 2004 (“PAGA”)) for Defendants’ violations of Labor Code §§ 201, 202, 203, 204, 218.5, 221, 226(a), 226.3, 226.7, 510, 512(a), 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802.

2. This Complaint challenges Defendants’ systemic illegal employment practices resulting in violations of the stated provisions of the Labor Code against the identified group of employees.

3. Plaintiff is informed and believes and thereon alleges Defendants jointly and severally acted intentionally and with deliberate indifference and conscious disregard to the rights of all employees in (1) failing to pay all meal period wages and rest break wages, (2) failing to properly calculate and pay all minimum and overtime wages, (3) failing to provide accurate wage statements, (4) failing to pay all wages due and owing during employment and upon termination of employment, and (5) failing to reimburse all necessary business expenses.

JURISDICTION AND VENUE

4. This action is brought pursuant to PAGA. The civil penalties sought by Plaintiff exceed the minimal jurisdiction limits of the Superior Court and will be established according to proof at trial.

5. This Court has jurisdiction over this action pursuant to California Constitution, Article VI, Section 10, which grants the Superior Court original jurisdiction in all causes except those given by statute to other courts. The statutes under which this action is brought do not specify any other basis for jurisdiction.

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7. This Court has jurisdiction over all Defendants because, upon information and belief, each party has sufficient minimum contacts in California, or otherwise intentionally avails itself of California law so as to render the exercise of jurisdiction over it by the California courts consistent with traditional notions of fair play and substantial justice.

PARTIES

10. Plaintiff is informed and believes and thereon alleges that Defendants are licensed to do business and actually doing business in the State of California.

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8 **13.** As such, and based upon all the facts and circumstances incident to
9 Defendants' business in California, Defendants are subject to PAGA and Labor Code §§ 201,
10 202, 203, 204, 218.5, 221, 226(a), 226.3, 226.7, 510, 512(a), 558, 1174(d), 1194, 1197, 1197.1,
11 1198, 2800 and 2802.

2 **CAUSE OF ACTION**

3 **VIOLATION OF PAGA**

4 **(AGAINST ALL DEFENDANTS BY PLAINTIFF)**

5 **14.** Plaintiff re-alleges and incorporates by reference paragraphs 1 through 13
6 as though fully set forth herein.

15. PAGA expressly establishes that any provision of the California Labor Code which provides for a civil penalty to be assessed and collected by the LWDA, or any of its departments, divisions, commissions, boards, agencies or employees for a violation of the California Labor Code, may be recovered through a civil action,¹ brought by an aggrieved employee on behalf of himself or herself, and other current or former employees.

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¹ Per Emergency Rule 9 (Tolling statute of limitations for civil causes of action) of the Judicial Council's Emergency Rules Related to COVID-19, all statute of limitations for civil causes of action that exceed 180 days are tolled from April 6, 2020 until October 1, 2020. Therefore, the one (1) year statute of limitations for Plaintiff's PAGA cause of action was tolled during this time period.

1 **16.** On February 18, 2021, Plaintiff provided written notice to the LWDA and
2 Defendants of the specific provisions of the Labor Code she contends were violated, and the
3 theories supporting her contentions. Attached hereto as **Exhibit 1** and incorporated by reference
4 is a copy of the written notice to the LWDA. Plaintiff believes that on or about May 3, 2021, the
5 sixty-five (65) days’ notice period expired, and the LWDA did not take any action to investigate
6 or prosecute this matter. Therefore, Plaintiff exhausted the statutory time period to bring this
7 action.

8 **17.** Plaintiff and the other hourly-paid or non-exempt employees are
9 “aggrieved employees” as defined by California Labor Code § 2699(c) in that they are all current
10 or former employees (whether hired directly or through staffing agencies) of Defendants within
11 the State of California at any time during the period from February 18, 2020 to the present, and
12 one or more of the alleged violations was committed against them.

13 **18.** Defendants failed to pay Plaintiff and other aggrieved employees all wages
14 due and owing for pre-shift and post-shift hours worked. Plaintiff was scheduled to work, on
15 average, two (2) days per week. However, due to the demands of the job placed upon Plaintiff,
16 and upon information and belief other aggrieved employees, Plaintiff would engage in
17 approximately fifty (50) to fifty-five (55) minutes of off the clock pre-shift work per day. More
18 specifically, instead of driving to the office each day, Plaintiff was instructed to drive to and from
19 her house to Defendant’s client’s house each day she was assigned to work. This drive time was
20 unaccounted for and lasted for approximately forty-five (45) minutes. Once Plaintiff arrived at
21 Defendant’s client’s house, she would engage in another five (5) minutes of off the clock work
22 before clocking in for her day’s shift on Defendant’s iPad.

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1 **19.** Plaintiff would also continue to engage in work related duties after
2 clocking out for the day. Plaintiff alleges that she engaged in approximately fifty (50) minutes of
3 post-shift off the clock work, to her detriment. More specifically, Plaintiff was instructed to clock
4 out at the end of her scheduled shift, regardless of when she finished her shift and left Defendant’s
5 client’s property. Moreover, in the same vein as stated above, Plaintiff would again incur
6 approximately forty-five (45) minutes of off-the-clock work, to her detriment, from driving back
7 home, to her detriment.

8 **Failure to Pay Minimum and Overtime Wages**

9 **20.** At all times relevant herein, Defendants were required to compensate their
10 non-exempt employees minimum wages for all hours worked and overtime wages for all hours
11 worked in excess of eight (8) hours in a day or forty (40) hours in a workweek, pursuant to the
12 mandate of Labor Code §§ 510, 1194, 1197, and 1198.

13 **21.** As a policy and practice, Defendants failed to compensate Plaintiff and
14 other aggrieved current and former employees for all hours worked, resulting in a failure to pay
15 all minimum wages and overtime wages, where applicable.

16 **Failure to Provide Meal Periods and Rest Breaks**

17 **22.** In accordance with the mandates of Labor Code §§ 226.7 and 512,
18 Defendants were required to authorize and permit their non-exempt employees to take a 10-
19 minute rest break for every four (4) hours worked or major fraction thereof, and were further
20 required to provide their non-exempt employees with a 30-minute meal period for every five (5)
21 hours worked.

22 **23.** As a policy and practice, Defendants failed to provide Plaintiff and other
23 aggrieved current and former employees with legally-mandated meal periods and rest breaks and
24 failed to pay proper compensation for this failure.

25 **Failure to Timely Pay Wages During Employment**

26 **24.** At all times relevant herein, Defendants were required to pay their
27 employees within a specified time period pursuant to the mandate of Labor Code § 204.

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1 **25.** As a policy and practice, Defendants failed to pay Plaintiff and other
2 aggrieved current and former employees all wages due and owing them within the required time
3 period.

4 **Failure to Timely Pay Wages Upon Termination**

5 **26.** At all times relevant herein, Defendants were required to pay their
6 employees all wages owed in a timely fashion at the end of employment pursuant to California
7 Labor Code §§ 201 to 204.

8 **27.** As a result of Defendants’ Labor Code violations alleged above,
9 Defendants failed to pay Plaintiff and the other aggrieved former employees their final wages
10 pursuant to Labor Code §§ 201 to 204 and accordingly owe waiting time penalties pursuant to
11 Labor Code § 203.

12 **Failure to Provide Complete and Accurate Wage Statements**

13 **28.** At all times relevant herein, Defendants were required to keep *accurate*
14 records regarding their California employees pursuant to the mandate of Labor Code §§ 226 and
15 1174.

16 **29.** As a result of Defendants’ various Labor Code violations, Defendants
17 failed to keep accurate records regarding Plaintiff and other aggrieved current and former
18 employees. For example, Defendants failed in their affirmative obligation to keep accurate
19 records regarding Plaintiff and other aggrieved current and former employees’ gross wages
20 earned, total hours worked, all deductions, net wages earned, and all applicable hourly rates and
21 the number of hours worked at each hourly rate.

22 **Failure to Reimburse Business Expenses**

23 **30.** At all times relevant herein, Defendants were required to reimburse its
24 employees for any and all necessary expenditures or losses incurred by the employees in direct
25 consequences of the discharge or his or her duties pursuant to the mandate of Labor Code §§ 2800
26 and 2802.

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Penalties

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33. Penalties under California Labor Code § 2699 in the amount of a hundred

34. Penalties under California Code of Regulations Title 8 § 11040 in the

35. Penalties under California Labor Code § 210 in addition to, and entirely

36. Penalties under Labor Code § 1197.1 in the amount of a hundred dollars

37. Any and all additional penalties as provided by the Labor Code and/or

38. Attorneys' fees and costs pursuant to Labor Code §§ 210, 1194, and 2699.

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1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff, on her own behalf and as representative of other current
3 and former aggrieved employees pursuant to PAGA, prays for judgment as follows:

- 4 1. Upon the Cause of Action, for civil penalties pursuant to statute as set forth in
5 Labor Code § 2698 *et seq.*, for Defendants' violations of Labor Code §§ 201, 202,
6 203, 204, 218.5, 221, 226(a), 226.3, 226.7, 510, 512(a), 558, 1174(d), 1194, 1197,
7 1197.1, 1198, 2800 and 2802.
- 8 2. Upon the Cause of Action, for costs and attorneys' fees pursuant to Labor Code
9 §§ 210, 218.5, 1194, and 2699, and any other applicable statute; and
- 10 3. For such other and further relief the court may deem just and proper.
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12 Dated: May 5, 2021

JUSTICE LAW CORPORATION

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15 By: 
16 Douglas Han
17 Shunt Tatavos-Gharajeh
18 Jason Rothman
19 Attorneys for Plaintiff
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EXHIBIT 1

February 18, 2021

BY U.S. EMAIL/ELECTRONIC SUBMISSION

PAGAfilings@dir.ca.gov

State of California

Labor & Workforce Development Agency

800 Capitol Mall, MIC-55

Sacramento, California 95814

Re: TRUMPET BEHAVIORAL HEALTH, LLC and QUALITY BEHAVIORAL OUTCOMES, LLC

Dear Representative:

We have been retained to represent Jasmine Johnson against Trumpet Behavioral Health, LLC and Quality Behavioral Outcomes, LLC (including any and all affiliates, managers, members, subsidiaries, and parents, and their shareholders, officers, directors, and employees), any individual, owner, officer and managing agent, DOES 1-10 as an "Employer" or person acting on behalf of an "Employer" pursuant to California Labor Code section 558.1, and DOES 11-20¹ for violations of California wage-and-hour laws (hereinafter collectively referred to as "TRUMPET").

Ms. Johnson is pursuing her California Labor Code section 2698, *et seq.*, the Private Attorneys General Act of 2004 ("PAGA") claim on a representative basis. Therefore, Ms. Johnson may seek penalties and wages for violations of the Labor Code on behalf of the State of California and aggrieved employees, which are recoverable under PAGA. This letter is sent in compliance with the reporting requirements of California Labor Code section 2699.3.

Trumpet Behavioral Health, LLC and Quality Behavioral Outcomes, LLC are Colorado limited liability companies located at 390 Union Blvd. Ste. 300, Lakewood, Colorado 80228.

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¹ Ms. Johnson does not know the true names or capacities, whether individual, partner or corporate, of DOES 1 through 20, inclusive, and for that reason, said DOES are designated under such fictitious names. Ms. Johnson will amend this notice when the true names and capacities are known. Ms. Johnson is informed and believes that each DOE was responsible in some way for the matters alleged herein and proximately caused Ms. Johnson and other current and former aggrieved employees to be subject to the illegal employment practices, wrongs and injuries complained of herein.

TRUMPET employed Ms. Johnson as an hourly-paid non-exempt Behavior Therapist within one year of the data of this letter (from in or about February of 2020 to in or around October of 2020²) in the State of California. TRUMPET directly controlled the wages, hours and working conditions of Ms. Johnson and other aggrieved employees' employment, including hiring, direction, scheduling, supervision and termination.

The "aggrieved employees" that Ms. Johnson may seek penalties on behalf of are all current and former hourly-paid or non-exempt employees (whether hired directly or through staffing agencies) of TRUMPET within the State of California.

TRUMPET failed to properly pay its hourly-paid or non-exempt employees for all hours worked, failed to properly provide or compensate minimum wages and for meal and rest breaks, failed to issue compliant wage statements and failed to reimburse for all necessary business-related costs and expenses, thus resulting in other Labor Code violations as stated below.

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, Ms. Johnson has standing to pursue penalties on behalf of the state for violations affecting all the aggrieved employees at TRUMPET, regardless of their classification, job title, locations, or whether they were hired directly or through a staffing agency.

TRUMPET has violated and/or continues to violate, among other provisions of the California Labor Code and applicable wage law, California Labor Code sections 201, 202, 203, 204, 218.5, 221, 226(a), 226.3, 226.7, 510, 512(a), 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802, and the IWC Wage Orders.

California Labor Code sections 1194, 1197 and 1197.1 provide the minimum wage to be paid to employees, and the payment of a lesser wage than the minimum so fixed is unlawful. During the relevant time period, TRUMPET did not provide Ms. Johnson and other aggrieved employees with the minimum wages to which they were entitled despite constructive and actual knowledge of off-the-clock work, including pre- and post-shift, prep and note taking time, travelling to clients' homes and during meal breaks.

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² Per Emergency Rule 9 (Tolling statute of limitations for civil causes of action) of the Judicial Council's Emergency Rules Related to COVID-19, all statute of limitations for civil causes of action that exceed 180 days are tolled from April 6, 2020 until October 1, 2020. Therefore, the one (1) year statute of limitations for Ms. Johnson's PAGA cause of action is tolled.

California Labor Code sections 226.7 and 512 require employers to pay an employee one additional hour of pay at the employee's regular rate for each workday that a meal or rest break is not provided. During the relevant time period, TRUMPET routinely required aggrieved employees to work through, interrupt, cut short, and/or delay their meal and rest breaks to comply with TRUMPET policies and expectations. TRUMPET also failed to adequately staff its facilities and provide coverage to aggrieved employees so they may be relieved of all work duties and take legally compliant meal and rest breaks. Moreover, TRUMPET failed to authorize and permit aggrieved employees to take meal and rest breaks during training sessions. Despite these facts, TRUMPET failed to compensate aggrieved employees all the premium wages they were owed.

California Labor Code section 201 requires that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately. California Labor Code section 202 requires that if an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting. California Labor Code section 203 provides that if an employer willfully fails to pay, without abatement or reduction, in accordance with Labor Code sections 201, 201.3, 201.5, 201.6, 201.8, 201.9, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days. During the relevant time period, TRUMPET failed to pay Ms. Johnson and other aggrieved employees all wages, including for uncompensated off-the-clock work, unpaid overtime premiums and premium wages for failing to provide legally mandated meal and rest breaks, due to them within any time period specified by California Labor Code sections 201 and 203 and therefore is liable under California Labor Code section 203.

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. During the relevant time period, TRUMPET failed to pay Ms. Johnson and other aggrieved employees all wages due to them, including for uncompensated off-the-clock work, unpaid overtime premiums and premium wages for failing to provide legally mandated meal and rest breaks within any time period specified by California Labor Code section 204.

California Labor Code section 226 requires employers to make, keep and provide complete and accurate itemized wage statements to their employees. During the relevant time period, TRUMPET did not provide Ms. Johnson and other aggrieved employees with complete and accurate itemized wage statements. The wage statements they received from TRUMPET were in violation of California Labor Code section 226(a). The violations include, but are not limited to, the failure to include (1) gross wages earned by Ms. Johnson and other aggrieved employees, (2) total hours worked by Ms. Johnson and other aggrieved employees, (3) the number of piece-rate units earned and any applicable piece rate by Ms. Johnson and other aggrieved employees (4) all deductions for Ms. Johnson and other aggrieved employees, (5) net wages earned by Ms. Johnson and other aggrieved employees, (6) the inclusive dates of the period for which Ms. Johnson and other aggrieved employees are paid, (7) the name of the aggrieved 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 the pay period and the corresponding number of hours worked at each hourly rate by Ms. Johnson and other aggrieved employees.

California Labor Code section 558 allows recovery of penalties. (a) Any employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (3) Wages recovered pursuant to this section shall be paid to the affected employee. Ms. Johnson and other aggrieved employees have been denied their wages and premium wages and, therefore, are entitled to penalties.

California Labor Code sections 1174(d) requires an employer to keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept with rules established for this purpose by the commission, but in any case, shall be kept on file for not less than two years. During the relevant time period, TRUMPET failed to keep accurate and complete payroll records showing the hours worked daily and the wages paid, to Ms. Johnson and other aggrieved employees.

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California Labor Code sections 2800 and 2802 require an employer to reimburse its employee for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her job duties or in direct consequence of his or her obedience to the directions of the employer. During their employment, Ms. Johnson and other aggrieved employees incurred necessary business-related expenses and costs that were not fully reimbursed by TRUMPET, including for using their personal cell phones to communicate with clients via management and clinicians, and using their personal vehicles or retaining the services of rideshares to travel to clients' homes.

We believe that Ms. Johnson and other current and former California-based hourly-paid or non-exempt employees are entitled to penalties as allowed under California Labor Code section 2698, *et seq.* for violations of Labor Code sections 201, 202, 203, 204, 218.5, 221, 226(a), 226.3, 226.7, 512(a), 510, 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802, and the IWC Wage Orders.

California Labor Code section 2699.3 requires that a claimant send a certified letter to the employer in questions and the California Labor & Workforce Development Agency setting forth the claims, and the basis for the claims, thereby giving the California Labor & Workforce Development Agency an opportunity to investigate the claims and/or take any action it deems appropriate.

The purpose of this letter is to satisfy the requirement created by California Labor code section 2699 prior to seeking penalties allowed by law for the aforementioned statutory violations. We look forward to determining whether California Labor & Workforce Development Agency intends to take any action in reference to these claims. We kindly request that you respond to this notice according to the time frame contemplated by the California Labor Code.

Ms. Johnson will seek these penalties on her own behalf and on behalf of other similarly situated California-based hourly-paid or non-exempt employees of TRUMPET within one year of the date of this letter, as allowed by law.

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LWDA
February 18, 2021
Page 6 of 6

If you have any questions or require additional information, please do not hesitate to contact us. Thank you for your attention to this matter and the noble cause you advance each and every day.

Very truly yours,

JUSTICE LAW CORPORATION

A handwritten signature in black ink, appearing to read 'D. Han', with a long horizontal stroke extending to the right.

Douglas Han, Esq.

CC: (By Certified U.S. Mail Only):

Cogency Global Inc.
c/o Trumpet Behavioral Health, LLC and Quality Behavioral Outcomes, LLC
1325 J St. Ste. 1550
Sacramento, California 95814
Agent for Service of Process for Trumpet Behavioral Health, LLC and Quality Behavioral Outcomes, LLC

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**PROOF OF SERVICE
1013A(3) CCP**

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 751 N. Fair Oaks Avenue, Suite 101, Pasadena, CA 91103 and my electronic service address award@justicelawcorp.com

On May 12, 2021, I served the foregoing document described as

**COMPLAINT FOR CIVIL PENALTIES FOR VIOLATION OF LABOR CODE
§ 2698 et seq. (PRIVATE ATTORNEYS GENERAL ACT OF 2004)**

for the following case: **Johnson v. Trumpet Behavioral Health, LLC et al.**
LWDA/Court Case No.: **LWDA Case No.: CM-822151-21**
 Court Case No.: 21CV-01505
 Merced County Superior Court

on interested parties in this action by electronically submitting as follows:

State of California
Labor & Workforce Development Agency
800 Capitol Mall, MIC-55
Sacramento, California 95814

[X] BY ELECTRONIC SUBMISSION

Pursuant to California Senate Bill No. 836, I caused the documents described above to be electronically submitted by and through the procedure stated on the website of the State of California Labor and Workforce Development Agency.

[X] STATE

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

Executed on May 12, 2021, at Pasadena, California.



Alex Ward