

COPY

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ENDORSED
FILED
ALAMEDA COUNTY

AUG 30 2021

CLERK OF THE SUPERIOR COURT

Deputy

MARGARET J. DOWNING

Attorneys for Plaintiff NANCY MARES on behalf of
the general public as private
attorney general

SUPERIOR COURT OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA

NANCY MARES, individually, and on behalf
of all other aggrieved employees,

Plaintiff,

vs.

COMMUNITY INTEGRATED WORK
PROGRAM, INC., a California corporation
and DOES 1-20, inclusive,

Defendants.

CASE NO.

RG21111310

PAGA REPRESENTATIVE ACTION
COMPLAINT PURSUANT TO THE
PRIVATE ATTORNEYS GENERAL ACT
(LABOR CODE §§2698 *et seq*)

COMES NOW Plaintiff NANCY MARES ("Plaintiff"), on behalf of the general public
and all non-exempt aggrieved employees, acting on behalf of the California Attorney
General as private attorney general, and asserts claims against Defendants COMMUNITY
INTEGRATED WORK PROGRAM, INC., a California Corporation, and DOES 1-20,
inclusive (collectively "Defendants") as follows:

I. INTRODUCTION

1. This is a representative action for recovery of penalties under the Private
Attorneys General Act of 2004 ("PAGA"), Cal. Lab. Code sections 2698 *et seq*. PAGA
permits "aggrieved employees" to bring a lawsuit as a representative action on behalf of

1 the general public as private attorney general and all other current and former aggrieved
2 employees, to recover civil penalties and address an employer's violations of the California
3 Labor Code.

4 2. In this case, Defendants violated various provisions of the California Labor
5 Code. As set forth below, Defendants implemented policies and practices which led to
6 unpaid wages resulting from Defendant's: (a) failure to accurately pay overtime wages, (b)
7 failure to pay minimum wages (c) failure to provide meal periods before the end of the fifth
8 hour worked and failure to pay an additional hour's of pay in lieu of providing a meal
9 period before the end of the fifth hour worked; (d) failure to authorize and permit rest
10 breaks for every four hours or major fraction thereof worked and failure to pay an
11 additional hour's of pay in lieu of providing a rest period; (e) failing to pay all wages earned
12 and owed upon separation from Defendant's employ; and (f) failing to provide accurate
13 itemized wage statements; (g) knowingly and intentionally failing to maintain accurate and
14 complete records; and (h) failure to indemnify for necessary business expenses. As a result,
15 Plaintiff seeks penalties under Labor Code 2698, *et. seq.* on behalf of the general public as
16 private attorney general and all other aggrieved employees.

17 II. JURISDICTION AND VENUE

18 3. The California Superior Court has jurisdiction over this action pursuant to
19 California Constitution Article VI, Section 10, which grants the Superior Court "original
20 jurisdiction in all cases except those given by statute to other trial courts." The statutes
21 under which this action is brought do not give jurisdiction to any other court.

22 4. This Court has jurisdiction over Defendants because, upon information and
23 belief, each Defendant either has sufficient minimum contacts in California - Alameda
24 County, or otherwise intentionally avails itself of the California - Alameda County market
25 so as to render the exercise of jurisdiction over it by the California Courts consistent with
26 traditional notions of fair play and substantial justice.

27 5. Venue is proper in this judicial district pursuant to Code of Civil Procedure
28 section 395. Defendant Community Integrated Work Program, Inc. and Does 1 through 20,

1 are operating and doing business in, California – Alameda County, and each Defendant is
2 within the jurisdiction of this Court for service of process purposes. The unlawful acts
3 alleged herein have a direct effect on Plaintiff and all other aggrieved employees within the
4 State of California and within Alameda County and elsewhere in California.

5 6. On information and belief, Defendants have conducted business within the
6 State of California during the purported liability period and continue to conduct business
7 in the State of California. The unlawful acts alleged herein have had a direct effect on
8 Plaintiff, and the similarly situated non-exempt aggrieved employees within Alameda
9 County and the State of California.

10 7. The California Superior Court also has jurisdiction in this matter because on
11 information and belief there are no federal questions at issue, as the issues herein are based
12 solely on California statutes and law, including the California Labor Code, the IWC Wage
13 Orders, the California Code of Civil Procedure, the California Civil Code, and the California
14 Business and Professions Code.

15 8. On information and belief, during the statutory liability period and
16 continuing to the present ("liability period"), Defendants consistently maintained and
17 enforced against Defendants' Non-Exempt Employees ("Aggrieved Employees"), among
18 others, the following unlawful practices and policies, in violation of California state wage
19 and hour laws (a) failure to accurately pay overtime wages, (b) failure to pay minimum
20 wages (c) failure to provide meal periods and failure to pay an additional hour's of pay in
21 lieu of providing a meal period; (d) failure to authorize and permit rest breaks for every
22 four hours or major fraction thereof worked and failure to pay an additional hour's of pay
23 in lieu of providing a rest period; (e) failing to pay all wages earned and owed upon
24 separation from Defendant's employ; (f) failing to provide accurate itemized wage
25 statements; (g) knowingly or intentionally failing to maintain accurate and complete
26 records; and (h) failure to indemnify for necessary business expenses.

27 9. On information and belief, during the statutory liability period and
28 continuing to the present, Defendants have had a consistent policy of failing to provide its

1 Non-Exempt Employees within the State of California, including Plaintiff unfettered,
2 uninterrupted, duty free rest periods of at least (10) minutes per four (4) hours worked or
3 major fraction thereof and failing to pay such employees one (1) hour of pay at the
4 employees regular rate of compensation for each workday that the rest was untimely,
5 interrupted and/or not provided, as required by California state wage and hour laws.

6 10. On information and belief, during the statutory liability period and
7 continuing to the present, Defendants have had a consistent policy of failing to pay
8 overtime for hours worked in excess of forty hours in a workweek or more than 8 hours in
9 a workday.

10 11. On information and belief, during the statutory liability period and
11 continuing to the present, Defendants have had a consistent policy of failing to pay
12 minimum wages, overtime wages, and wages earned on a regular pay period for all hours
13 worked while subject to the control of Defendants.

14 12. On information and belief, during the statutory liability period and
15 continuing to the present (rest and meal period liability period), Defendants have had a
16 consistent policy of requiring its Non-Exempt Employees within the State of California,
17 including Plaintiff, to work at least five (5) without a meal period and failing to pay such
18 employees one (1) hour of pay at the employee's regular rate of compensation for each
19 workday that the meal period was untimely, interrupted and/or not provided, as required
20 by California state wage and hour laws.

21 13. On information and belief, as a result of these unlawful acts, Defendants
22 failed to pay the required meal and rest period premiums.

23 14. On information and belief, during the statutory liability period and
24 continuing to the present, Defendants have had a consistent policy of failing to timely pay
25 wages upon separation.

26 15. On information and belief, during the statutory liability period and
27 continuing to the present, Defendants have had a consistent policy of failing to provide
28 accurate itemized wage statements.

16. On information and belief, during the statutory liability period and continuing to the present, Defendants have had a consistent policy of failing to indemnify work related expenses incurred.

17. On information and belief, during the statutory liability period and continuing to the present, Defendants have had a consistent policy of knowingly and intentionally failing to maintain accurate and complete records.

18. Plaintiff on behalf of the general public as private attorney general and all other aggrieved employees brings this action pursuant to Labor Code 2698, et. seq. for violations enumerated under 2699.5 as follows: sections 201-203, 204, 218, 218.5, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1175, 1194, 1197, 1197.1, and 2802, 2802(a) seeking penalties, interest, attorneys' fees and costs.

III. PARTIES

A. Plaintiff

19. Plaintiff NANCY MARES is a resident of Merced, California, who was employed by Defendants in Merced County, California, as a non-exempt employee within the last year preceding the filing of this action. Specifically, Plaintiff was employed as a job coach aide. Plaintiff's duties as a job coach aide included teaching classes, creating lesson plans for the classes, and meeting with clients one on one.

20. As Defendants' employees, Plaintiff, and all other aggrieved employees were regularly required to and subsequently suffered:

(a) work in excess of eight (8) hours per day, and/or forty (40) hours per week; all in violation of California labor laws, regulations, and the Industrial Welfare Commission Wage Orders (“IWC”);

(b) perform work subject to the control of the employer without being compensated at least minimum wages, all in violation of California labor laws, regulations, and the Industrial Welfare Commission Wage Order ("IWC");

(c) work without being permitted or authorized a minimum ten-minute rest period for every four hours or major fraction thereof worked and not compensated one (1) hour of pay at his regular rate of compensation for each workday that a rest period was not provided, all in violation of California labor laws, regulations, and the Industrial Welfare Commission Wage Orders ("IWC");

(d) work in excess of five hours per day without being provided meal periods and not compensated one (1) hour of pay at the regular rate of compensation for each workday that a meal period was not provided, all in violation of California labor laws, regulations, and the Industrial Welfare Commission Wage Orders ("IWC");

(e) not paid all wages upon separation from Defendant's employment ("IWC");

(f) not reimbursed for business related expenses; and

(g) not provided accurate itemized wage statements.

21. Plaintiffs seek penalties under Labor Code 2698, et. seq. on behalf of the general public as private attorney general and all other aggrieved employees.

B. Defendants

22. On information and belief, Defendant COMMUNITY INTEGRATED WORK PROGRAM, INC. ("CIWP") is a California corporation operating in and authorized to conduct business in the State of California. Defendant provides services and support for the disabled community throughout Northern California and employs numerous non-exempt employees at each of these locations.

23. Other than identified herein, Plaintiff is unaware of the true names, capacities, relationships and extent of participation in the conduct alleged herein, of the defendants sued as DOES 1 through 20, but is informed and believes and thereon alleges that said defendants are legally responsible for the wrongful conduct alleged herein and therefore

1 sues these defendants by such fictitious names. Plaintiff will amend this complaint when
2 their true names and capabilities are ascertained.

3 24. Plaintiff is informed and believes and thereon alleges that each Defendant,
4 directly or indirectly, or through agents or other persons, employed Plaintiff and other
5 members of the Representative Group, and exercised control over their wages, hours, and
6 working conditions. Plaintiff is informed and believes and thereon alleges that each
7 defendant acted in all respects pertinent to this action as the agent of the other defendants,
8 carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the
9 acts of each defendant are legally attributable to the other defendants.

10 IV. GENERAL ALLEGATIONS

11 25. Plaintiff is informed and believes, and based thereon alleges that Defendants
12 employ or employed Non-Exempt Employees throughout Northern California during the
13 liability period. Plaintiff and all other aggrieved employees were compensated based upon
14 an hourly rate and have at all times pertinent hereto been non-exempt within the meaning
15 of the California Labor Code and the implementing rules and regulations of the IWC
16 California Wage Orders.

17 26. On information and belief, and during the relevant time frame, all aggrieved
18 employees are residents of California and citizens of the United States.

19 27. On information and belief, Defendant CIWC provides services and support
20 for the disabled community throughout Northern California. Plaintiff was employed as a
21 non-exempt job coach aide for Defendants and was primarily responsible integrating her
22 clients into the community through meeting and classes.

23 28. Throughout Plaintiff's employment with Defendants, Plaintiff was not
24 exempt from the Employment Laws and Regulations, in that she routinely spent a
25 majority of her working hours performing duties delegated to non-exempt employees
26 including, but not limited to, having one on one meetings with clients or teaching classes.

27 29. Throughout Plaintiff's entire employment with Defendants, Plaintiff spent
28 few to none of her working hours performing work that was primarily intellectual,

1 managerial or creative, or work that required the regular and customary exercise of
2 discretion and independent judgment with respect to matters of significance on more than
3 an occasional basis.

4 30. During Plaintiff's employment with Defendants, Plaintiff was either
5 required to work through mandatory meal and rest breaks, or was often times interrupted
6 during her meal and rest breaks resulting in shortened meal and rest breaks. Additionally,
7 Plaintiff was often not provided with or allowed to take her mandatory meal break within
8 the first five hours of work because she was meeting with clients or teaching classes. On
9 information and belief, Plaintiff and other similarly situated employees were not paid for
10 their missed meal and/or rest breaks with one hour of premium pay at the regular rate of
11 pay.

12 31. During Plaintiff's employment with Defendants, Plaintiff was regularly
13 required to work over 8 hours in one day, and/or over 40 hours in one week. On
14 information and belief, Plaintiff and other similarly situated employees were not paid for
15 all overtime worked.

16 32. Upon information and belief, Defendants regularly failed to pay Plaintiff
17 and other non-exempt employees for all hours worked including minimum wage,
18 overtime and double time pay.

19 33. As a consequence, Plaintiff and other similarly situated non-exempt
20 employees, were not paid all wages upon termination and were not provided accurate
21 wage statements.

22 34. Plaintiff is informed and believes that Plaintiff and Aggrieved Employees
23 were not compensated for all hours/time worked as Defendants would regularly suffer
24 and permit Plaintiff and Aggrieved Employees to work off the clock but Plaintiff and
25 Aggrieved Employees were not compensated for hours worked off the clock. For example,
26 Defendants did not compensate Plaintiff and Aggrieved Employees while they were
27 required to pick up from and hand in their timesheets to the office every week. This policy
28 resulted in Plaintiffs and Aggrieved Employees being subjected to Defendants' unlawful

1 policy of not compensating Plaintiffs and Aggrieved Employees for all hours worked
2 including overtime while under the control of Defendants. Defendants' unlawful off-the-
3 clock policy over time resulted in a large and disproportionate underpayment of wages
4 including overtime wages to Plaintiff and Aggrieved Employees.

5 35. Plaintiff is informed and believes that Plaintiff and Aggrieved Employees
6 were caused to endure unprovided, untimely, interrupted meal periods of at least thirty
7 (30) minutes for many of the work days such employees worked more than six hours (6)
8 hours, were not provided uninterrupted second meal periods of at least thirty (30) minutes
9 for any work days such employees worked more than ten (10) hours, and were not paid
10 one (1) hour of wages by Defendants in lieu thereof, all in violation of the California Labor
11 Code.

12 36. Plaintiff is informed and believes that Plaintiff and Aggrieved Employees
13 were regularly required to work in excess of six (6) hours per day without Defendants
14 providing them a timely, uninterrupted (30) minute meal period as mandated under the
15 California Labor Code and the implementing rules and regulations of the IWC California
16 Wage Orders as Plaintiff and Aggrieved Employees were required to take shortened meal
17 periods or not at all because they were meeting or scheduling their clients. Accordingly,
18 Plaintiff and Aggrieved Employees were not provided lawful meal periods and were not
19 provided with one hour of wages in lieu thereof under Defendants' policies and practices,
20 which included work schedules placed upon the Aggrieved Employees from Defendants'
21 management and supervisors to perform work at the expense of their meal periods and
22 Defendants' implementation of work schedules and workload requirements that denied
23 Aggrieved Employees all of their authorized meal periods. Plaintiff and the Aggrieved
24 employees did not waive any of their authorized and required meal periods, nor did they
25 receive one hour of regular pay for each day Defendants failed to provide a lawful meal
26 period.

27 37. Plaintiff is informed and believes that during the liability period, Plaintiff and
28 Aggrieved Employees were consistently required to work in excess of four (4) hours (or

1 major fraction thereof) without receiving lawful ten (10) minute rest periods. On
2 information and belief, Defendants' management would require that Plaintiff teach a
3 certain number of classes and/or have a certain number of meetings, and as a result would
4 often have to take their breaks late or be forced to skip their breaks. The Aggrieved
5 Employees were also not provided with one hour wages in lieu thereof. Defendants'
6 policies and practices included Defendants' implementation of a work schedule and
7 workload requirements that denied and failed to provide the Aggrieved Employees all of
8 their authorized rest periods, including first rest periods of at least ten (10) minutes for
9 every shift worked of at least three and a half (3 1/2) to four (4) hours, a first and second
10 rest period of at least ten (10) minutes for every shift worked greater than six (6) hours.

11 38. Defendants did not fully compensate Plaintiff and the Aggrieved Employees
12 for hourly wages during the liability period, including by virtue of the fact that Defendants
13 did not compensate Plaintiff and Aggrieved Employees with one extra hour of pay for
14 Defendants' failure to provide such Non-Exempt Employees with each of their authorized
15 rest periods and meal periods during the rest and meal period liability period.

16 39. On information and belief, Defendants also failed to accurately pay minimum
17 wage and overtime pay owed to Plaintiff and Aggrieved Employees by failing to
18 compensate them for Defendants' policy of having Plaintiff and Aggrieved Employees pick
19 up and drop off their timesheets to Defendants' office weekly, and hours worked over
20 eight hours in a workday or over 40 hours in the workweek at one and one-half times the
21 Aggrieved Employees regular rate of pay.

22 40. Upon information and belief, Defendants failed to provide accurate itemized
23 wage statements to Plaintiff and Aggrieved Employees as the wage statements provided
24 failed to accurately account for all hours worked. Further, Defendants failed to provide
25 accurate wage statements as Defendants' wage statements do not identify premium pay or
26 pay period start dates as required by Labor Code § 226.

1 41. Upon information and belief, Defendants failed to reimburse and/or
2 indemnify Plaintiff and Aggrieved Employees for all necessary expenditures incurred
3 including cell phone usage, electronic expenses, and wifi usage; and

4 42. Upon information and belief, Defendants failed to keep accurate records
5 pursuant to Labor Code § 1174.5.

6 43. Upon information and belief, Defendants knew and or should have known
7 that it is improper to implement policies and commit unlawful acts such as:

- 8 (a) requiring employees to work over eight (8) hours in a day and forty
9 (40) hours in a work week without being provided the required
10 overtime pay;
- 11 (b) requiring employees to perform work subject to the control of the
12 Defendant without being compensated at least minimum wages;
- 13 (c) requiring employees to work four (4) hours or a major fraction
14 thereof without being provided a minimum ten (10) minute rest
15 period and without compensating the employees with one (1) hour of
16 pay at the employees' regular rate of compensation for each workday
17 that a rest period was not provided;
- 18 (d) requiring employees to work in excess of five (5) hours or ten (10)
19 hours per day without being provided an uninterrupted thirty-
20 minute meal period and/or a second meal period, and without
21 compensating employees with one (1) hour of pay at the regular rate
22 of compensation for each workday that such a meal period was not
23 provided;
- 24 (e) requiring employees to drop off and pick up their timesheets to
25 Defendant's office weekly without compensation;
- 26 (f) requiring employees to incur necessary business expenses without
27 indemnification and/or reimbursement;
- 28 (g) failing to pay all wages earned during the regular pay period;

- (h) failing to pay all wages earned upon separation from Defendants' employ; and
- (i) failing to provide accurate itemized wage statements.

44. In addition to the violations above, and on information and belief, Defendants knew they had a duty to compensate Plaintiff and Aggrieved Employees for the allegations asserted herein, and that Defendants had the financial ability to pay such compensation, but willfully, knowingly, recklessly, and/or intentionally failed to do so.

V. REPRESENTATIVE CLAIMS

THE PRIVATE ATTORNEYS GENERAL ACT- LABOR CODE §§ 2698 et seq.

45. Plaintiff incorporates by reference and re-alleges each and every allegation contained above, as though fully set forth herein.

46. On or about June 23, 2001, Plaintiff complied with notice requirements pursuant to Labor Code section 2699.3. A copy of the submission to LWDA is attached hereto as **Exhibit A**. A copy of Plaintiff's letter to Defendants indicating that they were put on notice of the claims alleged here and that the notice requirement has been satisfied is attached as **Exhibit B**. Sixty-five days have passed and the LWDA has not indicated intent to investigate the claims. Therefore, Plaintiff may proceed with this action in a representative capacity. The substance and violations set forth in this Complaint of which the LWDA was provided timely notice, Plaintiff has also sent a copy of this PAGA Representative Action Complaint to the LWDA.

47. Plaintiff is an aggrieved employee as defined in Labor Code Section 2699(a). Plaintiff brings this cause of action on behalf the general public and all non-exempt aggrieved employees, acting on behalf of the California Attorney General as private attorney general.

48. Pursuant to Labor Code section 2699(a) Plaintiff seeks to recover civil penalties due and owing for which Defendants are liable due to numerous Labor Code violations as set forth in this Complaint, including without limitation Labor Code section 201-203, 204, 218, 218.5, 218.6, 226, 266.3, 226.7, 510, 512, 558, 1174, 1174.5, 1175, 1194, 1197,

1 1197.1, 2802, 2802(a) and 2698 *et seq.*, applicable IWC Wage Orders and California Code of
2 Regulations, Title 8, section 11000 *et. seq.*

3 49. At all times relevant, Plaintiff and all other aggrieved employees regularly
4 performed non-exempt work in excess of 50% of the time, and thus, were subject to the
5 meal and rest break requirements of the applicable IWC wage order and the Labor Code.

6 50. Defendants violated Labor Code sections 510, 558, and 1194 by failing to
7 accurately pay overtime wages as discussed above due to Defendants' unlawful off the
8 clock policy and failure to pay all hours worked in excess of eight hours in a day and/or 40
9 hours in a workweek. Therefore, Defendants violated section 510, 558 and 1194 by not
10 compensating its Non- Exempt Employees for work performed in excess of eight hours (8)
11 in a day or forty hours in a work week (40). Section 510 of the Labor Code codifies the right
12 to overtime compensation at the rate of one and one-half times the regular rate of pay for
13 all hours worked in excess of eight (8) hours in a day or forty (40) hours in a work week.

14 51. Defendants also violated Labor Codes sections 200, 1194, and 1197 for failing
15 to pay minimum wages as described above. Labor Code §1197 provides that employees
16 are to be paid minimum wage for each hour worked and cannot be averaged and/or
17 payment of a lesser wage than the established is unlawful.

18 52. Defendants violated Labor Code sections 512 and 226.7 for failing to provide
19 timely, uninterrupted meal periods and requiring unlawful on duty meal periods, or
20 compensation in lieu thereof. Pursuant to Labor Code section 512, no employer shall
21 employ an employee for a work period of more than five (5) hours without providing a
22 meal break of not less than thirty (30) minutes in which the employee is relieved of all of
23 his or her duties..

24 53. Defendants failed to provide Plaintiff and all other aggrieved employees
25 uninterrupted duty free first meal periods of not less than thirty (30) minutes. Defendants
26 implemented and enforced policies of on duty meal period practices which required
27 employees to work during their meal periods, to forego their meal periods, and/or to return
28 to work from meal periods prior to thirty (30) uninterrupted minutes. As a proximate result

1 of the aforementioned violations, Plaintiff and all other Aggrieved Employees have been
2 damaged in an amount according to proof at time of trial.

3 54. Plaintiff, and on information and belief, all aggrieved employees, were
4 systematically not permitted or authorized to take one ten-minute rest period for every four
5 hours worked or major fraction thereof, which is a violation of the Labor Code and IWC
6 wage order 4-2001, section 12. On shifts where Plaintiff and aggrieved employees worked
7 in excess of three and a half hours, they were routinely not permitted or authorized to take
8 lawful rest periods. Plaintiff, and on information and belief, aggrieved employees, were not
9 compensated with one hour of wages for every day in which a rest period was missed,
10 untimely or cut short as a result of Defendants' policies, practices, or work demands. By
11 failing to authorize and permit a ten-minute rest period for every four hours or major
12 fraction thereof worked per day, and by failing to provide compensation for such
13 unprovided rest periods as alleged above, Defendants willfully violated the provisions of
14 Labor Code sections 226.7, 512 and the applicable IWC Wage Order.

15 55. Plaintiff, and on information and belief, all aggrieved employees, were
16 required to purchase electronics and use their cell phone and Wi-Fi for which they were not
17 reimbursed. By failure to reimburse and/or indemnify as alleged above, Defendants
18 willfully violated the provisions of Labor Code section 2802.

19 56. On information and belief, Defendants failed to provide accurate itemized
20 wage statements pursuant to Labor Code section 226 which failed to include, all hours
21 worked, including off the clock, overtime and the accurate overtime rate, and the lawful
22 meal and rest period premiums earned, which are due and owing to Plaintiff and the
23 aggrieved employees. As a result, Plaintiff and Aggrieved Employees were harmed as they
24 are unable to determine if they were appropriately compensated for all hours worked.

25 57. On information and belief, Defendants failed to maintain accurate records as
26 required by Labor Code section 1174.5.

58. As a result of Defendants' unlawful conduct, Plaintiff and Aggrieved employees are entitled to penalties to the extent they were not paid at the prevailing wage rate for all hours worked.

59. Plaintiff and the Representative Aggrieved Employees are entitled to recover Penalties and attorneys' fees and costs sunder Labor Code section 2698, et. seq.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendants, as follows:

1. For penalties according to proof, pursuant to Labor Code §§ 2698 et seq.;
2. For reasonable attorneys' fees and costs; and
3. For such other and further relief as the Court deems proper.

Dated: August 30, 2021

MAKAREM & ASSOCIATES, APLC

By: 
 Ronald W. Makarem
 Daniel J. Bass
 Attorneys for Plaintiff, individually
 and on behalf of all other aggrieved
 employees

Exhibit “A”

Thank you for submission of your PAGA Case.

noreply@salesforce.com <noreply@salesforce.com>

on behalf of

LWDA DO NOT REPLY <lwdadonotreply@dir.ca.gov>

Tue 6/22/2021 4:44 PM

To: Marina Serrano <serrano@law-rm.com>

6/22/2021

LWDA Case No. LWDA-CM-835778-21

Law Firm : Makarem&Associates

Plaintiff Name : Nancy Mares

Employer: Community Integrated Work Program, Inc.

Filing Fee : \$75.00

IFP Claimed : No

Item submitted: Initial PAGA Notice

Thank you for your submission to the Labor and Workforce Development Agency. Please make a note of the LWDA Case No. above as you may need this number for future reference when filing any subsequent documents for this Case.

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: [http://labor.ca.gov/Private Attorneys General Act.htm](http://labor.ca.gov/Private_Attorneys_General_Act.htm)

Exhibit “B”



MAKAREM
& ASSOCIATES
Attorneys At Law

Ronald W. Makarem
Cameron Stewart
Samuel Almon
Jared Walder
Alexis Hames
Marina Serrano

June 23, 2021

Sent Via Certified Mail

Community Integrated Work Program, Inc.
c/o Rosagalia Dayani – Agent of Service for
Process
578 B Street
Hayward, CA 94541

Re: *Nancy Mares, et al. v. Community Integrated Work Program, Inc.*
Notice of Labor Code Violations Pursuant to Labor Code section 2699.3(a)(1)

To Whom It May Concern:

This firm represents Nancy Mares in connection with her claims that Community Integrated Work Program, Inc. violated numerous provisions of the California Labor Code in connection with his employment with Community Integrated Work Program, Inc. Among the violations alleged (and as described in the attached letter to the LWDA) are that Community Integrated Work Program, Inc. failed to pay all earned wages, failed to pay minimum wage, failed to pay overtime wages due, failed to provide compliant meal periods to its non-exempt employees within the first five hours of their work, failed to authorize and permit its non-exempt employees to take compliant ten-minute rest periods, failed to furnish compliant wage statements, failed to maintain required records, failed to pay earned and unpaid wages upon discharge, and failed to reimburse for all necessary expenditures. Based on these violations, it is our client's intention to file a class and representative action against Community Integrated Work Program, Inc. seeking to recover, *inter alia*, unpaid wages, statutory penalties, and attorney fees. In conjunction with that intention, we have enclosed the letter that we have submitted to the California Labor and Workforce Development Agency, as is required under Labor Code section 2699.3(a)(1) prior to filing an action under the Private Attorneys General Act ("PAGA").

We hereby demand that Community Integrated Work Program, Inc. immediately act to rectify the various violations described above and in the accompanying letters to the LWDA, including, without limitation, paying all current and former employees wages for all hours worked (including time spent undergoing mandatory security checks), unpaid minimum wages, unpaid overtime wages, meal and rest period premiums in the amount of one hour of pay at the employees' regular rate of pay for each day with a non-compliant meal period and another hour of pay at each employee's regular rate of pay for each day with a non-compliant rest period, plus all penalties and interest. We further demand that

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www.makaremlaw.com

Community Integrated Work Program, Inc. immediately correct its non-compliant policies and procedures relating to these various Labor Code violations. If Community Integrated Work Program, Inc. does not immediately act to rectify these violations, our client will have no alternative but to file a class and representative action against Community Integrated Work Program, Inc.

Please feel free to contact me if you would like to discuss any of these issues.

Very truly yours,

Marina Serrano

Marina Serrano

Enclosure



Ronald W. Makarem
Cameron Stewart
Samuel Almon
Jared Walder
Alexis Hames
Marina Serrano

MAKAREM
& ASSOCIATES
Attorneys At Law

June 17, 2021

FILED ONLINE WITH THE LWDA

ATTN: PAGA Administrator
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102

VIA U.S. CERTIFIED MAIL

Community Integrated Work Program, Inc.
c/o Rosagalia Dayani – Agent of Service for Process
578 B Street
Hayward, CA 94541

Re: *Nancy Mares, et al. v. Community Integrated Work Program, Inc.*
Notice of Labor Code Violations Pursuant to Labor Code section 2699.3(a)(1)

Dear PAGA Administrator:

This letter shall constitute the required written notification under Labor Code section 2699.3(a)(1) of Labor Code violations alleged against **Community Integrated Work Program, Inc.** (“Employer”). Our client, **Nancy Mares, and other similarly situated aggrieved employees** (together, “Claimants”), worked as non-exempt employees for Employer. Claimants hereby issue this Notice to both the LWDA and Employer in compliance with the notice requirements of Labor Code section 2699.3(a)(1).

Claimants hereby give Notice of the following specific provisions of the Labor Code that have been violated and the facts and theories to support the alleged violations:

Violation	Facts and Theories
Labor Code sections 204, 218, 218.5, 218.6 & 1194	Labor Code section 204 provides that covered employees are entitled to receive all wages earned for the pay period corresponding to the payday. Here, Employer regularly failed to pay Claimants all wages earned for labor performed each pay period. For example, Employer regularly suffered or permitted Claimants to work off the clock, but Claimants

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	were not compensated for hours worked off the clock by, among other things, rounding employee time such that employees overall lost hours worked. Employer also failed to provide the requisite one hour of pay at the regular rate of compensation for shifts with missed or non-compliant meal and/or rest periods. Accordingly, Employer violated the above code sections.
Labor Code section 1194	Labor Code section 1194 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.” Here, Employer failed to pay Claimants their earned minimum and/or overtime wages for all hours worked. For example, Employer regularly suffered or permitted Claimants to work off the clock, but Claimants were not compensated for hours worked off the clock by, among other things, rounding employee time punches such that employees overall lost hours worked.
Labor Code sections 510 and 1194	Labor Code section 510 states: “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.” Labor Code section 1194 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.” Here, Claimants worked in excess of eight hours in one workday and/or in excess of 40 hours in one workweek, and were not compensated with overtime pay. As a result of this practice, Labor Code sections 510 and 1194 were violated. For example, Employer suffered or permitted Claimants to work off the clock, including by rounding employee time punches such that employees overall lost hours worked, and time spent clocking in/out, which on occasion caused Claimants to work overtime. Yet Employer neither compensated Claimants for such work nor counted the time spent working off the clock for purposes of calculating overtime.

	Additionally, Claimants worked up to 96 hours per pay period, or two weeks. Yet, Employer did not count hours worked in excess of 40 hours in one workweek for the purposes of calculating overtimes. As a result of this practice, Labor Code sections 510 and 1194 were violated.
Labor Code Sections 226.7 and 512	Labor Code Sections 226.7 and 512 provide that no employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than thirty (30) minutes. Under these provisions, a first meal period is required no later than the end of an employee's fifth hour of work, and a second meal period no later than the end of an employee's 10th hour of work. If an employer fails to provide an employee meal periods in accordance with this law, 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. Here, Employer regularly failed to provide meal periods until after Claimants had completed a work period of more than five hours. Claimants were not compensated with an hour of pay at their regular rate of pay for shifts when their meal periods were not taken or were taken late. Accordingly, Employer violated these code sections. Additionally, Employer failed to pay Claimants for one (1) hour of pay at their regular rate of compensation for each missed or non-compliant meal period.
Labor Code section 226.7	Labor Code section 226.7 provides that employers shall authorize and permit employees to take rest periods at the rate of (10) minutes net rest time per four (4) hours of work, or major fraction thereof. This means that an employer must provide 10 minutes net rest time for each four-hour period worked by employees. If an employer fails to provide an employee rest periods in accordance with this law, 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. Here, Employer did not comply with these rest period provisions, as Employer routinely failed to authorize and permit Claimants to take their ten (10) minute rest periods for each four (4) hours, or major fraction thereof, they had worked. For example, due to the press of business and/or lack of staffing, Claimants routinely performed four consecutive hours of work without receiving a ten-minute rest period, or had their rest period delayed or interrupted. Employer also failed to pay Claimants for one (1) hour of pay at their regular rate of compensation for each day on which Claimants did not receive one or more compliant rest periods.

Labor Code Section 226	Labor Code Section 226 provides: “An employer, semimonthly or at the time of each payment of wages, shall furnish to his or her employee, either as a detachable part of the check, draft, or voucher paying the employee’s wages, or separately if 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, except as provided in subdivision (j), (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee and, beginning July 1, 2013, if the employer is a temporary services employer as defined in Section 201.3, the rate of pay and the total hours worked for each temporary services assignment.” Here, Employer engaged in practices violating Labor Code section 226. For example, Employer failed to provide compliant wage statements because they failed to reflect all compensable hours Claimants worked, including time lost due to the rounding of employee time punches. As another example, Employer failed to provide compliant wage statements because the wage statements failed to list meal and/or rest period premiums owed for shifts with non-compliant meal/rest periods. In addition, Employer failed to provide compliant wage statements because they failed to include a pay period start date.
Labor Code section 226, 1174, and 1174.5	Labor Code section 1174 provides that employers shall keep payroll records showing the hours worked and wages paid to each employee. These records are to be kept in accordance with rules established by the commission, but must be kept on file for a minimum of three (3) years. Labor Code section 1174.5 provides: “Any person employing labor who willfully fails to maintain the records required by subdivision (c) of Section 1174 or accurate and complete records required by subdivision (d) of Section 1174, or to allow any member of the commission or employees of the division to inspect records pursuant to subdivision (b) of Section 1174, shall be subject to a civil penalty of five hundred dollars (\$500).”

	Here, as a result of the aforementioned practices, <i>i.e.</i>, Employer suffering or permitting Claimants to work off the clock, including hours lost due to rounding, failing to pay all overtime wages due, and failing to authorize and permit compliant meal and rest periods, Employer knowingly and intentionally failed to maintain records, including but not limited to: all hours worked by Claimants, meal periods taken, and accurate itemized wage statements.
Labor Code Sections 201, 202, and 203	Labor Code Section 201 states that if an employer discharges an employee, earned but unpaid wages at the time of discharge are due and payable immediately. Similarly, Labor Code Section 202 provides “[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.” Under section 203, if an employer willfully fails to pay in accordance with sections 201 or 202, any wages of an employee who is discharged or quits shall continue as a penalty. Here, Employer failed to pay all earned wages, including wages for hours worked lost due to rounding, unpaid overtime, and wages for non-compliant meal and rest periods to employees who quit or were discharged, in violation of Sections 201 and 202. Nor has Employer paid any of the continuation wages under Section 203.
Labor Code Section 2802	Labor Code Section 2802 states an employer shall indemnify employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of their duties or in obedience to an employer’s directives. Here, Employer failed to reimburse Claimants and other similarly aggrieved employees for all necessary expenditures required by Employer, including requiring Claimants to use their own wifi, phones and tablets for the Employer’s benefit without providing reimbursement for expenses incurred, in violation of Labor Code §2802.

Please notify us within the required time period whether or not the Labor and Workforce Development Agency intends to investigate these alleged violations. If notice is not received within 65 calendar days of the postmark date of this letter, we will proceed with a civil action for penalties pursuant to Labor Code Section 2699. This civil action will be pursued on behalf of Claimants. Please send the Notice to our office located at 11601 Wilshire Blvd., Suite 2440, Los Angeles, California 90025.

Thank you for your attention to this matter.

Very truly yours,

MAKAREM & ASSOCIATES, APLC

By: *Marina E. Serrano*
Marina Serrano