

Graham S.P. Hollis (SBN 120577)
ghollis@grahamhollis.com
Vilmarie Cordero (SBN 268860)
vcordero@grahamhollis.com
Hali M. Anderson (SBN 261816)
handerson@grahamhollis.com
Alyssa L. Smith (PL-510067)
asmith@grahamhollis.com
3555 Fifth Avenue, Suite 200
San Diego, California 92103
Telephone: 619.692.0800
Facsimile: 619.692.0822

Attorneys for Plaintiff Sheena Edwards

E-FILED
6/18/2021 3:36 PM
Clerk of Court
Superior Court of CA,
County of Santa Clara
21CV383232
Reviewed By: R. Walker

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

21CV383232

Case No. _____

SHEENA EDWARDS, in her representative
capacity,

Plaintiff,

v.

ABSOLUTE SENIOR SOLUTIONS, a limited
liability company authorized to do business in
the state of California; ELSOUSOU LLC, a
limited liability company authorized to do
business in the state of California, and DOES 1
through 50 inclusive,

Defendants.

Unlimited Civil

Amount Demanded exceeds \$25,000.00

**REPRESENTATIVE ACTION FOR PAGA
PENALTIES**

[Labor Code §2698, et. seq.]

Representative Claims Under the Labor Code
Private Attorneys General Act (PAGA)

Plaintiff SHEENA EDWARDS (“Plaintiff”) brings this class and representative action on behalf
of herself and all persons similarly situated against Defendants Absolute Senior Solutions, ELSOUSOU,
LLC, and DOES 1 through 50, inclusive (collectively, “Defendants”), on the following grounds:

I. INTRODUCTION

1. Plaintiff SHEENA EDWARDS (“Plaintiff”) brings this representative action pursuant to
the Private Attorneys General Act of 2004, Labor Code § 2698, *et seq.* (“PAGA”) against Defendants

1 ABSOLUTE SENIOR SOLUTIONS, ELSOUSOU LLC, and DOES 1 through 50, inclusive
2 (collectively, “Defendants”), for engaging in a pattern of wage and hour violations under the California
3 Labor Code and the applicable Industrial Welfare Commission (“IWC”) Wage Orders.

4 2. Plaintiff brings this action on behalf of all non-exempt employees, who were employed
5 by Defendants in the State of California during the applicable relevant time period and suffered at least
6 one wage and hour violation alleged herein (“aggrieved employees”).

7 3. Defendants’ systematic pattern of wage and hour and IWC Wage Order violations toward
8 Plaintiff and other aggrieved employees in California include, *inter alia*:

- 9 a. Failure to pay all minimum, regular, and overtime wages;
- 10 b. Failure to provide compliant meal periods and/or compensation in lieu thereof;
- 11 c. Failure to provide compliant rest periods and/or compensation in lieu thereof;
- 12 d. Failure to reimburse for all business expenses;
- 13 e. Failure to provide accurate itemized wage statements;
- 14 f. Failure to maintain accurate records; and
- 15 g. Failure to timely pay wages due during and upon separation of employment.

16 2. Plaintiff brings this PAGA representative action against Defendants on behalf of herself
17 and all other aggrieved employees of Defendants in California seeking PAGA penalties, pursuant to
18 California Labor Code sections 201, 202, 203, 204, 210, 218.5, 218.6, 223, 225.5, 226, 226.3, 226.7,
19 246, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, and 2699, *et seq.*, that are required
20 to be shared with the LWDA. Plaintiff expressly disclaims the recovery of any individual/victim specific
21 relief or underpaid wages.

22 3. Plaintiff reserves the right to name additional representatives throughout the State of
23 California.

24 II. PARTIES

25 A. Plaintiff

26 4. Plaintiff SHEENA EDWARDS is a former non-exempt employee for Defendant, who
27 worked as a transportation aide from about March 16, 2020, through January 20, 2021.
28

1 5. Plaintiff is a resident of the State of California and currently resides in the County of
2 Santa Clara.

3 6. Plaintiff is an “aggrieved employee” within the meaning of Labor Code section 2699(c)
4 because she was employed by Defendants and suffered one or more of the violations committed by
5 Defendants.

6 7. At all relevant times, Plaintiff and, on information and belief, other similarly situated
7 employees of Defendants in California, were subject to the same policies, practices, and procedures
8 governing their employment and their payment of wages and hours worked.

9 **B. Defendants**

10 8. Defendant ABSOLUTE SENIOR SOLUTIONS is organized under the state of California
11 and conducts substantial business Santa Clara County. ABSOLUTE SENIOR SOLUTIONS operates
12 under its parent company, ELSOUSOU LLC .

13 9. Defendant ELSOUSOU LLC, the parent company of ABSOLUTE SENIOR
14 SOLUTIONS, is also organized under the state of California and conducts substantial business in Santa
15 Clara County.

16 10. Defendants’ wrongful conduct, as alleged herein, occurred in the County of Santa Clara
17 and in the State of California and, on information and belief, throughout California.

18 11. Plaintiff is informed and believes, and thereon alleges, that each Defendant, whether
19 named or fictitious, is and, at all relevant times, was authorized to do business and did business in the
20 State of California and was Plaintiff’s and other aggrieved employees’ “employer” or person acting on
21 behalf of the employer as defined in and subject to the California Labor Code and the applicable IWC
22 Wage Order.

23 12. Each of the fictitiously named Defendants participated in the acts alleged in this
24 Complaint. The true names and capacities of the Defendants named as DOES 1 through 50, inclusive,
25 are presently unknown to Plaintiff. Plaintiff will amend this Complaint, setting forth the true names and
26 capacities of the fictitious Defendants, if and when their true names and capacities are ascertained.
27 Plaintiff is informed and believes, and on that basis alleges, that each of the fictitious Defendants
28 participated in the acts alleged in this Complaint.

1 ///

2 ///

3 13. Plaintiff and all other aggrieved employees are, and at all relevant times were, non-
4 exempt employees of each Defendants, including DOES 1 through 50, within the meanings set forth in
5 the California Labor Code and applicable IWC Wage Order.

6 14. Plaintiff is informed and believes that at all relevant times, each Defendant, whether
7 named or fictitious, was the agent, employee or other person acting on behalf of every other Defendant,
8 and, in participating in the acts alleged in this Complaint, acted within the scope of such agency or
9 employment and ratified the acts of each other Defendant.

10 15. Plaintiff is informed and believes that at all relevant times, each Defendant, whether
11 named or fictitious, exercised control over Plaintiff's and other similarly situated employees' and
12 aggrieved employees' wages, hours and/or working conditions.

13 16. Plaintiff is further informed and believes that at all relevant times, each Defendant,
14 whether named or fictitious, acted as the agent for the other Defendants, carried out a joint scheme,
15 business plan or policy, and the acts of each Defendants are legally attributable to the other Defendants.

16 17. Each Defendant, whether named or fictitious, was the alter ego of each of the other
17 Defendants at all relevant times herein.

18 18. A unity of interest and ownership between each Defendant, whether named or fictitious,
19 exists such that all Defendants acted as a single employer of Plaintiff and all other aggrieved employees

20 **III. JURISDICTION AND VENUE**

21 19. This Court has subject-matter jurisdiction to hear this case because Plaintiff is informed
22 and believes that the monetary damages and restitution sought herein for Defendants' conduct exceeds
23 the minimum jurisdictional limits of the Superior Court.

24 20. Venue is proper in Santa Clara County pursuant to Code of Civil Procedure §§ 395(a)
25 and 395.5 because Defendants maintain offices and transact substantial business in Santa Clara County,
26 Defendants employed Plaintiff and other similarly situated employees in Santa Clara County, and the
27 unlawful acts alleged herein that arose in Santa Clara County have a direct effect on Plaintiff and other
28 aggrieved employees within Santa Clara County.

1 ///

2 ///

3 **IV. GENERAL ALLEGATIONS**

4 21. Plaintiff SHEENA EDWARDS realleges and incorporates by reference, as though fully
5 set forth herein, all paragraphs of this Complaint. Plaintiff is a former employee of Defendants, who
6 worked in a non-exempt position as a Transportation Aide from approximately March 16, 2020, to
7 January 20, 2021.

8 22. During her employment, Plaintiff was classified by ABSOLUTE SENIOR
9 SOLUTIONS as a non-exempt employee earning an hourly rate. Plaintiff typically worked in excess
10 of forty (40) hours per week.

11 23. Throughout Plaintiff's employment, Defendants controlled the hours and conditions of
12 Plaintiff's and other aggrieved employees' work.

13 24. Defendants denied and continue to deny Plaintiff and other aggrieved employees specific
14 rights afforded to them under the California Labor Code and the Industrial Welfare Commission
15 ("IWC") Wage Order ("Applicable Wage Order"). Defendants failed to pay them all minimum, regular,
16 and overtime wages owed, failed to provide them with legally compliant meal and rest breaks or pay
17 them meal and rest break premiums, failed to reimburse them for all business expenses, failed to
18 maintain accurate records and issue accurate itemized wage statements, and failed to timely pay all
19 wages, including all wages due upon separation of employment.

20 25. Defendants failed to pay Plaintiff and other aggrieved employees all minimum, regular,
21 and overtime wages owed because it failed to compensate them for the time they spent working during
22 on-duty meal periods. Defendants regularly required Plaintiff and other aggrieved employees to work
23 through their unpaid meal periods due to demanding work schedules and lack of adequate staffing to
24 ensure proper coverage. Moreover, Defendants required Plaintiff and other aggrieved employees to
25 conduct client pick-ups and/or drop-offs, monitor and respond to text messages, answer company calls,
26 and perform other work duties while off-the-clock. Despite requiring Plaintiff and other aggrieved
27 employees to remain on duty during their unpaid meal breaks, Defendant denied them of all minimum,
28 regular, and overtime wages owed for all of the time that they worked in violation of California law.

1 ///

2 26. Moreover, Defendant failed to pay all overtime wages owed because it failed to properly
3 include all non-discretionary bonuses and premiums in the regular rate of pay for calculation of overtime
4 pay.

5 27. Although Plaintiff's work did not require her to take on-duty meal breaks, Defendant's
6 company policy required their transportation aides to remain in their assigned company vehicle at all
7 times, including during their meal and rest periods. On one occasion, Plaintiff required medical attention
8 for severe leg burns received during an extremely hot summer day.

9 28. Plaintiff further asserts that Defendants failed to compensate Plaintiff and other aggrieved
10 employees for the time they spent waiting to report to work. For instance, Plaintiff and other aggrieved
11 employees were not provided with adequate advance notice of their schedules and rarely knew the dates
12 and times they were scheduled to report to work. Defendants required Plaintiff and other aggrieved
13 employees to wait until the night before, sometimes 7:00 p.m. or later, for Defendants to text them their
14 scheduled time to report to work for the next day. In fact, on several occasions, Plaintiff did not receive
15 her reporting time until the morning of her shift. Further, Plaintiff and other aggrieved employees were
16 never given an end time of their shift and were expected to work until Defendants told them their shift
17 had ended.

18 29. Thus, Plaintiff and, on information and belief, other aggrieved employees were not
19 compensated minimum, regular, and overtime wages owed and earned because they were not
20 compensated for all hours permitted and suffered to work.

21 30. Further, since Defendant's failed to properly compensate Plaintiff and other aggrieved
22 employees for work done off the clock including, but not limited to time spent waiting to report to work,
23 on the designated pay days, Defendants failed to make timely payments for all minimum, regular, and/or
24 overtime wages for all hours actually worked.

25 31. In addition, although Plaintiff and, on information and belief, other aggrieved employees
26 worked more than five hours in a shift, Plaintiff and, on information and belief, other aggrieved
27 employees did not receive a compliant 30-minute, off-duty meal period.

28 32. Defendants had a pattern and practice of not providing Plaintiff and, on information and
belief, other aggrieved employees with legally compliant meal periods, even though Plaintiff and other

1 aggrieved employees worked more than five (5) hours during their workday. As described above,
2 Plaintiff and other aggrieved employees were required to stay on duty through their meal periods.

3 33. Further, Defendants conducted poor scheduling practices because they would not
4 schedule enough transportation aids. To meet the demands of Defendants, the employees would either
5 have to clock back into work early or work during their lunch break while still clocked out. As a result,
6 the employees rarely, if ever, received meal periods and even if they did receive a meal period, it was
7 always late and/or interrupted.

8 34. Thus, as a result of Defendants' illegal policies, Plaintiff and, on information and belief,
9 other aggrieved employees were denied the opportunity to take legally compliant thirty-minute meal
10 periods, in violation of the applicable Wage Order.

11 35. Moreover, Defendants had a pattern and practice of failing to authorize and permit
12 Plaintiff and, on information and belief, other aggrieved employees to take legally compliant rest periods
13 of at least ten minutes for every four-hour work period, or major fraction thereof, because of
14 Defendants' demand of the employees' workloads and Defendants' poor scheduling practices.

15 36. For example, dispatchers would call Plaintiff, and other Non-Exempt Employees during
16 their breaks despite the dispatchers having access to their schedules. Plaintiff, and other Non-Exempt
17 Employees had to respond to dispatchers regardless of whether they were on a rest break, to meet the
18 demand for transportation services. Thus, as a result of Defendants' illegal policies, Plaintiff and, on
19 information and belief, other aggrieved employees were not authorized or permitted to take legally
20 compliant rest periods, in violation of the applicable Wage Order.

21 37. Although Plaintiff and, on information and belief, other aggrieved employees did not
22 receive legally compliant meal or rest periods, Defendants did not compensate Plaintiff and, on
23 information and belief, other aggrieved employees an additional hour of pay at their regular rate of pay
24 for the times that Plaintiff and other aggrieved employees were not authorized or permitted to take a
25 compliant and timely meal or rest period, in violation of Labor Code § 226.7.

26 38. Defendants failed to indemnify Plaintiff and, on information and belief, other aggrieved
27 employees for all necessary expenses that were incurred in the discharge of their job duties. For
28 example, Plaintiff and, on information and belief, other aggrieved employees were required to use their

1 personal cell phones to carry out their work duties such as, obtaining their shift schedules, clocking-in
2 and clocking-out for their shifts and meal periods, obtaining client pick-up and/or drop-off times and
3 locations, and responding to miscellaneous calls, text messages, and radio instructions from dispatchers,
4 supervisors, and clients. In fact, Defendants required non-exempt employees including Plaintiff to use
5 their cell phones for directions and had them download two apps to use in the discharge of their work
6 duties, including – “Workbase,” the app they used to clock-in and clock-out for shifts and meal periods;
7 and “Samsara Driver,” the app they used to receive pick-up and drop-off assignments.

8 39. Plaintiff and, on information and belief, other aggrieved employees did not receive any
9 reimbursement for the use of their personal cell phones, as required by California law.

10 40. As a direct result of Defendants’ illegal policies and procedures, Defendants’ failed to
11 maintain accurate records reflecting all of Plaintiff’s and, on information and belief, other similarly
12 situated employees’ time worked and wages paid, in violation of California law.

13 41. In addition, the wage statements issued by Defendants do not include the correct amount
14 of gross and net wages earned, total hours worked by the employee, and all applicable hourly rates in
15 effect during the pay period and the corresponding number of hours worked at each hourly rate by the
16 employee as required under Labor Code section 226.

17 42. As a direct result of Defendants’ illegal policies and procedures, it failed to timely pay
18 Plaintiff and former Non-Exempt Employees all wages due and payable upon separation of employment
19 and/or the required waiting time penalties for the late payment of wages.

20 43. Further, the wage statements that Defendants issued do not include the correct number of
21 regular and overtime hours and respective hourly rates for Plaintiff and other aggrieved employees when
22 Defendants failed to pay the legal minimum and overtime wages to employees as required by the
23 Applicable Wage Order.

24 44. For example, not only did Defendants fail to timely compensate Plaintiff and other non-
25 exempt employees for work related cell phone use, but they also failed to timely pay Plaintiff her last
26 paycheck. Plaintiff’s last day of employment was January 19, 2021. Defendants informed Plaintiff that
27 her final paycheck would be ready on January 20, 2021, however the paycheck was not provided to
28 Plaintiff until January 22, 2021. In addition, once Plaintiff finally received her final paycheck, it was

1 missing a whole day's worth of pay. When Plaintiff brought it to the Defendants' attention, the
2 Defendants made her wait even longer before paying her proper wages.

3 45. On information and belief, the wage statement omissions and inaccuracies are not a result
4 of an isolated and unintentional payroll error due to an inadvertent mistake, but rather a result of
5 knowing and intentional omissions by Defendants. In addition, and as a result of these omissions and
6 inaccuracies, Plaintiff and, on information and belief, other aggrieved employees are not promptly and
7 easily able to determine the correct hours worked and/or determine the accurate wages due and owed
8 without reference to other documents and information.

9 46. As a direct result of the aforementioned Labor Code violations, Defendants have not paid
10 Plaintiff and, on information and belief, other aggrieved employees all wages due and payable during
11 and upon separation of employment, including minimum, regular, and overtime wages for all hours
12 worked, and meal and rest period premium wages, as required pursuant to Labor Code §§ 201, 202, and
13 204.

14 47. To this date, Defendants have not paid Plaintiff and, on information and belief, other
15 aggrieved employees all wages owed, including all minimum, regular and overtime wages, and meal and
16 rest period premium wages.

17 **V. THE LABOR CODE PRIVATE ATTORNEYS GENERAL ACT ("PAGA")**
18 **REPRESENTATIVE ACTION DESIGNATION**

19 48. Plaintiff re-alleges and incorporates by reference the allegations contained in the
20 paragraphs above, as though fully set forth herein.

21 49. The Causes of Action alleged herein are appropriately suited for a Labor Code Private
22 Attorneys General Act of 2004 ("PAGA") action because:

- 23 a. Pursuant to California Labor Code § 2699(a), any provision of the Labor Code that
24 provides for a civil penalty to be assessed and collected by the Labor and Workforce
25 Development Agency ("LWDA") or any of its departments, divisions, commissions,
26 boards, agencies, or employees, for a violation of the California Labor Code, may, as an
27 alternative, be recovered through a civil action brought by an aggrieved employee on
28

1 behalf of himself or herself and all other current or former employees pursuant to the
2 procedures specified in § 2699;

3 b. This action involves allegations of violations of provisions of the California Labor Code
4 that provide or do not provide for a civil penalty to be assessed and collected by the
5 LWDA or any departments, divisions, commissions, boards, agencies or employees;

6 c. Plaintiff is an “aggrieved employee” because he was employed by the alleged violators
7 and had one or more of the alleged violations committed against her;

8 d. On April 13, 2021, Plaintiff satisfied the procedural requirements of § 2699.3 by serving
9 the LWDA electronically to Defendants Absolute Senior Solutions and ELSOUSOU
10 LLC, via Certified Mail with her notice for wage and hour violations and penalties,
11 including the facts and theories to support each violation. A true and correct copy of
12 Plaintiff’s notice and proof of service is attached as **Exhibit A**;

13 e. More than 65 days have passed since Plaintiff served notice via Certified Mail to the
14 LWDA and his employer. Therefore, Plaintiff satisfied all the administrative
15 requirements to pursue civil penalties against Defendants pursuant to Labor Code § 2698,
16 *et seq.*;

17 f. Plaintiff filed this action pursuant to Labor Code section 2699(a) and (f), on behalf of
18 herself and all other aggrieved employees of Defendants to recover civil penalties, as well
19 as unpaid wages under Labor Code section 558, which are to be paid to the affected
20 employees.

21 g. Defendants were Plaintiff’s employer or person(s) acting on behalf of Plaintiff’s
22 employer, within the meaning of California Labor Code § 558, who violated or caused to
23 be violated, a section of Part 2, Chapter 1 of the California Labor Code or any provision
24 regulating hours and days of work in any order of the Industrial Welfare Commission
25 and, as such, are subject to civil penalties for each underpaid employee, as set forth in
26 Labor Code § 558, at all relevant times; and

27 h. Defendants were Plaintiff’s employer or person(s) acting on behalf of Plaintiff’s
28 employer either individually or as officers, agents, or employees of another person,

1 within the meaning of California Labor Code § 1197.1, who paid or caused to be paid to
2 any employee a wage less than the minimum fixed by California state law, and as such,
3 are subject to civil penalties for each underpaid employee, as well as liquidated damages
4 pursuant to Labor Code § 1194.2, and any applicable penalties imposed pursuant to
5 Labor Code § 203.

6 50. Plaintiff seeks to recover all applicable civil penalties under PAGA on behalf of herself
7 and all other aggrieved employees of Defendants in California.

8 **VI. CAUSES OF ACTION**

9 **FIRST CAUSE OF ACTION**

10 **REPRESENTATIVE CLAIMS UNDER THE CALIFORNIA LABOR CODE PRIVATE**

11 **ATTORNEYS GENERAL ACT (PAGA)**

12 (Labor Code section 2698, *et seq.*)

13 (Alleged by Plaintiff on Behalf of All Aggrieved Employees Against All Defendants)

14 51. Plaintiff re-alleges and incorporates by reference the allegations contained in the
15 paragraphs above, as though fully set forth herein.

16 52. Pursuant to Labor Code section 2699(a), any provision of the Labor Code that provides
17 for a civil penalty to be assessed and collected by the LWDA or any of its departments, divisions,
18 commissions, boards, agencies, or employees for violation of the code may, as an alternative, be
19 recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and
20 other current or former employees pursuant to the procedures specified in Labor Code section 2699.3.

21 53. This cause of action involves allegations of violations of Labor Code sections 201, 202,
22 203, 204, 210, 223, 225.5, 226, 226.3, 226.7, 246, 510, 512, 558, 1174, 1174.5, 1194, 1194.2 1197,
23 1197.1, 1198, and 2802 which, pursuant to Labor Code section 2699.5, provide for civil penalties to be
24 assessed and collected by the LWDA or recovered through a civil action brought by an aggrieved
25 employee on behalf of himself or herself and other aggrieved employees pursuant to the procedures
26 specified in Labor Code section 2699.3.

27 ///

28 ///

1 54. Plaintiff exhausted her obligation to provide administrative notice and now seeks
2 penalties on behalf of herself and other current and former non-exempt California employees of
3 Defendants.

4 55. Pursuant to California Labor Code section 2699(a), Plaintiff seeks civil penalties, on
5 behalf of herself and all other current and former employees of Defendants that worked as Non-Exempt
6 employees at one of Defendants' locations in California (collectively referred to as the "aggrieved
7 employees").

8 56. Defendants employed Plaintiff during the applicable statutory time period and Plaintiff
9 had one or more of the alleged violations committed against her. Therefore, Plaintiff is an "aggrieved
10 employee" under PAGA because the alleged violator employed her and she had one or more of the
11 alleged violations committed against her. As an aggrieved employee, Plaintiff is properly suited to
12 represent the interests of other current and former aggrieved employees in a PAGA representative
13 action.

14 57. Plaintiff seeks to recover civil penalties, but only those civil penalties that are required to
15 be shared with the LWDA and no individual relief or underpaid wages, on behalf of himself and other
16 aggrieved employees for Defendants' violations of the California Labor Code, including but not limited
17 to Defendants' violations of California Labor Code sections 201, 202, 203, 204, 210, 218, 218.6, 223,
18 225.5, 226, 226.3, 226.7, 246, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, and 1198.

19 58. For all provisions of the California Labor Code for which a civil penalty is not
20 specifically provided, California Labor Code section 2699(f) imposes upon Defendants a penalty of one
21 hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation and two
22 hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent violation.

23 59. Defendants violated California Labor Code sections 226.7, 512, and 1198 by failing to
24 provide Plaintiff and aggrieved employees lawfully compliant meal periods and by failing to pay them
25 meal period premium wages for each day a compliant meal period was not provided. Under California
26 Labor Code section 2699(f)(2), Defendants are subject to a civil penalty of \$100 for each aggrieved
27 employee per pay period for the initial violation of California Labor Code sections 226.7 and 1198, and
28 \$200 for each aggrieved employee per pay period for each subsequent violation.

60. Defendants violated California Labor Code sections 226.7 and 1198 by failing to authorize and permit Plaintiff and aggrieved employees to take duty-free rest periods and by failing to pay them rest period premium wages for each day a compliant rest period was not provided. Under California Labor Code section 2699(f)(2), Defendants are subject to a civil penalty of \$100 for each aggrieved employee per pay period for the initial violation of California Labor Code sections 226.7 and 1198, and \$200 for each aggrieved employee per pay period for each subsequent violation.

61. Defendants violated California Labor Code sections 223, 1194, 1197, and 1198 by not paying Plaintiff and other aggrieved employees at least minimum and regular wages for all the time they were suffered or permitted to work, engaged in work and/or under Defendants' control, as alleged herein. Thus, under California Labor Code section 2699(f)(2), Defendants are subject to a civil penalty of \$100 for each aggrieved employee per pay period for the initial violation of California Labor Code sections 223, 1194, and 1198, and \$200 for each aggrieved employee per pay period for each subsequent violation.

62. Defendants violated California Labor Code sections 223, 510, 1194, and 1198 by not paying Plaintiff and other aggrieved employees all overtime wages earned for all the time they were suffered or permitted to work, engaged in work and/or under Defendants' control, as alleged herein. At all relevant times, Plaintiff and, on information and belief, other aggrieved employees were not paid all overtime when they worked in excess of eight hours a workday or forty hours in a workweek. Thus, under California Labor Code section 2699(f)(2), Defendants are subject to a civil penalty of \$100 for each aggrieved employee per pay period for the initial violation of California Labor Code sections 223, 1194, and 1198, and \$200 for each aggrieved employee per pay period for each subsequent violation.

63. Under California Labor Code section 225.5, Defendants, in addition to, and entirely independent and apart from, any other penalty, are subject to a civil penalty for unlawfully withholding wages due Plaintiff and other aggrieved employees in violation of California Labor Code section 221 and 223 as follows: (1) For an initial violation, one hundred dollars (\$100.00) for each failure to pay each employee. (2) For each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200.00) for each failure to pay each employee, plus 25 percent of the amount unlawfully withheld. This amount shall be recovered on behalf of the California Labor Commissioner.

64. Defendants violated California Labor Code sections 201, 202, and 1198 by not paying Plaintiff and aggrieved employees all minimum, regular, overtime, and all meal and rest premium wages owed by the time set forth by law upon their separation of employment, as alleged herein. Thus, under California Labor Code section 2699(f)(2), Defendants are subject to a civil penalty of \$100 for each aggrieved employee per pay period for the initial violation of California Labor Code sections 201, 202, and 1198, and \$200 for each aggrieved employee per pay period for each subsequent violation.

65. Defendants violated California Labor Code sections 204 and 1198 by not paying Plaintiff and aggrieved employees all minimum, regular, overtime, and all meal and rest premium wages owed by the time set forth by law during their employment, as alleged herein. Thus, under California Labor Code section 2699(f)(2), Defendants are subject to a civil penalty of \$100 for each aggrieved employee per pay period for the initial violation of California Labor Code sections 204 and 1198, and \$200 for each aggrieved employee per pay period for each subsequent violation.

66. Under California Labor Code section 210(a), Defendants, in addition to, and entirely independent and apart from any other penalty, are subject to a civil penalty for failing to pay the wages of each aggrieved employee as provided in California Labor Code section 204, as follows: (1) For any initial violation, one hundred dollars (\$100) for each failure to pay each aggrieved employee. (2) For each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for each failure to pay each aggrieved employee, plus 25 percent of the amount unlawfully withheld. This amount shall be recovered on behalf of the California Labor Commissioner.

67. Defendant violated California Labor Code sections 226(a), 1174(d), and 1198 by failing to maintain records detailing the start and end times of work shifts and meal periods, and knowingly and intentionally failing to maintain and provide Plaintiff and other aggrieved employees of Defendants with wage statements itemizing accurately all information required by California Labor Code section 226(a), as alleged herein, including the total hours worked, all regular hours worked, all overtime hours worked, the applicable hourly rate per hour worked, and the total wages earned. Thus, under California Labor Code section 2699(f)(2), Defendants are subject to a civil penalty of \$100 for each aggrieved employee per pay period for the initial violation of California Labor Code sections 226(a) and 1198, and \$200 for each aggrieved employee per pay period for each subsequent violation.

68. Alternatively, California Labor Code section 226.3 provides for a civil penalty in the amount of \$250 per violation in an initial citation and \$1,000 for each violation in a subsequent citation, for which the employer fails to provide the employee a wage deduction statement or fails to keep the records required in subdivision (a) of section 226.

69. California Labor Code section 1174.5 provides for a civil penalty of \$500 for any person employing labor who willfully fails to maintain accurate and complete records required by subdivision (d) of section 1174.

70. Defendants are and were Plaintiff's and aggrieved employees' employer or other person(s) acting either individually or as an officer, agent, or employee of another person(s), who pays or causes to be paid to any employee a wage less than the minimum fixed by an order of the Commission, and, as such, is subject to civil penalties for each underpaid employee pursuant to California Labor Code section 1197.1.

71. California Labor Code section 1197.1 imposes upon Defendants for each initial violation of California Labor Code section 1197 by paying or causing an employee to be paid less than the minimum wage, a civil penalty of \$100.00 for each underpaid employee for each pay period for which the employee is underpaid. Furthermore, California Labor Code section 1197.1 imposes upon Defendants for each subsequent violation a civil penalty of \$250.00 for each underpaid employee for each pay period for which the employee was underpaid. Plaintiff seeks to recover civil penalties, but only those civil penalties that are required to be shared with the LWDA and no individual relief or underpaid wages, on behalf of himself and other aggrieved employees for Defendants' violations of the California Labor Code.

72. Defendants are and were Plaintiff's and other aggrieved employees' employer, or person acting on their behalf, within the meaning of California Labor Code section 558, who violated or caused to be violated, a section of Part 2, Chapter 1 of the California Labor Code or any provision regulating hours and days of work in any IWC Wage Order and, as such, are subject to civil penalties for each underpaid employee as set forth in California Labor Code section 558.

73. Pursuant to California Labor Code section 558, Defendants are subject to a civil penalty of \$50.00 for an initial violation of California Labor Code sections 510 and 512, for each aggrieved

1 employee, for each pay period for which the aggrieved employee was not provided with a timely
2 uninterrupted 30-minute meal period and all overtime wages for all hours worked, as alleged herein.
3 Furthermore, California Labor Code section 558 imposes upon Defendants for each subsequent violation
4 of California Labor Code sections 510 and 512 a civil penalty of \$100.00 for each aggrieved employee
5 for each pay period for which the aggrieved employee was not provided with a timely uninterrupted 30-
6 minute meal period and all overtime wages for all hours worked, as alleged herein.

7 74. California Labor Code section 558 also imposes upon Defendants for each initial
8 violation of the Hours and Days of Work section of the applicable IWC Wage Order a civil penalty of
9 \$50.00 for each aggrieved employee for each pay period for which the aggrieved employee was not
10 provided with a paid uninterrupted 10-minute rest period, as alleged herein.

11 75. Furthermore, California Labor Code section 558 imposes upon Defendants for each
12 subsequent violation of the Hours and Days of Work section of the applicable IWC Wage Order a civil
13 penalty of \$100.00 for each aggrieved employee for each pay period for which the aggrieved employee
14 was not provided with a paid uninterrupted 10-minute rest period, as alleged herein. As set forth in
15 *Thurman v. Bayshore Transit Mgmt.*, 203 Cal. App. 4th 1112, 1153 (2012), the Hours and Days of Work
16 section of the Wage Order also covers failure to provide rest periods and Plaintiff may therefore recover
17 civil penalties, but only those civil penalties that are required to be shared with the LWDA and no
18 individual relief or underpaid wages.

19 76. For bringing this action, Plaintiff is additionally entitled to attorney's fees and costs
20 incurred herein.

21 77. Plaintiff seeks to recover civil penalties on behalf of herself and other aggrieved
22 employees for Defendants' violations of the California Labor Code, including but not limited to
23 Defendants' violations of California Labor Code sections 201, 202, 203, 204, 210, 223, 225.5, 226,
24 226.2, 226.3, 226.7, 246, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, and 1198 pursuant to California
25 Labor Code section 2698, *et seq.* The exact amount of the applicable penalties is in an amount to be
26 shown according to proof at trial and within the jurisdictional limitations of this Court.

27 **PRAYER FOR RELIEF**

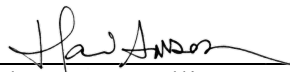
28 78. WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

- a. For general damages according to proof on each cause of action for which such damages are available;
- b. For compensatory damages according to proof on each cause of action for which such damages are available;
- c. For special damages according to proof on each cause of action for which such damages are available;
- d. For punitive damages;
- e. For reasonable attorney's fees and costs of suit to the extent permitted by law, including pursuant to California Labor Code sections 2699, *et seq.*;
- f. For civil penalties to the extent permitted by law pursuant to the California Labor Code under the Private Attorneys General Act;
- g. For civil penalties for each initial and subsequent violation for each underpaid employee for each pay period for which the employee was underpaid;
- h. For civil penalties for each initial and subsequent violation for each underpaid employee for each pay period for which the employee was underpaid, as well as liquidated damages pursuant to California Labor Code section 1194.2, and any applicable penalties imposed pursuant to California Labor Code section 203;
- i. Plaintiff only seeks such civil penalties that are required to be shared with the LWDA; and
- j. For such other relief as the Court deems just and proper.

Dated: June 18, 2021

GRAHAMHOLLIS APC

By:



Graham S.P. Hollis
Vilmarie Cordero
Hali M. Anderson
Alyssa L. Smith
Attorneys for Plaintiff Sheena Edwards

EXHIBIT A

April 13, 2021

VIA ONLINE ELECTRONIC FILING

California Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

CERTIFIED MAIL (RETURN RECEIPT)

Absolute Senior Solutions
4125 Blackford Ave Ste 205
San Jose, CA 95117-1705

ELSOUSOU LLC
c/o Nicholas Elsousou, Agent for Service of Process
4125 Blackford Ave Ste 205
San Jose, CA 95117

**Re: Sheena Edwards' Wage and Hour Claims Against
Absolute Senior Solutions**

Dear California Labor and Workforce Development Agency, Absolute Senior Solutions, and ELSOUSOU LLC:

Please be advised that Sheena Edwards ("Claimant") has retained our firm, GrahamHollis APC, to represent her for various claims against Absolute Senior Solutions ("Absolute") and ELSOUSOU LLC ("ELSOUSOU") (collectively, the "Companies").

Please be advised that this letter shall serve as Claimant's written notice to the California Labor and Workforce Development Agency ("LWDA") and the Companies of the alleged California Labor Code ("Labor Code") violations Claimant claims that the Companies, individually and collectively, committed against her and all other current or former non-exempt employees who performed work for the Companies, in California during the relevant statutory period. Claimant provides this notice, which includes the facts and theories to support her Labor Code violations alleged herein, in accordance with the Private Attorneys General Act of 2004 (codified in Labor Code §§ 2698 *et seq.*, "PAGA"), Labor Code § 2699.3.

Attorneys at Law

3555 Fifth Avenue Suite 200
San Diego, California 92103
619.692.0800 voice
619.692.0822 fax

www.grahamhollis.com

Hali Anderson
handerson@grahamhollis.com
619.274.8225 direct

Graham S.P. Hollis

Vilmarie Cordero

Nathan Reese

Hali Anderson

David Lin

Erik Dos Santos

Alex Kuner

Monique Rodriguez

Ridgeway Woulfe

Pursuant to Labor Code § 2699(a), and by way of this letter, Claimant intends to represent, herself and all other current or former non-exempt employees who performed work for Absolute Senior Solutions in California during the relevant time period (referred to herein as the “Non-Exempt Employees”). All Non-Exempt Employees, including Claimant, are believed to have suffered at least one of the Labor Code violations described herein. Claimant contends that she and all other Non-Exempt Employees are “aggrieved employees” as defined by the PAGA.

FACTUAL BACKGROUND

Absolute Senior Solutions, a senior citizen assistance company, provides community placement, transportation, and home care services to senior citizens in various counties throughout the state of California, including, but not limited to, Santa Clara County, San Mateo County, Alameda County, and San Francisco County. Absolute operates under its three sub-service categories: Absolute Senior Solutions, Absolute HomeAid, and Absolute Transportation. Absolute Senior Solutions is a placement agency that aids the elderly find the right senior living community to fit his or her needs, including, but not limited to, placement into a residential care facility, assisted living community, a memory care community, or an independent living community.¹ Absolute HomeAid, a certified care givers service, provides benefits to senior citizens from the comforts of their own homes, which includes, but not limited to, housekeeping, cooking, transportation, and personal care, and health care. Absolute Transportation, a transportation service, provides rides to seniors to various locations, which includes, but is not limited to, doctor’s appointments, dental appointments, dialysis centers, social outings, and shopping trips. Absolute is organized in the state of California and operates under its parent company, ELSOUSOU LLC.

ELSOUSOU LLC, a limited liability corporation, is the parent company of Absolute. ELSOUSOU LLC is organized the state of California and named after its sole owner and officer, Michael Elsousou (“Owner”). Claimant believes and thereon alleges that there is such a unity of interest between the Companies and the Owner, the Companies operate as the “alter ego” of the Owner, in order to circumvent the California Labor Code. The factors present to show that a unity of interest exists includes, but is not limited to, identical equitable ownership in two entities; officers and directors of one entity are the same as controlled corporation; use of the same office or business location; use of corporation as mere shell; disregard of legal formalities; and commingling of funds and assets.

At all relevant times, Claimant worked as a full-time Transportation Aide at Absolute Senior Solutions located in San Jose, California from March 16, 2020 to October 12, 2020 and changed her status to work part-time from March 16, 2020 to January, 20, 2021. As a Transportation Aide, Claimant was paid an hourly rate of \$17.50 and worked approximately forty (40) hours per week. Often times, Claimant performed work off the clock. Claimant’s job duties as an Transportation Aide included, but were not limited to: driving the Companies’ vehicles;

¹ <https://www.abseniorsolutions.com/services/placement/>

transferring clients to and from their hospital beds; operating wheelchair and gurney equipment; communicating with the Companies' dispatch team, hospital nurses, clients, and clients' family members; logging daily vehicle inspections and mileage; driving clients to the hospital, assisted living communities, skilled nursing communities, shopping trips, and more; and additional projects and assignments assigned by management. At all relevant times, the Companies employed, and continue to employ, non-exempt employees to perform work for the Companies throughout the state of California. Upon information and belief, all policies, practices, procedures, and/or guidelines of the Companies applicable to Claimant were also applicable to all other Non-Exempt Employees throughout the state of California during the relevant time period. Upon information and belief, Claimant and all other Non-Exempt Employees suffered, and current Non-Exempt Employees will continue to suffer, the same and/or similar violations of law described herein.

Claimant alleges that the Companies denied, and continue to deny, Claimant and other Non-Exempt Employees the specific rights afforded to them under the Labor Code and the applicable Industrial Welfare Commission ("IWC") Wage Order. Specifically, the Companies failed, and continue to fail, to timely pay all minimum, regular, and/or overtime wages to all Non-Exempt Employees, including Claimant; failed, and continue to fail, to provide Claimant and other Non-Exempt Employees with legally compliant meal and/or rest periods and/or pay them compensation in lieu thereof; failed, and continue to fail, to pay Claimant and other Non-Exempt Employees for the hours spent reporting to work; failed, and continue to fail, to reimburse Claimant and other Non-Exempt Employees for necessary work expenditures; failed to timely pay former Non-Exempt Employees, including Claimant, all wages due and owing upon separation of employment and/or pay the required waiting time penalties; failed, and continue to fail, to furnish all Non-Exempt Employees, including Claimant, with accurate itemized wage statements; and failed, and continue to fail, to maintain accurate employment records.

Claimant asserts that the Companies had, and continue to have, a policy, practice, procedure, and/or guideline of not timely paying Non-Exempt Employees all minimum, regular, and/or overtime wages for all time actually worked on the designated pay days. For instance, the Companies failed to compensate Claimant and, on information and belief, other Non-Exempt Employees for the all of the work performed while off-the-clock. For example, as a transportation aide, Claimant was required to respond to text messages and telephone calls from co-workers and supervisors regarding work-related issues while off-the-clock, including, but not limited to scheduling client pick-ups and drop offs. In addition, Claimant and other Non-Exempt Employees, also performed job duties during their meal periods, such as completing client pick-ups and/or drop-offs and answering and responding to calls, text messages, and radio instructions from dispatchers, supervisors, and the clients. This was due in part to the Companies' policy of requiring their transportation aides to remain in their assigned company vehicle at all times, including during their meal and rest periods. On one occasion, while in extreme summer heat, Claimant received severe burns to her legs, which required medical attention.

In addition, Claimant contends that the Companies had, and continue to have, a policy, practice, procedure, and/or guideline of not compensating Claimant, and other Non-Exempt Employees for the time spent waiting to report for work. For instance, Claimant and other Non-Exempt Employees rarely knew the dates and times they were scheduled to report for work with adequate advanced notice. Instead, the Companies required Claimant and other Non-Exempt Employees to wait until the night before, sometimes 7:00 p.m. or later, for the Companies to text them their scheduled time to report to work, if any, for the next day. On several occasions, Claimant did not receive the Companies' reporting time text message until the morning of her shift. In addition, although the Companies would inform Claimant and other Non-Exempt Employees of the time they were scheduled to report to work, Claimant, and other Non-Exempt Employees, were rarely, if ever, given a set end time for their shift to end. Instead, the Companies expected the Non-Exempt Employees to work until the Companies told them to stop. As a result of the Companies policy, practice, procedure, and/or guideline to make employees wait all day to know if they were scheduled to work, without setting an end time, Claimant, and other Non-Exempt Employees could never make personal plans in advance. Claimant, and other Non-Exempt Employees were never compensated for the time they spent waiting for the Companies to inform them of their reporting time.

The Companies improperly considered the work that Claimant and, on information and belief, other Non-Exempt Employees performed while off-the-clock, including the time spent waiting to report to work, as non-compensable time and failed to provide any remuneration on the Companies designated pay days. Therefore, the Companies failed to timely pay Non-Exempt Employees, including Claimant, all overtime wages no later than the payday for the next regular payroll period. Based on the foregoing, Claimant contends that she and, on information and belief, all other Non-Exempt Employees were not timely paid all minimum, regular, and/or overtime wages for all hours actually worked.

Claimant contends that the Companies had, and continue to have, a policy, practice, procedure and/or guideline of not providing Non-Exempt Employees, including Claimant, with the opportunity to take timely 30-minute, off-duty, uninterrupted meal periods that are free from the employer's control when they work more than six (6) hours in a day. Claimant alleges that due to the Companies' poor scheduling practices, Claimant and other Non-Exempt Employees rarely, if ever, received meal periods and even if they did receive a meal period, it was always late and/or interrupted. For example, Claimant asserts that the Companies had a practice of not scheduling enough transportation aides for each shift. This practice resulted in the Companies requiring the Non-Exempt Employees to clock back in early for their meal periods in order to meet the demand in clients' transportation appointment times. In addition, the Companies regularly required their employees to clock-out for meal periods, but also required them to continue performing work off the clock. There were several occasions when Claimant was forced to timely clock-in and clock-out for her meal period, yet still required to work. Although her time sheets deceptively show that she was receiving legally compliant meal periods, in reality Claimant regularly received meal periods that were after the fifth, and sometimes sixth, hour of work and/or were interrupted.

Similarly, Claimant further alleges that the Companies had, and continue to have, a policy, practice, procedure and/or guideline of not authorizing and permitting Non-Exempt Employees to take an off-duty, uninterrupted, 10-minute rest period for every four (4) hours worked or major fraction thereof. Although it was the Companies' policy, practice, procedure, and/or guideline that it was the Non-Exempt Employees responsibility to take legally compliant rest break, Claimant alleges that Non-Exempt Employees, such as herself, were not authorized and permitted to take lawful rest periods during any of her shifts due to the demand of their workloads and the Companies' poor scheduling practices. For example, if there was a break in Claimant, and other Non-Exempt Employees schedule to take a rest break, the Companies regularly required their dispatchers, who were able to observe and track the Non-Exempt Employees' vehicle movements, to call the transportation aids, regardless of whether they were on a rest break, to require them to keep working to meet the demand for transportation services. As a result, Claimant and other Non-Exempt Employees did not receive rest periods that were timely, free from the Companies' control, uninterrupted, and/or at least ten (10) minutes in length.

Moreover, Claimant asserts that the Companies had, and continue to have, a policy, practice, procedure, and/or guideline of not timely paying premium wages for non-compliant meal and/or rest periods during the relevant time period. Despite not regularly receiving legally compliant meal and/or rest periods as described herein, Claimant and, on information and belief, other Non-Exempt Employees did not timely receive premium wages on the designated pay days for non-compliant meal and/or rest periods.

Similarly, Claimant asserts that the Companies had, and continue to have, a policy, practice, procedure, and/or guideline of failing to reimburse Claimant and other Non-Exempt Employees for necessary work expenditures. For example, Claimant and other Non-Exempt Employees, were required to use their personal cell phones in the discharge of their work duties for purposes such as, obtaining their shift schedules, clocking-in and clocking-out for their shifts and meal periods, obtaining client pick-up and/or drop-off times and locations, and responding to miscellaneous calls, text messages, and radio instructions from dispatchers, supervisors, and clients. For instance, the Companies required the Non-Exempt Employees, including Claimant, to download two apps onto their personal cell phones to use in the discharge of their work duties, including – "Workbase," the app they used to clock-in and clock-out for shifts and meal periods; and "Samsara Driver," the app they used to receive pick-up and drop-off assignments. In addition, when a dispatcher called to inform Claimant, and other Non-Exempt Employees, of their next scheduled pick-up or drop-off location, the Non-Exempt Employees were required to use their personal cell phones for directions. Despite mandating Non-Exempt Employees, including Claimant, to use their personal cell phones in the discharge of their work duties, the Companies did not have a policy, practice, procedure, and/or guideline of reimbursing the Non-Exempt Employees in violation of California law.

Claimant asserts that the Companies had, and continue to have, a policy, practice, procedure, and/or guideline of not timely paying former Non-Exempt Employees all wages due

and payable upon separation of employment and/or the required waiting time penalties for the late payment of wages. For instance, the Company failed to timely pay Claimant and, on information and belief, other former Non-Exempt Employees all minimum, regular, and/or overtime wages for all hours worked and meal and/or rest period premium wages, in part due to the aforementioned Labor Code violations. In regards to Claimant, her employment ended on January 19, 2021. The Companies' informed Claimant that her final paycheck would be ready for pick-up by January 20, 2021. Claimant's final paycheck was not provided to her until January 22, 2021. In addition, when Claimant was finally provided her paycheck, it was missing a whole day's worth of pay. When Claimant brought it to the Companies' attention, the Companies made her wait even longer before they were willing to provide it to her. Therefore, Claimant, and other former Non-Exempt Employees, have not yet received payment for all hours worked or the required waiting time penalties for the Companies' failure to immediately pay all wages due and owing upon separation of employment.

Claimant contends that the Companies had, and continue to have, a policy, practice, procedure, and/or guideline of furnishing Non-Exempt Employees, including Claimant, with wage statements that do not comply with California law. Claimant alleges that the wage statements furnished to her and other Non-Exempt Employees did not correctly show the information required by California law including, but not limited to, the total hours actually worked by the employee, all applicable hourly rates in effect during the pay period, including the proper overtime rate, and the corresponding number of hours worked at each hourly rate by the employee, the gross wages actually earned, and the net actual wages earned. Due to the missing and/or incorrect information, Claimant and other Non-Exempt Employees were unable to promptly and easily determine the total number of hours worked or the applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate.

Claimant attests that the Companies had, and continue to have, a policy, practice, procedure and/or guideline of failing to maintain accurate employment records. The Companies' illegal policies, practices, procedures and/or guidelines, such as those described herein, have resulted in the Companies' failure to maintain accurate records reflecting Non-Exempt Employees' actual time worked, the proper beginning and end of each work period, the meal periods, the total hours worked during the pay period, the applicable rates of pay, among other things, in violation of California law.

Due to the foregoing Labor Code violations, the Companies denied, and continue to deny, Claimant and other Non-Exempt Employees certain rights afforded to them under the Labor Code and the applicable IWC Wage Order. Claimant makes these claims against the Companies on behalf of herself and all other Non-Exempt Employees.

All facts, claims and/or legal theories contained within this written notice are alleged and/or asserted on behalf of Claimant and all other Non-Exempt Employees. The facts and/or claims contained in this written notice are based on information available at the time of this writing. Since

Claimant's investigation is ongoing, Claimant reserves her right to assert any and all related facts, claims, and/or legal theories discovered after the sending of this letter on behalf of herself and other current or former Non-Exempt Employees against the Companies and/or other persons that may be discovered after the sending of this letter. Such other persons include, but are not limited to, those persons who have acted as an agent, subsidiary, servant, employee, co-conspirator, alter-ego, and/or joint venture of the Companies, as well as those persons who caused and/or concurrently contributed to the various acts and/or admissions of each and every one of the others, including the Companies, in proximately causing the wrongful conduct, harm, and/or damages alleged herein or otherwise participated in or ratified any or all of the acts and/or omissions complained of herein, and those who were acting within the authority and/or scope of the Companies. Claimant reserves the right to revise these facts and/or add any new claims by amending this letter and/or by adding facts and/or claims to her civil complaint.

**FAILURE TO TIMELY PAY ALL MINIMUM, REGULAR,
AND/OR OVERTIME WAGES**

(Labor Code §§ 204, 210, 510, 558, 1194, 1194.2, 1197, 1197.1, 1198, and 1199, and the "Minimum Wages" and "Hours and Days of Work" sections of IWC Wage Order No. 5-2001)

Labor Code § 204 establishes an employee's fundamental right in the state of California to be paid wages in a timely manner for their work. Specifically, Labor Code § 204(a) states that all wages earned are due and payable twice during each calendar month on days designated in advance by the employer as regular pay days. Overtime wages are to be paid no later than the payday for the next regular payroll period. (Labor Code § 204(b)(1).)

Labor Code § 1197 states, "[t]he minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a lower wage than the minimum so fixed is unlawful." (See *Gonzalez v. Downtown LA Motors, LP* (2013) 215 Cal.App.4th 36, 44 [providing that an employer may not pay "less than the applicable minimum wage for all hours worked in the payroll period, whether the remunerations is measured by time, piece, commission, or otherwise"].)

The "Minimum Wages" section of IWC Wage Order No. 5-2001 further provides that "[e]very employer shall pay to each employee, on the established payday for the period involved, not less than the applicable minimum wage for all hours worked in the payroll period, whether the remuneration is measured by time, piece, commission, or otherwise."

Labor Code § 1197.1 provides:

Any employer or other person acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or local law or by an order of the commission shall

be subject to a civil penalty, restitution of wages, liquidated damages payable to the employee, and any applicable penalties imposed pursuant to Section 203...

Labor Code § 1198 states:

The maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.

Labor Code § 1199 imposes “a fine of not less than one hundred dollars (\$100)” for any employer who violates the provisions set forth in Labor Code § 1198.

Labor Code § 510(a), which codifies an employee’s right to overtime compensation, provides:

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.

The “Hours and Days of Work” and “Minimum Wages” sections of IWC Wage Order No. 5-2001 mandate the same requirements as Labor Code § 510. Under California law, an employee may not waive his or her right to overtime compensation. (*Early v. Superior Court* (2000) 79 Cal.App.4th 1420, 1430.)

Labor Code § 1194(a) provides:

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.

Labor Code § 1194.2 allows for the recovery of liquidated damages in an amount equal to the minimum wages unlawfully unpaid and interest thereon.

Labor Code § 210 states that, “every person who fails to pay the wages of an employee as provided in Section...204...shall be subject to a civil penalty” of \$100 for an initial violation and \$200 plus 25% of the amount unlawfully withheld for a subsequent violation.

Labor Code section 558 provides that “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” of \$50 for each underpaid employee for each pay period for which the employee was underpaid for any initial violation, and \$100 for each underpaid employee for each pay period for which the employee was underpaid for each subsequent violation.

As set forth above, the Companies have a policy, practice, procedure, and/or guideline of failing to timely pay all minimum, regular, and/or overtime wages to Claimant and, on information and belief, other Non-Exempt Employees for all hours actually worked. For instance, the Companies failed to compensate Claimant and other Non-Exempt Employees for the time spent waiting to report to work; responding to text messages and answer company calls; and performing other work duties while off-the-clock without compensation. Claimant will pursue all available remedies against the Companies for their violations of the Labor Code on behalf of herself and all Non-Exempt Employees to the extent permitted by law.

**FAILURE TO PROVIDE LEGALLY COMPLIANT MEAL PERIODS
AND/OR COMPENSATION IN LIEU THEREOF**

(Labor Code §§ 204, 226.7, 512, and 558, and the “Meal Periods”
section of IWC Wage Order No. 5-2001)

Labor Code § 512(a) provides:

An employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes, except that if the total work period per day of the employee is no more than six hours, the meal period may be waived by mutual consent of both the employer and employee. An employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

In pertinent part, the “Meal Periods” section of IWC Wage Order No. 5-2001 states:

(A) No employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, 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 the employee. Unless the employee is relieved of all duty during a 30-minute meal period, the meal period shall be considered an “on duty” meal period and counted as time worked. An “on duty” meal period shall be permitted only when the nature of the work prevents an employee from being relieved of all duty and when by written agreement between the parties an on-the-job paid meal is agreed to.

(B) An employer may not employ an employee for a work period of more than ten (10) hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived....

(D) If an employer fails to provide an employee a meal period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided.

A meal period generally comports with the requirements of California law if the employee has at least 30 minutes uninterrupted and the employee is relieved of any and all duty and is free to leave the premises during such time. (*Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1036.) California law further prohibits employers from “...undermining [its] formal policy of providing meal breaks by pressuring employees to perform their duties in ways that omit breaks.” (*Id.* at 1040.)

Pursuant to Labor Code § 226.7(c),

[i]f an employer fails to provide an employee a meal or rest or recovery period in accordance with a state law, including, but not limited to, an applicable statute or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational

Safety and Health, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided.

Labor Code § 204 establishes an employee's fundamental right in the state of California to be paid wages in a timely manner for their work. Premium wages under Labor Code § 226.7 are wages that are due payable in accordance with the Labor Code § 204. (*Murphy v. Kenneth Cole Productions, Inc.* (2007) 40 Cal.4th 1094, 1103-1114.)

Labor Code section 558 provides that "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" of \$50 for each underpaid employee for each pay period for which the employee was underpaid for any initial violation, and \$100 for each underpaid employee for each pay period for which the employee was underpaid for each subsequent violation.

As set forth above, the Companies have a policy, practice, procedure, guideline, and/or culture of failing to provide Claimant and, on information and belief, other Non-Exempt Employees with the opportunity to take uninterrupted, off-duty meal periods of at least 30-minutes before the start of their sixth (6th) hour of work. Consequently, Claimant and other Non-Exempt Employees are entitled to receive, and did not receive, one-hour of premium wages for each day a compliant meal period was not provided on the payday designated by the Companies. Claimant will pursue all available remedies against the Companies for their violations of the Labor Code on behalf of herself and all Non-Exempt Employees to the extent permitted by law.

**FAILURE TO PROVIDE LEGALLY COMPLIANT REST PERIODS
AND/OR COMPENSATION IN LIEU THEREOF**

(Labor Code §§ 204, 226.7, and the "Rest Periods" section of IWC Wage Order No. 5-2001)

The "Rest Periods" section of IWC Wage Order No. 5-2001 provides:

(A) 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 of net rest time per four (4) hours or major fraction thereof. However, a rest period need not be authorized for employees whose total daily work time is less than three and one-half (3 ½) hours. Authorized rest period time shall be counted as hours worked for which there shall be no deduction from wages.

(B) If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the rest period is not provided.

During rest periods, California law requires employers to relinquish all control over their employees and relieve their employees of all duties. (*Augustus v. ABM Security Services, Inc.* (2016) 2 Cal.5th 257, 273.)

In pertinent part, Labor Code § 226.7 states:

(b) An employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health.

(c) If an employer fails to provide an employee a meal or rest or recovery period in accordance with a state law, including, but not limited to, an applicable statute or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided.

Labor Code § 204 establishes an employee's fundamental right in the state of California to be paid wages in a timely manner for their work. Specifically, Labor Code § 204(a) states that all wages earned are due and payable twice during each calendar month on days designated in advance by the employer as regular pay days. Premium wages under Labor Code § 226.7 are wages that are due payable in accordance with the Labor Code § 204. (*Murphy, supra*, 40 Cal.4th at 1103-1114.)

As discussed herein, the Companies have a policy, practice, procedure, guideline, and/or culture of failing to authorize and permit Claimant and, on information and belief, other Non-Exempt Employees to take an off-duty, uninterrupted 10-minute rest period for every four hours worked or major fraction thereof. Therefore, Claimant and other Non-Exempt Employees are entitled to receive, and did not receive, one-hour of premium wages on the designated payday for each day a legally compliant rest period was not provided. Claimant will pursue all available remedies against the Companies for their violations of the Labor Code on behalf of herself and all Non-Exempt Employees to the extent allowed by law.

FAILURE TO PAY REPORTING TIME PAY

(Labor Code sections 1194, 1194.2 1198, 1199, and the “Reporting Time Pay” section of the Applicable IWC Wage Order)

Labor Code § 1194(a) provides:

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.

Labor Code § 1194.2 allows for the recovery of liquidated damages in an amount equal to the minimum wages unlawfully unpaid and interest thereon.

Labor Code § 1198 states:

The maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.

Labor Code § 1199 imposes “a fine of not less than one hundred dollars (\$100)” for any employer who violates the provisions set forth in Labor Code § 1198.

The “Reporting Time Pay” section of the applicable IWC Wage Order states:

[E]ach workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee’s usual or scheduled day’s work, the employee shall be paid for half the usual or scheduled day’s work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee’s regular rate of pay, which shall not be less than the minimum wage.

As discussed herein, the Companies violated these Labor Code sections by failing to pay Non-Exempt Employees for the time they spent reporting to work. For instance, the Companies failed to pay Claimant, and other Non-Exempt Employees, for the time spent waiting for the Companies to text them informing them of whether or not they were required to report to work the

following day. Thus, the Companies violated California law. Claimant will pursue all available remedies against the Companies for their violations of the Labor Code on behalf of herself and all Non-Exempt Employees to the extent allowed by law.

FAILURE TO REIMBURSE FOR NECESSARY BUSINESS EXPENSES

(Labor Code § 2802)

Labor Code § 2802(a) provides in pertinent part, “[a]n employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer.”

Labor Code § 2802(b) states, “[a]ll awards made by a court or by the Division of Labor Standards Enforcement for reimbursement of necessary expenditures under this section shall carry interest at the same rate as judgments in civil actions. Interest shall accrue from the date on which the employee incurred the necessary expenditure or loss.” Accordingly, Claimant will request that she receives interest on the applicable amount.

Furthermore, Labor Code § 2802(c) states, “[f]or purposes of this section, the term ‘necessary expenditures or losses’ shall include all reasonable costs, including, but not limited to, attorney’s fees incurred by the employee enforcing the rights granted by this section.” Consequently, Claimant will also request reimbursement of the attorney’s fees incurred in pursuing this matter.

As set forth above, the Companies required Claimant and other Non-Exempt Employees to use their personal cell phones in the discharge of their job duties without reimbursement. For example, Claimant and other Non-Exempt Employees, were required to use their personal cell phones in the discharge of their work duties for purposes such as, obtaining their shift schedules, clocking-in and clocking-out for their shifts and meal periods, obtaining client pick-up and/or drop-off times and locations, and responding to miscellaneous calls, text messages, and radio instructions from dispatchers, supervisors, and clients. Claimant will pursue all available remedies against the Companies for their violations of the Labor Code on behalf of herself and all Non-Exempt Employees to the extent allowed by law.

**FAILURE TO TIMELY PAY ALL WAGES DUE AND
OWING UPON SEPARATION OF EMPLOYMENT**

(Labor Code §§ 201, 202, 203 and 210)

Labor Code § 201 states, in pertinent part, “[i]f an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately.” Labor Code § 202 provides, in pertinent part,

[i]f 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.

Labor Code § 203(a) further states:

If an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.3, 201.5, 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 therefore is commenced; but the wages shall not continue for more than 30 days.

Labor Code § 210 provides that, “every person who fails to pay the wages of an employee as provided in Sections...204...shall be subject to a civil penalty” of \$100 for an initial violation and \$200 plus 25% of the amount unlawfully withheld for a subsequent violation.”

As discussed herein, the Companies violated these Labor Code sections by not timely paying to Claimant and other former Non-Exempt Employees all minimum, regular, and/or overtime wages and/or meal and/or rest period premium wages, within the required time upon separation of their employment. For instance, Claimant had to wait roughly a week for her final pay check and even when she did receive it, it was missing payment for an entire day worth of work. Moreover, even when Claimant informed the Companies of the mistake, the Companies forced Claimant to wait an additional amount of time before they were willing to provide her with the proper compensation. The Companies also did not pay Claimant and, on information and belief, other former Non-Exempt Employees the required waiting time penalties for the late payment of wages. Thus, the Companies violated California law. Claimant will pursue all available remedies against the Companies for their violations of California law on behalf of herself and all former Non-Exempt Employees to the extent allowed by law.

FAILURE TO FURNISH ACCURATE ITEMIZED WAGE STATEMENTS

(Labor Code §§ 226 and 226.3, and the “Records” section of IWC Wage Order No. 5-2001)

Labor Code § 226(a) states in pertinent part:

An employer, semimonthly or at the time of each payment of wages, shall furnish each of his or her employee, either as 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... (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...(8) the name and address of the legal entity that is the employer, and... (9) all applicable hourly rates in effect during each period and the corresponding number of hours worked at each hourly rate by the employee...

The “Records” section of IWC Wage Order No. 5-2001 further provides, in pertinent part:

Every employer shall semimonthly or at the time of each payment of wages furnish to each employee...an itemized wage statement in writing showing (1) all deductions; (2) the inclusive dates of the period for which the employee is paid; (3) the name of the employee and the employee’s social security number; and (4) the name of the employer, provided all deductions made on written orders of the employee may be aggregate and shown as one item.

Labor Code § 226(e)(1) provides:

An employee suffering injury as a result of knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand (\$4,000), and is entitled to an award of costs and reasonable attorneys’ fees.

Labor Code § 226(h) states, “an employee may also bring an action for injunctive relief to ensure compliance with this section and is entitled to an award of costs and reasonable attorneys’ fees.”

Labor Code § 226.3 imposes an additional civil penalty of \$250 per employee per violation in an initial citation and \$1,000 per employee per violation for any subsequent violation on the employer for violations of Labor Code § 226(a).

As discussed above, the Companies failed to furnish Claimant and other Non-Exempt Employees with accurate itemized wage statements that comply with the requirements of the Labor Code because the wage statements did not, among other things, include the total hours actually worked by the employee, all applicable hourly rates in effect during the pay period, including the proper overtime rate, and the corresponding number of hours worked at each hourly rate by the employee, the gross actual wages earned, and the net wages actually earned. Claimant will pursue all available remedies against the Companies for their violations of the Labor Code on behalf of herself and all Non-Exempt Employees to the extent allowed by law.

FAILURE TO MAINTAIN ACCURATE RECORDS

(Labor Code §§ 226(a), 226(e), 1174, and 1174.5, and the “Records” section of IWC Wage Order No. 5-2001)

Labor Code § 226(a) mandates, in pertinent part:

The deductions made from payment of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement and the record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California.

Labor Code § 1174(c) requires every employer to “keep a recording showing the names and addresses of all employees employed....” Labor Code § 1174(d) further requires:

Every person employing labor in this state shall...[k]eep, 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...employees employed at the respective plants or establishments. These records shall be kept in accordance with rules established for this purpose by the commission, but in any case shall be kept on file for not less than three years.

The “Records” section of IWC Wage Order No. 5-2001 provides that every employer shall keep accurate information with respect to each one of its employees, including time records showing when the employee begins and ends each work period, meal periods, total daily hours worked, total wages paid each payroll period, and total hours worked in the payroll period and applicable rates of pay.

Labor Code § 1174.5 imposes a civil penalty of \$500 for an employer's failure to maintain accurate and complete records. This civil penalty is in addition to the civil penalty of \$100 per pay period, per aggrieved employee that would be imposed pursuant to Labor Code § 2699 for a violation of Labor Code § 1174(d).

Labor Code § 226(e)(1) provides:

An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) [of Labor Code § 226] is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney's fees.

As set forth above, the Companies violated its record keeping requirements by failing to accurately record employee hours actually worked, including, but not limited to, failing to record the proper beginning and end of each work period, the meal periods, the total hours worked during the pay period, the applicable rates of pay, and the actual wages earned and paid. Claimant will pursue all available remedies against the Companies for their violations of the Labor Code on behalf of herself and all Non-Exempt Employees to the extent allowed by law.

**CIVIL PENALTIES FOR VIOLATION OF THE LABOR CODE
AND APPLICABLE IWC WAGE ORDER**

(Labor Code §§ 210, 226.3, 558, 558.1, 1174.5, 1197.1, and 2699(f))

Labor Code § 210 provides that any person who fails to pay wages as provided in section 204 shall be subject to a civil penalty of \$100 for any initial violation for each failure to pay each employee and for each subsequent violation, or any willful or intentional violation \$200 for each failure to pay each employee, plus 25 % if the amount unlawfully withheld, in addition to any other penalty.

For violations of Labor Code § 226(a), Labor Code § 226.3 imposes a civil penalty of \$250 per employee per violation in an initial citation and \$1,000 per employee for each violation in a subsequent citation.

Labor Code section 558 subjects an employer or any person acting on behalf of an employer who violates Labor Code Labor Code §§ 500-558, or any provision regulating the hours and days of work in any IWC Wage Order, to a civil penalty of \$50 for each underpaid employee for each pay period for which the employee was underpaid for any initial violation, and \$100 for

each underpaid employee for each pay period for which the employee was underpaid for each subsequent violation. Labor Code § 558.1(a) states that,

“[a]ny employer or other person acting on behalf of an employer, who violates, or causes to be violated, any provision regulating minimum wage or hours and days of work in any order of the Industrial Welfare Commission, or violates, or causes to be violated, Sections 203, 226, 226.7, 1193.6, 1194, or 2802, may be held liable as the employer for such violation.”

Pursuant to Labor Code § 558.1(b), Labor Code § 558.1(a) is applicable to the owners, officers, directors, or managing agents of the employer.

For violations of Labor Code § 1174 subdivisions (c) and (d), Labor Code § 1174.5 imposes a civil penalty of \$500.

Similarly, Labor Code § 1197.1 subjects any employer or other person acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or local law, or by an order of the commission to a civil penalty, restitution of wages, liquidated damages payable to the employee, and any applicable penalties imposed pursuant to § 203 as follows:

(1) For any initial violation that is intentionally committed, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee is underpaid. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to § 1194.2, and any applicable penalties imposed pursuant to § 203. (2) For each subsequent violation for the same specific offense, two hundred fifty dollars (\$250) for each underpaid employee for each pay period for which the employee is underpaid regardless of whether the initial violation is intentionally committed. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to § 1194.2, and any applicable penalties imposed pursuant to § 203. (3) Wages, liquidated damages, and any applicable penalties imposed pursuant to § 203, recovered pursuant to this section shall be paid to the affected employee.

Labor Code § 2699(f) imposes a civil penalty of \$100 per pay period, per employee for the initial violation and \$200 per pay period, per employee for each subsequent violation for all Labor Code provisions for which a civil penalty is not specifically provided, including, but not limited

to, Labor Code §§ 201, 202, 203, 204, 210, 226(a), 226.7, 510, 512, 1174(d), 1194, 1197, 1197.1, 1198, 2802 and relevant IWC Wage Orders.

As set forth above, the Companies violated the Labor Code and IWC Wage Order No. 5-2001 by failing to timely pay Claimant and all Non-Exempt Employees all regular, minimum, and/or overtime wages for all time actually worked; failing to timely pay all meal and/or rest period premium wages; failing to pay reporting time pay; failing to reimburse for necessary business expenses; failing to pay all wages due and owing upon the separation of employment; failing to furnish accurate itemized wage statements; and failing to maintain accurate employee records, as required under the Labor Code and the applicable sections of IWC Wage Order No. 5-2001. As a result, the Companies are liable for civil penalties under the Labor Code and Claimant will pursue all available remedies including, but not limited to, those stated herein, for the Companies' violations on behalf of herself and all Non-Exempt Employees to the extent allowed by law.

**ATTORNEYS' FEES, COSTS, INTEREST, LIQUIDATED DAMAGES AND
PENALTIES**

(Labor Code §§ 210, 218.5, 218.6, 226(e)(1), 226(h), 558, 1194, 1194.2, 1197.1, 2698 *et seq.*,
and 2802)

Labor Code §§ 210, 218.5, 218.6, 226(e)(1), 226(h), 558, 1194, 1194.2, 1197.1, 2802 and 2698 *et seq.*, among others, give employees, such as Claimant, the right to recover in a civil action the full amount of damages, liquidated damages and penalties, including interest thereon, as well as reasonable attorneys' fees and costs.

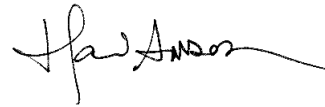
Under Labor Code § 2699(g)(1) an aggrieved employee, such as Claimant, is entitled to an award of reasonable attorney's fees and costs. Accordingly, the Companies are liable for these items. Claimant has already incurred actual damages, costs and attorney's fees and she will continue to incur such costs as a result of the Companies' unlawful actions. Claimant will pursue all available remedies against the Companies, including those provided under the PAGA, on behalf of herself and other Non-Exempt Employees to the extent permitted by California law for the violations of law described herein and those that may be later discovered.

CONCLUSION

Based on the foregoing, the Companies have violated the Labor Code and IWC Wage Order No. 5-2001, thereby depriving Claimant and other Non-Exempt Employees of the rights and protections afforded to them. Claimant has satisfied the prerequisites of the PAGA to serve as a representative of all Non-Exempt Employees, the general public, and the state of California in order to enforce California labor laws and to seek civil penalties for the provisions set forth herein, as well as those which may be later discovered.

Accordingly, if the California agency declines to intervene or act within the time prescribed by the PAGA, Claimant may elect to initiate and/or amend a civil action, on behalf of herself and all other Non-Exempt Employees, as permitted by the PAGA.

Sincerely,

A handwritten signature in black ink, appearing to read "Hali Anderson", with a long horizontal flourish extending to the right.

Hali Anderson