

1 DENNIS F. MOSS (SBN 77512)
JEREMY F. BOLLINGER (SBN 240132)
2 ARI E. MOSS (SBN 238579)
JORGE A. FLORES (SBN 333441)
3 **MOSS BOLLINGER LLP**
15300 Ventura Blvd., Ste. 207
4 Sherman Oaks, California 91403
Telephone: (310) 982-2984
5 Facsimile: (818) 963-5954
dennis@mossbollinger.com
6 jeremy@mossbollinger.com
ari@mossbollinger.com
7 anthony@mossbollinger.com

8 Attorneys for Plaintiff WESLEY MATIMBA
9

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **COUNTY OF LOS ANGELES**
12

13 **WESLEY MATIMBA**, an individual and on
behalf of other similarly situated individuals
14 and the State of California,

15 Plaintiff,

16 vs.

17 **EMPLOYBRIDGE, LLC; REAL TIME**
STAFFING SERVICES, LLC; and DOES
18 **1-50,**

19 Defendants.
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Unlimited Jurisdiction

Case No.: **21STCV46986**

**COMPLAINT FOR CIVIL PENALTIES
UNDER THE PRIVATE ATTORNEYS
GENERAL ACT OF 2004**

1 Plaintiff Wesley Matimba (“Plaintiff”), on behalf of himself and all other similarly
2 aggrieved employees and the State of California, complains and alleges as follows:

3 **INTRODUCTION**

4 1. Plaintiff, as a proxy for the State of California, brings a representative law
5 enforcement action under the Private Attorneys General Act of 2004 (“PAGA”), Labor Code
6 Section 2698 et seq., to recover civil penalties against EmployBridge, LLC, Real Time Staffing
7 Services, LLC (also known as Select Staffing) and DOES 1-50 (collectively, “Defendants”). On
8 behalf of himself and other aggrieved employees, Plaintiff seeks to recover civil penalties (75%
9 payable to the Labor Workforce Development Agency and 25% payable to aggrieved employees)
10 owed by Defendants under Labor Code Section 2699 for failure to pay all minimum wages, failure
11 to provide accurate wage statements, failure to timely pay all wages and to timely pay all wages
12 upon cessation of employment.

13 **JURISDICTION AND VENUE**

14 2. Venue is proper in the County of Los Angeles because work was performed by
15 aggrieved employees for Defendants in the County of Los Angeles and the legal obligations of
16 Defendants to Plaintiff and other aggrieved employees were breached throughout California,
17 including in Los Angeles County.

18 3. The California Superior Court has jurisdiction in this matter because Plaintiff is a
19 resident of California, Defendants are qualified to do business in California and Defendants
20 regularly conduct business in California. Further, there is no federal question at issue as the claims
21 herein are based solely on California law.

22 **THE PARTIES**

23 **A. Plaintiff**

24 4. Plaintiff is over the age of eighteen, and at times mentioned in this complaint, was
25 a resident of California. During the one-year period preceding the notification of his claims under
26 PAGA to Defendants and Labor Workforce and Development Agency (the “LWDA”), Plaintiff
27 was employed by Defendants in California as an hourly paid non-exempt employee from
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1 approximately 2004 through May 2021.

2 5. Plaintiff seeks to represent similarly situated persons who are Aggrieved
3 Employees. Aggrieved Employees are persons who, at any time since the date one year before the
4 date of Plaintiff's letter notifying Defendants and the LWDA of the alleged violations, were
5 required to submit to mandatory drug testing after being offered employment and throughout their
6 employment, and did not receive compensation for the time spent participating in the drug testing
7 process.

8 6. As such, Plaintiff appears in this action on behalf of himself and on behalf of all
9 others similarly situated and the State of California.

10 **B. Defendants**

11 7. Plaintiff is informed and believes, and thereon alleges, that Defendant
12 EmployBridge, LLC is a limited liability company that does business in California, including in
13 Los Angeles County, California. EmployBridge, LLC is a national provider of industrial staffing
14 services. Defendant Real Time Staffing Services, LLC dba Select Staffing (or Select) and
15 ProLogistix are among the staffing companies through which Employbridge, LLC operates in
16 California. At all times relevant to this action, Defendants have been in the business of contracting
17 with clients to supply temporary workers throughout California.

18 8. Plaintiff is ignorant of the true names, capacities, relationships, and extent of
19 participation in the conduct herein alleged, of the Defendants sued herein as DOES, but is informed
20 and believes and thereon alleges that said Defendants are legally responsible for the wrongful
21 conduct alleged herein and therefore sues these Defendants by such fictitious names. Plaintiff will
22 amend this complaint to allege the true names and capacities of the DOE Defendants when
23 ascertained.

24 9. Plaintiff is informed and believes and thereon alleges that each Defendant acted in
25 all respects pertinent to this action as the agent of one or more of the other Defendants, carried out
26 a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each
27 Defendant are legally attributable to one or more of the other Defendants.

1 **FACTS RELEVANT TO PLAINTIFF'S CLAIMS**

2 10. At all times during the liability period, Defendants employed Plaintiff and other
3 similarly situated individuals as hourly paid non-exempt employees. Defendants, as part of their
4 staffing services, supply temporary workers, such as Plaintiff and other similarly aggrieved
5 employees, to clients throughout California.

6 11. At all relevant times, Defendants employed Plaintiff and other similarly aggrieved
7 employees subject to Labor Code Sections 1194, 1197 and the applicable Industrial Welfare
8 Commission ("IWC") Wage Orders, including Wage Order 1. Under Labor Code Sections 1194
9 and 1197 and the applicable Wage Orders, Plaintiff and other similarly aggrieved employees were
10 entitled to receive minimum wages for all hours worked. Specifically, Defendants failed to pay
11 Plaintiff and other similarly aggrieved employees for time spent attending mandatory drug testing
12 in violation of Labor Code Sections 1194 and 1197 and the applicable Wage Orders, including
13 Wage Order 1.

14 12. During the one-year period before Plaintiff notified Defendants and the LWDA of
15 his claims, Plaintiff and other similarly aggrieved employees were subjected to mandatory drug
16 testing for which they did not receive compensation for the time spent participating in the drug
17 testing process. Before Defendants placed Plaintiff at a new assignment, at Defendants' direction,
18 Plaintiff either traveled to the Defendants' offices or to a third party clinic to undergo mandatory
19 drug testing. Plaintiff was placed at multiple assignments by Defendants and at the beginning of
20 each assignment Plaintiff was required to take a drug test at Defendants' direction.
21 Notwithstanding the fact that Plaintiff was an employee of Defendants, and had been for many
22 years, Defendants did not compensate Plaintiff for the time he spent during drug testing.

23 13. Wage Order No. 1 requires an employer to pay employees the applicable minimum
24 wage for all "hours worked". Cal. Code Regs. tit.8 § 11010, Subd. 4(B). "'Hours worked'
25 means...the time the employee is suffered or permitted to work, whether or not required to do so."
26 The "time the employee is suffered or permitted to work, whether or not required to do so" is an
27 independent factor, which defines whether certain time spent is compensable as "hours worked."
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1 *Morillion v. Royal Packaging Co.* (2000) 22 Cal.4th 575, 579. In *Dynamex Operations W. v.*
2 *Superior Court* (2018) 4 Cal.5th 903, the Supreme Court noted that “...the suffer or permit to work
3 standard *must be interpreted and applied broadly* . . .” (Emphasis added).

4 14. In an opinion letter cited in *Morillion*, when addressing what constitutes work, the
5 Department of Labor Standards and Enforcement (“DLSE”) explained that employers must
6 compensate employees “for all time the employee spends, either directly or indirectly, performing
7 services which inure to the benefit of the employer.” DLSE Opinion Letter 1994.02.03-3, at p. 3,
8 cited at *Morillion*, 22 Cal.4th at 584. As the DLSE further explained, “in the event the activities
9 are undertaken by the employee ‘only because they were compelled to do so by the necessities of
10 the employer’s business,’ the time is compensable.” DLSE Opinion Letter 1994.02.03-3, at p. 4.
11 Likewise, when considering if an activity constitutes “hours worked,” courts also consider
12 “whether an employee’s activity primarily benefits the employer.” *Frlekin v. Apple, Inc.* (2020) 8
13 Cal.5th 1038, 1052.

14 15. As part of Defendants’ business necessities, Plaintiff and all other similarly
15 aggrieved employees of the Defendants were compelled to undergo drug testing. Plaintiff was
16 informed that the drug testing was mandatory and then told where to go, the time and date. He was
17 compelled to do so as a job requirement. The drug tests to which Plaintiff and other similarly
18 aggrieved employees were subjected was purely for the benefit of Defendants as Defendants have
19 an interest in providing a large enough workforce to fulfill their clients’ needs throughout
20 California, including in Los Angeles County. To be clear, the time Plaintiff and other similarly
21 aggrieved employees spent during drug testing were “hours worked” and are compensable.
22 Defendants did not compensate Plaintiff and other similarly aggrieved employees for this time
23 they were suffered or permitted to work, thereby violating California minimum wage laws.

24 16. Labor Code Section 226(a) requires employers to list on an employee’s wage
25 statement, inter alia, “(1) Gross wages earned...” and “(2) total hours worked by an employee...”

26 17. During the one-year period before Plaintiff notified Defendants and the LWDA of
27 his claims, Plaintiff and other similarly aggrieved employees did not receive a wage statement that
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1 complied with Labor Code Section 226(a) for the pay periods in which they performed work
2 undergoing mandatory drug testing for which they were not paid for the time spent participating
3 in the drug testing, or they received an inaccurate wage statement that did not reflect all of the time
4 worked.

5 18. Labor Code Section 201.3 applies to “Temporary services employers” which is
6 defined generally as any employer that contracts with clients or customers to supply workers to
7 serve these clients or customers. Defendants are temporary service employers as defined by
8 Section 201.3(a)(1) as they contracted with clients to supply temporary workers such as Plaintiff.

9 19. Labor Code Section 201.3(b)(1)(A) provides:
10 “Except as provided in paragraphs (2) to (5), inclusive, if an employee of a
11 temporary services employer is assigned to work for a client, that **employee’s**
12 **wages are due and payable no less frequently than weekly**, regardless of when
13 the assignment ends, and wages for work performed during any calendar week **shall**
14 **be due and payable not later than the regular payday of the following calendar**
15 **week.**” (Emphasis added.)

16 20. As explained above, Defendants did not pay Plaintiff all minimum wages owed to
17 Plaintiff and other similarly aggrieved employees. In violation of Section 201.3, Defendants did
18 not pay the wages owed to Plaintiff on the regular payday of the following calendar week, and still
19 has not paid Plaintiff the wages it owes him. Accordingly, Defendants failed to comply with the
20 requirements of Section 201.3.

21 21. Section 201.3(b)(4) and (b)(5) further provide:
22 “(4) If an employee of a temporary services employer is assigned to work for a
23 client and is discharged by the temporary services employer or leasing employer,
24 wages are due and payable as provided in Section 201”; and
25 “(5) If an employee of a temporary services employer is assigned to work for a
26 client and quits his or her employment with the temporary services employer, wages
27 are due and payable as provided in Section 202.”

22. During the one-year period before Plaintiff notified Defendants and the LWDA of his claims, Plaintiff and other similarly situated aggrieved employees have been temporarily or permanently discharged by Defendants or have resigned their employment.

23. Accordingly, pursuant to Section 201.3, Section 201 applies to Plaintiff's termination as well as to all other persons who similarly were required to undergo drug testing and were not compensated for the time spent participating in the drug testing process and whose employment was involuntarily terminated by Defendants. Likewise, Section 202 applies to all other persons who were required to undergo drug testing and were not compensated for the time spent participating in the drug testing process who subsequently voluntarily resigned their employment.

24. Pursuant to 201.3(c) and 203, Plaintiff and other similarly aggrieved individuals who were not paid the minimum wages owed to them for having spent time participating in mandatory drug testing at the time of their termination in compliance with Sections 201 and 202, were and are owed waiting time penalties pursuant to Section 203.

25. As a result of these violations, Plaintiff seeks on behalf of himself and all other similarly aggrieved employees, penalties under PAGA.

FIRST CAUSE OF ACTION

CIVIL PENALTIES UNDER PAGA

(By Plaintiff, Aggrieved Employees and the State of California against Defendants)

26. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though set forth herein.

27. At all times relevant to this action, Plaintiff and other Aggrieved Employees were “aggrieved employees” within the meaning of Labor Code Section 2699.

28. Defendants' conduct as described herein, arising from Defendants' requirement that, upon hiring, Plaintiff and other Aggrieved Employees participate in mandatory drug testing for which they did not receive compensation, constitute violations of Labor Code Sections 201, 201.3, 202, 203, 226, 1194, 1197 and the relevant Sections of the applicable Wage Orders of the

1 Industrial Welfare Commission, including Wage Order 1.

2 29. Labor Code Sections 2699(a) and (g) authorize an aggrieved employee, on behalf
3 of himself and other current or former employees, to bring a civil action to recover civil penalties
4 pursuant to the procedures specified in Labor Code Section 2699.3.

5 30. Plaintiff has complied with the procedures for bringing suit specified in Labor Code
6 Section 2699.3. By letter dated October 19, 2021, Plaintiff gave written notice to the Labor and
7 Workforce Development Agency (“LWDA”) via its online filing system and by certified mail to
8 Defendants of the specific provisions of the Labor Code alleged to have been violated, including
9 the facts and theories to support the alleged violations. A true and correct copy of the October 19,
10 2021, letter is attached hereto as **Exhibit 1**. To date, more than 65 days after the postmark date of
11 October 19, 2021, the LWDA has not advised Plaintiff that it intends to investigate Plaintiff’s
12 allegations.

13 31. Pursuant to Labor Code Sections 2699(a) and (f), Plaintiff and other Aggrieved
14 Employees are entitled to civil penalties for Defendants’ violations of the Labor Code and the
15 applicable Wage Orders of the Industrial Welfare Commission, including Wage Order 1, in the
16 amount of one hundred dollars (\$100) for each aggrieved employee per pay period for the initial
17 violation, and two hundred dollars (\$200) for each aggrieved employee per pay period for each
18 subsequent violation. Pursuant to Labor Code Section 2699(i), 75% of the civil penalties recovered
19 shall be distributed to the LWDA, and 25% shall be distributed to the aggrieved employees.

20 32. Pursuant to Labor Code Section 2699(g), Plaintiff is entitled to an award of
21 reasonable attorney’s fees and costs in connection with his claims for civil penalties.

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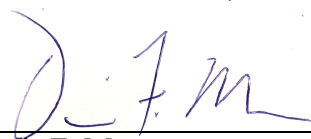
1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff on behalf of himself and all others similarly situated, prays for
3 relief and judgment against Defendants as follows:

- 4 1. Civil penalties under Labor Code Section 2699 (75% payable to the LWDA and
5 25% payable to aggrieved employees);
6 2. Costs;
7 3. Reasonable attorney's fees; and
8 4. Such other and further relief as this Court may deem just and proper.

9 Dated: December 27, 2021

MOSS BOLLINGER, LLP

10
11 By: 

12 Dennis F. Moss
13 Jeremy F. Bollinger
14 Ari E. Moss
Jorge A. Flores
Attorneys for Plaintiff Wesley Matimba
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EXHIBIT 1



Moss Bollinger
LLP

Jeremy F. Bollinger
310.982.2984/fax: 818.963.5954
jeremy@mossbollinger.com

October 19, 2021

VIA PAGA ONLINE FILING

Secretary Natalie Palugyai
Labor & Workforce Development Agency
PAGA ADMINISTRATOR
1515 Clay Street, Ste. 801
Oakland, California 94612

**VIA U.S. CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

EmployBridge, LLC
c/o Agent for Service of Process
Corporate Creations Network, Inc.
801 US Highway 1
North Palm Beach, FL 33408

Real Time Staffing Services, LLC
c/o Agent for Service of Process
Corporate Creations Network, Inc.
801 US Highway 1
North Palm Beach, FL 33408

Re: Notice pursuant to Labor Code Section 2699.3
Labor Code Private Attorneys General Act ("PAGA")

Employer: EmployBridge, LLC, Real Time Staffing Services, LLC and other EmployBridge staffing companies that operate in California

Employee: Wesley Matimba, on behalf of himself and on behalf of all current and former employees of EmployBridge, LLC, Real Time Staffing Services, LLC and other EmployBridge staffing companies that operate in California who were subject to drug testing for which they did not receive compensation for the time spent participating in the drug testing process

Dear Secretary Palugyai:

Pursuant to the Private Attorneys General Act of 2004, California Labor Code § 2698 *et seq.* ("PAGA"), representative employee, Wesley Matimba, on behalf of himself and all other similarly aggrieved employees in California who were required by EmployBridge, LLC, Real Time Staffing Services, LLC, and other EmployBridge staffing companies that operate in California (collectively, "the Company") to take drug tests for which they did not receive compensation for

the time spent participating in the drug testing process, gives notice that the Company violated the California Labor Code within the one year prior to the mailing of this letter.

GENERAL FACTS

EmployBridge, LLC is a national provider of industrial staffing services. Real Time Staffing Services, LLC dba Select Staffing (or Select) and ProLogistix are among the staffing companies through which EmployBridge, LLC operates in California. The Company provides its services to numerous clients located throughout California through its staffing companies. Mr. Matimba was employed by Defendants (working for either Select or ProLogistix) from approximately 2004 through 2021. Before the Company placed Mr. Matimba at a new assignment, at the Company's direction, Mr. Matimba either traveled to the Company's offices or to a third party clinic to undergo mandatory drug testing. In the one year preceding the date of submission of this letter, Mr. Matimba was placed at multiple assignments by the Company and at the beginning of each assignment Mr. Matimba was required to take a drug test at the direction of the Company. Notwithstanding the fact that Mr. Matimba was an employee of the Company, and had been for many years, the Company did not compensate Mr. Matimba for the time he spent during drug testing.

Mr. Matimba and similarly employed individuals were all subjected to the following violation of California law for which they are entitled to PAGA penalties.

Failure to Pay Minimum Wages

At all relevant times, the Company employed Mr. Matimba and other similarly employed individuals subject to Labor Code Sections 1194, 1197 and the applicable Industrial Welfare Commission ("IWC") Wage Orders, including Wage Order 1. Under Labor Code Sections 1194 and 1197 and the applicable Wage Orders, Mr. Matimba and other similarly employed individuals were entitled to receive minimum wages for all hours worked. Specifically, the Company failed to pay Mr. Matimba and other similarly employed individuals for time spent attending mandatory drug testing in violation of Labor Code Sections 1194 and 1197 and the applicable Wage Orders, including Wage Order 1.

Mr. Matimba and other similarly employed individuals were subjected to mandatory drug testing for which they did not receive compensation for the time spent participating in the drug testing process. When an assignment to which the Company had placed Mr. Matimba ended, the Company would notify Mr. Matimba of a new assignment. However, prior to starting at the new assignment, the Company instructed Mr. Matimba to either come into its offices or to go to a designated third party clinic to undergo a mandatory drug test. The Company provided Mr. Matimba with the time and place to arrive for his drug test.

In 2019, the Company required Mr. Matimba to consent to drug testing as part of his work for the Company. The Applicant Consent/Refusal Form states, with added emphasis:

I, Wesley Matimba, understand that **I must take and pass a drug test** if I want to be hired by an Employbridge company (including StaffingSolutions, ProLogistix, ResourceMFG, ProDrivers, Resource Accounting, Personnel One, Employment Plus, MedicalSolutions, Select Staffing, SelectRemedy, RemX Specialty Staffing,

Remedy Intelligent Staffing, and Westaff) (hereinafter referred to as “the Company”).

I know I may refuse to take the test if I wish, but that **my refusal will mean I will not be hired.**

I understand that if I consent to testing:

- I will have to provide a specimen at a collection site **chosen by the Company** and cooperate in the site’s normal collection procedures;
- My specimen will be tested by a designated testing agent **chosen by the Company...**;
- If the designated testing agent finds evidence of drug use in my specimen, the Medical Review Officer (“MRO”) will make reasonable efforts to contact me so I can attempt to explain or rebut my test results. If I explain or rebut the results to the satisfaction of the MRO, I will be treated as if I passed the test. If not, I will have failed the test. The MRO will **disclose my test results to the Company**; and
- **If I refuse to cooperate or fail the drug test, I will not be hired by the Company.**

After already being employed by the Company for years, Mr. Matimba consented to be tested and was tested numerous times, including during the one year period prior to the submission of this letter. However, he and others were not paid minimum wages for the time they were suffered or permitted to work for the Company (and under the Company’s control) while at drug testing sites.

Wage Order No. 1 requires an employer to pay employees the applicable minimum wage for all “hours worked”. Cal. Code Regs. tit.8 § 11010, Subd. 4(B). “‘Hours worked’ means...the time the employee is suffered or permitted to work, whether or not required to do so.” The “time the employee is suffered or permitted to work, whether or not required to do so” is an independent factor, which defines whether certain time spent is compensable as “hours worked.” *Morillion v. Royal Packaging Co.* (2000) 22 Cal.4th 575, 579. In *Dynamex Operations W. v. Superior Court* (2018) 4 Cal.5th 903, the court noted that “...the suffer or permit to work standard *must be interpreted and applied broadly* . . .” (Emphasis added).

In an opinion letter cited in *Morillion*, when addressing what constitutes work, the Department of Labor Standards and Enforcement (“DLSE”) explained that employers must compensate employees “for all time the employee spends, either directly or indirectly, performing services which inure to the benefit of the employer.” DLSE Opinion Letter 1994.02.03-3, at p. 3, cited at *Morillion*, 22 Cal.4th at 584. As the DLSE further explained, “in the event the activities are undertaken by the employee ‘only because they were compelled to do so by the necessities of the employer’s business,’ the time is compensable.” DLSE Opinion Letter 1994.02.03-3, at p. 4. Likewise, when considering if an activity constitutes “hours worked,” courts also consider “whether an employee’s activity primarily benefits the employer.” *Frlekin v. Apple, Inc.* (2020) 8 Cal.5th 1038, 1052.

As part of the Company’s business necessities, Mr. Matimba and all other similarly aggrieved employees of the Company were compelled to undergo drug testing. Mr. Matimba was informed

that the drug testing was mandatory and then told where to go, the time and date. He was compelled to do so as a job requirement. This was purely for the benefit of the Company as the Company has an interest in providing a large enough drug-free workforce to fulfill its clients' needs throughout California. To be clear, the time Mr. Matimba and others similarly situated spent at drug testing sites were "hours worked" and are compensable. The Company did not compensate Mr. Matimba and other similarly aggrieved employees for this time they were suffered or permitted to work, thereby violating California minimum wage laws.

As the Company failed to pay all minimum wages owed to Mr. Matimba and other similarly aggrieved employees, the Company is liable for penalties of \$100 per pay period per employee for the first violation within the statutory period, and \$200 per pay period for each additional violation.

Failure to Provide Wage Statement

Mr. Matimba and similarly aggrieved employees did not receive a wage statement that complied with Labor Code section 226(a) for the pay period in which they performed work undergoing mandatory drug testing for which they were not paid for the time spent participating in the drug testing, or they received an inaccurate wage statement that did not reflect all of the time worked.

As the Company failed to provide accurate wage statements as required by California law under these circumstances, when such violations occurred, the Company is liable for penalties of \$100 per pay period per person for the first violation within the statutory period, and \$200 per pay period per person for each additional violation.

Violation of Labor Code §§ 201.3, 201, 202, 203

Labor Code section 201.3 applies to "Temporary services employers" which are defined generally as any employer that contracts with clients or customers to supply workers to serve these clients or customers. The Company, and each of the staffing companies it owns, including Real Time Staffing, LLC, are temporary service employers as defined by section 201.3(a)(1) as they contracted with clients, such as those to which Mr. Matimba was assigned to work, to supply temporary workers such as Mr. Matimba.

Labor Code section 201.3(b)(1)(A) provides: "Except as provided in paragraphs (2) to (5), inclusive, if an employee of a temporary services employer is assigned to work for a client, that **employee's wages are due and payable no less frequently than weekly**, regardless of when the assignment ends, and wages for work performed during any calendar week **shall be due and payable not later than the regular payday of the following calendar week.**" (Emphasis added.)

As explained above, the Company did not pay Mr. Matimba all minimum wages owed to Mr. Matimba. Mr. Matimba's employment terminated May 2021. In violation of section 201.3, Defendant did not pay the wages owed to Mr. Matimba on the regular payday of the following calendar week, and still has not paid Mr. Matimba the wages it owes him. Accordingly, Defendant failed to comply with the requirements of Section 201.3.

As the Company failed to pay Mr. Matimba and others as required by section 201.3, when such violations occurred, the Company is liable for penalties of \$100 per pay period for the first

violation within the statutory period, and \$200 per pay period for each additional violation.

Section 201.3(b)(4) and (b)(5) further provide: “(4) If an employee of a temporary services employer is assigned to work for a client and is discharged by the temporary services employer or leasing employer, wages are due and payable as provided in Section 201” and “(5) If an employee of a temporary services employer is assigned to work for a client and quits his or her employment with the temporary services employer, wages are due and payable as provided in Section 202.”

The Company terminated Mr. Matimba’s employment in May 2021. Accordingly, pursuant to section 201.3, section 201 applies to Mr. Matimba’s termination as well as to the terminations of all other persons who similarly were required to undergo drug testing and were not compensated for the time spent participating in the drug testing process and whose employment was involuntarily terminated by the Company. Likewise, section 202 applies to all other persons were required to undergo drug testing and were not compensated for the time spent participating in the drug testing process who subsequently voluntarily resigned their employment.

As such, all such persons who were not paid the minimum wages owed to them for having spent time participating in mandatory drug testing at the time of their termination in compliance with sections 201 and 202, were and are owed waiting time penalties pursuant to section 203.

As the Company failed to pay Mr. Matimba and others all wages owed at the time of termination as required by section 201.3(c), 201, 202 and 203, when such violations occurred, the Company is liable for penalties of \$100 per pay period per person for the first violation within the statutory period, and \$200 per pay period per person for each additional violation.

CIVIL PENALTIES

As a result of the foregoing, the Company is liable for civil penalties as provided for by California law. Consequently, Mr. Matimba and all current and former similarly aggrieved employees of the Company are entitled to recover all penalties permitted by the Labor Code and penalties provided for under California law, including but not limited to Labor Code § 2698 *et seq.*

The Company violated and continues to violate the obligation to pay all minimum wages. Mr. Matimba requests the agency to investigate the above allegations and provide notice of the investigation and findings pursuant to PAGA’s provisions. Alternatively, Mr. Matimba requests that the agency inform him if it does not intend to investigate this violation so that he may file a lawsuit with respect to the allegations discussed in this letter. Thank you for your immediate attention to this matter. If you have any questions, please do not hesitate to contact me at (310) 982-2984.

Sincerely,
MOSS BOLLINGER, LLP



Jeremy F. Bollinger