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January 15, 2025

VIA ONLINE SUBMISSION

California Labor & Workforce Development Agency
ATTN: PAGA Administrator
(<https://dir.govfa.net/308>)

Subject: *Jeff Saari v. Young Men's Christian Association of Orange County, et al.*

Dear PAGA Administrator:

This office represents Jeff Saari in connection with his claims under the California Labor Code. Mr. Saari was an employee of YOUNG MEN'S CHRISTIAN ASSOCIATION OF ORANGE COUNTY and/or CALIFORNIA STATE ALLIANCE OF YMCAS. For the purpose of this letter, Mr. Saari collectively refers to these entities as "YMCA OC."

The employers may be contacted directly at the addresses below:

YOUNG MEN'S CHRISTIAN ASSOCIATION
OF ORANGE COUNTY
13821 NEWPORT AVE. STE 200
TUSTIN, CA 92780

CALIFORNIA STATE ALLIANCE OF YMCAS
925 L STREET 1200
SACRAMENTO, CA 95814

Mr. Saari intends to seek civil penalties, attorneys' fees, costs, and other available relief for violations of the California Labor Code, which are recoverable under sections 2698, *et seq.*, the Labor Code Private Attorneys General Act of 2004 ("PAGA"). Mr. Saari seeks relief on behalf of himself, the State of California, and other persons who are or were employed by YMCA OC as a non-exempt, hourly paid employee in California and who received at least one wage statement ("aggrieved employees"). This letter is sent in compliance with the notice and reporting requirements of California Labor Code section 2699.3.

YMCA OC employed Mr. Saari as an hourly paid, non-exempt employee from approximately October 2021 to June 2024. Mr. Saari worked for YMCA OC as an Inclusion Facilitator at its location in Huntington Beach, California. During his employment, Mr. Saari typically worked two (2) to eight (8) or more hours per day, and five (5) days per week. By the end of his employment, Mr. Saari was compensated approximately \$20.00 per hour. His job duties included, without limitation, providing one-on-one support to children with special needs and/or developmental disabilities, focusing on teaching valuable social, play, and behavioral management skills within childcare program settings with their typical peers, rather than in special-needs specific programs.

YMCA OC committed each of the following Labor Code violations against Mr. Saari, the facts and theories of which follow, making him an “aggrieved employee” pursuant to California Labor Code section 2699(c)(1):¹

YMCA OC’s Company-Wide and Uniform Payroll and HR Practices

YMCA OC LLC and CALIFORNIA STATE ALLIANCE OF YMCAS are California nonprofit corporations and provide programs for health and wellness, child and youth development, swimming, and sports; family programs; events; before and after school programs; and special needs programs throughout Southern California. Upon information and belief, YMCA OC maintains a single, centralized Human Resources (HR) department at its corporate headquarters in Tustin, California, and Sacramento, California, for all non-exempt, hourly paid employees working for YMCA OC in California, including Mr. Saari and other aggrieved employees. At all relevant times, YMCA OC issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Mr. Saari and other aggrieved employees, regardless of their location or position.

Upon information and belief, YMCA OC maintains a centralized Payroll department at its corporate headquarters in Tustin, California, and Sacramento, California, which processes payroll for all non-exempt, hourly paid employees working for YMCA OC in California, including Mr. Saari and other aggrieved employees. Further, YMCA OC issues the same formatted wage statements in the same manner for all non-exempt, hourly paid employees working in California, including Mr. Saari and other aggrieved employees, irrespective of their location, position, or manner in which each employee’s employment ended. In other words, YMCA OC utilized the same methods and formulas when calculating wages due to Mr. Saari and other aggrieved employees in California.

Violation of California Labor Code §§ 510 and 1198 – Unpaid Overtime

California Labor Code sections 510 and 1198 and the applicable Industrial Welfare Commission (“IWC”) Wage Order require employers to pay employees working more than eight (8) hours in a day or more than forty (40) hours in a workweek at the rate of time-and-one-half (1 ½) times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek. The applicable IWC Wage Order further provides that employers are required to pay employees working more than twelve (12) hours in a day overtime compensation at a rate of two (2) times their regular rate of pay. An employee’s regular rate of pay includes all remuneration for employment paid to, or on behalf of, the employee, including nondiscretionary bonuses and incentive pay.

YMCA OC willfully failed to pay all overtime wages owed to Mr. Saari and other aggrieved employees. During the relevant time period, Mr. Saari and other aggrieved employees were not paid

¹ These facts, theories, and claims are based on Mr. Saari’s experience and counsel’s review of those records currently available relating to Mr. Saari’s employment. Discovery conducted in litigation of wage and hour claims such as these often reveals additional claims that the aggrieved employee was not initially aware of (because the aggrieved employee was not aware of the law’s requirements, the employer misinformed its employee of the law’s requirements, or because the employer effectively hid the violations). Thus, Mr. Saari reserves the right to supplement this letter with additional facts, theories, and claims if he becomes aware of them subsequent to the submission of this letter.

overtime premiums for all of the hours they worked in excess of eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40) hours in a week, because all hours that they worked were not recorded.

During the relevant time period, YMCA OC had, and continues to have, a company-wide policy and/or practice of requiring Mr. Saari and other aggrieved employees to drive to YMCA OC's other locations to attend mandatory trainings and meetings, but did not compensate them for their travel time. For example, throughout his employment with YMCA OC, Mr. Saari was required to drive from YMCA OC's Huntington Beach location to YMCA OC's headquarters located in Tustin, California, to attend mandatory trainings and meetings after he completed his scheduled shift. Mr. Saari spent 30 minutes or more driving between locations while off-the-clock because he was only permitted to clock back in when he arrived at YMCA OC's headquarters. Thus, YMCA OC failed to track all of the time that employees spent performing work-related tasks outside of their shifts, and Mr. Saari and other aggrieved employees received no compensation for this time.

YMCA OC knew or should have known that as a result of these company-wide practices and/or policies, Mr. Saari and other aggrieved employees were performing assigned duties off-the-clock, and were suffered or permitted to perform work for which they were not paid. Because Mr. Saari and other aggrieved employees regularly worked shifts of eight (8) hours a day or more, or forty (40) hours a week or more, some of this off-the-clock work qualified for overtime premium pay. Therefore, Mr. Saari and other aggrieved employees were not paid overtime wages for all of the overtime hours they actually worked.

YMCA OC's failure to pay Mr. Saari and other aggrieved employees the balance of overtime compensation, as required by California law, violates the provisions of California Labor Code sections 510 and 1198. Mr. Saari and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring YMCA OC into compliance with the applicable IWC Wage Order and Labor Code sections 510 and 1198, pursuant to Labor Code sections 558 and/or 2699(a), (f), and (k).

Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 – Unpaid Minimum Wages

California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 require employers to pay employees the minimum wage fixed by the IWC. The payment of a lesser wage than the minimum so fixed is unlawful. Compensable work time is defined in Wage Order No. 4-2001 as "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so." Cal. Code Regs. Tit. 8, § 11040(2)(L) (defining "Hours Worked").

As set forth above, YMCA OC had, and continues to have, company-wide policies and/or practices of requiring Mr. Saari and other aggrieved employees to perform various work-related tasks outside of their scheduled shifts, including driving to and from YMCA OC's other locations to attend mandatory trainings or meetings. YMCA OC failed to track this time Mr. Saari and other aggrieved employees spent working off-the-clock, and Mr. Saari and other aggrieved employees received no compensation for this time.

YMCA OC did not pay at least minimum wages for all hours worked by Mr. Saari and other aggrieved employees. Also, to the extent that these off-the-clock hours did not qualify for overtime

premium payment, YMCA OC did not pay at least minimum wages for those hours worked off-the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198.

Accordingly, YMCA OC regularly failed to pay at least minimum wages to Mr. Saari and other aggrieved employees for all of the hours they worked in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Mr. Saari and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring YMCA OC into compliance with the applicable IWC Wage Order and Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198, pursuant to Labor Code sections 1197.1 and/or 2699(a), (f), and (k).

Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 – Failure to Provide Meal Periods

California Labor Code sections 226.7, 512(a), 516, and 1198 and the applicable IWC Wage Order require employers to provide meal periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. Pursuant to Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order, an employer may not require, cause or permit an employee to work for a period of more than five (5) hours per day without providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee. Under California law, first meal periods must start after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (2012). Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order also require employers to provide a second meal period of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1) additional hour of pay at the employee's regular rate, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

During the relevant time period, as stated, YMCA OC had, and continues to have, company-wide policies and/or practices of understaffing and/or single-staffing certain positions while assigning heavy workloads, including providing continuous monitoring of children, which has resulted in a lack of meal period coverage and prevented Mr. Saari and other aggrieved employees from taking all timely, uninterrupted meal periods to which they were entitled. Further, YMCA OC had a company-wide practice and/or policy of failing to schedule meal periods, which further caused Mr. Saari and other aggrieved employees to not be relieved of their duties for compliant meal periods.

As a result, Mr. Saari and other aggrieved employees had to work through all or part of their meal periods, had their meal periods interrupted, and/or had to wait extended periods of time before taking meal periods. For example, Mr. Saari was regularly required to take his meal periods late, after the fifth hour of work, due to the lack of coverage, requirement that employees provide continuous monitoring of children, and YMCA OC's failure to schedule meal periods. Mr. Saari and other aggrieved employees did not sign valid meal period waivers on days that they were entitled to meal periods and were not relieved of all duties.

At all times mentioned, YMCA OC knew or should have known that as a result of its company-wide policies and/or practices, Mr. Saari and other aggrieved employees were prevented from being relieved of all duties and required to perform some of their assigned duties during meal periods. YMCA OC further knew or should have known that it did not pay Mr. Saari and other aggrieved

employees meal period premiums when meal periods were late, interrupted, shortened, and/or missed.

Moreover, YMCA OC engaged in a company-wide practice and/or policy of not paying meal period premiums owed when compliant meal periods are not provided. Because of this practice and/or policy, Mr. Saari and other aggrieved employees have not received premium pay for all missed, late, and interrupted meal periods.

Accordingly, YMCA OC failed to provide all meal periods in violation of California Labor Code sections 226.7, 512(a), 516, and 1198. Mr. Saari and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring YMCA OC into compliance with the applicable IWC Wage Order and Labor Code sections 226.7, 512(a), 516, and 1198, pursuant to Labor Code sections 558 and/or 2699(a), (f), and (k).

Violation of California Labor Code §§ 226.7, 516, and 1198 – Failure to Authorize and Permit Rest Periods

California Labor Code sections 226.7, 516, and 1198 and the applicable IWC Wage Order require employers to provide rest periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC. The applicable IWC Wage Order provides that "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period" and that the "rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof" unless the total daily work time is less than three and one-half (3 ½) hours.

To comply with its obligation to authorize and permit rest periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer must "relinquish any control over how employees spend their break time, and relieve their employees of all duties—including the obligation that an employee remain on call. A rest period, in short, must be a period of rest." *Augustus, et al. v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 273 (2016).

During the relevant time period, YMCA OC regularly failed to authorize and permit Mr. Saari and other aggrieved employees to take a ten (10) minute rest period per each four (4) hour period worked or major fraction thereof. As with meal periods, YMCA OC's company-wide practices, including understaffing and/or single-staffing while assigning heavy workloads, including providing continuous monitoring of children, prevented Mr. Saari and other aggrieved employees from being relieved of all duties to take rest periods. Additionally, YMCA OC failed to schedule rest periods, which, coupled with YMCA OC's failure to provide adequate rest period coverage, further led to Mr. Saari and other aggrieved employees not being authorized and permitted to take rest periods.

Furthermore, upon information and belief, during the relevant time period, YMCA OC maintained a company-wide on-premises rest period policy, which effectively required that Mr. Saari and other aggrieved employees remain on the work premises during their rest periods. Because Mr. Saari and other aggrieved employees were restricted from leaving the premises during rest periods, they were denied the ability to use their rest periods freely for their own purposes, such as running personal

errands. Thus, YMCA OC effectively maintained control over Mr. Saari and other aggrieved employees during rest periods.

As a result of YMCA OC's practices and policies, Mr. Saari and other aggrieved employees worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without receiving all uninterrupted 10-minute rest periods to which they were entitled. For example, during his employment, Mr. Saari missed rest periods due to the lack of coverage and YMCA OC's failure to schedule rest periods for employees.

YMCA OC also has engaged in a company-wide practice and/or policy of not paying rest period premiums owed when compliant rest periods are not authorized and permitted. Because of this practice and/or policy, Mr. Saari and other aggrieved employees have not received premium pay for all missed rest periods.

Accordingly, YMCA OC failed to authorize and permit all rest periods in violation of California Labor Code sections 226.7, 516, and 1198. Mr. Saari and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring YMCA OC into compliance with the applicable IWC Wage Order and Labor Code sections 226.7, 516, and 1198, pursuant to Labor Code sections 558 and/or 2699(a), (f), and (k).

Violation of California Labor Code §§ 226(a), 1174(d), and 1198 – Non-Compliant Wage Statements and Failure to Maintain Accurate Payroll Records

California Labor Code section 226(a) requires employers to make, keep and provide true, accurate, and complete employment records. YMCA OC has not provided Mr. Saari and other aggrieved employees with properly itemized wage statements. Labor Code section 226(e) provides that if an employer fails to comply with providing an employee with properly itemized wage statements as set forth in 226(a), then the employee is entitled to recover the greater of all actual damages or \$50 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not to exceed \$4,000. Further, Labor Code section 226.3 provides that any employer who violates section 226(a) shall be subject to a civil penalty in the amount of \$250 per employee per violation in an initial citation and \$1,000 per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage statement or fails to keep the required records pursuant to Section 226(a).

During the relevant time period, YMCA OC has knowingly and intentionally provided Mr. Saari and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. For example, YMCA OC issued uniform wage statements to Mr. Saari and other aggrieved employees that fail to correctly list: gross wages earned; total hours worked; net wages earned; and all applicable hourly rates in effect during the pay period, including rates of pay for overtime wages, and the corresponding number of hours worked at each hourly rate. Specifically, YMCA OC violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

Because YMCA OC did not record the time Mr. Saari and other aggrieved employees spent working off-the-clock and deducted time from their records for meal periods that were interrupted and/or missed (and therefore time for which they should have been paid), YMCA OC did not list the correct amount of gross wages and net wages earned by Mr. Saari and other aggrieved employees in compliance with section 226(a)(1) and section 226(a)(5), respectively. For the same reason, YMCA OC failed to accurately list the total number of hours worked by Mr. Saari and other aggrieved

employees, in violation of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay period and the corresponding accurate number of hours worked at each hourly rate, in violation of section 226(a)(9).

The wage statement deficiencies also include, among other things, failing to list the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; failing to list all deductions; failing to list the inclusive dates of the period for which aggrieved employees were paid; failing to list the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number; failing to list the name and address of the legal entity that is the employer; and/or failing to state all hours worked as a result of not recording or stating hours worked off-the-clock.

California Labor Code section 1174(d) provides that “[e]very person employing labor in this state shall . . . [k]eep a record showing the names and addresses of all employees employed and the ages of all minors” and “[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments” Labor Code section 1174.5 provides that employers are subject to a \$500 civil penalty if they fail to maintain accurate and complete records as required by section 1174(d). During the relevant time period, and in violation of Labor Code section 1174(d), YMCA OC willfully failed to maintain accurate payroll records for Mr. Saari and other aggrieved employees showing the daily hours they worked and the wages paid thereto as a result of failing to record the off-the-clock hours that they worked.

California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Order. Section 1198 further provides that “[t]he employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period. During the relevant time period, YMCA OC engaged in company-wide practices and/or policies of failing to record actual hours worked, and thereby failed to keep accurate records of work period and meal period start and end times for Mr. Saari and other aggrieved employees, in violation of section 1198.

Because YMCA OC failed to provide the correct net and gross wages earned, applicable rates of pay, and number of total hours worked on wage statements, Mr. Saari and other aggrieved employees have been prevented from verifying, solely from information on the wage statements themselves, that they were paid correctly and in full. Instead, Mr. Saari and other aggrieved employees have had to look to sources outside of the wage statements themselves and reconstruct time records to determine whether in fact they were paid correctly and the extent of underpayment, thereby causing them injury.

Mr. Saari and other aggrieved employees are entitled to recover civil penalties, attorneys’ fees, costs, and interest thereon, and seek injunctive relief to bring YMCA OC into compliance with the applicable IWC Wage Order and Labor Code sections 226(a), 1174(d), and 1198, pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f), and (k).

Violation of California Labor Code § 204 – Failure to Timely Pay Wages During Employment

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. Alternatively, California Labor Code section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

During the relevant time period, YMCA OC failed to pay Mr. Saari and other aggrieved employees all wages due to them, including, but not limited to, overtime wages, minimum wages, meal and rest period premiums, and/or reporting time pay, within any time period specified by California Labor Code section 204.

Mr. Saari and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring YMCA OC into compliance with Labor Code section 204, pursuant to Labor Code sections 210 and/or 2699(a), (f), and (k).

Violation of California Labor Code §§ 201 and 202 – Failure to Timely Pay Final Wages Upon Termination

California Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

YMCA OC willfully failed to pay Mr. Saari and other aggrieved employees who are no longer employed by YMCA OC all their earned wages, including, but not limited to, overtime wages, minimum wages, meal and rest period premiums, and/or reporting time pay, either at the time of discharge, or within seventy-two (72) hours of their leaving YMCA OC's employ.

Mr. Saari and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring YMCA OC into compliance with Labor Code sections 201 and 202, pursuant to Labor Code sections 256 and/or 2699(a), (f), and (k).

Violation of California Labor Code § 450 – Compelling Patronization

Labor Code section 450 provides that an employer may not "compel or coerce any employee, or applicant for employment, to patronize his or her employer, or any other person, in the purchase of anything of value." An employer violates section 450 by forcing an employee to patronize the employer's business in the purchase of a company-provided good.

During the relevant time period, YMCA OC had a company-wide policy of not providing a sufficient number of uniform items to Mr. Saari and other aggrieved employees in relation to the shifts they were scheduled to work and for the tasks they were required to perform, Mr. Saari and other aggrieved employees were forced to pay out-of-pocket for some of their uniform items. For example, Mr. Saari spent approximately \$12 out-of-pocket to purchase an additional uniform shirt from YMCA OC per his supervisor's instruction. Thus, YMCA OC failed to provide necessary uniform items to employees, forcing employees to purchase additional uniform items.

YMCA OC's conduct of compelling and/or coercing Mr. Saari and other aggrieved employees to purchase goods from them is in violation of California Labor Code section 450. Mr. Saari and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring YMCA OC into compliance with Labor Code section 450, pursuant to Labor Code sections 2699(a), (f), and (k).

Violation of California Labor Code § 1198 and California Code of Regulations Title 8, Section 11040 Subdivision 5(A) – Failure to Pay Reporting Time Pay

California Labor Code section 1198 dictates that no employer may employ an employee under conditions of labor that are prohibited by the applicable IWC wage order. California Labor Code section 1198 further requires that "... the standard conditions of labor fixed by the commission shall be the ... standard conditions of labor for employees. The employment of any employee ... under conditions of labor prohibited by the order is unlawful."

California Code of Regulations, Title 8, section 11040(5)(A) provides that "[e]ach workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee's usual or scheduled day's work, the employee shall be paid for half the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee's regular rate of pay, which shall not be less than the minimum wage." The "primary purpose of the reporting time regulation" is "to guarantee at least partial compensation for employees who report to work expecting to work a specified number of hours, and who are deprived of that amount because of inadequate scheduling or lack of proper notice by the employer." *Aleman v. AirTouch Cellular*, 209 Cal. App. 4th 556 (2012).

During the relevant time period, YMCA OC violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11040(5)(A), because YMCA OC failed to pay Mr. Saari and other aggrieved employees reporting time pay when they reported to work for their usual or scheduled shift but were put to work for less than half of their usual or scheduled day's work.

YMCA OC had a company-wide practice of sending Mr. Saari and other aggrieved employees home early from their shifts, including before they had worked at least half of their usual or scheduled shift, but would not pay Mr. Saari and other aggrieved employees for half of their scheduled shift. For example, when scheduled to work a shift of eight (8) hours, YMCA OC's managers sent Mr. Saari home one (1) hour after the start of his shift. Although Mr. Saari and other aggrieved employees reported to work based on the schedule that was provided to them, YMCA OC would send them home before they worked at least half of their usual or scheduled shifts. When this occurred, YMCA OC did not pay Mr. Saari and other aggrieved employees for at least half of their scheduled day's work or the minimum reporting time pay.

Accordingly, Mr. Saari and other aggrieved employees were not properly compensated with reporting time pay in violation of California Labor Code section 1198 and California Code of Regulations, Title 8, section 11040(5)(A). Mr. Saari and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring YMCA OC into compliance with the applicable IWC Wage Order and Labor Code section 1198, pursuant to Labor Code sections 2699(a), (f), and (k).

Violation of California Labor Code § 2802 – Unreimbursed Business Expenses

California Labor Code section 2802 requires employers to pay for all necessary expenditures and losses incurred by the employee in the performance of his or her job. The purpose of Labor Code section 2802 is to prevent employers from passing off their cost of doing business and operating expenses on to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144 (2014). The applicable wage order, IWC Wage Order No. 4-2001, provides that: "[w]hen tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft." IWC Wage Order No. 4-2001 further provides that: "[w]hen uniforms are required by the employer to be worn by the employee as a condition of employment, such uniforms shall be provided and maintained by the employer."

During the relevant time period, YMCA OC, on a company-wide basis, required that Mr. Saari and other aggrieved employees use their own personal vehicles to travel to attend employee meetings and trainings. For example, throughout Mr. Saari's employment with YMCA OC, Mr. Saari was required to use his personal vehicle and drive from YMCA OC's Huntington Beach location to YMCA OC's headquarters in Tustin, California, to attend employee meetings and trainings. On average, Mr. Saari drove approximately 30 miles roundtrip each time, but was not reimbursed for mileage or travel expenses. Although YMCA OC required Mr. Saari and other aggrieved employees to utilize their personal vehicles to carry out their work-related responsibilities, YMCA OC failed to reimburse them for their mileage or travel expenses.

Also, during the relevant time period, YMCA OC required Mr. Saari and other aggrieved employees to wear uniforms bearing the YMCA company logo, including uniform shirts. However, YMCA OC did not provide its employees with sufficient uniforms to wear for their shifts throughout the week. For example, YMCA OC only provided Mr. Saari with two (2) shirts at the time of hire. Because YMCA OC failed to provide their employees with an adequate number of uniforms in relation to their scheduled shifts and for the tasks they were required to perform, Mr. Saari and other aggrieved employees were forced to pay out-of-pocket for some of their uniform items. For example, Mr. Saari spent approximately \$12 out-of-pocket to purchase an additional uniform shirt from YMCA OC because his supervisor wanted to establish a new color-coordinated scheme for uniforms and required Mr. Saari to purchase a new, blue uniform shirt. Since YMCA OC did not provide an adequate number of uniform components to all employees, Mr. Saari and other aggrieved employees were required to purchase additional uniform items, such as shirts, directly from YMCA OC, and were not reimbursed for these costs.

Moreover, because YMCA OC failed to provide its employees with an adequate number of uniform shirts in relation to their scheduled shifts, Mr. Saari and other aggrieved employees were required to wash their uniform items more frequently than other clothing, thus incurring additional laundry

expenses for the upkeep of their uniforms. Thus, YMCA OC failed to provide and maintain uniforms it required Mr. Saari and other aggrieved employees to wear during their shifts and forced them to incur the costs of purchasing and maintaining employee uniforms.

YMCA OC could have provided Mr. Saari and other aggrieved employees with the actual equipment for use on the job, such as company vehicles, as well as an adequate number of uniform items or access to laundering services; or, YMCA OC could have reimbursed employees for the costs of their mileage, travel expenses, and laundering expenses or provided a uniform maintenance allowance. Instead, YMCA OC passed these operating costs onto Mr. Saari and other aggrieved employees. At all relevant times, Mr. Saari did not earn at least two (2) times the minimum wage.

Thus, YMCA OC had, and continues to have, a company-wide policy and/or practice of not reimbursing employees for expenses necessarily incurred in violation of California Labor Code section 2802. Mr. Saari and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring YMCA OC into compliance with the applicable IWC Wage Order and Labor Code section 2802, pursuant to Labor Code section 2699(a), (f), and (k).

California Labor Code § 558(a)

California Labor Code section 558(a) provides "[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid . . . (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid" Labor Code section 558(c) provides that "[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law." YMCA OC, at all relevant times, was an employer or person acting on behalf of an employer(s) who violated Mr. Saari's and other aggrieved employees' rights by violating various sections of the California Labor Code.

Accordingly, Mr. Saari seeks the remedies set forth in Labor Code section 558 for himself, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 1194.5, 2699(a), 2699(k), 2699.3(a) and 2699.3(c), 2699.5, and 558, Mr. Saari, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties and injunctive relief for himself, all other aggrieved employees, and the State of California against YMCA OC for violations of California Labor Code sections 201, 202, 204, 226(a), 226.7, 450, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, and 2802.

Therefore, on behalf of all aggrieved employees, Mr. Saari seeks all applicable civil penalties related to these violations of the California Labor Code pursuant to PAGA.

Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

Alexander Lima
Capstone Law APC
1875 Century Park East, Suite 1000
Los Angeles, CA 90067
(310) 556-4811

Best Regards,

A handwritten signature in black ink, appearing to read 'Alexander Lima', with a stylized flourish extending to the right.

Alexander Lima

Copy: YOUNG MEN'S CHRISTIAN ASSOCIATION OF ORANGE COUNTY (via U.S. Certified Mail); CALIFORNIA STATE ALLIANCE OF YMCAS (via U.S. Certified Mail)

CAPSTONE LAW, APC

1875 Century Park East

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