

October 20, 2021

Via Online Filing

California Labor & Workforce Development Agency
Attn: PAGA Administrator
455 Golden Gate Avenue, 9th Floor
San Francisco, California 94102

Re: ***Cassandra Villescaz v. Dream Big Children's Center***

Dear PAGA Administrator:

We represent Cassandra Villescaz ("Claimant") in connection with her prior employment by Dream Big Children's Center ("Respondent"). Pursuant to Labor Code § 2699.3(a), we are providing written notice that Respondent is in violation of various provisions of the California Labor Code. Claimant intends on filing a complaint against Respondent in the Los Angeles County Superior Court pursuant to California Labor Code § 2699 on behalf of herself and all employees who worked for Respondents in California during the statutory period ("Aggrieved Employees"). Respondents are involved in the behavioral therapy business.

Claimant worked for the Respondent as a non-exempt behavioral therapist from July of 2020 through her termination on October 12, 2021. The Respondent has at least 5 locations, including in Riverside, Rancho Mirage, Ontario, Apple Valley and Monrovia. Up until recently, the Respondent scheduled its behavioral therapists to work 4-hour sessions with clients, most of whom were young children with autism who were left in the custody of the behavioral therapist. There was no breaking system that existed to allow the behavioral therapists to take rest breaks in the middle of their 4 hour session. The behavioral therapist could not just leave the autistic child alone, so rest breaks were not possible at all, or only near the conclusion of the 4 hour session. The failure to provide rest breaks or the associated premium subjects the Respondent to civil penalties under Labor Code §§226.7 and 512.

Additionally, these four-hour sessions rarely ended at exactly 4 hours because behavioral issues involving the child and associated discussion with the parent often caused these sessions to exceed 4 hours. The behavioral therapist was then left with less than 30 minutes for a meal period, since the second session with a new child was scheduled by the Respondent to start exactly 30 minutes after the first session. Further, Respondent sought to obscure these violations by informing Claimant and other aggrieved employees to just input their schedule, including the scheduled 30-minute meal period, even though this resulted in inaccurate recording of time. In so doing, Respondent failed to pay minimum wage and overtime wages in violation

of Labor Code §1194 and also failed to pay required meal period premiums in violation of Labor Code §226.7 and 512. Further, the deliberate efforts to obscure true working hours violated Labor Code §1174 and 226(a).

The Respondent also violated minimum wage and overtime laws (Labor Code §510) by requiring employees to contact parents to cancel sessions or to perform other logistical and administrative work in connection with parent cancellations. The parents of the clients also routinely telephoned and texted Claimant and other aggrieved employees on their personal cell phones regarding pressing matters related to their children, but the Respondent never compensated Claimant and these aggrieved employees for this off-the-clock work. The “off the clock” work was also compounded by Respondent’s managers calling, texting and emailing aggrieved employees after normal working hours, on the aggrieved employees’ personal cell phones, all without any compensation or reimbursement for cell, data or internet usage, in violation of Labor Code §2802.

The failure to pay overtime hours resulted in wage underpayments and late payment of wages, both during the normal pay cycle (Labor Code §204) and at separation (Labor Code §201-203). The failure to pay all wages leads to additional civil penalties under Labor Code §558.

Claimant is informed and believes that the company rounds time to the detriment of employees, resulting in further overtime and minimum wage exposure.

There are also problems with the paystubs. For example, the paystubs failed to indicate the accurate number of hours worked during the pay period, the accurate number of overtime hours and other basic information that would allow the employee to calculate his or her pay correctly. This leads to exposure to civil penalties under Labor Code §226(a) and §226.3.

The Respondents failed to record working hours, including meal periods, in violation of Labor Code §1174 and Section 7 of the governing IWC Wage Order.

The Respondent failed to pay 4 hours of reporting time pay to Claimant when she reported to work and was promptly fired on October 12, 2021, in violation of the IWC Wage Order. Claimant is informed and believes that the Respondent fails to pay full reporting time pay to other aggrieved employees based on similar situations, including cancellations of sessions.

Claimant complained about each of these issues to management, and as recently as a week before her termination complained about an unsuitable rest break area, which supervisors used to work and interrupt employees with questions. This lack of a suitable rest break area also violates the applicable Industrial Welfare Commission Wage Order. Claimant believes she was retaliated against for engaging in this protected activity in violation of Labor Code §1102.5 (“The Whistleblowing Statute”).

Therefore, Respondents are in violation of the following under California Labor Code § 2699.5 and 2699.3:

1. California Labor Code §§ 226 and 226.3 (Non-compliant Wage Statements);
2. California Labor Code §515, 201, 203, 1194. (Unpaid Overtime, Minimum Wages)
3. California Labor Code §§ 201, 202, 221 203, 510, 1194 (Wages/Waiting Time Penalties);
4. California Labor Code §§ 201, 202, 203, 204, 510, 558 (Failure to Pay All Wages at Termination);
5. California Labor Code §2802 (Failure to Reimburse for Business Expenses)

Claimant gives this notice as required by law. Employer and/or the LWDA may take corrective action and/or the Agency may initiate an investigation. In the event that the LWDA declines to investigate in the proscribed time, Claimant will initiate a Cause of Action seeking penalties under the PAGA. Pursuant to Labor Code § 2699.3(a)(1), Claimant will serve the same written notice to Respondents' agents for service of process by certified mail.

Very truly yours,
Law Offices of Buchsbaum & Haag, LLP



Brent S. Buchsbaum
Attorney

CC: VIA CERTIFIED MAIL

Dream Big Children's Center
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