



JUSTICE FOR WORKERS

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February 26, 2025

VIA PAGA ONLINE FILING ONLY

California Labor and Workforce Development Agency

Attn: PAGA Administrator

455 Golden Gate Avenue, 9th Floor

San Francisco, CA 94102

<https://dir.tfaforms.net/308>

Re: Nichole Nichols v. DecisionHR I, Inc. and Legacy Personnel, Inc.

Notice of Private Attorneys General Act Claim

Dear PAGA Administrator:

This office has been retained by aggrieved employee Nichole Nichols (“Plaintiff”) concerning a representative action pursuant to the Private Attorneys General Act of 2004, California Labor Code §§ 2698, *et seq.* (“PAGA”) against DecisionHR I, Inc. and Legacy Personnel, Inc. (including any and all affiliates, subsidiaries, parents, directors, officers, managing agents, and executive employees) (collectively referred to as “Defendants”) for violations of California wage and hour laws. Plaintiff seeks civil penalties for violations of the Labor Code and all other remedies available under PAGA.

Plaintiff seeks these remedies on behalf of the State of California and “aggrieved employees,” as defined herein. This letter is sent in compliance with the notice requirements of Labor Code § 2699.3.

Defendants are a staffing agency which provides both staff and human resource’s consulting to certain worksite employers, including the California Solano State Prison located at 2100 Peabody Road, Vacaville, CA 95687. Plaintiff was employed as a non-exempt nurse from September 26, 2022 through February 28, 2024. Plaintiff performed work for Defendants at Solano State Prison. Plaintiff was an hourly employee with her last hourly rate being \$53.

Defendants required Plaintiff and other similarly situated employees to complete handwritten timesheet(s). Defendants made no effort to explain to Plaintiff and other similarly situated employees what hours and/or minutes constituted work and/or work time. Defendants did not advise Plaintiff or any other similarly situated employees to enter any off-the-clock hours or minutes worked on their timesheets. Defendant did not advise Plaintiff and other similarly

situated employees to enter all time worked to the nearest minute on their timesheets. Defendants did not advise Plaintiff and other similarly situated employees to enter the time that they worked through their meal breaks on their timesheets. Accordingly, Plaintiff and other similarly situated employees identified only the time they were scheduled to start and end work on their timesheets. As such, Plaintiff and other similarly situated employees' timesheets are all uniform with very little to no deviation. Based on the foregoing, Defendants failed to maintain accurate time records.

Plaintiff and other similarly situated employees worked for Defendants five days per week and were scheduled to work eight hours per day and forty hours per week. However, throughout their employment, Plaintiff and other similarly situated employees regularly worked over eight hours in a day and more than forty hours per week performing tasks off the clock which were known or should have been known to Defendants by virtue of its written protocol and observation of general work demands. Their off the clock activities included, but were not limited to, undergoing security checks both before clocking in and after clocking out, picking up room keys, and completing paperwork. Plaintiff estimates that these off-the-clock activities were thirty to forty-five minutes per day. Defendants never advised Plaintiff or other employees to enter the time it took to complete any of these off-the-clock activities on their timesheets. Moreover, Defendants did not afford Plaintiff or other employees any mechanism to report any of their off-the-clock activities to Defendants.

Per the terms of Plaintiff and other similarly situated employees employment with Defendants, they were required to receive up to \$53.00 per hour for work for Defendants. On each occasion that they worked off-the-clock, they did not receive compensation for all the time they worked. Furthermore, on each occasion when their work hours exceeded eight in a single working day and/or forty hours in a week, they did not receive overtime compensation. Accordingly, Plaintiff and other similarly situated employees are owed minimum wage, liquidated damages, and overtime compensation for each of their uncompensated off-the-clock hours.

Despite regularly working more than eight hours per day, Defendants did not authorize and/or permit Plaintiff and other similarly situated employees to take an uninterrupted duty free 10-minute rest break for every three and half hours or major fraction thereof that they worked nor did Defendants authorize and/or permit them to take an uninterrupted duty free meal break for every five hours that they worked. Instead, Defendants asserted control over Plaintiff and other similarly situated employees by requiring, pressuring, or encouraging them to perform nursing related work tasks which could not be completed without working in lieu of taking mandatory meal and/or rest periods. Moreover, Defendants mandated that they insert the time that they started and ended their meal break whether a meal break was taken or interrupted or be subjected to discipline, including termination. Accordingly, they are owed one hour of premium pay for each meal and rest period that they did not take or was interrupted as well as compensation for the time they were working during their meal breaks.

14. Defendants compensated Plaintiff and similarly situated employees on a weekly basis. They did not receive compensation for their off-the-clock hours, non-compliant meal breaks, and/or non-compliant rest breaks on their regular pay days. In fact, they never received

compensation for their off-the-clock work hours, non-compliant meal breaks, and/or non-compliant rest breaks. Accordingly, Defendants violated Labor Code sections 204 and 210.

Despite Defendants having actual and/or constructive knowledge that Plaintiff and other similarly situated employees were owed premium pay for non-compliant meal and rest breaks, off-the-clock hours, minimum wage, and overtime by virtue of having constructive knowledge of their work demands, Defendants intentionally failed to pay Plaintiff and other similarly situated employees premium pay, minimum wages, and overtime wages that were due at the time of their termination.

Additionally, despite Defendants having actual and/or constructive knowledge that Plaintiff and other similarly situated employees were owed premium pay for non-compliant meal and rest breaks, off-the-clock hours, minimum wage, and overtime by having constructive knowledge of their work demands, Defendants knowingly and intentionally failed to identify the correct hours worked by each employee on their weekly payroll stubs as well as omitting premium pay for non-compliant meal and rest breaks and not identifying applicable rates for off-the-clock worked including minimum wage and overtime. Defendants further failed to identify the correct entity which employed Plaintiff and other similarly situated employees. In that regard, their payroll stubs identified DecisionHR as an employer instead of DecisionHR 1, Inc. The knowing and intentional omissions on their payroll stubs caused them to suffer an injury by precluding them from being adequately informed about their employing organizations, compensation and not permitting them to readily determine essential details like total hours worked, gross wages earned, and applicable minimum wage and overtime rates.

Based on the following facts and theories, Defendants violated and/or continue to violate, among other provisions of the Labor Code and applicable wage law, California Labor Code §§ 201, 202, 203, 204, 210, 226, 226.7, 246, 256, 510, 512, 516, 558, 558.1, 1174, 1194, 1197, 1197.1, 1198, and 2802, and IWC Wage Orders including Wage Order 4-2001.

Labor Code §§ 1194, 1197, and 1197.1 provide the minimum wage to be paid to employees, and the payment of a lesser wage than the minimum so fixed is unlawful. The applicable Wage Order defines “hours worked” 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.” See §2 of all applicable Wage Orders. Therefore, employers are required to pay employees for all time spent subject to the control of the employer and all time the employee is suffered or permitted to work. During the relevant time period, Defendants required Plaintiff and other aggrieved employees to perform work before clocking in, after clocking out, and/or during off-the-clock meal breaks, and failed to compensate aggrieved employees for this time. The off-the-clock activities have been described above.

Labor Code §§ 510 and 1198 require employers to pay time-and-a-half or double time overtime wages, and make it unlawful to work employees for hours longer than eight hours in one day and/or over forty hours in one week without paying the premium overtime rates at one-and-one-half times or double the regular rate of pay, including additional remuneration. During the relevant time period, Plaintiff and other aggrieved employees worked in excess of 8 hours in a day and 40 hours in a week but were not paid for all hours worked before clocking in, after clocking out, and/or during off-the-clock meal breaks.

Labor Code §§ 226.7, 512, 516, and the Wage Orders require employers to pay an employee one additional hour of pay at the employee's regular rate of compensation for each meal or rest period that is not provided. During the relevant time period, Defendants required Plaintiff and other aggrieved employees to work during meal and rest periods and failed to compensate them properly and at the regular rate of compensation for non-compliant meal and rest periods including, *inter alia*, short, late, interrupted, and missed meal and rest periods.

Labor Code §§ 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 if an employee quits 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' 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. During the relevant time period, Defendants failed to pay Plaintiff and other aggrieved employees all wages due to them within any time period specified by Labor Code §§ 201 and 202, including earned and unpaid minimum, overtime, and premium wages as discussed above.

Labor Code § 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. Labor Code § 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. During the relevant time period, Defendants failed to pay Plaintiff and other aggrieved employees all wages due to them within any time period specified by Labor Code § 204, including earned and unpaid minimum, overtime, and premium wages as discussed above.

Labor Code § 226 requires employers to make, keep and provide complete and accurate itemized wage statements to their employees. During the relevant time period, Defendants did not provide Plaintiff and other aggrieved employees with complete and accurate itemized wage statements. The wage statements they received from Defendants were in violation of Labor Code § 226(a). The violations include, but are not limited to, the failure to include the total hours worked, time worked in previous pay periods, time spent working off the clock and during meal and rest periods, failure to state the correct gross and net wages earned for all time worked, identifying the correct employer entity, and failure to state all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

Labor Code § 1174 requires an employer to keep, 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. These records shall be kept with rules established for this purpose by the commission, but in any case shall be kept on file for not less than two years. During the relevant time period, Defendants failed to keep accurate and complete payroll records showing the actual hours worked daily,

including off the clock time, and the wages earned by Plaintiff and other aggrieved employees, including earned and unpaid minimum, overtime, and premium wages as discussed above.

Labor Code § 13831 requires employers to maintain accurate daily time records showing when each employee begins and ends each work period at each and every worksite or premises of the client employer where labor, work, or services are performed by the employee. It further requires that compensable travel time to and from the first and last worksite, travel time between client employer worksites or premises, meal periods and total daily hours worked shall also be recorded. During the relevant time period, Defendants failed to maintain accurate daily records of Plaintiff and other aggrieved employees showing when each employee begins and ends each work period at each and every worksite, meal periods, and total daily hours worked. Defendants failures were due to a number of factors including but not limited to: (1) failing to identify what hours and/or minutes constituted work and/or work time, (2) failing to inform Plaintiff and other aggrieved employees to enter all time worked, including off the clock activities, (3) failing to inform Plaintiff and other aggrieved employees to enter all time worked to the nearest minute as opposed to their shift time, (4) and failing to inform Plaintiff and other aggrieved employees to enter all time worked during meal and rest breaks.

Therefore, on behalf of all aggrieved employees, Plaintiff seeks all applicable penalties arising out of the above-referenced wage, hour, and payroll practices, or which could be assessed and collected by the LWDA, for violation of the Labor Code pursuant to PAGA. Labor Code § 2699.3 requires that a claimant send a certified letter (i.e. this letter) to the employer in question and file an online claim to the LWDA setting forth the claims and the basis for the claims, thereby giving the LWDA and employer an opportunity to investigate the claims and/or take any action they deem appropriate. If the LWDA and Defendants elect not to take any action with respect to any of the foregoing claims, Plaintiff will seek these penalties in a civil action on behalf of all aggrieved employees within one year of the date of this letter as allowed by law.

If you have any questions, please contact me at the phone number or address below:

JUSTICE FOR WORKERS, P.C.;
E-Mail: young@justiceforworkers.com
9575 Bolsa Ave
Westminster, CA 92683
Tel: 323-922-2000

Thank you for your attention to this matter.

Very truly yours,

/s/

Young Park

Cc: Via USPS Certified Mail – Return Receipt Requested

DecisionHR I, Inc. and Legay Personnel, Inc.

