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ANITA RAMIREZ

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO**

ANITA RAMIREZ, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

CALIFORNIA MENTOR FAMILY HOME
AGENCY LLC, a Delaware limited liability
company; and DOES 1 through 100,
inclusive,

Defendants.

Case No. CIVSB2203812

**SECOND AMENDED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT:**

- (1) FAILURE TO PAY ALL OVERTIME
WAGES OWED (LABOR CODE §§
204, 510, 558, 1194, 1198);**
- (2) FAILURE TO PROVIDE MEAL
PERIODS (LABOR CODE §§ 226.7,
512, 558);**
- (3) FAILURE TO AUTHORIZE AND
PERMIT ALL PAID REST PERIODS
(LABOR CODE §§ 226.7, 516, 558);**
- (4) FAILURE TO PROVIDE
ACCURATE, ITEMIZED WAGE
STATEMENTS (LABOR CODE § 226
et seq.);**
- (5) UNFAIR COMPETITION (BUS &
PROF CODE § 17200 *et seq.*);**
- (6) CIVIL PENALTIES UNDER THE
LABOR CODE PRIVATE
ATTORNEYS GENERAL ACTION
OF 2004 (LABOR CODE § 2698 *et
seq.*); and**
- (7) FAILURE TO PAY ALL WAGES
UPON TERMINATION (LABOR
CODE §§ 201-203**

**DEMAND FOR JURY TRIAL
UNLIMITED CIVIL CASE**

1 Plaintiff Anita Ramirez (“Plaintiff”), on behalf of herself and all others similarly situated,
2 hereby brings this Second Amended Class and Representative Action Complaint (“SAC”) against
3 Defendants California Mentor Family Home Agency LLC, a Delaware limited liability company
4 and Does 1 through 100, inclusive (collectively “Defendants”), and on information and belief
5 alleges as follows:

6 **JURISDICTION**

7 1. Plaintiff, on behalf of herself and all others similarly situated, hereby brings this
8 Second Amended Class and Representative Complaint for recovery of unpaid wages and
9 penalties under California Business & Professions Code § 17200 *et. seq.*, Labor Code §§ 204,
10 226 *et seq.*, 226.7, 510, 512, 516, 558, 1194, 1198, 2698 *et seq.*, and Industrial Welfare
11 Commission Wage Order 5 (“Wage Order 5”), in addition to seeking declaratory relief and
12 restitution. This SAC is brought pursuant to California Code of Civil Procedure § 382. This
13 Court has jurisdiction over Defendants’ violations of the California Labor Code because the
14 amount in controversy exceeds this Court's jurisdictional minimum.

15 **VENUE**

16 2. Venue is proper in this judicial district pursuant to Cal. Code of Civ. Proc. §§
17 395(a) and 395.5, as at least some of the acts and omissions complained of herein occurred in the
18 County of San Bernardino. Defendants own, maintain offices, transact business, have agent(s)
19 within the County of San Bernardino, and/or otherwise are found within the County of San
20 Bernardino, and Defendants are within the jurisdiction of this Court for purposes of service of
21 process.

22 **PARTIES**

23 3. Plaintiff is an individual over the age of eighteen (18). At all relevant times herein,
24 Plaintiff was and currently is, a California resident. During the four years immediately preceding
25 the filing of the lawsuit in this action and within the statute of limitations periods applicable to
26 each cause of action pled herein, Plaintiff was employed by Defendants as a non-exempt
27 employee, although up until April 25, 2021 was misclassified as an exempt employee. Plaintiff
28 was, and is, a victim of Defendants’ policies and/or practices complained of herein, lost money

1 and/or property, and has been deprived of the rights guaranteed by Labor Code §§ 204, 226 *et*
2 *seq.*, 226.7, 510, 512, 516, 558, 1194, 1198, 2698 *et seq.*; California Business & Professions Code
3 § 17200 *et seq.* (“Unfair Competition Law”); and Wage Order 5, which sets employment
4 standards for occupations in the Public Housekeeping Industry, which includes the industry in
5 which Plaintiff works for Defendants.

6 4. Plaintiff is informed and believes, and based thereon alleges, that during the four
7 years preceding the filing of the lawsuit and continuing to the present, Defendants did (and
8 continue to do) business by providing an array of residential and community-based programs that
9 promote learning and growth for children and adults with intellectual and developmental
10 disabilities. Defendants employed Plaintiff and other, similarly-situated non-exempt employees
11 within, among other counties, San Bernardino County and the state of California and, therefore,
12 were (and are) doing business in San Bernardino County and the State of California.

13 5. Plaintiff does not know the true names or capacities, whether individual, partner,
14 or corporate, of the defendants sued herein as DOES 1 to 100, inclusive, and for that reason, said
15 defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to
16 amend this SAC when such true names and capacities are discovered. Plaintiff is informed, and
17 believes, and based thereon alleges, that each of said fictitious defendants, whether individual,
18 partners, or corporate, were responsible in some manner for the acts and omissions alleged
19 herein, and proximately caused Plaintiff and the Classes (as defined in Paragraph 19) to be
20 subject to the unlawful employment practices, wrongs, injuries and damages complained of
21 herein.

22 6. Plaintiff is informed, and believes, and thereon alleges, that at all times mentioned
23 herein, Defendants were and are the employers of Plaintiff and all members of the Classes.

24 7. At all times herein mentioned, each of said Defendants participated in the doing
25 of the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the
26 Defendants, and each of them, were the agents, servants, and employees of each and every one
27 of the other Defendants, as well as the agents of all Defendants, and at all times herein mentioned
28 were acting within the course and scope of said agency and employment. Defendants, and each

1 of them, approved of, condoned, and/or otherwise ratified each and every one of the acts or
2 omissions complained of herein.

3 8. At all times mentioned herein, Defendants, and each of them, were members of
4 and engaged in a joint venture, partnership, and common enterprise, and acting within the course
5 and scope of and in pursuance of said joint venture, partnership, and common enterprise. Further,
6 Plaintiff alleges that all Defendants were joint employers for all purposes of Plaintiff and all
7 members of the Classes.

8 **GENERAL FACTUAL ALLEGATIONS**

9 9. Plaintiff, a former employee, has been employed by Defendants since
10 approximately September 2014 through approximately February 2022 as a Mentor Recruiter. At
11 the time of hiring until approximately April 25, 2021, Plaintiff was unlawfully classified and
12 paid as an exempt, salaried employee. On or around April 22, 2021, Defendants informed
13 Plaintiff that effective April 25, 2021 she would be converted to a non-exempt hourly employee
14 but would continue to perform the same duties she performed when classified as a salaried,
15 exempt employee. Further, Defendants changed her job title at that time from “Mentor
16 Recruiter” to “Mentor Recruiter, CA.”

17 10. From the start of her employment through approximately April 25, 2021, Plaintiff
18 was improperly classified by Defendants as an exempt employee and was paid solely by way of
19 an annual salary even though she did not meet any recognized exemption from the payment of
20 overtime wages under California law. Specifically, Plaintiff did not qualify for the “executive”
21 exemption as she spent none of her time directing the work of other employees; she retained no
22 authority to hire, fire, or discipline employees; and she did not exercise any independent
23 judgment or discretion with respect to matters of consequence while carrying out her job duties.
24 Further, Plaintiff did not make any suggestions and recommendations as to the hiring, firing,
25 advancement, promotion or any other change of status of other employees nor would any of her
26 suggestions, if made, were given any particular weight.

27 11. Indeed, since the start of her employment through the present (both when she was
28 improperly classified as exempt and after when she was reclassified to non-exempt), Plaintiff’s

1 job duty of recruiting families to place children and adults with disabilities has remained exactly
2 the same.

3 12. Specifically, from four years prior to the filing of the lawsuit through
4 approximately April 25, 2021, when Defendants reclassified Plaintiff from exempt to non-
5 exempt without any change in her job duties, Plaintiff routinely worked in excess of 8.0 hours
6 per workday and/or more than 40.0 hours per workweek, but due to Defendants' intentional and
7 improper misclassification of Plaintiff as exempt, Plaintiff did not receive any overtime
8 compensation for these hours. Upon information and belief, Defendants did not track the actual
9 hours that Plaintiff worked when she was classified as a salaried, exempt employee. Instead,
10 Defendants paid Plaintiff a flat salary which was not based on the number of hours actually
11 worked. Plaintiff regularly worked more hours than scheduled and on average worked in excess
12 of 10.0 to 12.0 hours per day. This was because in addition to her 8 hours, Defendants often
13 required Plaintiff to work weekends, nightly recruiting events, and make home visits. Due to
14 Defendants' misclassification of Plaintiff, Defendants failed to pay any overtime wages for hours
15 worked in excess of 8.0 hours per workday and/or 40.0 hours per workweek and have therefore
16 deprived Plaintiff of earned wages. Defendants also failed to pay Plaintiff any double-time
17 wages for hours worked in excess of 12.0 in a day.

18 13. During her employment with Defendants when she was classified as salaried,
19 exempt, Defendants failed to provide Plaintiff with all required meal periods due to Defendants'
20 meal period policies and practices. Specifically, due to the work demands imposed by
21 Defendants, including without limitation, traveling to clients' residences, Plaintiff was often
22 unable to take a duty-free 30-minute meal period before the end of the fifth hour of work as she
23 was often travelling between the office and home visits. As a result, Plaintiff's meal periods were
24 often late, short, missed, or otherwise unlawful. In addition, during the time she was classified
25 as salaried, exempt Plaintiff was not provided a second meal period when she worked shifts in
26 excess 10.0 hours.

27 14. Despite failing to provide all legally-required meal periods to Plaintiff when she
28 was classified as salaried, exempt, Defendants never paid Plaintiff one hour of meal period

premium wages for each day that she experienced a meal period violation as required by Labor Code § 226.7.

15. In addition, throughout Plaintiff's employment with Defendants when she was classified as salaried, exempt, Plaintiff was not authorized and permitted to take legally required rest periods due to Defendants' unlawful rest period policies and practices. Specifically, as a result of the work demands imposed by Defendants, Defendants did not authorize and permit one rest period for every four hours worked, or major fraction thereof. Indeed, Defendants failed to authorize and permit Plaintiff to take any rest periods during her shifts.

16. Although Plaintiff was not authorized and permitted to take all legally-compliant rest periods to which she was entitled when she was classified as salaried, exempt, Defendants failed to compensate Plaintiff with the required rest period premium for each workday in which she experienced a rest period violation as mandated by Labor Code § 226.7.

17. As a result of Defendants' failure to pay all overtime wages, as well as all meal and rest period premium wages, Defendants maintained inaccurate payroll records and issued inaccurate wage statements to Plaintiff up until the first pay period when she received a wage statement based on her new non-exempt classification for the period ending May 8, 2021.

18. As a further result of Defendants' failure to pay all minimum and overtime wages, and failure to pay all meal and rest period premium wages, Defendants failed to pay all wages owed to Plaintiff upon separation of her employment with Defendants.

CLASS ACTION ALLEGATIONS

19. Class Definitions: Plaintiff brings this action on behalf of herself and the following Classes pursuant to § 382 of the Code of Civil Procedure:

- a. The Overtime Class consists of all of Defendants' current and former employees in California with the title of Mentor Recruiter and/or similar job titles who were classified by Defendants as exempt, and who worked more than eight hours per day and/or forty hours per week when classified as exempt, during the four years immediately preceding the filing of the lawsuit through the present.

1 b. The Meal Period Class consists of all of Defendants' current and former
2 employees in California with the title of Mentor Recruiter and/or similar job titles
3 who were classified by Defendants as exempt, and who worked at least one shift
4 in excess of 5.0 hours and/or one shift in excess of 10.0 when classified as exempt
5 during the four years immediately preceding the filing of the lawsuit through the
6 present.

7 c. The Rest Period Class consists of all of Defendants' current and former
8 employees in California with the title of Mentor Recruiter and/or similar job titles
9 who were classified by Defendants as exempt, and who worked at least one shift
10 of 3.5 hours or more when classified as exempt, during the four years immediately
11 preceding the filing of the lawsuit through the present.

12 d. The Wage Statement Class consists of members of the (i) Overtime Class (ii)
13 Meal Period Class; and/or (iii) Rest Period Class, during the one year immediately
14 preceding the filing of the lawsuit through the present.

15 e. The Waiting Time Penalty Class consists of consists of Defendants' formerly
16 employed members of the: (i) Overtime Class; (ii) Minimum Wage Class; (iii)
17 Meal Period Class; (iv) Rest Period Class, and/or (v) Wage Statement Class, who
18 separated from employment during the three years immediately preceding the
19 filing of the lawsuit through the present.

20 f. The UCL Class consists of members of the: (i) Overtime Class; (ii) Meal Period
21 Class; (iii) Rest Period Class; and (iv) Wage Statement Class, during the four
22 years immediately preceding the filing of the lawsuit through the present.

23 20. Plaintiff reserves the right under Rule 3.765(b) of the California Rules of Court,
24 to amend or modify the description of the various classes with greater specificity or further
25 division into subclasses or limitation to particular issues.

26 21. **Numerosity/Ascertainability:** The members of the Classes are so numerous that
27 joinder of all members would be unfeasible and not practicable. The membership of the Classes
28 is unknown to Plaintiff at this time; however, it is estimated that the members of the Classes

satisfy the numerosity requirement. The identity of such membership is readily ascertainable via inspection of Defendants' employment records.

22. **Common Questions of Law and Fact Predominate/Well Defined Community of Interest:** There are common questions of law and fact as to Plaintiff and all other similarly situated employees, which predominate over questions affecting only individual members. Those common questions include, without limitation:

- i. Whether Defendants misclassified Mentor Recruiters (or employees with similar job titles) as exempt employees;
- ii. Whether Defendants properly paid to the members of the Overtime Class all overtime wages at the correct regular rate of pay and/or paid for all hours worked pursuant to Labor Code §§ 204, 510, 558, 1194 and 1198;
- iii. Whether Defendants provided all legally compliant meal periods to members of the Meal Period Class pursuant to Labor Code §§ 226.7 and 512;
- iv. Whether Defendants authorized and permitted all legally compliant rest periods to members of the Rest Period Class pursuant to Labor Code §§ 226.7 and 516;
- v. Whether Defendants provided accurate, itemized wage statements to members of the Classes;
- vi. Whether Defendants' policies and/or practices for the timing and amount of payment of final wages to members of the Waiting Time Class at the time of separation from employment were unlawful; and
- vii. Whether Defendants engaged in unlawful, unfair, illegal, and/or deceptive business practices by and through the wage and hour policies and practices described above, and whether as a result Defendants owe the classes restitution.

23. **Predominance of Common Questions:** Common questions of law and fact predominate over questions that affect only individual members of the Classes. The common questions of law set forth above are numerous and substantial and stem from Defendants' policies and/or practices applicable to each individual class member, such as Defendants' uniform timekeeping, overtime wage payment, meal and rest period policies/practices and

Defendants' policy of classifying Mentor Recruiters as exempt employees. As such, the common questions predominate over individual questions concerning each individual class member's showing as to their eligibility for recovery or as to the amount of their damages.

24. **Typicality:** The claims of Plaintiff are typical of the claims of the Classes because Plaintiff was employed by Defendants as Mentor Recruiter and classified as exempt in California during the statute(s) of limitations period applicable to each cause of action pled in the lawsuit. As alleged herein, Plaintiff, like the members of the Classes, was subject to Defendants' uniform misclassification of Mentor Recruiters (or employees with similar job titles) as exempt, uniform overtime and meal and rest period policies/practices, was furnished with inaccurate and incomplete wage statements; and was not paid all final wages upon separation of employment.

25. **Adequacy of Representation:** Plaintiff is fully prepared to take all necessary steps to represent fairly and adequately the interests of the members of the Classes. Moreover, Plaintiff's attorneys are ready, willing and able to fully and adequately represent the members of the Classes and Plaintiff. Plaintiff's attorneys have prosecuted and defended numerous wage-and-hour class actions in state and federal courts in the past and are committed to vigorously prosecuting this action on behalf of the members of the Classes.

26. **Superiority:** The California Labor Code is broadly remedial in nature and serves an important public interest in establishing minimum working conditions and standards in California. These laws and labor standards protect the average working employee from exploitation by employers who have the responsibility to follow the laws and who may seek to take advantage of superior economic and bargaining power in setting onerous terms and conditions of employment. The nature of this action and the format of laws available to Plaintiff and members of the Classes make the class action format a particularly efficient and appropriate procedure to redress the violations alleged herein. If each employee were required to file an individual lawsuit, Defendants would necessarily gain an unconscionable advantage since they would be able to exploit and overwhelm the limited resources of each individual plaintiff with their vastly superior financial and legal resources. Moreover, requiring each member of the Classes to pursue an individual remedy would also discourage the assertion of lawful claims by

1 employees who would be disinclined to file an action against their former and/or current
2 employer for real and justifiable fear of retaliation and permanent damages to their careers at
3 subsequent employment. Further, the prosecution of separate actions by the individual class
4 members, even if possible, would create a substantial risk of inconsistent or varying verdicts or
5 adjudications with respect to the individual class members against Defendants herein; and which
6 would establish potentially incompatible standards of conduct for Defendants; and/or legal
7 determinations with respect to individual class members which would, as a practical matter, be
8 dispositive of the interest of the other class members not parties to adjudications or which would
9 substantially impair or impede the ability of the class members to protect their interests. Further,
10 the claims of the individual members of the Classes are not sufficiently large to warrant vigorous
11 individual prosecution considering all of the concomitant costs and expenses attending thereto.
12 As such, the Classes identified in Paragraph 19 are maintainable as a Class under § 382 of the
13 Code of Civil Procedure.

14 **FIRST CAUSE OF ACTION**

15 **FAILURE TO PAY ALL OVERTIME WAGES OWED**

16 **(AGAINST ALL DEFENDANTS)**

17 27. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

18 28. This cause of action is brought pursuant to Labor Code §§ 204, 510, 558, 1194
19 and 1198 which provide that all non-exempt employees are entitled to all overtime wages for all
20 overtime worked (hours in excess of 8 in one day and/or 40 in one week), and provide a private
21 right of action for the failure to pay all overtime compensation for overtime work performed.

22 29. At all times relevant herein, Defendants were required to properly compensate
23 Plaintiff and the members of the Overtime Class for all overtime hours worked pursuant to
24 California Labor Code §§ 510 and 1194, and Wage Order 5. Labor Code § 510 and Wage Order
25 5, Section 3 require an employer to pay an employee “one and one-half (1½) times the regular
26 rate of pay” for work in excess of 8 hours per workday and/or in excess of 40 hours per
27 workweek. Labor Code § 510 and Wage Order 5, Section 3 also require an employer to pay an
28 employee double the employee’s regular rate for work in excess of 12 hours each workday and/or

1 in excess of 8 hours on the seventh consecutive day of work in the workweek. Defendants caused
2 Plaintiff and the members of the Overtime Class to work in excess of 8 hours in a workday and/or
3 40 hours in a workweek but did not properly compensate Plaintiff and the members of the
4 Overtime Class at one and one-half their regular rate of pay for such hours.

5 30. The foregoing practices and policies are unlawful and create entitlement to
6 recovery by Plaintiff and the members of the Overtime Class in a civil action for the unpaid
7 amount of overtime premium owing, including interest thereon, as well as statutory penalties,
8 civil penalties, and attorneys' fees and costs of suit, pursuant to Labor Code §§ 204, 218.5, 218.6,
9 510, 558, 1194 and 1198, Wage Order 5, California Code of Civil Procedure § 1021.5 California
10 Code of Civil Procedure § 1021.5, and Civil Code §§ 3287(b) and 3289.

11 **SECOND CAUSE OF ACTION**

12 **FAILURE TO PROVIDE MEAL PERIODS**

13 **(AGAINST ALL DEFENDANTS)**

14 31. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

15 32. Plaintiff is informed and believes, and based thereon alleges, that Defendants
16 failed in their affirmative obligation to provide all of their non-exempt employees in California,
17 including Plaintiff and members of the Meal Period Class, with all legally compliant meal
18 periods in accordance with the mandates of the California Labor Code and Wage Order 5, § 11.
19 Despite Defendants' violations, Defendants did not pay an additional hour of pay to Plaintiff and
20 members of the Meal Period Class at their respective regular rates of compensation, in
21 accordance with California Labor Code §§ 226.7, and 512.

22 33. As a result, Defendants are responsible for paying premium compensation for
23 meal period violations including interest thereon, as well as statutory penalties, civil penalties,
24 and costs of suit, pursuant to Labor Code §§ 226.7, 512, and 558, Wage Order 5, California Code
25 of Civil Procedure § 1021.5 and Civil Code §§ 3287(b) and 3289.

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1 **THIRD CAUSE OF ACTION**

2 **FAILURE TO AUTHORIZE AND PERMIT ALL PAID REST PERIODS**

3 **(AGAINST ALL DEFENDANTS)**

4 34. Plaintiff re-alleges and incorporates by reference all previous paragraphs as
5 though fully set forth herein.

6 35. Wage Order 5, § 12 and California Labor Code §§ 226.7 and 516 establish the
7 right of employees to be authorized and permitted to take a paid rest period of at least ten (10)
8 minutes net rest time for each four (4) hour period worked, or *major fraction thereof*.

9 36. As alleged herein, Defendants failed to authorize and permit Plaintiff and
10 members of the Rest Period Class to take all required and paid rest periods.

11 37. The foregoing violations create an entitlement to recovery by Plaintiff and
12 members of the Rest Period Class in a civil action for the unpaid amount of rest period premiums
13 owing, including interest thereon, as well as statutory penalties, civil penalties, and costs of suit
14 according to California Labor Code §§ 226.7, 516, 558, Wage Order 5, California Code of Civil
15 Procedure § 1021.5, and Civil Code §§ 3287(b) and 3289.

16 **FOURTH CAUSE OF ACTION**

17 **FAILURE TO PROVIDE ACCURATE, ITEMIZED WAGE STATEMENTS**

18 **(AGAINST ALL DEFENDANTS)**

19 38. Plaintiff re-alleges and incorporates by reference all previous paragraphs as
20 though fully set forth herein.

21 39. Plaintiff is informed and believes, and based thereon alleges, that Defendants
22 knowingly and intentionally, as a matter of uniform practice and policy, failed to furnish Plaintiff
23 and the Wage Statement Class Members with accurate, itemized wage statements that included
24 among other requirements, accurate total gross wages earned, meal and rest period premiums,
25 and total net wages earned in violation of Labor Code § 226 *et seq.*

26 40. Defendants' failure to furnish Plaintiff and the members of the Wage Statement
27 Class with complete and accurate, itemized wage statements resulted in actual injury, as said
28 failures led to, among other things, accurate total gross wages earned, meal and rest period

1 premiums, and total net wages earned in violation of Labor Code § 226 *et seq.*

2 41. Defendants' failures created an entitlement to Plaintiff and members of the Wage
3 Statement Class in a civil action for damages and/or penalties pursuant to Labor Code § 226,
4 including statutory penalties civil penalties, reasonable attorneys' fees, and costs according to
5 suit pursuant to Labor Code § 226 *et seq.*

6 **FIFTH CAUSE OF ACTION**

7 **UNFAIR COMPETITION**

8 **(AGAINST ALL DEFENDANTS)**

9 42. Plaintiff re-alleges and incorporates by reference all previous paragraphs as
10 though fully set forth herein.

11 43. Defendants have engaged and continue to engage in unfair and/or unlawful
12 business practices in California in violation of California Business and Professions Code § 17200
13 *et seq.*, by failing to properly pay all overtime wages, failing to provide all required meal periods
14 and failing to authorize and permit all required rest periods, and failing to pay meal and rest
15 period premium wage payments.

16 44. Defendants' utilization of these unfair and/or unlawful business practices
17 deprived Plaintiff and continues to deprive members of the Classes of compensation to which
18 they are legally entitled, constitutes unfair and/or unlawful competition, and provides an unfair
19 advantage over Defendants' competitors who have been and/or are currently employing workers
20 and attempting to do so in honest compliance with applicable wage and hour laws.

21 45. Because Plaintiff is a victim of Defendants' unfair and/or unlawful conduct
22 alleged herein, Plaintiff for herself and on behalf of the members of the Classes, seeks full
23 restitution of monies, as necessary and according to proof, to restore any and all monies withheld,
24 acquired and/or converted by Defendants pursuant to Business and Professions Code §§ 17203
25 and 17208.

26 46. The acts complained of herein occurred within the last four years immediately
27 preceding the filing of the lawsuit in this action.

28 47. Plaintiff was compelled to retain the services of counsel to file this court action

1 to protect her interests and those of the Classes, to obtain restitution and injunctive relief on
2 behalf of Defendants' Mentor Recruiters (and/or similar job positions), and to enforce important
3 rights affecting the public interest. Plaintiff has thereby incurred the financial burden of
4 attorneys' fees and costs, which she is entitled to recover under Code of Civil Procedure §
5 1021.5.

6 **SIXTH CAUSE OF ACTION**

7 **LABOR CODE PRIVATE ATTORNEYS GENERAL ACT OF 2004**

8 **(AGAINST ALL DEFENDANTS)**

9 48. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

10 49. Defendants have committed several Labor Code violations against Plaintiff and
11 other aggrieved employees. Plaintiff, an "aggrieved employee" within the meaning of Labor Code
12 § 2698 *et seq.*, acting on behalf of herself and other aggrieved employees, brings this
13 representative action against Defendants to recover the civil penalties due to Plaintiff, the other
14 aggrieved employees, and the State of California according to proof pursuant to Labor Code §
15 558 and § 2699 (a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for
16 each failure to pay each employee and \$200.00 for each subsequent violation or willful or
17 intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus
18 25% of the amount unlawfully withheld; (2) \$250.00 for each initial violation and \$1,000.00 for
19 each subsequent violation pursuant to Labor Code § 226.3 per employee per pay period; (3)
20 \$50.00 for each initial violation and \$100.00 for each subsequent violation pursuant to Labor
21 Code § 558 per employee per pay period; and/or (4) \$100.00 for each initial violation and \$200.00
22 for each subsequent violation per employee per pay period for those violations of the Labor Code
23 for which no civil penalty is specifically provided, based on the following Labor Code violations:

- 24 a) Defendants violated Labor Code §§ 204, 510, 558, 1194, and 1198 by failing to
25 pay Plaintiff and other Aggrieved Employees all overtime compensation
26 earned;

- b) Defendants violated Labor Code §§ 226.7, 512, and 558 by failing to provide all legally required meal periods and failing to pay meal period premiums to Plaintiff and other Aggrieved Employees;
- c) Defendants violated Labor Code §§ 226.7, 516, and 558 by failing to provide all legally required rest periods and failing to pay rest period premiums to Plaintiff and other Aggrieved Employees;
- d) Defendants violated Labor Code § 226 by failing to furnish Plaintiff and other Aggrieved Employees with accurate and compliant itemized wage statements;
- e) Defendants violated Labor Code § 204 by failing to pay Plaintiff and other Aggrieved Employees all earned wages at least twice during each calendar month; and
- f) Defendants violated Labor Code § 1174 by failing to maintain accurate records on behalf of Plaintiff and other Aggrieved Employees; and
- g) Defendants violated Labor Code §§ 201, 202 and 203 by failing to timely pay all final wages due to Plaintiff and other Aggrieved Employees.

50. On February 16, 2022, Plaintiff notified Defendants via certified mail, and the California Labor and Workforce Development Agency (“LWDA”) via e-mail, of Defendants’ violations of the California Labor Code and Plaintiff’s intent to bring a claim for civil penalties under California Labor Code § 2698 *et seq.* with respect to violations of the California Labor Code identified in Paragraph 49 (a)-(f). Attached hereto as **Exhibit 1** is a true and correct copy of the February 16, 2022 correspondence. Now that sixty-five days have passed from Plaintiff notifying Defendants of these violations, Plaintiff has exhausted her administrative requirements for bringing a claim under the Labor Code Private Attorneys General Act with respect to these violations. On December 20, 2023, Plaintiff notified Defendants via certified mail, and the LWDA via e-mail, of Defendants’ violations of the California Labor Code and Plaintiff’s intent to bring a claim for civil penalties under California Labor Code § 2698 *et seq.* with respect to additional violations of the California Labor Code identified in Paragraph 49 (g). Attached hereto as **Exhibit 2** is a true and correct copy of the December 20, 2023 supplemental correspondence.

1 Now that sixty-five days have passed from Plaintiff notifying Defendants of these additional
2 violations, Plaintiff has exhausted her administrative requirements for bringing a claim under the
3 Labor Code Private Attorneys General Act with respect to the Labor Code violations identified
4 in Paragraph 49 (g).

5 51. Plaintiff was compelled to retain the services of counsel to file this court action
6 to protect her interests and the interests of other aggrieved employees, and to assess and collect
7 the civil penalties owed by Defendants. Plaintiff has thereby incurred attorneys' fees and costs,
8 which she is entitled to receive under California Labor Code § 2699.

9 **SEVENTH CAUSE OF ACTION**

10 **FAILURE TO PAY ALL WAGES UPON TERMINATION**

11 **(AGAINST ALL DEFENDANTS)**

12 52. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

13 53. This cause of action is brought pursuant to Labor Code §§ 201-203, which require
14 an employer to pay all wages immediately at the time of termination of employment in the event
15 the employer discharges the employee or the employee provides at least 72 hours of notice of
16 his/her intent to quit. In the event the employee provides less than 72 hours of notice of his/her
17 intent to quit, said employee's wages become due and payable not later than 72 hours upon said
18 employee's last date of employment.

19 54. Defendants failed to timely pay Plaintiff all of her final wages at the time of
20 termination, which include, among other things, underpaid minimum and overtime wages, and
21 meal and rest period premium wages. Further, Plaintiff is informed and believes, and based
22 thereon alleges, that as a matter of uniform policy and practice, Defendants continue to fail to
23 pay members of the Waiting Time Class all earned wages at the end of employment in a timely
24 manner pursuant to the requirements of Labor Code §§ 201-203. Defendants' failure to pay all
25 final wages was willful within the meaning of Labor Code § 203.

26 **PRAYER**

27 WHEREFORE, Plaintiff prays for judgment for herself and for all others on whose behalf
28 this suit is brought against Defendants, as follows:

1. For an order certifying the proposed Classes;
2. For an order appointing Plaintiff as representative of the Classes;
3. For an order appointing Counsel for Plaintiff as Counsel for the Classes;
4. Upon the First Cause of Action, for compensatory, consequential, general and special damages according to proof pursuant to Labor Code §§ 204, 510, 558, 1194, and 1198;
5. Upon the Second Cause of Action, for compensatory, consequential, general and special damages according to proof pursuant to Labor Code §§ 226.7, 512, and 558;
6. Upon the Third Cause of Action, for compensatory, consequential, general and special damages according to proof pursuant to Labor Code §§ 226.7, 516, and 558;
7. Upon the Fourth Cause of Action, for statutory wage statement penalties pursuant to Labor Code § 226 *et seq.*;
8. Upon the Fifth Cause of Action, for restitution to Plaintiff and members of the Classes of all money and/or property unlawfully acquired by Defendants by means of any acts or practices declared by this Court to be in violation of Business and Professions Code § 17200 *et seq.*;
9. Upon the Sixth Cause of Action, for civil penalties due to Plaintiff, other aggrieved employees, and the State of California according to proof pursuant to Labor Code §§ 558 and 2699(a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for each failure to pay each employee and \$200.00 for each subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$250.00 for each initial violation and \$1,000.00 for each subsequent violation pursuant to Labor Code § 226.3 per employee per pay period; (3) \$50.00 for each initial violation and \$100.00 for each subsequent violation pursuant to Labor Code § 558 per employee per pay period; and/or (4) \$100.00 for each initial violation and \$200.00 for each subsequent violation per employee per pay period for those violations of the Labor Code for which no civil penalty is specifically provided, based on the Labor Code violations cited in Paragraph 49 (a)-(g) above;
10. Upon the Seventh Cause of Action, for statutory waiting time penalties pursuant

1 to Labor § 203;

2 11. Prejudgment interest on all due and unpaid wages pursuant to California Labor
3 Code § 218.6 and Civil Code §§ 3287 and 3289;

4 12. On all causes of action, for attorneys' fees and costs as provided by Labor Code
5 § 218.5 and Code of Civil Procedure § 1021.5 and all other applicable statutes; and

6 13. For such other and further relief the Court may deem just and proper.

7
8 Dated: February 26, 2024

Respectfully submitted,
LIDMAN LAW, APC

9
10 By: 

Scott M. Lidman
Attorneys for Plaintiff
ANITA RAMIREZ

11
12
13 **DEMAND FOR JURY TRIAL**

14 Plaintiff hereby demands a jury trial with respect to all issues triable by jury.

15
16 Dated: February 26, 2024

Respectfully submitted,
LIDMAN LAW, APC

17
18 By: 

Scott M. Lidman
Attorneys for Plaintiff
ANITA RAMIREZ

EXHIBIT 1

EXHIBIT 1

LIDMAN LAW

2155 CAMPUS DRIVE, SUITE 150, EL SEGUNDO, CA 90245

OFFICE: (424) 322-4772

FAX: (424) 322-4775

February 16, 2022

VIA LWDA WEBSITE

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

VIA U.S. CERTIFIED MAIL – RETURN RECEIPT REQUESTED

California Mentor Family Home Agency LLC, a Delaware limited liability company
c/o CSC – Lawyers Incorporating Service
2710 Gateway Oaks Drive, Suite 150N
Sacramento, CA 95833

VIA U.S. CERTIFIED MAIL – RETURN RECEIPT REQUESTED

California Mentor Family Home Agency LLC, a Delaware limited liability company
313 Congress Street, 5th Floor
Boston, MA 02210

Re: *Anita Ramirez v. California Mentor Family Home Agency LLC, a Delaware limited liability company*

To Whom It May Concern:

Please be advised that this law firm represents Anita Ramirez in claims arising from her employment with California Mentor Family Home Agency LLC, a Delaware limited liability company (“Defendant”). Ms. Ramirez is an “aggrieved employee” as defined by Labor Code sections 2699, *et seq.* due to Defendant’s numerous violations of the Labor Code as set forth below. The purpose of this letter is to comply with Labor Code section 2699.3, which requires aggrieved employees to notify their employer and the Labor and Workforce Development Agency (“LWDA”) of the specific provisions of the Labor Code allegedly violated. For purposes of this letter, if the LWDA decides not to investigate, Ms. Ramirez intends to pursue a lawsuit on behalf of other “Aggrieved Employees”, which should be considered to include all of Defendant’s current and former employees in California with the title of Mentor Recruiter and/or similar job titles who were classified by Defendant as exempt, at least in part, during the one year immediately preceding the date of this letter through the date of trial, the date judgment is entered, the date of settlement and/or other date approved by the Court.

Ms. Ramirez a current employee, has been employed by Defendant since approximately September 2014 through the present as a Mentor Recruiter. At the time of hiring until approximately April 25, 2021, Ms. Ramirez was unlawfully classified and paid as an exempt, salaried employee. On or around April 22, 2021, Defendant informed Ms. Ramirez that effective April 25, 2021 she would be converted to a non-exempt hourly

employee but would continue to perform the same duties she performed when classified as a salaried, exempt employee. Further, Defendant changed her job title at that time from “Mentor Recruiter” to “Mentor Recruiter, CA.”

From the start of her employment through approximately April 25, 2021, Ms. Ramirez was improperly classified by Defendant as an exempt employee and was paid solely by way of an annual salary even though she did not meet any recognized exemption from the payment of overtime wages under California law. Specifically, Ms. Ramirez did not qualify for the “executive” exemption as she spent none of her time directing the work of other employees; she retained no authority to hire, fire, or discipline employees; and she did not exercise any independent judgment or discretion with respect to matters of consequence while carrying out her job duties. Further, Ms. Ramirez did not make any suggestions and recommendations as to the hiring, firing, advancement, promotion or any other change of status of other employees nor would any of her suggestions, if made, were given any particular weight.

Indeed, since the start of her employment through the present (both when she was improperly classified as exempt and after when she was reclassified to non-exempt), Ms. Ramirez’s job duty of recruiting families to place children and adults with disabilities has remained exactly the same.

Specifically, from four years prior to the filing of the Complaint through approximately April 25, 2021, when Defendant reclassified Ms. Ramirez and other Aggrieved Employees from exempt to non-exempt without any change in their job duties, Ms. Ramirez and other Aggrieved Employees routinely worked in excess of 8.0 hours per workday and/or more than 40.0 hours per workweek, but due to Defendant’s intentional and improper misclassification of them as exempt, Ms. Ramirez and other Aggrieved Employees did not receive any overtime compensation for these hours. Upon information and belief, Defendant did not track the actual hours that Ms. Ramirez and other Aggrieved Employees worked when they were classified as a salaried, exempt employees. Instead, Defendant paid Ms. Ramirez and other Aggrieved Employees a flat salary which was not based on the number of hours actually worked. Ms. Ramirez and other Aggrieved Employees regularly worked more hours than scheduled and on average worked in excess of 10.0 to 12.0 hours per day. This was because in addition to their 8 hours, Defendant often required them to work weekends, nightly recruiting events, and make home visits. Due to Defendant’s misclassification of Ms. Ramirez and other Aggrieved Employees, Defendant failed to pay any overtime wages for hours worked in excess of 8.0 hours per workday and/or 40.0 hours per workweek and have therefore deprived Ms. Ramirez and other Aggrieved Employees of earned wages. Defendant also failed to pay Ms. Ramirez and other Aggrieved Employees any double-time wages for hours worked in excess of 12.0 in a day.

During her employment with Defendant when she was classified as salaried, exempt, Defendants failed to provide Ms. Ramirez and other Aggrieved Employees with all required meal periods due to Defendant’s meal period policies and practices. Specifically, due to the work demands imposed by Defendant, including without limitation,

traveling to clients' residences, Ms. Ramirez and other Aggrieved Employees were often unable to take a duty-free 30-minute meal period before the end of the fifth hour of work as they were often travelling between the office and home visits. As a result, their meal periods were often late, short, missed, or otherwise unlawful. In addition, during the time they were classified as salaried, exempt Ms. Ramirez and other Aggrieved Employees were not provided a second meal period when they worked shifts in excess 10.0 hours.

Despite failing to provide all legally-required meal periods to Ms. Ramirez and other Aggrieved Employees when they were classified as salaried, exempt, Defendant never paid them one hour of meal period premium wages for each day that they experienced a meal period violation as required by Labor Code § 226.7.

In addition, throughout Ms. Ramirez's employment with Defendant when she was classified as salaried, exempt, Ms. Ramirez and other Aggrieved Employees were not authorized and permitted to take legally required rest periods due to Defendant's unlawful rest period policies and practices. Specifically, as a result of the work demands imposed by Defendant, Defendant did not authorize and permit one rest period for every four hours worked, or *major fraction thereof*. Indeed, Defendant failed to authorize and permit Ms. Ramirez and other Aggrieved Employees to take any rest periods during their shifts.

Although Ms. Ramirez and other Aggrieved Employees were not authorized and permitted to take all legally-compliant rest periods to which they were entitled when they were classified as salaried, exempt, Defendant failed to compensate Ms. Ramirez and other Aggrieved Employees with the required rest period premium for each workday in which they experienced a rest period violation as mandated by Labor Code § 226.7.

As a result of Defendant's failure to pay all overtime wages, as well as all meal and rest period premium wages, Defendant maintained inaccurate payroll records and issued inaccurate wage statements to Ms. Ramirez and other Aggrieved Employees up until the first pay period when they received a wage statement based on their new non-exempt classification for the period ending May 8, 2021.

As described above, Defendant committed the following violations of the Labor Code and Industrial Welfare Commission Wage Order No. 5 ("Wage Order 5"):

Overtime Violations

Defendant was required to pay Ms. Ramirez and other Aggrieved Employees overtime wages for all hours worked in excess of eight hours per workday and/or forty hours per workweek. *See* Labor Code §§ 1194(a) and 1198; the Wage Order 5, § 3. According to Labor Code § 510(a), "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." This Section further provides, "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 equal to one and one-half times their regular rate of pay for all overtime hours worked. As explained above, up until approximately April 25, 2021, when Defendant reclassified Ms. Ramirez and other Aggrieved Employees from exempt to non-exempt without any change in their job duties, Ms. Ramirez and other Aggrieved Employees routinely worked in excess of 8.0 hours per workday and/or more than 40.0 hours per workweek, but due to Defendant's intentional and improper misclassification of them as exempt, Ms. Ramirez and other Aggrieved Employees did not receive any overtime compensation for these hours. Due to Defendant's misclassification of Ms. Ramirez and other Aggrieved Employees, Defendant failed to pay any overtime wages for hours worked in excess of 8.0 hours per workday and/or 40.0 hours per workweek and have therefore deprived Ms. Ramirez and other Aggrieved Employees of earned wages. Defendant also failed to pay Ms. Ramirez and other Aggrieved Employees any double-time wages for hours worked in excess of 12.0 in a day.

Meal Period Violations

As alleged above, Defendant failed to provide Ms. Ramirez and other Aggrieved Employees with all required and compliant meal periods. *See* Labor Code §§ 226.7 and 512; Wage Order 5, § 11. Specifically, due to the work demands imposed by Defendant, including without limitation, traveling to clients' residences, Ms. Ramirez and other Aggrieved Employees were often unable to take a duty-free 30-minute meal period before the end of the fifth hour of work as they were often travelling between the office and home visits. As a result, their meal periods were often late, short, missed, or otherwise unlawful. In addition, during the time they were classified as salaried, exempt Ms. Ramirez and other Aggrieved Employees were not provided a second meal period when they worked shifts in excess 10.0 hours. As a result, Ms. Ramirez and other Aggrieved Employees are owed an additional hour of wages at their regular rate of compensation for each workday they experienced a meal period violation. *See* Labor Code § 226.7 ("If an employer fails to provide an employee a meal or rest or recovery period in accordance with ... [an] order of the Industrial Welfare Commission ... 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."). Although Ms. Ramirez and other Aggrieved Employees were not provided with all legally-compliant meal periods to which they were entitled, Defendant failed to compensate Ms. Ramirez and other Aggrieved Employees with the required meal period premium for each workday in which they experienced a meal period violation as mandated by Labor Code § 226.7.

Rest Period Violations

Defendant also failed to authorize and permit Ms. Ramirez and other Aggrieved Employees to take all required rest periods. *See* Labor Code §§ 226.7 and 516; Wage Order 5, § 12. As alleged above, Defendant's rest period policies/practices fail to authorize and permit all rest periods for every four hours worked, or *major fraction thereof*. Specifically, as a result of the work demands imposed by Defendant, Defendant did not authorize and permit one rest period for every four hours worked, or *major fraction*

thereof. Indeed, Defendant failed to authorize and permit Ms. Ramirez and other Aggrieved Employees to take any rest periods during their shifts. As a result, Ms. Ramirez and other Aggrieved Employees are owed an additional hour of wages at their regular rate of compensation for each workday that they were not authorized and permitted to take all legally required rest periods. *See* Labor Code § 226.7 (“If an employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the Industrial Welfare Commission, 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 period is not provided.”)

Wage Statement Violations

As alleged above, Defendant maintained inaccurate payroll records and issued inaccurate wage statements to Ms. Ramirez and other Aggrieved Employees up until the first pay period when they received a wage statement based on their new non-exempt classification for the period ending May 8, 2021. Defendant’s failure to furnish Ms. Ramirez and other Aggrieved Employees with complete and accurate, itemized wage statements resulted in actual injury, as said failures led to, among other things, the non-payment of all overtime wages earned, and meal and rest period premium wages, and deprived them of the information necessary to identify discrepancies in Defendant’s reported data. Defendant knowingly and intentionally, as a matter of uniform practice and policy, failed to furnish Ms. Ramirez and other Aggrieved Employees with accurate and complete, itemized wage statements that included, among other requirements, all overtime wages earned, and total meal and rest period premium wages, in violation of Labor Code § 226 *et seq.*

As an “aggrieved employee,” Ms. Ramirez will initiate a civil action on behalf of herself and other Aggrieved Employees to recover damages, statutory penalties, and civil penalties resulting from the wage and hour violations alleged herein. Based on Ms. Ramirez’s own investigation, and on information and belief, Defendant committed the following Labor Code violations:

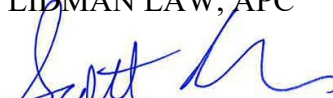
- a) Defendant violated Labor Code §§ 204, 510, 558, 1194, and 1198 by failing to pay Ms. Ramirez and other Aggrieved Employees all overtime compensation earned;
- b) Defendant violated Labor Code §§ 226.7, 512, and 558 by failing to provide all legally required meal periods and failing to pay meal period premiums to Ms. Ramirez and other Aggrieved Employees;
- c) Defendant violated Labor Code §§ 226.7, 516, and 558 by failing to provide all legally required rest periods and failing to pay rest period premiums to Ms. Ramirez and other Aggrieved Employees;

- d) Defendant violated Labor Code § 226 by failing to furnish Ms. Ramirez and other Aggrieved Employees with accurate and compliant itemized wage statements;
- e) Defendant violated Labor Code § 204 by failing to pay Ms. Ramirez and other Aggrieved Employees all earned wages at least twice during each calendar month; and
- f) Defendant violated Labor Code § 1174 by failing to maintain accurate records on behalf of Ms. Ramirez and other Aggrieved Employees.

Pursuant to Labor Code section 2699.3(a)(2)(A), please notify us and Defendant if the LWDA intends to investigate these alleged violations of the Labor Code. Please contact me should you require additional information.

Very truly yours,

LIDMAN LAW, APC



Scott M. Lidman

EXHIBIT 2

EXHIBIT 2

LIDMAN LAW

2155 CAMPUS DRIVE, SUITE 150, EL SEGUNDO, CA 90245

OFFICE: (424) 322-4772

FAX: (424) 322-4775

December 20, 2023

VIA LWDA WEBSITE

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

VIA U.S. CERTIFIED MAIL – RETURN RECEIPT REQUESTED

DELFINO MADDEN O'MALLEY COYLE & KOEWLER LLP

Daniel J. Coyle

Shaye Schrick

Caroline M. Colangelo

Justin J. Lomas

500 Capitol Mall, Suite 1550

Sacramento, CA 95814

Attorneys for Defendant California Mentor Family Home Agency LLC

Re: *Anita Ramirez v. California Mentor Family Home Agency LLC, a Delaware
limited liability company*
LWDA Case No. LWDA-CM-868549-22

To Whom It May Concern:

Please be advised that this law firm represents Anita Ramirez in claims arising from her employment with California Mentor Family Home Agency LLC, a Delaware limited liability company (“Defendant”). Ms. Ramirez is an “aggrieved employee” as defined by Labor Code sections 2699, *et seq.* due to Defendant’s numerous violations of the Labor Code as set forth below. Defendant’s numerous violations of the Labor Code as set forth below and in her prior correspondence to the Labor and Workforce Development Agency (“LWDA”) dated February 16, 2022 (the “LWDA Letter”). Attached hereto as **Exhibit A** is a true and correct copy of the LWDA Letter and is incorporated herein by reference. By this letter, Ms. Ramirez hereby supplements her prior LWDA Letter. The purpose of the LWDA Letter and the instant supplement letter is to comply with Labor Code section 2699.3, which requires aggrieved employees to notify their employer and the LWDA of the specific provisions of the Labor Code allegedly violated.

Waiting Time Penalties

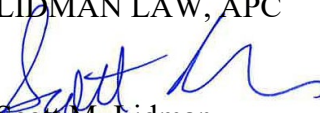
Labor Code §§ 201 and 202 require that employees receive all of their final wages at the time of their separation of employment. Defendant failed to timely pay Ms. Ramirez and other Aggrieved Employees all of their final wages at the time of separation, which included, among other things, underpaid minimum and overtime wages, and meal and rest period premium wages. Pursuant to Labor Code § 203, Defendant’s failure to pay all final wages due to Ms. Ramirez and other aggrieved employees was willful and, consequently,

entitles Ms. Ramirez and other similarly aggrieved employees to waiting time penalties equal to one day of wages at their standard hourly rate for each day Defendant failed to pay their final wages after their separation, up to a maximum of thirty days.

Pursuant to Labor Code section 2699.3(a)(2)(A), please notify us and Defendant if the LWDA intends to investigate these alleged violations of the Labor Code. Please contact me should you require additional information.

Very truly yours,

LIDMAN LAW, APC



Scott M. Lidman

EXHIBIT A

EXHIBIT A

LIDMAN LAW

2155 CAMPUS DRIVE, SUITE 150, EL SEGUNDO, CA 90245

OFFICE: (424) 322-4772

FAX: (424) 322-4775

February 16, 2022

VIA LWDA WEBSITE

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

VIA U.S. CERTIFIED MAIL – RETURN RECEIPT REQUESTED

California Mentor Family Home Agency LLC, a Delaware limited liability company
c/o CSC – Lawyers Incorporating Service
2710 Gateway Oaks Drive, Suite 150N
Sacramento, CA 95833

VIA U.S. CERTIFIED MAIL – RETURN RECEIPT REQUESTED

California Mentor Family Home Agency LLC, a Delaware limited liability company
313 Congress Street, 5th Floor
Boston, MA 02210

Re: *Anita Ramirez v. California Mentor Family Home Agency LLC, a Delaware limited liability company*

To Whom It May Concern:

Please be advised that this law firm represents Anita Ramirez in claims arising from her employment with California Mentor Family Home Agency LLC, a Delaware limited liability company (“Defendant”). Ms. Ramirez is an “aggrieved employee” as defined by Labor Code sections 2699, *et seq.* due to Defendant’s numerous violations of the Labor Code as set forth below. The purpose of this letter is to comply with Labor Code section 2699.3, which requires aggrieved employees to notify their employer and the Labor and Workforce Development Agency (“LWDA”) of the specific provisions of the Labor Code allegedly violated. For purposes of this letter, if the LWDA decides not to investigate, Ms. Ramirez intends to pursue a lawsuit on behalf of other “Aggrieved Employees”, which should be considered to include all of Defendant’s current and former employees in California with the title of Mentor Recruiter and/or similar job titles who were classified by Defendant as exempt, at least in part, during the one year immediately preceding the date of this letter through the date of trial, the date judgment is entered, the date of settlement and/or other date approved by the Court.

Ms. Ramirez a current employee, has been employed by Defendant since approximately September 2014 through the present as a Mentor Recruiter. At the time of hiring until approximately April 25, 2021, Ms. Ramirez was unlawfully classified and paid as an exempt, salaried employee. On or around April 22, 2021, Defendant informed Ms. Ramirez that effective April 25, 2021 she would be converted to a non-exempt hourly

employee but would continue to perform the same duties she performed when classified as a salaried, exempt employee. Further, Defendant changed her job title at that time from “Mentor Recruiter” to “Mentor Recruiter, CA.”

From the start of her employment through approximately April 25, 2021, Ms. Ramirez was improperly classified by Defendant as an exempt employee and was paid solely by way of an annual salary even though she did not meet any recognized exemption from the payment of overtime wages under California law. Specifically, Ms. Ramirez did not qualify for the “executive” exemption as she spent none of her time directing the work of other employees; she retained no authority to hire, fire, or discipline employees; and she did not exercise any independent judgment or discretion with respect to matters of consequence while carrying out her job duties. Further, Ms. Ramirez did not make any suggestions and recommendations as to the hiring, firing, advancement, promotion or any other change of status of other employees nor would any of her suggestions, if made, were given any particular weight.

Indeed, since the start of her employment through the present (both when she was improperly classified as exempt and after when she was reclassified to non-exempt), Ms. Ramirez’s job duty of recruiting families to place children and adults with disabilities has remained exactly the same.

Specifically, from four years prior to the filing of the Complaint through approximately April 25, 2021, when Defendant reclassified Ms. Ramirez and other Aggrieved Employees from exempt to non-exempt without any change in their job duties, Ms. Ramirez and other Aggrieved Employees routinely worked in excess of 8.0 hours per workday and/or more than 40.0 hours per workweek, but due to Defendant’s intentional and improper misclassification of them as exempt, Ms. Ramirez and other Aggrieved Employees did not receive any overtime compensation for these hours. Upon information and belief, Defendant did not track the actual hours that Ms. Ramirez and other Aggrieved Employees worked when they were classified as a salaried, exempt employees. Instead, Defendant paid Ms. Ramirez and other Aggrieved Employees a flat salary which was not based on the number of hours actually worked. Ms. Ramirez and other Aggrieved Employees regularly worked more hours than scheduled and on average worked in excess of 10.0 to 12.0 hours per day. This was because in addition to their 8 hours, Defendant often required them to work weekends, nightly recruiting events, and make home visits. Due to Defendant’s misclassification of Ms. Ramirez and other Aggrieved Employees, Defendant failed to pay any overtime wages for hours worked in excess of 8.0 hours per workday and/or 40.0 hours per workweek and have therefore deprived Ms. Ramirez and other Aggrieved Employees of earned wages. Defendant also failed to pay Ms. Ramirez and other Aggrieved Employees any double-time wages for hours worked in excess of 12.0 in a day.

During her employment with Defendant when she was classified as salaried, exempt, Defendants failed to provide Ms. Ramirez and other Aggrieved Employees with all required meal periods due to Defendant’s meal period policies and practices. Specifically, due to the work demands imposed by Defendant, including without limitation,

traveling to clients' residences, Ms. Ramirez and other Aggrieved Employees were often unable to take a duty-free 30-minute meal period before the end of the fifth hour of work as they were often travelling between the office and home visits. As a result, their meal periods were often late, short, missed, or otherwise unlawful. In addition, during the time they were classified as salaried, exempt Ms. Ramirez and other Aggrieved Employees were not provided a second meal period when they worked shifts in excess 10.0 hours.

Despite failing to provide all legally-required meal periods to Ms. Ramirez and other Aggrieved Employees when they were classified as salaried, exempt, Defendant never paid them one hour of meal period premium wages for each day that they experienced a meal period violation as required by Labor Code § 226.7.

In addition, throughout Ms. Ramirez's employment with Defendant when she was classified as salaried, exempt, Ms. Ramirez and other Aggrieved Employees were not authorized and permitted to take legally required rest periods due to Defendant's unlawful rest period policies and practices. Specifically, as a result of the work demands imposed by Defendant, Defendant did not authorize and permit one rest period for every four hours worked, or *major fraction thereof*. Indeed, Defendant failed to authorize and permit Ms. Ramirez and other Aggrieved Employees to take any rest periods during their shifts.

Although Ms. Ramirez and other Aggrieved Employees were not authorized and permitted to take all legally-compliant rest periods to which they were entitled when they were classified as salaried, exempt, Defendant failed to compensate Ms. Ramirez and other Aggrieved Employees with the required rest period premium for each workday in which they experienced a rest period violation as mandated by Labor Code § 226.7.

As a result of Defendant's failure to pay all overtime wages, as well as all meal and rest period premium wages, Defendant maintained inaccurate payroll records and issued inaccurate wage statements to Ms. Ramirez and other Aggrieved Employees up until the first pay period when they received a wage statement based on their new non-exempt classification for the period ending May 8, 2021.

As described above, Defendant committed the following violations of the Labor Code and Industrial Welfare Commission Wage Order No. 5 ("Wage Order 5"):

Overtime Violations

Defendant was required to pay Ms. Ramirez and other Aggrieved Employees overtime wages for all hours worked in excess of eight hours per workday and/or forty hours per workweek. *See* Labor Code §§ 1194(a) and 1198; the Wage Order 5, § 3. According to Labor Code § 510(a), "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." This Section further provides, "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 equal to one and one-half times their regular rate of pay for all overtime hours worked. As explained above, up until approximately April 25, 2021, when Defendant reclassified Ms. Ramirez and other Aggrieved Employees from exempt to non-exempt without any change in their job duties, Ms. Ramirez and other Aggrieved Employees routinely worked in excess of 8.0 hours per workday and/or more than 40.0 hours per workweek, but due to Defendant's intentional and improper misclassification of them as exempt, Ms. Ramirez and other Aggrieved Employees did not receive any overtime compensation for these hours. Due to Defendant's misclassification of Ms. Ramirez and other Aggrieved Employees, Defendant failed to pay any overtime wages for hours worked in excess of 8.0 hours per workday and/or 40.0 hours per workweek and have therefore deprived Ms. Ramirez and other Aggrieved Employees of earned wages. Defendant also failed to pay Ms. Ramirez and other Aggrieved Employees any double-time wages for hours worked in excess of 12.0 in a day.

Meal Period Violations

As alleged above, Defendant failed to provide Ms. Ramirez and other Aggrieved Employees with all required and compliant meal periods. *See* Labor Code §§ 226.7 and 512; Wage Order 5, § 11. Specifically, due to the work demands imposed by Defendant, including without limitation, traveling to clients' residences, Ms. Ramirez and other Aggrieved Employees were often unable to take a duty-free 30-minute meal period before the end of the fifth hour of work as they were often travelling between the office and home visits. As a result, their meal periods were often late, short, missed, or otherwise unlawful. In addition, during the time they were classified as salaried, exempt Ms. Ramirez and other Aggrieved Employees were not provided a second meal period when they worked shifts in excess 10.0 hours. As a result, Ms. Ramirez and other Aggrieved Employees are owed an additional hour of wages at their regular rate of compensation for each workday they experienced a meal period violation. *See* Labor Code § 226.7 ("If an employer fails to provide an employee a meal or rest or recovery period in accordance with ... [an] order of the Industrial Welfare Commission ... 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."). Although Ms. Ramirez and other Aggrieved Employees were not provided with all legally-compliant meal periods to which they were entitled, Defendant failed to compensate Ms. Ramirez and other Aggrieved Employees with the required meal period premium for each workday in which they experienced a meal period violation as mandated by Labor Code § 226.7.

Rest Period Violations

Defendant also failed to authorize and permit Ms. Ramirez and other Aggrieved Employees to take all required rest periods. *See* Labor Code §§ 226.7 and 516; Wage Order 5, § 12. As alleged above, Defendant's rest period policies/practices fail to authorize and permit all rest periods for every four hours worked, or *major fraction thereof*. Specifically, as a result of the work demands imposed by Defendant, Defendant did not authorize and permit one rest period for every four hours worked, or *major fraction*

thereof. Indeed, Defendant failed to authorize and permit Ms. Ramirez and other Aggrieved Employees to take any rest periods during their shifts. As a result, Ms. Ramirez and other Aggrieved Employees are owed an additional hour of wages at their regular rate of compensation for each workday that they were not authorized and permitted to take all legally required rest periods. *See* Labor Code § 226.7 (“If an employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the Industrial Welfare Commission, 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 period is not provided.”)

Wage Statement Violations

As alleged above, Defendant maintained inaccurate payroll records and issued inaccurate wage statements to Ms. Ramirez and other Aggrieved Employees up until the first pay period when they received a wage statement based on their new non-exempt classification for the period ending May 8, 2021. Defendant’s failure to furnish Ms. Ramirez and other Aggrieved Employees with complete and accurate, itemized wage statements resulted in actual injury, as said failures led to, among other things, the non-payment of all overtime wages earned, and meal and rest period premium wages, and deprived them of the information necessary to identify discrepancies in Defendant’s reported data. Defendant knowingly and intentionally, as a matter of uniform practice and policy, failed to furnish Ms. Ramirez and other Aggrieved Employees with accurate and complete, itemized wage statements that included, among other requirements, all overtime wages earned, and total meal and rest period premium wages, in violation of Labor Code § 226 *et seq.*

As an “aggrieved employee,” Ms. Ramirez will initiate a civil action on behalf of herself and other Aggrieved Employees to recover damages, statutory penalties, and civil penalties resulting from the wage and hour violations alleged herein. Based on Ms. Ramirez’s own investigation, and on information and belief, Defendant committed the following Labor Code violations:

- a) Defendant violated Labor Code §§ 204, 510, 558, 1194, and 1198 by failing to pay Ms. Ramirez and other Aggrieved Employees all overtime compensation earned;
- b) Defendant violated Labor Code §§ 226.7, 512, and 558 by failing to provide all legally required meal periods and failing to pay meal period premiums to Ms. Ramirez and other Aggrieved Employees;
- c) Defendant violated Labor Code §§ 226.7, 516, and 558 by failing to provide all legally required rest periods and failing to pay rest period premiums to Ms. Ramirez and other Aggrieved Employees;

- d) Defendant violated Labor Code § 226 by failing to furnish Ms. Ramirez and other Aggrieved Employees with accurate and compliant itemized wage statements;
- e) Defendant violated Labor Code § 204 by failing to pay Ms. Ramirez and other Aggrieved Employees all earned wages at least twice during each calendar month; and
- f) Defendant violated Labor Code § 1174 by failing to maintain accurate records on behalf of Ms. Ramirez and other Aggrieved Employees.

Pursuant to Labor Code section 2699.3(a)(2)(A), please notify us and Defendant if the LWDA intends to investigate these alleged violations of the Labor Code. Please contact me should you require additional information.

Very truly yours,

LIDMAN LAW, APC



Scott M. Lidman

PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 2155 Campus Drive, Suite 150, El Segundo, California 90245.

On February 26, 2024, I served the foregoing document(s) described as: **SECOND AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT** on the interested party(ies) in this action as follows:

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CALIFORNIA MENTOR FAMILY HOME AGENCY, LLC

[X] (BY MAIL) I am "readily familiar" with Lidman Law, APC's practice of collection and processing correspondence for mailing. I enclosed the document(s) in a sealed envelope or package addressed to the persons at the address(es) listed above. Under the practice the correspondence would be deposited with the U.S. postal service on the same day with postage thereof fully prepaid at El Segundo, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postage cancellation date or postage date is more than one day after date of deposit for mailing in affidavit.

[X] (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on February 26, 2024, at El Segundo, California.



Dana Joudi