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Via Online Filing

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Via Certified Mail

Frontline Media Services, Inc.
1 Town Square Boulevard
Suite 204
Asheville, NC 28803

Onzeit, Inc.
One Town Square Blvd., Suite 204
Asheville, NC 28803

Frontline Media Solutions, Inc.
1 Town Square Blvd., Suite 204
Asheville, NC 28803

Subject: *Sharon Muniz v. Frontline Media Services Inc.*
LWDA-CM-1073921-25
Second Amended PAGA Letter

Dear Representative:

This office represents Sharon Muniz (“Plaintiff”) in connection with Labor Code violation claims related to employment with Frontline Media Services LLC and Onzeit, Inc. (“Employer”).

Plaintiff personally suffered each of the Labor Code violations alleged in this letter within the applicable one-year statute of limitations period. Plaintiff intends to seek PAGA penalties individually and for all other non-exempt employees of Employer during the PAGA Period (together with Plaintiff, “Aggrieved Employees”). The PAGA Period begins one year prior to the date of this letter and, because the violations are ongoing, the PAGA Period extends beyond the date of this letter.

This is a second amended PAGA letter. The purpose of this letter is to supplement the prior letter by providing additional facts and legal theories, as set forth below. Plaintiff incorporates their prior PAGA letter herein.

In response to Labor Code violations alleged below, PAGA provides Employer with specific options to mitigate potential penalties:

Taking All Reasonable Steps to Be in Compliance:

Employer can reduce potential penalties to 15% of the maximum by demonstrating it has already taken all reasonable steps to be in compliance with the Labor Code provisions identified in this notice prior to receiving it. If Employer believes it has already taken all reasonable steps to be in compliance with all Labor Code provisions identified in this notice, Employer is encouraged to contact our office to set forth all reasonable steps taken.

If all reasonable steps are taken to be in compliance with all Labor Code provisions identified in this notice within 60 days after receiving it, penalties may be reduced to 30% of the maximum. If Employer intends to take all reasonable steps to be in compliance with all Labor Code provisions identified in this notice, Employer is encouraged to engage in good faith meet-and-confer discussions with our office regarding the alleged violations. Failure to do so may support a finding that all reasonable steps were not taken to comply with the Labor Code provisions identified herein.

Curing Violations:

Employer can fully cure the alleged violations to further reduce penalties or even avoid penalties altogether. Once again, we strongly encourage Employer to promptly initiate meet-and-confer discussions with our office as part of any compliance or cure efforts.

This letter is sent pursuant to the requirements of Labor Code section 2699.3. The Labor Code violations being alleged are as follows:

Misclassification as Independent Contractors

Labor Code section 2775(b)(1) establishes that any person providing labor or services for remuneration shall be considered an employee rather than an independent contractor unless the hiring entity demonstrates that all conditions of the "ABC test" are satisfied (*Dynamex Operations West, Inc. v. Superior Court* (2018) 4 Cal.5th 903, 916-917; Labor Code § 2775(b)(1)).

Here, Employer misclassified the Aggrieved Employees as independent contractors when they were, in fact, employees under California law.

Civil Penalties Applicable to Misclassification Violations

As a result of the willful misclassification detailed above, Employer is subject to the civil penalties listed in Labor Code sections 226.8 and 2699. Section 226.8 provides for civil penalties of not less than \$5,000 and not more than \$15,000 for each violation, in addition to any other penalties or fines permitted by law. Where the Labor Commissioner or a court determines that the employer has engaged in a pattern or practice of these violations, the civil penalties shall be increased to not less than \$10,000 and not more than \$25,000 for each violation.

Minimum Wage Violations

Labor Code sections 1194 and 1197 and the applicable Wage Order require an employer to pay an employee no less than the minimum wage for all hours worked.

Employer failed to pay the Aggrieved Employees the minimum wage for all hours worked because the Aggrieved Employees were required to perform work while off the clock. Specifically, the Aggrieved Employees were required to perform work without pay such as building signs, traveling to locations, and setting up signs.

Civil Penalties Applicable to Minimum Wage Violations

As a result of the above minimum wage violations, Employer is subject to the civil penalties listed in Labor Code sections 1197.1 and 2699.

Overtime Violations

Labor Code section 510 and the applicable Wage Order provide that an employee shall be paid one and one-half times their regular rate of pay for any work in excess of eight hours in one workday or 40 hours in any one workweek. Labor Code section 510 and the applicable Wage Order further provides that an employee shall be paid twice their regular rate of pay for any work in excess of 12 hours in one day.

The Aggrieved Employees regularly worked in excess of eight hours in a day and 40 hours in a workweek but were not paid all overtime wages owed.

Civil Penalties Applicable to Overtime Violations

As a result of the above overtime violations, Employer is subject to the civil penalties listed in Labor Code sections 558 and 2699.

Unreimbursed Work Expenses

Labor Code section 2802 requires an employer to indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties.

Here, the Aggrieved Employees incurred out of pocket expenses in connection with their employment, but these expenses were not reimbursed by Employer including phone expenses used to work purposes.

Civil Penalties Applicable to Work Expense Violations

As a result of Employer's failure to reimburse all work-related expenses, Employer is subject to the civil penalties listed in Labor Code section 2699.

Wage Statement Violations

Labor Code section 226 requires an employer to provide wage statements to its employees which include, gross and net wages earned, and total hours worked. Employer failed to provide wage statements which accurately reflected this information.

Civil Penalties Applicable to Wage Statement Violations

As a result of the wage statement violations detailed above, Employer is subject to the civil penalties listed in Labor Code sections 226.3 and 2699.

Sincerely,

/s/ Adam Rose