

EXHIBIT 4

WILSHIRE LAW FIRM, PLC

3055 Wilshire Blvd, 12th Floor
Los Angeles, CA 90010
Tel: (213) 381-9988
Fax: (213) 381-9989
www.wilshirelawfirm.com



Bobby Saadian, Esq. JD/MBA

Colin M. Jones, Esq.	Wesley Shelton, Esq.
Justin F. Marquez, Esq.	Christina Le, Esq.
John Yslas, Esq.	Jennifer Leinbach, Esq.
Jon Teller, Esq.	Jeffrey Bills, Esq.
Tae Kim, Esq.	Nathan Kingery, Esq.
Daniel DeSantis, Esq.	Elizabeth Votra, Esq.
Jennifer P. Burkes, Esq.	Benjamin Haber, Esq.
Mary Caruso, Esq.	Ghazaleh Attaran, Esq.
Johnny Ogata, Esq.	Adam Sherman, Esq.
Nicol Hajjar, Esq.	Jesenia Martinez, Esq.
Stephanie Mazepa, Esq.	Arrash Fattahi, Esq.
Brad Stuckey, Esq.	Jesse Chen, Esq.
Thiago Coelho, Esq.	Arsine Grigoryan, Esq.
Cameron Stewart, Esq.	
Shahin Rezvan, Esq.	

February 1, 2024

LWDA
Attn. PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612
(Via Online Submission)

Cogency Global Inc.
Agent for Service of Process
Rio Hondo Healthcare, Inc.
Ensign Services, Inc.
The Ensign Group, Inc.
1325 J St., Ste. 1550
Sacramento, CA 95814
(Via Certified Mail, Return Receipt Requested)
#9489 0090 0027 6579 6258 62

Rio Hondo Healthcare, Inc. dba Downey Post
Acute
13007 Paramount Blvd.
Downey, CA 90242
(Via Certified Mail, Return Receipt Requested)
#9489 0090 0027 6579 6258 79

Rio Hondo Healthcare, Inc. dba Downey Post
Acute
Ensign Services, Inc.
The Ensign Group, Inc.
29222 Rancho Viejo Rd., #127
San Juan Capistrano, CA 92675
(Via Certified Mail, Return Receipt Requested)
#9489 0090 0027 6579 6258 86

Re: ***Stephanie Thomas v. Rio Hondo Healthcare, Inc. dba Downey Post Acute, et al.***
Notice of Labor Code Violations and PAGA Penalties

To Whom It May Concern:

Please be advised that my office has been retained by Stephanie Thomas (“Ms. Thomas” or “Employee”) to pursue a Labor Code Private Attorneys General Act of 2004 (“PAGA”) representative action (Cal. Lab. Code §§ 2699, *et seq.*) against Employee’s former employers, Rio Hondo Healthcare, Inc. dba Downey Post Acute, Ensign Services, Inc., and The Ensign Group, Inc. (“Employers”). The purpose of this letter is to comply with PAGA and set forth the facts and theories of California Labor Code violations which we allege Employers engaged in with respect to Employee and some or potentially all of Employers’ Aggrieved Employees.

Ms. Thomas wishes to pursue this action on behalf of Employee as Aggrieved Employees, on behalf of the State of California, as well as on behalf of some or potentially all other persons who worked for Employers in California as a non-exempt or hourly-paid employee at any time within the applicable statutory period (hereafter, the “Aggrieved Employees”).

Employee and the Aggrieved Employees, or some of them, suffered the Labor Code violations described below.

Ms. Thomas' Employment with Employers

Employers are a skilled nursing facility. Employee worked as a certified nursing assistant. Employee's primary job function was to assist residents with their daily living activities, such as hygiene and eating, while monitoring general health and vital signs and reporting to the supervising licensed vocational nurse. In performing Employee's duties, Employee was regularly required to perform work (off-the-clock), without compensation. Due to high workloads, Employee was also frequently deprived of an opportunity to take legally compliant meal and rest breaks. Employers failed to provide Employee and other Aggrieved Employees with the meal and rest break premiums they were entitled to under the Labor Code. Additionally, Employee necessarily incurred business-related expenses, but Employers failed to reimburse such business-related expenses. These are just non-exhaustive examples of the facts and theories the Employee asserts, which are described in more detail below.

Employers own/owned and operate/operated an industry, business, and establishment within the State of California. As such and based upon all the facts and circumstances incident to Employers' business in California, Employers are subject to the California Labor Code, Wage Orders issued by the Industrial Welfare Commission ("IWC"), and the California Business & Professions Code.

Ms. Thomas is a resident of Paramount, California who worked for Employers in Los Angeles County, California as an hourly-paid, non-exempt employee from approximately August 2021 to approximately July 2023.

During Employee's employment for Employers, Employers paid Employee an hourly wage and classified Employee as non-exempt from overtime. Employers typically scheduled Employee to work at least five days in a workweek and at least eight hours per day, but Employee also worked more than eight hours in a workday and more than forty (40) hours in a workweek.

Throughout Employee's employment, Employers failed to pay for all hours worked (including minimum, straight time, and overtime wages), failed to provide Employee with legally compliant meal periods, failed to authorize and permit Employee to take rest periods, failed to timely pay all final wages to Employee when Employers terminated Employee's employment, failed to furnish accurate wage statements to Employee, failed to indemnify Employee for business expenditures, and failed to timely produce Employee's requested employment records. As discussed below, Employee's experience working for Employers was typical and illustrative.

Failure to Pay for All Hours Worked, Including Minimum, Straight Time, and Overtime Wages

Under California law, an employer must pay for all hours worked by an employee. "Hours worked" is 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. In addition, Labor Code § 510 provides that employees in California shall not be employed more than eight hours in any workday or forty (40) hours in a workweek unless they receive additional compensation beyond their regular wages in amounts specified by law.

Labor Code §§ 1194 and 1198 also provide that employees in California shall not be employed more than eight hours in any workday unless they receive additional compensation beyond their regular wages in amounts specified by law. Additionally, Labor Code § 1198 states that the employment of an employee for longer hours than those fixed by the IWC is unlawful.

Throughout the statutory period, Employers at times failed to pay Employee and the Aggrieved Employees, or some of them, for all hours worked, including minimum, straight time, and overtime wages. Employers at times required Employee and the Aggrieved Employees, or some of them, to work “off-the-clock,” uncompensated, by, for example, requiring Employee and the Aggrieved Employees to perform work during uncompensated meal periods and rest periods, and requiring Employee and the Aggrieved Employees to perform work before clocking in and/or after clocking out. Some of this unpaid work should have been paid at the overtime rate. California Labor Code § 510 requires that employers compensate employees 1.5 times their regular rate of pay when employees work over eight hours per day, 40 hours per week, or when employees work up to eight hours on any seventh day of a workweek.

Employers at times failed to properly calculate Employee’s regular rate of pay when paying overtime, by failing to include all compensation in Employee’s overtime calculations. In failing to pay for all hours worked, Employers also failed to maintain accurate records of the hours Employee and the Aggrieved Employees, or some of them, worked.

Throughout the statutory period, Employers also engaged, at times, in a practice of improper rounding. Under *Camp v. Home Depot U.S.A., Inc.* (2022) 84 Cal.App.5th 638, because Employers could and did track the exact time in minutes that Employee worked, they must pay for all time worked. When an employer uses an electronic timekeeping system to record time worked, this ability to “precisely capture time worked” means that “the employer must pay the employee for that worktime when due.” (*Id.* at 671.) As a result of Employers’ rounding policy, Employee consistently was not compensated at least minimum wage for all hours that Employee worked.

As a result, Employers are liable to Employee and the Aggrieved Employees, or some of them, for the civil penalties provided for in Labor Code §§ 210, 1197.1, and 2699(f)(2) for failing to pay for all hours worked, including minimum, straight time, and overtime wages.

Failure to Provide Meal Periods

Under California law, employers have an affirmative obligation to relieve employees of all duty in order to take their first 30-minute, duty-free meal periods no later than the start of sixth hour of work in a workday, and to allow employees to take their second 30-minute, duty-free meal period no later than the start of the eleventh hour of work in the workday. Further, employees are entitled to be paid one hour of additional wages for each workday they were not provided with all required meal period(s).

Despite these legal requirements, Employers at times wrongfully failed to provide Employee and the Aggrieved Employees, or some of them, with their legally mandated 30-minute, uninterrupted, and duty-free meal period in a manner required by law (and also including but not limited to failing at times to provide Plaintiff, the Class, and the Aggrieved Employees, or some of them, the opportunity to leave the work premises to take meal periods). Employers also continued to assert control over Employee and the Aggrieved Employees, or some of them, by, among other things, requiring, pressuring, or encouraging them to perform work tasks which could not be completed without working in lieu of taking mandatory meal periods, or by denying Employee and the Aggrieved Employees, or some of them, permission to take a meal period under the conditions required by law, and without properly compensating Employee and the Aggrieved Employees, or some of them, for meal periods that were not provided as required by law. Employers also did not inform Employee of Employee’s right to, nor permitted Employee to take, all of Employee’s second meal periods when Employee worked at least ten hours of work in a workday and otherwise unlawfully pressured Employee to waive such breaks. Accordingly, Employers at times failed to

provide meal periods to Employee and the Aggrieved Employees, or some of them, in compliance with California law.

Employee and the Aggrieved Employees, or some of them, are thus entitled to be paid one hour of additional wages for each workday they were not provided with all required meal period(s). Employers, however, at times failed to pay Employee and the Aggrieved Employees, or some of them, the additional wages to which they were entitled for meal periods that were not provided.

As a result, Employers are liable to Employee and the Aggrieved Employees, or some of them, for the civil penalties provided for in Labor Code §§ 210 and 2699(f)(2) for failing to provide meal periods and pay meal period premium wages.

Failure to Authorize and Permit Rest Periods

Employers are required by California law to authorize and permit breaks of ten uninterrupted minutes for each four hours of work or major fraction of four hours (i.e., more than two hours). Thus, for example, if an employee's work time is six hours and ten minutes, the employee is entitled to two rest breaks. Each failure to authorize rest breaks as so required is itself a violation of California's rest break laws.

Throughout the statutory period, Employers at times have wrongfully failed to authorize and permit Employee and the Aggrieved Employees, or some of them, to take legally compliant rest periods in a manner required by law (and also including but not limited to failing, at times, to authorize and permit Plaintiff, the Class, and the Aggrieved Employees, or some of them, the opportunity to leave the work premises to take rest periods). Employers at times required Employee and the Aggrieved Employees, or some of them, to work in excess of four consecutive hours a day without Employers' authorizing and permitting Employee to take a 10-minute, uninterrupted, duty-free rest period for every four hours of work (or major fraction of four hours), or without compensating Employee and the Aggrieved Employees, or some of them, for rest periods that were not authorized or permitted.

Instead, Employers at times continued to assert control over Employee and the Aggrieved Employees, or some of them, by requiring, pressuring, or encouraging them to perform work tasks which could not be completed without working in lieu of taking mandatory rest periods, or at times by denying Employee and the Aggrieved Employees, or some of them, permission to take a rest period. Accordingly, Employers at times failed to authorize and permit Employee and the Aggrieved Employees, or some of them, to take rest periods in compliance with California law. Employee and the Aggrieved Employees, or some of them, are thus entitled to be paid one hour of additional wages for each workday he or she was not authorized and permitted to take all required rest period(s). Employers, however, at times failed to pay Employee and the Aggrieved Employees, or some of them, the additional wages to which they were entitled for rest periods that they were not authorized and permitted to take.

As a result, Employers are liable to Employee and the Aggrieved Employees, or some of them, for the civil penalties provided for in Labor Code §§ 210 and 2699(f)(2) for failing to authorize and permit rest periods and pay rest period premium wages.

Failure to Pay All Earned Wages Twice Per Month

Based on Employers' failure at times to pay Employee and the Aggrieved Employees, or some of them, for all wages as discussed above, Employers also violated Labor Code § 204.

Labor Code § 204 requires employers to pay employees all earned wages two times per month. Throughout the statute of limitations period applicable to this cause of action, employees were entitled to be paid twice a month at their regular rates, including all meal period premium wages owed, rest period premium wages owed, and wages owed for overtime hours worked. However, at times, Employers failed and refused to pay the Employee all wages due, and failed to pay those wages twice a month, in that Employee was not paid all wages for all meal periods not provided by Employers, all wages for all rest periods not authorized and permitted by Employers, and all wages for all hours worked. As a result, Employers owe Employee the legally required wages for unpaid wages, and Employee and the Aggrieved Employees, or some of them, suffered damages in those amounts.

Moreover, Employers are liable to Employee and the Aggrieved Employees, or some of them, for the civil penalties provided for in Labor Code § 210 for failing to pay all earned wages twice per month.

Failure to Maintain Accurate Records of Hours Worked and Meal Periods

Employee seeks penalties under California Labor Code § 1174(d). Pursuant to California Labor Code § 1174.5, any person, including any entity, employing labor who willfully fails to maintain accurate and complete records required by California Labor Code § 1174 is subject to a penalty under § 1174.5. Pursuant to the applicable IWC Order § 7(A)(3), every employer shall keep time records showing when the employee begins and ends each work period. Meal periods and total hours worked daily shall also be recorded.

Employers, however, at times failed to maintain accurate records of hours worked and all meal periods taken or missed by Employee and the Aggrieved Employees, or some of them.

Employers' failure to provide and maintain records required by the California Labor Code and the applicable IWC Wage Orders deprived Employee and the Aggrieved Employees, or some of them, the ability to know, understand and question the accuracy and frequency of meal periods, and the accuracy of their hours worked stated in Employers' records. Therefore, Employee and the Aggrieved Employees, or some of them, had no way to dispute the resulting failure to pay wages, all of which resulted in an unjustified economic enrichment to Employers. As a direct result, Employee and the Aggrieved Employees, or some of them, have suffered and continue to suffer, substantial losses related to the use and enjoyment of such wages, lost interest on such wages and expenses and attorneys' fees in seeking to compel Employers to fully perform their obligation under state law, all to their respective damage in amounts according to proof at trial. As a result of Employers' knowing failure, at times, to comply with the California Labor Code and applicable IWC Wage Orders, Employee and the Aggrieved Employees, or some of them, have also suffered an injury in that they were prevented from knowing, understanding, and disputing the wage payments paid to them.

Failure to Timely Pay All Wages at Termination

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 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.

Within the applicable statute of limitations, the employment of Employee and many other Aggrieved Employees ended, i.e., was terminated by quitting or being discharged, and the employment of others will be terminated. However, during the relevant time period, Employers at times failed, and continue at times to fail, to pay Employee and terminated Aggrieved Employees, or some of them, without abatement, all wages required to be paid by Labor Code sections 201 and 202 either at the time of discharge, or within seventy-two (72) hours of their leaving Employers' employment. These unpaid wages include wages for unpaid work time (including minimum, straight time, and overtime wages), missed meal period premium wages, and missed rest period premium wages.

Employers' conduct violates Labor Code §§ 201 and 202. Labor Code § 203 provides that if an employer willfully fails to pay wages owed, in accordance with sections 201 and 202, then the wages of the employee shall continue as a penalty wage from the due date, and at the same rate until paid or until an action is commenced; but the wages shall not continue for more than thirty (30) days.

Accordingly, Employee and the Aggrieved Employees, or some of them, are entitled to recover from Employers their additionally accruing wages for each day they were not paid, at their regular hourly rate of pay, up to thirty (30) days maximum pursuant to Labor Code § 203. Moreover, Employers are liable to Employee and the Aggrieved Employees, or some of them, for the civil penalties provided for in Labor Code § 2699(f)(2) for failing to timely pay all wages at termination.

Failure to Furnish Accurate Itemized Wage Statements

Labor Code § 226(a) provides that every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees an accurate itemized wage statement in writing showing nine pieces of information, including: (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. An employee is presumed to suffer an injury if this information is missing. (Lab. Code § 226(e)(2)(B)(iii).)

The statute further provides: "An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney's fees." (Lab. Code § 226(e)(1).)

Throughout the statutory period, Employers at times failed to, and continue at times to fail, to timely furnish Employee and the Aggrieved Employees, or some of them, with accurate, itemized wage statements showing all applicable hourly rates, and all gross and net wages earned (including correct hours worked, correct wages for meal periods that were not provided in accordance with California law, and correct wages for rest periods that were not authorized and permitted to take in accordance with California law).

Because Employers at times violated Labor Code § 226, Employee and similarly Aggrieved Employees, or some of them, suffered injury and damage to their statutorily protected rights. Accordingly, Employee and similarly Aggrieved Employees, or some of them, are entitled to recover from Employers the greater of their actual damages caused by Employers' failure to comply with Labor Code § 226(a), or an aggregate penalty not exceeding four thousand dollars (\$4,000) per employee. Moreover, Employers are liable to Employee and the Aggrieved Employees, or some of them, for the civil penalties provided for in Labor Code § 226.3 for failing to timely furnish accurate itemized wage statements.

Failure to Indemnify for Necessary Expenditures

Labor Code § 2802(a) provides that employers shall indemnify their employees for all necessary business expenditures or losses that have been incurred by the employees in direct discharge of his or her duties. Throughout the statute of limitations period applicable to this cause of action, Employers at times wrongfully required Employee and the Aggrieved Employees, or some of them, to pay expenses that they incurred in direct discharge of their duties for Employers. Employee and the Aggrieved Employees, or some of them, at times paid out-of-pocket for necessary employment-related expenses. Employee and the Aggrieved Employees, or some of them, incurred substantial expenses as a direct result of performing their job duties for Employers, but Employers failed to indemnify Employee and the Aggrieved Employees, or some of them, for these employment-related expenses.

As a result, Employers are liable to Employee and the Aggrieved Employees, or some of them, for the civil penalties provided for in Labor Code §§ 2802 and 2699(f)(2) for failing to indemnify Employee and the Aggrieved Employees, or some of them, for necessary business expenditures.

Failure to Produce Requested Employment Records

Labor Code § 226 provides that current and former employees have the right to inspect or receive a copy of their records pertaining to their employment, upon reasonable request to their employer. Under this statute, an employer that receives a request to inspect or receive a copy of records pertaining to a current or former employee must comply with the request as soon as practicable, but no later than twenty-one (21) calendar days from the date of the request. Labor Code § 1198.5(a) also provides that every current and former employee, or his or her representative, has the right to inspect and receive a copy of the personnel records that the employer maintains relating to the employees' performance or to any grievance concerning the employee. Under this statute, upon written request from a current or former employee or his or her representative, an employer must make the contents of those personnel records available for inspection or provide a copy of the personnel records to the current or former employee, or his or her representative, not later than thirty (30) calendar days from the date the employer receives the written request, subject to some limited exceptions.

Labor Code § 432 provides that if an employee or applicant signs any instrument relating to the obtaining or holding of employment, he or she shall be given a copy of the instrument upon request. On information and belief, Employee and the Aggrieved Employees, or some of them, submitted written request(s) to Employers for their payroll records, timecards, and personnel records but did not timely receive them as required by the Labor Code.

As a result, Employers are liable to Employee and the Aggrieved Employees, or some of them, for the civil penalties provided for in Labor Code §§ 226(f), 1198.5(k), and 2699 for failing to timely produce the requested records.

Recordkeeping Requirement Violations

California Labor Code section 1174 requires employers to keep “accurate and complete” payroll records showing, among other things, the hours worked daily by Employees and Aggrieved Employees. All applicable IWC Wage Orders, section 7 similarly requires employers to keep accurate time records reflecting the times during which all owed meal periods were provided each day.

Based on information and belief, Employers at times failed, and continue at times to fail, to keep accurate and complete payroll records as required by law, including but not limited to the following records: total daily hours worked, applicable rates of pay, time records showing when Employee and other Aggrieved Employees began and ended each work period, time records of meal periods, and accurate itemized wage statements.

Based on information and belief, Employers at times failed and continue at times to fail to keep accurate and complete records showing total hours worked by Employee and Aggrieved Employees, or some of them, by virtue of Employers’ time rounding and/or auto deduction policies and practices and/or other off-the-clock work policies and practices.

Employers failed at times and continue at times to fail to keep accurate and complete records showing total hours worked by virtue of Employers’ failure to relieve Employee and Aggrieved Employees, or some of them, of all duties and Employers’ control for unpaid meal periods, resulting in unpaid hours worked.

Based on information and belief, Employers further failed at times, and continue at times to fail, to record the true start and end times of Employee’s and Aggrieved Employees’ meal periods, or some of them.

Based on further information and belief, Employers further failed at times and continue at times to fail, to record the true start and end times of Employee’s and Aggrieved Employees’ work shifts, or some of them.

Additionally, Employers at times failed, and continue at times to fail, to keep accurate records and issue accurate wage statements by not documenting accrued sick time for Employee and Aggrieved Employees, or some of them. Employers’ failure to keep “accurate and complete” payroll records for Employee and Aggrieved Employees, or some of them, violates Labor Code sections 1174, 1198, 1199, and all applicable IWC Wage Orders, section 7. These violations subject Employers to civil penalties under Labor Code sections 558.1, 226.6, 1174.5 and 2699. Each violation of each Labor Code section and Wage Order provision, for each Aggrieved Employee (or some of them), results in a separate civil penalty.¹

Violation of Wage Theft Protection Act of 2011

Based on information and belief, Employers failed at times, and continue at times to fail, to comply with the notice requirements of Labor Code section 2810.5 (*i.e.*, the Wage Theft Protection Act of 2011) by, among other things, failing to provide Employee and Aggrieved Employees, or some of them, with the rates of pay and overtime rates of pay applicable to their employment, allowances

¹ See Lab. Code §2699(f)(2) (establishing that the civil penalty is “for each aggrieved employee per pay period”).

claimed as part of the minimum wage, the regular payday designated by Employers, the name of the employer, including any “doing business as” names used, the name, address and telephone number of the workers’ compensation insurance carrier, information regarding paid sick leave, and other pertinent information required to be disclosed by Employers under Labor Code section 2810.5. Employee is informed and believes that failure to provide such information, including rates of pay that are in effect, has permitted Employers to pay Aggrieved Employees, or some of them, at rates of pay that were not agreed upon and violate minimum wage and overtime wage laws in California. Employee is additionally informed and believes that the notice requirement of Labor Code section 2810.5 involves a mandatory payroll or workplace injury reporting. Among other relief, Aggrieved Employees, or some of them, may collect from Employers in connection with these violations’ civil penalties pursuant to Labor Code sections 558 and 2699.

Violation of California Labor Code §§ 245-248.5

Throughout the relevant time period, Employers at times failed to provide proper paid sick leave to Employee and other Aggrieved Employees, or some of them. Employers either failed at times to provide paid sick leave at all or improperly calculated the sick leave accrual and the sick leave rate of pay owed to Employee and other Aggrieved Employees, or some of them, by failing at times to base the accrued sick leave hours on the correct number of hours worked (as a result of the rounding/automatic deduction policies and practices for meal periods and/or shift start and end times/other required off-the-clock work including but not limited to unpaid meal periods that were restricted to Employers’ premises) and by failing at times to incorporate multiple rates of pay and/or all non-discretionary remuneration, including but not limited to, non-discretionary bonuses, shift differential pay and/or other non-discretionary compensation into the sick leave pay rate calculation.

Based on information and belief, Employers further failed at times to provide notice of the correct sick leave amount balance available to Employee and other Aggrieved Employees, or some of them, on their wage statements or other written statement.

Based on information and belief, Employers at times failed to put Aggrieved Employees, or some of them, on notice of their paid sick leave rights, thereby failing at times to put their entitlement to sick leave in a Labor Code section 2810.5 notice. In addition, Employers at times failed to maintain accurate records of used sick leave and the balance of paid sick leave left to the Aggrieved Employees, or some of them.

Based on information and belief, Employers at times failed to provide notice of sick leave amount balance left for Employee and other Aggrieved Employees, or some of them, thus affecting their intelligent exercise of their paid sick leave. But for this failure, Employee, and other Aggrieved Employees, or some of them, would have used their paid sick leave at least prior to their respective separations, for as on several occasions thereafter, he or she would have been entitled to use the banked sick leave and earn appropriate compensation. This illegal retention of paid sick leave is unlawful, and Employee seeks all forms of injunctive relief, restitution, and declaratory relief as permitted by California law, on behalf of Employee and the Aggrieved Employees, or some of them.

In violation of Labor Code section 247.5, Employers at times failed to maintain records documenting the hours worked and paid sick days accrued and used by Employee and Aggrieved Employees, or some of them, permitting the presumption that Employee and these Aggrieved Employees, or some of them, were entitled to the maximum number of hours accruable under this article.

Upon information and belief, Employers at times further failed and continue at times to fail to comply with Labor Code section 246, by failing to provide Employee and Aggrieved Employees, or some of them, with a Labor Code section 226 wage statement, or separate writing containing the amount of paid sick leave available, or paid time off leave an employer provides in lieu of sick leave, at the time it pays wages.

Employers at times unlawfully retained and continue at times to retain paid sick leave that should have been paid but was not, as a result of Employers' failure, at times, to properly institute a paid sick leave program.

On information and belief, Employee alleges that these practices at times were experienced and continue to be experienced at times by other Aggrieved Employees, or some of them.

Employee requests all appropriate relief under the PAGA and these statutes, including but not limited to the restitution of earned paid sick leave that could have been used, but was not due to Employers' sole failure to institute such a paid sick leave entitlement or paid sick leave bank as required by California law.

Accordingly, Employee and other Aggrieved Employees, or some of them, are entitled to injunctive relief, attorneys' fees, declaratory relief, restitution, and penalties as permitted by law. Employee requests all relief pursuant to the aforementioned code provisions, including but not limited to Labor Code sections 233 and 234, which incorporates the paid sick leave requirements.

Failure To Provide Supplemental Paid Sick Leave

Labor Code section 248.2 provides that all employers with 26 or more employees are required to provide up to 80 hours for covered employees to take 2021 COVID-19 Supplemental Paid Sick Leave to care for themselves, to care for a family member or if it is vaccine-related. Based on information and belief, Employers at times violated Labor Code section 248.2 by not providing Aggrieved Employees, or some of them, with required 2021 COVID-19 Supplemental Paid Sick Leave.

Refusal to Make Payment

Labor Code section 216 declares unlawful an employer's refusal to pay wages due and payable and/or denial of the validity of any claim to wages due.

Employers at times violated and continue at times to violate Labor Code section 216 by failing to pay Employee and Aggrieved Employees, or some of them, for all hours worked at the proper wage rate and by failing to pay Employee and Aggrieved Employees, or some of them, an additional hour of pay for each meal and/or rest period not provided or that was invalid. *Gould v. Maryland Sound Industries, Inc.* (1995) 31 Cal.App.4th 1137, 1154-1155. These violations subject Employers to civil penalties under Labor Code section 225.5. Each violation results in a *separate* civil penalty, for each Aggrieved Employee (or some of them) so affected, for each pay period (or some of them) during which the statute's provisions were violated.²

² Labor Code § 225.5 (establishing that “[i]n addition to, and entirely independent and apart from, any other penalty provided in this article, every person who unlawfully withholds wages due any employee in violation of sections 212, 216, 221, 222, or 223 shall be subject to a civil penalty...for each failure to pay each employee”) (emphasis added).

Seating Violations

Per section 14(A-B) of all applicable IWC Wage Orders, employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats and when they are not actively engaged in the work duties that would not permit them to be seated.

All applicable IWC Wage Orders, Section 14(A-B) provides:

(A) All working employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats.

(B) When employees are not engaged in the active duties of their employment and the nature of the work requires standing, an adequate number of suitable seats shall be placed in reasonable proximity to the work area and employees shall be permitted to use such seats when it does not interfere with the performance of their duties.

Suitable seating is one of the worker protections covered by California's Wage Orders, which have the same dignity as statutes, are remedial in nature and are to be broadly construed to effectuate the goal of protecting the comfort and welfare of employees. *Brinker Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004, 1027 (2012).

Based on information and belief, Employers at times failed to provide Aggrieved Employees, or some of them, with suitable seating, and when such employees, or some of them, were not engaged in duties which required them to stand, at times no seating was placed in reasonable proximity to their workstations.

Moreover, based on information and belief, the nature of the work reasonably permitted the use of seats for at least part of the time that Aggrieved Employees were working. Lastly, based on information and belief, Aggrieved Employees at times were not engaged in active duties of their employment, yet at times there were no suitable seats in reasonable proximity to the work area, and use of seats would not have interfered with the performance of their duties.

Employers' Aggrieved Employees worked in various positions. The nature of Employee's and other Aggrieved Employees' work, or some of them, reasonably permitted the use of seats. However, Employers at times failed to provide suitable seating in reasonable proximity to Aggrieved Employees' work areas, or some of them, in violation of section 14(A-B) of applicable Wage Orders, and Labor Code sections 1198 and 1199, subjecting Employers to civil penalties under Labor Code sections 1199 and 2699. Each violation of each Labor Code section and IWC Wage Order provision, for each Aggrieved Employee, or some of them, results in a separate civil penalty.³

Statutory Wage Violations

Labor Code section 223 makes it unlawful for an employer to secretly pay wages lower than required by statute while purporting to pay legal wages.

///

³ See Lab. Code §2699(f)(2) (establishing that the civil penalty is "for each aggrieved employee per pay period").

As described above, Employers at times willfully and systematically denied Employee and other Aggrieved Employees, or some of them, of minimum and overtime wage compensation for all hours worked which resulted in the payment of less than statutorily required wages owed to them. Employers at times acted with the intent to deprive some or all of them of statutory wages, including, but not limited to, overtime wages and minimum wages, to which they were entitled to under California law.

Thus, Employers at times paid Employee and other Aggrieved Employees, or some of them, lower wages than those to which they were entitled, while purporting that Employee and all Aggrieved Employees were properly paid. As such, Employee and Aggrieved Employees, or some of them, are entitled to recover penalties, attorneys' fees, costs, and interest thereon, pursuant to Labor Code § 2699(f)-(g).

Failure to Pay Vested Vacation/Paid Time Off

California Labor Code section 227.3 provides that when an employer policy provides for paid vacations and/or paid time off, and an employee is terminated without having taken off his, her, or their vested vacation time, all vested vacation shall be paid to the employee as wages at the employee's final rate in accordance with such contract of employment or employer policy respecting eligibility or time served and that there shall be no forfeiture of vested vacation time or paid time off upon termination. Based on information and belief, Employers at times had and continue at times to have a policy and/or practice of failing to allow Aggrieved Employees, or some of them, and Exempt Aggrieved Employees, or some of them, to use their earned vacation/paid time off during their employment and failing at times to pay all vested, accrued paid time off to Aggrieved Employees, or some of them, and/or Exempt Aggrieved Employees, or some of them, upon separation of employment, in violation of California law, including but not limited to, Labor Code section 227.3.

Failure to Timely Provide Temporary Workers with Owed Wages

On information and belief, Employers at times had and have failed to provide temporary workers, or some of them, with owed wages weekly by not later than the regular payday of the following week. As a result, pursuant to Labor Code section 201.3, Employers would be liable for civil penalties pursuant to Labor Code sections 201.3.

Unlawful Agreements/ Unlawful Criminal History Inquiries

Unlawful Agreements

Labor Code section 432.5 provides that "no employer ... shall require any employee or applicant for employment to agree, in writing, to any term or condition which is known by such employer ... to be prohibited by law." Based on information and belief, Employers at times required Employee, Aggrieved Employees and Exempt Aggrieved Employees, or some of them, to agree in writing to unlawful conditions of employment including but not limited to unlawful non-compete and/or non-solicitation agreements as well as unlawful criminal and/or financial checks as a condition of obtaining and/or continuing employment in violation of Labor Code section 432.5.

The California Labor Code places certain procedural and substantive limits on employers' ability to conduct employee background checks and on how employers can use the information they obtain through those background checks. Labor Code section 1024.5 states that employers, except for financial institutions, may order a credit check only if the individual works (or is applying to

work) in certain positions (e.g., managerial positions, financially related positions, and certain government positions). Additionally, the Investigative Consumer Reporting Agencies Act (ICRAA - CA Civil Code section 1786, *et seq.*) and the Fair Credit Reporting Act (FCRA - 15 U.S.C. section 1681, *et seq.*) mandate several requirements prior to and following an employee background check, including but not limited to identifying an appropriate reason for the background check, a separate consent form with required disclosures and certain formatting requirements, additional forms such as a summary of rights, a way by which to request a copy of the report, as well as proper notice of adverse actions taken, among other statutory requirements.

Based on information and belief, Employers at times ordered unlawful financial credit checks on Aggrieved Employees and Exempt Aggrieved Employees, or some of them, in violation of Labor Code section 1024.5, and at times required Aggrieved Employees and Exempt Aggrieved Employees, or some of them, to provide ongoing written consent to the unlawful credit checks as a condition of employment, in violation of California and Federal law, which results in a further violation of Labor Code section 432.5.

Based on information and belief, Employers also at times required Aggrieved Employees and Exempt Aggrieved Employees, or some of them, to submit and/or agree to submit in writing to unlawful criminal background checks as a condition of obtaining and/or holding employment in violation of the ICRAA and the FCRA. For example, based on information and belief, Employers required Employee to submit and/or agree to submit in writing to an unlawful background check as a condition of obtaining and/or holding employment in violation of, including but not limited to, Labor Code section 432.5.

Based on information and belief, Employers at times required Aggrieved Employees and Exempt Aggrieved Employees, or some of them, to agree in writing to a background check which failed to abide by the requirements set forth in California Civil Code section 1786, *et seq.* and 15 U.S.C. section 1681, *et seq.*, including but not limited to by failing, at times, to provide a clear and conspicuous disclosure (and/or failing to provide any disclosure at all), failing at times to provide disclosures free of extraneous information, failing at times to provide a lawful purpose for the background check, failing at times to provide a summary of rights under the ICRAA and/or the FCRA, failing at times to provide a way by which the individual could request a copy of the report, failing at times to disclose the name, address, and telephone number of the third party preparing the report, and failing at times to properly obtain authorization or consent to such a background check, and thus was an unlawful background check.

By at times requiring Aggrieved Employees and Exempt Aggrieved Employees, or some of them, to agree in writing to unlawful criminal and/or financial checks not in conformance with the applicable laws, Employers violated Labor Code section 432.5.

Based on information and belief, Employers also at times required Aggrieved Employees and Exempt Aggrieved Employees, or some of them, to agree in writing to provide ongoing consent to Employers to conduct background checks throughout the duration of employment, in violation of the ICRAA and/or FCRA and/or other applicable laws, resulting in a further violation of Labor Code section 432.5, by at times requiring applicants and employees, or some of them, to agree to an unlawful provision as a condition of employment.

Based on further information and belief, Employers knew that requiring Aggrieved Employees and Exempt Aggrieved Employees, or some of them, to agree at times to unlawful criminal and/or financial background checks as a condition of obtaining and/or holding employment was unlawful.

By requiring Aggrieved Employees and Exempt Aggrieved Employees, or some of them, to agree at times in writing to unlawful provisions as a condition of employment, Employers violated Labor Code section 432.5.

Unlawful Inquires into Criminal History

Labor Code section 432.7 prohibits an employer from asking applicants about past arrest(s) unless they resulted in conviction(s) and even then, certain limitations apply. Based on information and belief, Employers at times asked Aggrieved Employees and Exempt Aggrieved Employees, or some of them, about arrests not resulting in convictions on their employment application, in violation of California law.

Upon information and belief, Employers, in violation of California law, including but not limited to the Fair Chance Act/the California Fair Employment and Housing Act (“FEHA”), at times asked Aggrieved Employees and Exempt Aggrieved Employees, or some of them, about convictions prior to extending an offer of employment and/or otherwise impermissibly inquired into criminal history on their employment application in violation of California law.

By asking, at times, about arrests not resulting in convictions, Employers violated Labor Code section 432.7. By asking, at times, about convictions at the application phase or prior to extending an employment offer, Employers violated California’s Fair Chance Act, and thereby violated Labor Code section 432.5 by unlawfully requiring Aggrieved Employees and Exempt Aggrieved Employees, or some of them, to agree in writing to disclose arrests and/or convictions as a condition of employment.

Unlawful PAGA Waiver

Additionally, Employers at times violated Labor Code section 432.5 by requiring Employee, Aggrieved Employees and Exempt Aggrieved Employees, or some of them, to agree in writing to other unlawful agreements, including but not limited to an unlawful waiver of PAGA and or representative actions, as a condition of employment.

An action pursuant to PAGA “...is a representative action on behalf of the state” *Kim v Reins Int’l California, Inc.*, (2020) 9 Cal. 5th 73, 86-87. It is well settled that agreements purporting to waive an employee’s right to a trial of PAGA claims is contrary to California law and unenforceable. *See Iskanian v CLS Transportation Los Angeles, LLC* (2014) 59 Cal. 4th 348, 384 (“We conclude that where, as here, an employment agreement compels the waiver of representative claims under the PAGA, it is contrary to public policy and unenforceable as a matter of state law.”).

Moreover, the California Supreme Court has ruled that a court cannot compel arbitration of an aggrieved employee’s individual PAGA claim because there is no such thing as an individual PAGA claim. *Kim v Reins Int’l California, Inc.*, (2020) 9 Cal. 5th 73, 86-87 (“There is no individual component to a PAGA action because ‘every PAGA action ... is a representative action on behalf of the state.’”).

Upon information and belief, Employers at times required Employee, Aggrieved Employees and Exempt Aggrieved Employees, or some of them, to agree in writing to waive their right to a trial of PAGA claims in violation of California law. By at times requiring Employee, Aggrieved Employees and Exempt Aggrieved Employees, or some of them, to agree, in writing, to an unlawful PAGA waiver, Employers at times required written agreement to an unlawful provision as a condition of employment, which is a violation of labor code section 432.5.

As such, Employee, Aggrieved Employees and Exempt Aggrieved Employees, or some of them, continue to be subject at times to various unlawful provisions as a condition of employment.

Preventing Employees from Using or Disclosing Skills, Knowledge, and Experience

On information and belief, Employers at times have prevented Employee and/or other Aggrieved Employees, or some of them, from using or disclosing the skills, knowledge, and experience they obtained at Employers for purposes of competing with Employers, including, without limitation, preventing Employees, or some of them, from disclosing their wages in negotiating a new job with a prospective employer, and from disclosing who else works at Employers and under what circumstances they might be receptive to an offer from a rival employer. As such, Employee is informed and believes, this violates Business and Professions Code sections 17200, 16600 and 16700 and, by virtue thereof, various provisions of the Labor Code, including Labor Code sections 232, 232.5, and 1197.5, subdivision (k). Employers would be liable for civil penalties pursuant to Labor Code section 2699.

Whistleblower Violations

On information and belief, Employers at times have prevented Employee and/or other Aggrieved Employees, or some of them, from disclosing violations of state and federal law, either within Employers to their managers or outside Employers to private attorneys or government officials, among others, in violation of Business and Professions Code section 17200, and thus in violation of Labor Code section 1102.5. In addition, Employee is informed and believes that these policies and/or practices at times prevent Employee and/or other Aggrieved Employees, or some of them, from disclosing information about unsafe or discriminatory working conditions, or about wage and hour violations in violation of Labor Code sections 98.6, 232, and 232.5. These violations of the Labor Code would expose Employers to liability for civil penalties pursuant to Labor Code section 2699.

Workplace Health and Safety Violations

On information and belief, Employers at times have failed to furnish and use safety devices and safeguards, and adopt and use practices, means, methods, operations and processes which are reasonably adequate to render such employment and place of employment safe and healthful, pursuant to, including but not limited to, Labor Code section 6401. Employee is informed and believes, and based thereon alleges, that Employers at times have required or permitted employees, or some of them, to go or be in any employment or place of employment which is not safe and healthful, pursuant to Labor Code section 6402. Employee is informed and believes, and based thereon alleges, that Employers at times have failed or neglected to provide and use safety devices and safeguards reasonably adequate to render the employment and place of employment safe; adopt and use methods and processes reasonably adequate to render the employment and place of employment safe; and do every other thing reasonably necessary to protect the life, safety, and health of employees, pursuant to Labor Code section 6403. Employee is informed and believes, and based thereon alleges, that these failures include, without limitation, at times failing to disinfect time clocks and other surfaces after use by Employee and/or other Aggrieved Employees, or some of them; at times failing to provide adequate protection equipment to Employee and/or other Aggrieved Employees, or some of them; and at times failing to provide adequate distance in working conditions between Employee and/or other Aggrieved Employees, or some of them.

On information and belief, Employers violated section 1527, 3366, 3457 and 8397.4 by failing at times to provide adequate and readily accessible sanitation facilities; a regular schedule for

servicing, cleaning, and supplying each facility to ensure it is maintained in a clean, sanitary and serviceable condition; an adequate supply of suitable cleansing agents, water, single-use towels or blowers; and a sufficient number of toilets to be used by each sex of employee.

Action for Civil Penalties Under PAGA

In light of the above, Employee alleges that Employers at times violated the following provisions of the Labor Code with respect to the Aggrieved Employees, or some of them:

1. Labor Code §§ 204, 510, 1194, 1197, and 1198 by failing at times to pay for all hours worked, including minimum wages, straight time wages, and overtime wages;
2. Labor Code § 226.7 and applicable Wage Orders by failing at times to provide meal periods;
3. Labor Code § 226.7 and applicable Wage Orders by failing at times to authorize and permit rest periods;
4. Labor Code § 204 by failing at times to pay all earned wages two times per month;
5. California Labor Code § 1174.5 and applicable Wage Orders by failing at times to maintain accurate records of hours worked and meal periods taken or missed;
6. Labor Code §§ 201 to 203 by willfully failing at times to pay all wages owed at termination;
7. Labor Code § 226 by failing at times to provide accurate itemized wage statements;
8. Labor Code § 2802 by failing at times to indemnify for necessary expenditures;
9. Labor Code §§ 226, 432, and 1198.5 by failing at times to timely produce requested payroll records, timecards, and personnel records;
10. Labor Code § 1174 by failing at times to keep accurate and complete payroll records;
11. Labor Code §§ 245-248.5 by failing at times to provide proper sick leave and supplemental paid sick leave;
12. Labor Code § 216 for refusal at times to pay wages due and payable and/or denial at times of the validity of any claim to wages due;
13. Labor Code § 223 for at times secretly paying wages lower than required by statute while purporting to pay legal wages;
14. Labor Code § 227.3 for failure at times to pay vested vacation and/or paid time off;
15. Section 14(A-B) of all applicable IWC Wage Orders for failure at times to provide suitable seating;
16. Labor Code § 432.5 for unlawful agreements;
17. Labor Code § 201.3 for failure at times to timely provide temporary workers, or some of them, with wages;
18. Labor Code §§ 98.6, 232, 232.5, 1102.5, and 1197.5 for at times preventing employees, or some of them, from using or disclosing the skills, knowledge and experience they obtained at Employers, and whistleblower violations;
19. Labor Code § 432.7 for unlawful inquiries at times into criminal histories; and

LWDA

Notice of Labor Code Violations and PAGA

February 1, 2024

Page 17 of 17

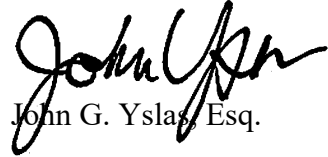
20. Labor Code §§ 1527, 3366, 3457, 8397.4, 6401, and 6401 for workplace health and safety violations.

Therefore, on behalf of potentially Aggrieved Employees, Employee seeks applicable penalties related to the violations alleged above pursuant to the PAGA. These include, but are not limited to, penalties under Labor Code §§ 210, 226.3, 1174.5, 1197.1, and 2699.

Employee has placed Employers on notice by mailing a certified copy of this correspondence, as indicated on the first page. Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me.

Sincerely,

WILSHIRE LAW FIRM

A handwritten signature in black ink, appearing to read "John Yslas", written over the printed name.

John G. Yslas, Esq.

EXHIBIT 5

WILSHIRE LAW FIRM, PLC

3055 Wilshire Blvd, 12th Floor
Los Angeles, CA 90010
Tel: (213) 381-9988
Fax: (213) 381-9989
www.wilshirelawfirm.com



Bobby Saadian, Esq. JD/MBA

Sean Paisan, Esq.
H. Gavin Long, Esq.
Colin M. Jones, Esq.
Justin F. Marquez, Esq.
John Yslas, Esq.
Jennifer Burkes, Esq.
Tae Kim, Esq.
Jon Teller, Esq.
Daniel DeSantis, Esq.
Mary Caruso, Esq.
Nicol E. Hajjar, Esq.
Thiago M. Coelho, Esq.

Benjamin Haber, Esq.
Arsiné Grigoryan, Esq.
Arrash T. Fattahi, Esq.
Daniel Kramer, Esq.
Dorota James, Esq.
Shooka Dadashzadeh, Esq.
Arlene Elyasi, Esq.
Maxim Gorbunov, Esq.
Bradford Smith, Esq.
Arman A. Salehi, Esq.

June 19, 2024

LWDA
Attn. PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612
(Via Online Submission)

Danville Long-Term Care, Inc.
25910 Acero, Suite 350
Mission Viejo, CA 92691
(Via Certified Mail, Return Receipt Requested)
#9489 0090 0027 6620 2816 34

Danville Long-Term Care, Inc.
336 Diablo Road
Danville, CA 94526
(Via Certified Mail, Return Receipt Requested)
#9489 0090 0027 6620 2816 10

James Ellis-Sherinian
Agent for Service of Process for: Danville Long-Term
Care, Inc.
25910 Acero, Suite 350
Mission Viejo, CA 92691
(Via Certified Mail, Return Receipt Requested)
#9489 0090 0027 6620 2816 27

Re: **Crystal Applon v. Danville Long-Term Care, Inc.**
Notice of Labor Code Violations and PAGA Penalties

To Whom It May Concern:

Please be advised that my office has been retained by Crystal Applon ("Plaintiff") to pursue a Labor Code Private Attorneys General Act ("PAGA") representative action (Cal. Lab. Code §§ 2699, *et seq.*) against Plaintiff's former employer, Danville Long-Term Care, Inc. ("Defendant"). The purpose of this letter is to comply with PAGA and set forth the facts and theories of California Labor Code violations which we allege Defendant engaged in with respect to Plaintiff and all of Defendant's Aggrieved Employees.

Plaintiff wishes to pursue this action as an aggrieved employee, on behalf of the State of California, as well as on behalf of all other persons who worked for Defendant in California as a non-exempt or hourly-paid employee at any time within the applicable statutory period (hereafter, the

“Aggrieved Employees”).

Plaintiff and the Aggrieved Employees suffered the Labor Code violations described below.

Plaintiff’s Employment with Defendant

Defendant owns/owned and operates/operated an industry, business, and establishment within the State of California. As such, and based upon all the facts and circumstances incident to Defendant’s business in California, Defendant is subject to the California Labor Code, Wage Orders issued by the Industrial Welfare Commission (“IWC”), and the California Business & Professions Code.

Plaintiff worked for Defendant in California as an hourly-paid, non-exempt employee during the past year. During Plaintiff’s employment for Defendant, Defendant paid Plaintiff an hourly wage and classified Plaintiff as non-exempt from overtime. Defendant typically scheduled Plaintiff to work at least five days in a workweek and at least eight hours per day, but Plaintiff regularly worked more than eight hours in a workday and/or more than forty (40) hours in a workweek.

Throughout Plaintiff’s employment, Defendant: failed to pay for all hours worked (including minimum, straight time, and overtime wages); failed to provide Plaintiff with legally compliant meal periods (and pay corresponding meal period premium wages at the correct rate of pay); failed to authorize and permit Plaintiff to take rest periods; failed to include all non-discretionary remuneration when calculating overtime pay, sick pay, and meal and rest period premium pay; failed to timely pay all final wages to Plaintiff when Defendant terminated Plaintiff’s employment; failed to furnish accurate wage statements to Plaintiff; and failed to indemnify Plaintiff for expenditures. As discussed below, Plaintiff’s experience working for Defendant was typical and illustrative.

Defendant Failed to Pay for All Hours Worked, Including Minimum, Straight Time, and Overtime Wages

Under California law, an employer must pay for all hours worked by an employee. “Hours worked” is 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.

In addition, Labor Code § 510 provides that employees in California shall not be employed more than eight hours in any workday or forty (40) hours in a workweek unless they receive additional compensation beyond their regular wages in amounts specified by law.

Labor Code §§ 1194 and 1198 also provide that employees in California shall not be employed more than eight hours in any workday unless they receive additional compensation beyond their regular wages in amounts specified by law. Additionally, Labor Code § 1198 states that the employment of an employee for longer hours than those fixed by the IWC is unlawful.

Throughout the statutory period, Defendant maintained a policy and practice of not paying Plaintiff

and the Aggrieved Employees for all hours worked, including minimum, straight time, and overtime wages. Defendant required Plaintiff and the Aggrieved Employees to work “off-the-clock”, uncompensated, by, for example, requiring Plaintiff and the Aggrieved Employees to perform work prior to clocking in for the workday, during unpaid meal periods, and after clocking out for the workday. Some of this unpaid work should have been paid at the overtime rate. In failing to pay for all hours worked, Defendant also failed to maintain accurate records of the hours Plaintiff and the Aggrieved Employees worked.

The failure to pay for all hours worked also includes a system of time rounding and/or synthetic timekeeping that resulted in unpaid compensation for time worked pre-shift, post-shift, and when meal periods were supposedly recorded. If proven to be implemented by Defendant, this system resulted, over a period of time, in failing to compensate Plaintiff and the Aggrieved Employees properly for all the time they have actually worked even though the realities of Defendant’s operations are such that it is possible, practical, and feasible to count and pay for work time to the minute. Accordingly, this system frequently paid Plaintiff and the Aggrieved Employees less than all their work time. Some of this unpaid work also should have been paid at the overtime rate. In failing to pay for all hours worked, again Defendant may have also failed to maintain accurate records of the hours Plaintiff and the Aggrieved Employees worked.

As a result, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210, 1197.1, and 2699(f)(2) for failing to pay for all hours worked, including minimum, straight time, and overtime wages.

Failure to Provide Meal Periods

Under California law, employers have an affirmative obligation to relieve employees of all duty in order to take their first 30-minute, duty-free meal periods no later than the start of sixth hour of work in a workday, and to allow employees to take their second 30-minute, duty-free meal period no later than the start of the eleventh hour of work in the workday. Further, employees are entitled to be paid one hour of additional wages for each workday they were not provided with all required meal period(s).

Despite these legal requirements, Defendant wrongfully failed to provide Plaintiff and the Aggrieved Employees with legally compliant meal periods. Defendant regularly, but not always, required Plaintiff and the Aggrieved Employees to work in excess of five consecutive hours a day without providing a 30-minute, uninterrupted, and duty-free meal period for every five hours of work, or without compensating Plaintiff and the Aggrieved Employees for meal periods that were not provided by the end of the fifth hour of work or tenth hour of work. Instead, Defendant continued to assert control over Plaintiff and the Aggrieved Employees by requiring, pressuring, or encouraging them to perform work tasks which could not be completed without working in lieu of taking mandatory meal periods, or by denying Plaintiff and the Aggrieved Employees permission to take a meal period. Defendant also never informed Plaintiff of the right to, nor

permitted Plaintiff to take, a second meal period when Plaintiff worked at least ten hours in a workday. Accordingly, Defendant's policy and practice was not to provide meal periods to Plaintiff and the Aggrieved Employees in compliance with California law.

Plaintiff and the Aggrieved Employees are thus entitled to be paid one hour of additional wages for each workday he or she was not provided with all required meal period(s). Defendant, however, regularly failed to pay Plaintiff and the Aggrieved Employees the additional wages to which they were entitled for meal periods and that were not provided.

As a result, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210 and 2699(f)(2) for failing to provide meal periods and pay meal period premium wages.

Failure to Authorize and Permit Rest Periods

Employers are required by California law to authorize and permit breaks of ten uninterrupted minutes for each four hours of work or major fraction of four hours (i.e. more than two hours). Thus, for example, if an employee's work time is six hours and ten minutes, the employee is entitled to two rest breaks. Each failure to authorize rest breaks as so required is itself a violation of California's rest break laws.

Throughout the statutory period, Defendant has wrongfully failed to authorize and permit Plaintiff and the Aggrieved Employees to take legally compliant rest periods. Defendant regularly required Plaintiff and the Aggrieved Employees to work in excess of four consecutive hours a day without Defendant authorizing and permitting them to take a 10-minute, uninterrupted, duty-free rest period for every four hours of work (or major fraction of four hours), or without compensating Plaintiff and the Aggrieved Employees for rest periods that were not authorized or permitted. Instead, Defendant continued to assert control over Plaintiff and the Aggrieved Employees by requiring, pressuring, or encouraging them to perform work tasks which could not be completed without working in lieu of taking mandatory rest periods, or by denying Plaintiff and the Aggrieved Employees permission to take a rest period. Accordingly, Defendant's policy and practice was to not authorize and permit Plaintiff and the Aggrieved Employees to take rest periods in compliance with California law.

Plaintiff and the Aggrieved Employees are thus entitled to be paid one hour of additional wages for each workday he or she was not authorized and permitted to take all required rest period(s). Defendant, however, regularly failed to pay Plaintiff and the Aggrieved Employees the additional wages to which they were entitled for rest periods and that they were not authorized and permitted to take.

As a result, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210 and 2699(f)(2) for failing to authorize and permit rest periods and pay rest period premium wages.

Failure to Accurately Calculate Overtime Pay, Sick Pay, and Meal Period Premium Pay When Issuing Non-Discretionary Remuneration

Federal law defining and interpreting “regular rate” under the FLSA governs this case. (*Alonzo v. Maximus, Inc.* (C.D. Cal. 2011) 832 F.Supp.2d 1122, 1129.) This “construction is supported by California case law and the DLSE Manual, each of which looks to FLSA standards to interpret the ‘regular rate of pay’ under California law.” (*Ibid.*) “Under the FLSA, the ‘regular rate’ of pay ‘at which an employee is employed shall be deemed to include all remuneration for employment paid to, or on behalf of, the employee,’ subject to certain enumerated exceptions.” (*Id.* at pp. 1129-30, quoting 29 U.S.C. § 207(e)(3).) “The burden is on Defendant to establish that its bonus payments fall within one of the exceptions in § 207(e).” (*Ibid.*)

The Department of Labor has interpreted section 207 to permit an employer to exclude a “discretionary bonus,” but not a “promised bonus” from the “regular rate” of pay:

Bonuses which are announced to employees to induce them to work more steadily or more rapidly or more efficiently or to remain with the firm are regarded as part of the regular rate of pay. Attendance bonuses, individual or group production bonuses, bonuses for quality and accuracy of work, bonuses contingent upon the employee’s continuing in employment until the time the payment is to be made and the like are in this category. They must be included in the regular rate of pay.

(29 C.F.R. § 778.211 (2011); *see also* DLSE Manual § 49.1.2.4(3), incorporating 29 C.F.R. § 778.211.)

Plaintiff and/or the Aggrieved Employees received various forms of bonuses/commissions/incentive payments during pay periods where overtime was worked, but Defendant failed to *accurately* factor in the non-discretionary remuneration into their regular rate of pay.

As outlined by the California Supreme Court in *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal.5th 858, 878, for purposes of paying sick pay and premiums, “the term ‘regular rate of compensation’ in section 226.7(c) has the same meaning as ‘regular rate of pay’ in section 510(a) and encompasses not only hourly wages but all nondiscretionary payments for work performed by the employee.”

Defendant should have included all non-discretionary remuneration when calculating overtime pay, sick pay, and meal period premium pay. Because it didn’t, Defendant is liable to Plaintiff and/or the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210 and 2699(f)(2).

Failure to Pay All Earned Wages Twice Per Month

Based on its failure to pay Plaintiff and the Aggrieved Employees for all wages as discussed above, Defendant also violated Labor Code § 204.

Labor Code § 204 requires employers to pay employees all earned wages two times per month. Throughout the statute of limitations period applicable to this cause of action, employees were entitled to be paid twice a month at their regular rates, including all meal period premium wages owed, rest period premium wages owed, and wages owed for overtime hours worked. However, during all such times, Defendant systematically failed and refused to pay the employees all wages due, and failed to pay those wages twice a month, in that employees were not paid all wages for all meal periods not provided by Defendant, all wages for all rest periods not authorized and permitted by Defendant, and all wages for all hours worked. As a result, Defendant owes employees the legally required wages for unpaid wages, and Plaintiff and the Aggrieved Employees suffered damages in those amounts.

Moreover, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 210 for failing to pay all earned wages twice per month.

Failure to Maintain Accurate Records of Hours Worked and Meal Periods

Plaintiff seeks penalties under California Labor Code § 1174(d). Pursuant to California Labor Code § 1174.5, any person, including any entity, employing labor who willfully fails to maintain accurate and complete records required by California Labor Code § 1174 is subject to a penalty under § 1174.5. Pursuant to the applicable IWC Order § 7(A)(3), every employer shall keep time records showing when the employee begins and ends each work period. Meal periods and total hours worked daily shall also be recorded.

Defendant, however, failed to maintain accurate records of hours worked and all meal periods taken or missed by Plaintiff and the Aggrieved Employees.

Defendant's failure to provide and maintain records required by the California Labor Code and the applicable IWC Wage Orders deprived Plaintiff and the Aggrieved Employees the ability to know, understand and question the accuracy and frequency of meal periods, and the accuracy of their hours worked stated in Defendant's records. Therefore, Plaintiff and the Aggrieved Employees had no way to dispute the resulting failure to pay wages, all of which resulted in an unjustified economic enrichment to Defendant. As a direct result, Plaintiff and the Aggrieved Employees have suffered and continue to suffer, substantial losses related to the use and enjoyment of such wages, lost interest on such wages and expenses and attorney's fees in seeking to compel Defendant to fully perform its obligation under state law, all to their respective damage in amounts according to proof at trial. As a result of Defendant's knowing failure to comply with the

California Labor Code and applicable IWC Wage Orders, Plaintiff and the Aggrieved Employees have also suffered an injury in that they were prevented from knowing, understanding, and disputing the wage payments paid to them.

Failure to Timely Pay All Wages at Termination

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 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.

Within the applicable statute of limitations, the employment of Plaintiff and many other Aggrieved Employees ended, i.e., was terminated by quitting or being discharged, and the employment of others will be terminated. However, during the relevant time period, Defendant failed, and continues to fail to pay Plaintiff and terminated Aggrieved Employees, without abatement, all wages required to be paid by Labor Code sections 201 and 202 either at the time of discharge, or within seventy-two (72) hours of their leaving Defendant's employment. These unpaid wages include wages for unpaid work time (including minimum, straight time, and overtime wages), missed meal period premium wages, and missed rest period premium wages.

Defendant's conduct violates Labor Code §§ 201 and 202. Labor Code § 203 provides that if an employer willfully fails to pay wages owed, in accordance with sections 201 and 202, then the wages of the employee shall continue as a penalty wage from the due date, and at the same rate until paid or until an action is commenced; but the wages shall not continue for more than thirty (30) days.

Accordingly, Plaintiff and the Aggrieved Employees are entitled to recover from Defendant their additionally accruing wages for each day they were not paid, at their regular hourly rate of pay, up to thirty (30) days maximum pursuant to Labor Code § 203.

Moreover, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 2699(f)(2) for failing to timely pay all wages at termination.

Failure to Furnish Accurate Itemized Wage Statements

Labor Code § 226(a) provides that every employer shall furnish each of his or her employees an accurate itemized wage statement in writing showing nine pieces of information, including: (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and the last four digits of his or her social security number or

an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. An employee is presumed to suffer an injury if this information is missing. (Lab. Code § 226(e)(2)(B)(iii).)

The statute further provides: “An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney’s fees.” (Lab. Code § 226(e)(1).)

Throughout the statutory period, Defendant failed to furnish Plaintiff and the Aggrieved Employees with accurate, itemized wage statements showing all applicable hourly rates, and all gross and net wages earned (including correct hours worked, correct wages for meal periods that were not provided in accordance with California law, and correct wages for rest periods that were not authorized and permitted to take in accordance with California law). Whether unpaid premiums for missed meal periods must be reported as “wages earned” and credited as “hours worked” in wage statements has been a settled issue since at least 2022.

Because Defendant violated Labor Code § 226, Plaintiff and similarly Aggrieved Employees suffered injury and damage to their statutorily protected rights. Accordingly, Plaintiff and similarly Aggrieved Employees are entitled to recover from Defendant the greater of their actual damages caused by Defendant’s failure to comply with Labor Code § 226(a), or an aggregate penalty not exceeding four thousand dollars (\$4,000) per employee.

Moreover, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 226.3 for failing to furnish accurate itemized wage statements.

Failure to Indemnify for Necessary Expenditures

Labor Code § 2802(a) provides that employers shall indemnify his or her employees for all necessary business expenditures or losses that have been incurred by the employees in direct discharge of his or her duties. Throughout the statute of limitations period applicable to this cause of action, Defendant wrongfully required Plaintiff and/or the Aggrieved Employees to pay expenses that they incurred in direct discharge of their duties for Defendant. Plaintiff and/or the Aggrieved Employees paid out-of-pocket for necessary employment-related expenses (which is defined as including, without limitation, work attire, work equipment, personal protective equipment, use of personal cell phones, and/or use of personal vehicles). Plaintiff and/or the Aggrieved Employees incurred substantial expenses as a direct result of performing their job duties for Defendant, but Defendant failed to indemnify Plaintiff and/or the Aggrieved Employees for these employment-related expenses.

As a result, Defendant is liable to Plaintiff and/or the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 2802 and 2699(f)(2) for failing to indemnify Plaintiff and/or the Aggrieved Employees for necessary business expenditures.

Action for Civil Penalties Under PAGA

In light of the above, Plaintiff alleges that Defendant violated the following provisions of the Labor Code with respect to the Aggrieved Employees:

1. Labor Code § 204, 510, 1194, 1197, and 1198 by failing to pay for all hours worked, including minimum wages, straight time wages, and overtime wages;
2. Labor Code § 226.7 and applicable Wage Orders by failing to provide meal periods;
3. Labor Code § 226.7 and applicable Wage Orders by failing to authorize and permit rest periods;
4. Labor Code §§ 226.7, 246, 510, and applicable Wage Orders by failing to include all non-discretionary remuneration when calculating overtime pay, sick pay, and meal period premium pay;
5. Labor Code § 204 by failing to pay all earned wages two times per month;
6. Labor Code § 1174.5 and applicable Wage Orders by failing to maintain accurate records of hours worked and meal periods taken or missed;
7. Labor Code §§ 201 to 203 by willfully failing to pay all wages owed at termination;
8. Labor Code § 226 by failing to provide accurate itemized wage statements; and
9. Labor Code § 2802 by failing to indemnify for necessary expenditures.

Therefore, on behalf of all Aggrieved Employees, Plaintiff seeks applicable penalties related to the violations alleged above pursuant to the PAGA. These include, but are not limited to, penalties under Labor Code §§ 210, 226.3, 1174.5, 1197.1, and 2699(f)(2).

Plaintiff has placed Defendant on notice by mailing a certified copy of this correspondence, as indicated on the first page. Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me.

Sincerely,

WILSHIRE LAW FIRM



Justin F. Marquez, Esq.

EXHIBIT 6

WILSHIRE LAW FIRM, PLC

3055 Wilshire Blvd, 12th Floor
Los Angeles, CA 90010
Tel: (213) 381-9988
Fax: (213) 381-9989
www.wilshirelawfirm.com



Sean Paisan, Esq.
Justin F. Marquez, Esq.
John Yslas, Esq.

Stephanie Mazepa, Esq.
Nicole Hajjar, Esq.
Thiago M. Coelho, Esq.

October 31, 2024

LWDA
Attn. PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612
(Via Online Submission)

Tustin Hills Healthcare, Inc
DBA The Hills Post Acute
1800 Old Tustin Ave.,
Santa Ana, CA 92705
(Via Certified Mail, Return Receipt Requested)
#9489 0090 0027 6620 2688 88

Tustin Hills Healthcare, Inc
DBA The Hills Post Acute
29222 Rancho Viejo Rd., Ste 127
San Juan Capistrano, CA 92675
(Via Certified Mail, Return Receipt Requested)
#9489 0090 0027 6620 2688 95

Cogency Global Inc.
Agent for Service of Process for:
Tustin Hills Healthcare, Inc
DBA The Hills Post Acute
600 Wilshire Blvd #980
Los Angeles, CA 90017
(Via Certified Mail, Return Receipt Requested)
#9489 0090 0027 6620 2689 01

Clipboard Health LLC
440 N. Barranca Ave. #5028
Covina, CA 91723
(Via Certified Mail, Return Receipt Requested)
#9489 0090 0027 6620 2689 18

C T Corporation System
Agent for Service of Process for:
Clipboard Health LLC
330 N. Brand Blvd., Suite 700
Glendale, CA 91203
(Via Certified Mail, Return Receipt Requested)
#9489 0090 0027 6620 2689 25

Re: ***Jenny Brown v. Tustin Hills Healthcare, Inc dba The Hills Post Acute, et al.***
Notice of Labor Code Violations and PAGA Penalties

To Whom It May Concern:

Please be advised that my office has been retained by Jenny Brown ("Plaintiff") to pursue a Labor Code Private Attorneys General Act ("PAGA") representative action (Cal. Lab. Code §§ 2699, *et seq.*) against her former employers, Tustin Hills Healthcare, Inc DBA The Hills Post Acute and Clipboard Health LLC (collectively as "Defendants"). The purpose of this letter is to comply with PAGA and set forth the facts and theories of California Labor Code violations which we allege Defendants engaged in with respect to Plaintiff and all of Defendants' Aggrieved Employees.

Plaintiff wishes to pursue this action on behalf of herself as an aggrieved employee, on behalf of the State of California, as well as on behalf of all other persons who worked for Defendants in

California as a non-exempt or hourly-paid employee at any time within the applicable statutory period (hereafter, the “Aggrieved Employees”).

Plaintiff and the Aggrieved Employees suffered the Labor Code violations described below.

Plaintiff’s Employment with Defendants

Defendants own/owned and operate/operated an industry, business, and establishment within the State of California, including Orange County. As such, and based upon all the facts and circumstances incident to Defendants’ business in California, Defendants are subject to the California Labor Code, Wage Orders issued by the Industrial Welfare Commission (“IWC”), and the California Business & Professions Code.

Plaintiff Jenny Brown is a California resident who worked for Defendants in Orange County, California as an hourly-paid, non-exempt employee from approximately November of 2020 to the present. Defendants typically scheduled Plaintiff to work at least five days in a workweek and at least eight hours per day, but Plaintiff mostly worked more than eight hours in a workday and more than forty (40) hours in a workweek.

Throughout Plaintiff’s employment, Defendants failed to pay for all hours worked (including minimum, straight time, and overtime wages), failed to provide Plaintiff with legally compliant meal periods, failed to authorize and permit Plaintiff to take rest periods, failed to furnish accurate wage statements to Plaintiff, and failed to indemnify Plaintiff for expenditures. As discussed below, Plaintiff’s experience working for Defendants was typical and illustrative.

Defendants Failed to Pay for All Hours Worked, Including Minimum, Straight Time, and Overtime Wages

Under California law, an employer must pay for all hours worked by an employee. “Hours worked” is 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.

In addition, Labor Code § 510 provides that employees in California shall not be employed more than eight hours in any workday or forty (40) hours in a workweek unless they receive additional compensation beyond their regular wages in amounts specified by law.

Labor Code §§ 1194 and 1198 also provide that employees in California shall not be employed more than eight hours in any workday unless they receive additional compensation beyond their regular wages in amounts specified by law. Additionally, Labor Code § 1198 states that the employment of an employee for longer hours than those fixed by the IWC is unlawful.

Throughout the statutory period, Defendants maintained a policy and practice of not paying Plaintiff and the Aggrieved Employees for all hours worked, including minimum, straight time, and overtime wages. Defendants required Plaintiff and the Aggrieved Employees to work “off-

the-clock”, uncompensated, by, for example, requiring Plaintiff and the Aggrieved Employees to continue working during unpaid meal periods. Some of this unpaid work should have been paid at the overtime rate. In failing to pay for all hours worked, Defendants also failed to maintain accurate records of the hours Plaintiff and the Aggrieved Employees worked.

As a result, Defendants are liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210, 1197.1, and 2699(f)(2) for failing to pay for all hours worked, including minimum, straight time, and overtime wages.

Failure to Provide Meal Periods

Under California law, employers have an affirmative obligation to relieve employees of all duty in order to take their first 30-minute, duty-free meal periods no later than the start of sixth hour of work in a workday, and to allow employees to take their second 30-minute, duty-free meal period no later than the start of the eleventh hour of work in the workday. Further, employees are entitled to be paid one hour of additional wages for each workday they were not provided with all required meal period(s).

Despite these legal requirements, Defendants wrongfully failed to provide Plaintiff and the Aggrieved Employees with legally compliant meal periods. Defendants regularly, but not always, required Plaintiff and the Aggrieved Employees to work in excess of five consecutive hours a day without providing a 30-minute, uninterrupted, and duty-free meal period for every five hours of work, or without compensating Plaintiff and the Aggrieved Employees for meal periods that were not provided by the end of the fifth hour of work or tenth hour of work. Instead, Defendants continued to assert control over Plaintiff and the Aggrieved Employees by requiring, pressuring, or encouraging them to perform work tasks which could not be completed without working in lieu of taking mandatory meal periods, or by denying Plaintiff and the Aggrieved Employees permission to take a meal period. Accordingly, Defendants’ policy and practice was not to provide meal periods to Plaintiff and the Aggrieved Employees in compliance with California law.

Plaintiff and the Aggrieved Employees are thus entitled to be paid one hour of additional wages for each workday he or she was not provided with all required meal period(s). Defendants, however, regularly failed to pay Plaintiff and the Aggrieved Employees the additional wages to which they were entitled for meal periods and that were not provided.

As a result, Defendants are liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210 and 2699(f)(2) for failing to provide meal periods and pay meal period premium wages.

Failure to Authorize and Permit Rest Periods

Employers are required by California law to authorize and permit breaks of ten uninterrupted minutes for each four hours of work or major fraction of four hours (i.e. more than two hours). Thus, for example, if an employee’s work time is six hours and ten minutes, the employee is

entitled to two rest breaks. Each failure to authorize rest breaks as so required is itself a violation of California's rest break laws.

Throughout the statutory period, Defendants have wrongfully failed to authorize and permit Plaintiff and the Aggrieved Employees to take legally compliant rest periods. Defendants regularly required Plaintiff and the Aggrieved Employees to work in excess of four consecutive hours a day without Defendants authorizing and permitting them to take a 10-minute, uninterrupted, duty-free rest period for every four hours of work (or major fraction of four hours), or without compensating Plaintiff and the Aggrieved Employees for rest periods that were not authorized or permitted. Instead, Defendants continued to assert control over Plaintiff and the Aggrieved Employees by requiring, pressuring, or encouraging them to perform work tasks which could not be completed without working in lieu of taking mandatory rest periods, or by denying Plaintiff and the Aggrieved Employees permission to take a rest period. Accordingly, Defendants' policy and practice was to not authorize and permit Plaintiff and the Aggrieved Employees to take rest periods in compliance with California law.

Plaintiff and the Aggrieved Employees are thus entitled to be paid one hour of additional wages for each workday he or she was not authorized and permitted to take all required rest period(s). Defendants, however, regularly failed to pay Plaintiff and the Aggrieved Employees the additional wages to which they were entitled for rest periods and that they were not authorized and permitted to take.

As a result, Defendants are liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210 and 2699(f)(2) for failing to authorize and permit rest periods and pay rest period premium wages.

Failure to Pay All Earned Wages Twice Per Month

Based on its failure to pay Plaintiff and the Aggrieved Employees for all wages as discussed above, Defendants also violated Labor Code § 204.

Labor Code § 204 requires employers to pay employees all earned wages two times per month. Throughout the statute of limitations period applicable to this cause of action, employees were entitled to be paid twice a month at their regular rates, including all meal period premium wages owed, rest period premium wages owed, and wages owed for overtime hours worked. However, during all such times, Defendants systematically failed and refused to pay the employees all wages due, and failed to pay those wages twice a month, in that employees were not paid all wages for all meal periods not provided by Defendants, all wages for all rest periods not authorized and permitted by Defendants, and all wages for all hours worked. As a result, Defendants owe employees the legally required wages for unpaid wages, and Plaintiff and the Aggrieved Employees suffered damages in those amounts.

Moreover, Defendants are liable to Plaintiff and the Aggrieved Employees for the civil penalties

provided for in Labor Code § 210 for failing to pay all earned wages twice per month.

Failure to Maintain Accurate Records of Hours Worked and Meal Periods

Plaintiff seeks penalties under California Labor Code § 1174(d). Pursuant to California Labor Code § 1174.5, any person, including any entity, employing labor who willfully fails to maintain accurate and complete records required by California Labor Code § 1174 is subject to a penalty under § 1174.5. Pursuant to the applicable IWC Order § 7(A)(3), every employer shall keep time records showing when the employee begins and ends each work period. Meal periods and total hours worked daily shall also be recorded.

Defendants, however, failed to maintain accurate records of hours worked and all meal periods taken or missed by Plaintiff and the Aggrieved Employees.

Defendants' failure to provide and maintain records required by the California Labor Code and the applicable IWC Wage Orders deprived Plaintiff and the Aggrieved Employees the ability to know, understand and question the accuracy and frequency of meal periods, and the accuracy of their hours worked stated in Defendants' records. Therefore, Plaintiff and the Aggrieved Employees had no way to dispute the resulting failure to pay wages, all of which resulted in an unjustified economic enrichment to Defendants. As a direct result, Plaintiff and the Aggrieved Employees have suffered and continue to suffer, substantial losses related to the use and enjoyment of such wages, lost interest on such wages and expenses and attorney's fees in seeking to compel Defendants to fully perform its obligation under state law, all to their respective damage in amounts according to proof at trial. As a result of Defendants' knowing failure to comply with the California Labor Code and applicable IWC Wage Orders, Plaintiff and the Aggrieved Employees have also suffered an injury in that they were prevented from knowing, understanding, and disputing the wage payments paid to them.

Failure to Furnish Accurate Itemized Wage Statements

Labor Code § 226(a) provides that every employer shall furnish each of his or her employees an accurate itemized wage statement in writing showing nine pieces of information, including: (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. An employee is presumed to suffer an injury if this information is missing. (Lab. Code § 226(e)(2)(B)(iii).)

The statute further provides: “An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney’s fees.” (Lab. Code § 226(e)(1).)

Throughout the statutory period, Defendants failed to furnish Plaintiff and the Aggrieved Employees with accurate, itemized wage statements showing all applicable hourly rates, and all gross and net wages earned (including correct hours worked, correct wages for meal periods that were not provided in accordance with California law, and correct wages for rest periods that were not authorized and permitted to take in accordance with California law).

Because Defendants violated Labor Code § 226, Plaintiff and similarly Aggrieved Employees suffered injury and damage to their statutorily protected rights. Accordingly, Plaintiff and similarly Aggrieved Employees are entitled to recover from Defendants the greater of their actual damages caused by Defendants’ failure to comply with Labor Code § 226(a), or an aggregate penalty not exceeding four thousand dollars (\$4,000) per employee.

Moreover, Defendants are liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 226.3 for failing to furnish accurate itemized wage statements.

Failure to Indemnify for Necessary Expenditures

Labor Code § 2802(a) provides that employers shall indemnify his or her employees for all necessary business expenditures or losses that have been incurred by the employees in direct discharge of his or her duties. Throughout the statute of limitations period applicable to this cause of action, Defendants wrongfully required Plaintiff and the Aggrieved Employees to pay expenses that they incurred in direct discharge of their duties for Defendants. Plaintiff and the Aggrieved Employees regularly paid out-of-pocket for necessary employment-related expenses, including, without limitation, use of personal cell phone for work related purposes. Plaintiff and the Aggrieved Employees incurred substantial expenses as a direct result of performing their job duties for Defendants, but Defendants failed to indemnify Plaintiff and the Aggrieved Employees for these employment-related expenses.

As a result, Defendants are liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 2802 and 2699(f)(2) for failing to indemnify Plaintiff and the Aggrieved Employees for necessary business expenditures.

Action for Civil Penalties Under PAGA

In light of the above, Plaintiff alleges that Defendants violated the following provisions of the Labor Code with respect to the Aggrieved Employees:

LWDA

Notice of Labor Code Violations and PAGA

October 31, 2024

Page 7 of 7

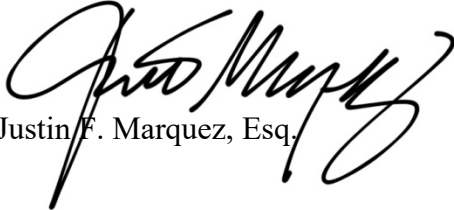
1. Labor Code § 204, 510, 1194, 1197, and 1198 by failing to pay for all hours worked, including minimum wages, straight time wages, and overtime wages;
2. Labor Code § 226.7 and applicable Wage Orders by failing to provide meal periods;
3. Labor Code § 226.7 and applicable Wage Orders by failing to authorize and permit rest periods;
4. Labor Code § 204 by failing to pay all earned wages two times per month;
5. California Labor Code § 1174.5 and applicable Wage Orders by failing to maintain accurate records of hours worked and meal periods taken or missed;
6. Labor Code § 226 by failing to provide accurate itemized wage statements; and
7. Labor Code § 2802 by failing to indemnify for necessary expenditures.

Therefore, on behalf of all Aggrieved Employees, Plaintiff seeks applicable penalties related to the violations alleged above pursuant to the PAGA. These include, but are not limited to, penalties under Labor Code §§ 210, 226.3, 1174.5, 1197.1, and 2699(f)(2).

Plaintiff has placed Defendants on notice by mailing a certified copy of this correspondence, as indicated on the first page. Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me.

Sincerely,

WILSHIRE LAW FIRM



Justin F. Marquez, Esq.



WILSHIRE LAW FIRM, PLC

3055 WILSHIRE BLVD. 12TH FLOOR
LOS ANGELES, CA 90010

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS. FOLD AT DOTTED LINE



UNITED STATES
POSTAL SERVICE®

CERTIFIED MAIL®



9489 0090 0027 6620 2688 88

Label 890-PB, Oct. 2015
Pitney Bowes

Tustin Hills Healthcare, Inc
DBA The Hills Post Acute
1800 Old Tustin Ave.,
Santa Ana, CA 92705



WILSHIRE LAW FIRM, PLC

3055 WILSHIRE BLVD. 12TH FLOOR
LOS ANGELES, CA 90010

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS. FOLD AT DOTTED LINE



UNITED STATES
POSTAL SERVICE®

CERTIFIED MAIL®



9489 0090 0027 6620 2688 95

Label 890-PB, Oct. 2015
Pitney Bowes

Tustin Hills Healthcare, Inc
DBA The Hills Post Acute
29222 Rancho Viejo Rd., Ste 127
San Juan Capistrano, CA 92675



WILSHIRE LAW FIRM, PLC

3055 WILSHIRE BLVD. 12TH FLOOR

LOS ANGELES, CA 90010

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS. FOLD AT DOTTED LINE



UNITED STATES
POSTAL SERVICE®

CERTIFIED MAIL®



9489 0090 0027 6620 2689 01

Label 890-PB, Oct. 2015
Pitney Bowes

Cogency Global Inc.
Agent for Service of Process for:
Tustin Hills Healthcare, Inc
DBA The Hills Post Acute
600 Wilshire Blvd #980
Los Angeles, CA 90017



WILSHIRE LAW FIRM, PLC

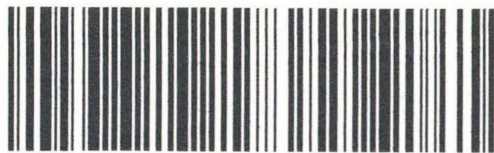
3055 WILSHIRE BLVD. 12TH FLOOR
LOS ANGELES, CA 90010

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS. FOLD AT DOTTED LINE



UNITED STATES
POSTAL SERVICE®

CERTIFIED MAIL®



9489 0090 0027 6620 2689 18

Label 890-PB, Oct. 2015
Pitney Bowes

Clipboard Health LLC
440 N. Barranca Ave. #5028
Covina, CA 91723



WILSHIRE LAW FIRM, PLC

3055 WILSHIRE BLVD. 12TH FLOOR
LOS ANGELES, CA 90010

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS. FOLD AT DOTTED LINE



UNITED STATES
POSTAL SERVICE®

CERTIFIED MAIL®



9489 0090 0027 6620 2689 25

Label 890-PB, Oct. 2015
Pinney Bowes

C T Corporation System
Agent for Service of Process for:
Clipboard Health LLC
330 N. Brand Blvd., Suite 700
Glendale, CA 91203

EXHIBIT 7

WILSHIRE LAW FIRM, PLC

3055 Wilshire Blvd, 12th Floor
Los Angeles, CA 90010
Tel: (213) 381-9988
Fax: (213) 381-9989
wilshirelawfirm.com



Sean Paisan, Esq.
John Yslas, Esq.
Molly Desario, Esq.
Stephanie Mazepa, Esq.
Nicol Hajjar, Esq.
Thiago Coelho, Esq.
Benjamin Haber, Esq.

May 30, 2025

LWDA
Attn. PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612
(Via Online Submission)

Ramona Nursing and Rehabilitation Center c/o
Victor Lundquist
25910 Acero Road, Suite 350
Mission Viejo, CA 92691
(Via Certified Mail, Return Receipt Requested)
#

The Ensign Group, Inc.
c/o Erin Haggerty
1325 J St., Ste. 1550
Sacramento, CA 95814
(Via Certified Mail, Return Receipt Requested)
#

Glimmer Healthcare Inc. dba Ramona Nursing
and Rehabilitation Center
11900 Ramona Boulevard
El Monte, CA 91732
(Via Certified Mail, Return Receipt Requested)
#

The Ensign Group, Inc.
29222 Rancho Viejo Rd., #127
San Juan Capistrano, CA 92675
(Via Certified Mail, Return Receipt Requested)
#

Re: ***Dayana Lobera-Rojas v. Glimmer Healthcare Inc. dba Ramona Nursing and
Rehabilitation Center et al.***
Notice of Labor Code Violations and PAGA Penalties

To Whom It May Concern:

Please be advised that my office has been retained by Dayana Lobera-Rojas ("Ms. Lobera-Rojas" or "Employee") to pursue a Labor Code Private Attorneys General Act of 2004 ("PAGA") representative action (Cal. Lab. Code §§ 2699, *et seq.*) against Employee's former employers Glimmer Healthcare Inc. dba Ramona Nursing and Rehabilitation Center, and The Ensign Group Inc., ("Employers"). The purpose of this letter is to comply with PAGA and set forth the facts and theories of California Labor Code violations which we allege Employers engaged in with respect to Employee and potentially all of Employers' Aggrieved Employees.

Ms. Lobera-Rojas wishes to pursue this action on behalf of Employees as Aggrieved Employees, on behalf of the State of California, as well as on behalf of potentially all other persons who worked for employers in California as a non-exempt or hourly-paid employee at any time within the applicable statutory period (hereafter, the "Aggrieved Employee").

Employee and the Aggrieved Employees, or some of them, suffered the Labor Code violations described below.

Ms. Lobera-Rojas' Employment with Employers

Employers are a facility focused on short-term rehabilitation, and long-term care services.

Employee worked as a CNA. Employee's primary job function was to shower patients, dress patients, and prepare patients for physical therapy or to feed. In performing Employee's duties, Employee was regularly required to perform work (off-the-clock), without compensation. Due to understaffing and high workloads, Employee was also frequently deprived of an opportunity to take legally compliant meal and rest breaks. Employers failed to provide Employee and other Aggrieved Employees with the meal and rest break premiums as required by the Labor Code. Additionally, Employee necessarily incurred business-related expenses, but Employers failed to reimburse such business-related expenses. These are just non-exhaustive examples of the facts and theories the Employee asserts, which are described in more detail below.

Employers own/owned and operate/operated an industry, business, and establishment within the State of California. As such and based upon all the facts and circumstances incident to Employers' business in California, Employers are subject to the California Labor Code, Wage Orders issued by the Industrial Welfare Commission ("IWC"), and the California Business & Professions Code.

Dayana Lobera-Rojas is a resident of California who worked for Employers in Los Angeles County, California as an hourly-paid, non-exempt employee from approximately February 2, 2022 to approximately May 2024.

During Employee's employment for Employers, Employers paid Employee an hourly wage and classified Employee as non-exempt from overtime. Employers typically scheduled Employee to work at least five days in a workweek and at least eight hours per day, but Employee also worked more than eight hours in a workday and more than forty (40) hours in a workweek.

Throughout Employee's employment, Employers failed to pay for all hours worked (including minimum, straight time, and overtime wages), failed to provide Employee with legally compliant meal periods, failed to authorize and permit Employee to take rest periods, failed to timely pay all final wages to Employee when Employers terminated Employee's employment, failed to furnish accurate wage statements to Employee, failed to indemnify Employee for business expenditures, and failed to timely produce Employee's requested employment records. As discussed below, Employee's experience working for Employers was typical and illustrative.

Failure to Pay for All Hours Worked, Including Minimum, Straight, and Overtime Wages

Under California law, an employer must pay for all hours worked by an employee. "Hours worked" is 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.

In addition, Labor Code § 510 provides that employees in California shall not be employed more than eight hours in any workday or forty (40) hours in a workweek unless they receive additional compensation beyond their regular wages in amounts specified by law.

Labor Code §§ 1194 and 1198 also provide that employees in California shall not be employed more than eight hours in any workday unless they receive additional compensation beyond their regular wages in amounts specified by law. Additionally, Labor Code § 1198 states that the employment of an employee for longer hours than those fixed by the IWC is unlawful.

Throughout the statutory period, Employers failed to pay Employee and the Aggrieved Employees, or some of them, for all hours worked, including minimum, straight time, and overtime wages. Employers at time required Employee and the Aggrieved Employees, or some of them, to work "off-the-clock," uncompensated, by, for example, requiring Employee and the Aggrieved Employees to perform work during uncompensated meal periods and rest periods, and requiring

Employee and the Aggrieved Employees to perform work before clocking in and/or after clocking out. Specifically, Employers required temperature checks off the clock, was required to remain on premises during meal and rest breaks on the rare occasion rest breaks were even provided, and repeated interruptions during off the clock meal breaks. Some of this unpaid work should have been paid at the overtime rate. California Labor Code § 510 requires that employers compensate employees 1.5 times their regular rate of pay when employees work over eight hours per day, 40 hours per week, or when employees work up to eight hours on any seventh day of a workweek. Employers failed to properly calculate Employee's regular rate of pay when paying overtime, by failing to include all compensation in Employee's overtime calculations. In failing to pay for all hours worked, Employers also failed to maintain accurate records of the hours Employee and the Aggrieved Employees, or some of them, worked.

Throughout the statutory period, Employers also engaged in a practice of improper rounding. Under *Camp v. Home Depot U.S.A., Inc.* (2022) 84 Cal.App.5th 638, because Employers could and did track the exact time in minutes that Employee worked, they must pay for all time worked. When an employer uses an electronic timekeeping system to record time worked, this ability to "precisely capture time worked" means that "the employer must pay the employee for that worktime when due." (*Id.* at 671.) As a result of Employers' rounding policy, Employee consistently was not compensated at least minimum wage for all hours that Employee worked.

As a result, Employers are liable to Employee and the Aggrieved Employees, or some of them, for the civil penalties provided for in Labor Code §§ 210, 1197.1, and 2699(f)(2) for failing to pay for all hours worked, including minimum, straight time, and overtime wages.

Failure to Provide Meal Periods

Under California law, employers have an affirmative obligation to relieve employees of all duty in order to take their first 30-minute, duty-free meal periods no later than the start of sixth hour of work in a workday, and to allow employees to take their second 30-minute, duty-free meal period no later than the start of the eleventh hour of work in the workday. Further, employees are entitled to be paid one hour of additional wages for each workday they were not provided with all required meal period(s).

Despite these legal requirements, Employers at times wrongfully failed to provide Employee and the Aggrieved Employees, or some of them, with their legally mandated 30-minute, uninterrupted, and duty-free meal period in a manner required by law (and also including but not limited to failing at times to provide Plaintiff, the Class, and the Aggrieved Employees, or some of them, the opportunity to leave the work premises to take meal periods). Specifically, Employee and the Aggrieved Employees experienced repeated interruptions during any off the clock meal breaks, meal break were late, and were required to be on premises where Employee was not allowed to leave the premises. Employers also continued to assert control over Employee and the Aggrieved Employees, or some of them, by, among other things, requiring, pressuring, or encouraging them to perform work tasks which could not be completed without working in lieu of taking mandatory meal periods, or by denying Employee and the Aggrieved Employees, or some of them, permission to take a meal period under the conditions required by law, and without properly compensating Employee and the Aggrieved Employees, or some of them, for meal periods that were not provided as required by law. Employers also did not inform Employee of Employee's right to, nor permitted Employee to take, all of Employee's second meal periods when Employee worked at least ten hours of work in a workday and otherwise unlawfully pressured Employee to waive such breaks. Accordingly, Employers at times failed to provide meal periods to Employee and the Aggrieved Employees, or some of them, in compliance with California law.

Employee and the Aggrieved Employees, or some of them, are thus entitled to be paid one hour of additional wages for each workday they were not provided with all required meal period(s). Employers, however, at times failed to pay Employee and the Aggrieved Employees, or some of them, the additional wages to which they were entitled for meal periods that were not provided.

As a result, Employers are liable to Employee and the Aggrieved Employees, or some of them, for the civil penalties provided for in Labor Code §§ 210 and 2699(f)(2) for failing to provide meal periods and pay meal period premium wages.

Failure to Authorize and Permit Rest Periods

Employers are required by California law to authorize and permit breaks of ten uninterrupted minutes for each four hours of work or major fraction of four hours (i.e., more than two hours). Thus, for example, if an employee's work time is six hours and ten minutes, the employee is entitled to two rest breaks. Each failure to authorize rest breaks as so required is itself a violation of California's rest break laws.

Throughout the statutory period, Employers at times have wrongfully failed to authorize and permit Employee and the Aggrieved Employees, or some of them, to take legally compliant rest periods in a manner required by law (and also including but not limited to failing, at times, to authorize and permit Plaintiff, the Class, and the Aggrieved Employees, or some of them, the opportunity to leave the work premises to take rest periods). Employers at times required Employee and the Aggrieved Employees, or some of them, to work in excess of four consecutive hours a day without Employers' authorizing and permitting Employee to take a 10-minute, uninterrupted, duty-free rest period for every four hours of work (or major fraction of four hours), or without compensating Employee and the Aggrieved Employees, or some of them, for rest periods that were not authorized or permitted.

Instead, Employers at times continued to assert control over Employee and the Aggrieved Employees, or some of them, by requiring, pressuring, or encouraging them to perform work tasks which could not be completed without working in lieu of taking mandatory rest periods, or at times by denying Employee and the Aggrieved Employees, or some of them, permission to take a rest period. Specifically, Employers required Employee and the Aggrieved Employees to remain on the premises at all times, always be attentive to the patients, and were never relieved of any job duties for the purposes of taking a rest break. Accordingly, Employers at times failed to authorize and permit Employee and the Aggrieved Employees, or some of them, to take rest periods in compliance with California law. Employee and the Aggrieved Employees, or some of them, are thus entitled to be paid one hour of additional wages for each workday he or she was not authorized and permitted to take all required rest period(s). Employers, however, at times failed to pay Employee and the Aggrieved Employees, or some of them, the additional wages to which they were entitled for rest periods that they were not authorized and permitted to take.

As a result, Employers are liable to Employee and the Aggrieved Employees, or some of them, for the civil penalties provided for in Labor Code §§ 210 and 2699(f)(2) for failing to authorize and permit rest periods and pay rest period premium wages.

Failure to Pay All Earned Wages Twice Per Month

Based on Employers' failure at times to pay Employee and the Aggrieved Employees, or some of them, for all wages as discussed above, Employers also violated Labor Code § 204.

Labor Code § 204 requires employers to pay employees all earned wages two times per month. Throughout the statute of limitations period applicable to this cause of action, employees were

entitled to be paid twice a month at their regular rates, including all meal period premium wages owed, rest period premium wages owed, and wages owed for overtime hours worked. However, at times, Employers failed and refused to pay the Employee all wages due, and failed to pay those wages twice a month, in that Employee was not paid all wages for all meal periods not provided by Employers, all wages for all rest periods not authorized and permitted by Employers, and all wages for all hours worked. As a result, Employers owe Employee the legally required wages for unpaid wages, and Employee and the Aggrieved Employees, or some of them, suffered damages in those amounts. Specifically, Employee was paid for her work more 8 days after the end of the applicable pay period, and therefore late.

///

Moreover, Employers are liable to Employee and the Aggrieved Employees, or some of them, for the civil penalties provided for in Labor Code § 210 for failing to pay all earned wages twice per month.

Failure to Maintain Accurate Records of Hours Worked and Meal Periods

Employee seeks penalties under California Labor Code § 1174(d). Pursuant to California Labor Code § 1174.5, any person, including any entity, employing labor who willfully fails to maintain accurate and complete records required by California Labor Code § 1174 is subject to a penalty under § 1174.5. Pursuant to the applicable IWC Order § 7(A)(3), every employer shall keep time records showing when the employee begins and ends each work period. Meal periods and total hours worked daily shall also be recorded.

Employers, however, at times failed to maintain accurate records of hours worked and all meal periods taken or missed by Employee and the Aggrieved Employees, or some of them.

Employers' failure to provide and maintain records required by the California Labor Code and the applicable IWC Wage Orders deprived Employee and the Aggrieved Employees, or some of them, the ability to know, understand and question the accuracy and frequency of meal periods, and the accuracy of their hours worked stated in Employers' records. Therefore, Employee and the Aggrieved Employees, or some of them, had no way to dispute the resulting failure to pay wages, all of which resulted in an unjustified economic enrichment to Employers. As a direct result, Employee and the Aggrieved Employees, or some of them, have suffered and continue to suffer, substantial losses related to the use and enjoyment of such wages, lost interest on such wages and expenses and attorneys' fees in seeking to compel Employers to fully perform their obligation under state law, all to their respective damage in amounts according to proof at trial. As a result of Employers' knowing failure, at times, to comply with the California Labor Code and applicable IWC Wage Orders, Employee and the Aggrieved Employees, or some of them, have also suffered an injury in that they were prevented from knowing, understanding, and disputing the wage payments paid to them.

Failure to Timely Pay All Wages at Termination

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 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. Direct deposits of wages to an employee's bank, saving and loan, or credit union account that were previously authorized by the employee are immediately terminated when an employee quits or is discharged, and the payment of wages upon termination of

employment in the manner described above shall apply unless the employee has voluntarily authorized that deposit and provided that the employer complies with the provisions of Labor Code § 213(d) relating to the payment of wages upon termination or quitting of employment.

Within the applicable statute of limitations, the employment of Employee and many other Aggrieved Employees ended, i.e., was terminated by quitting or being discharged, and the employment of others will be terminated. However, during the relevant time period, Employers at times failed, and continue at times to fail, to pay Employee and terminated Aggrieved Employees, or some of them, without abatement, all wages required to be paid by Labor Code sections 201 and 202 either at the time of discharge, or within seventy-two (72) hours of their leaving Employers' employment. These unpaid wages include wages for unpaid work time (including minimum, straight time, and overtime wages), missed meal period premium wages, and missed rest period premium wages. Employers also violated, and continue to violate, Labor Code section 213(d) by paying final wages (if any are paid at all) via direct deposit without the employee's voluntary authorization.

Employers' conduct violates Labor Code §§ 201 and 202. Labor Code § 203 provides that if an employer willfully fails to pay wages owed, in accordance with sections 201 and 202, then the wages of the employee shall continue as a penalty wage from the due date, and at the same rate until paid or until an action is commenced; but the wages shall not continue for more than thirty (30) days.

Accordingly, Employee and the Aggrieved Employees, or some of them, are entitled to recover from Employers their additionally accruing wages for each day they were not paid, at their regular hourly rate of pay, up to thirty (30) days maximum pursuant to Labor Code § 203.

Moreover, Employers are liable to Employee and the Aggrieved Employees, or some of them, for the civil penalties provided for in Labor Code § 2699(f)(2) for failing to timely pay all wages at termination, and for unlawfully making any such payment (if any) via direct deposit without the employee's voluntary authorization.

Failure to Furnish Accurate Itemized Wage Statements

Labor Code § 226(a) provides that every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees an accurate itemized wage statement in writing showing nine pieces of information, including: (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. An employee is presumed to suffer an injury if this information is missing. (Lab. Code § 226(e)(2)(B)(iii).)

The statute further provides: "An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney's fees." (Lab. Code § 226(e)(1).)

Throughout the statutory period, Employers at times failed to, and continue at times to fail, to timely furnish Employee and the Aggrieved Employees, or some of them, with accurate, itemized wage statements showing all applicable hourly rates, and all gross and net wages earned (including correct hours worked, correct wages for meal periods that were not provided in accordance with California law, and correct wages for rest periods that were not authorized and permitted to take in accordance with California law).

Because Employers at times violated Labor Code § 226, Employee and similarly Aggrieved Employees, or some of them, suffered injury and damage to their statutorily protected rights. Accordingly, Employee and similarly Aggrieved Employees, or some of them, are entitled to recover from Employers the greater of their actual damages caused by Employers' failure to comply with Labor Code § 226(a), or an aggregate penalty not exceeding four thousand dollars (\$4,000) per employee. Moreover, Employers are liable to Employee and the Aggrieved Employees, or some of them, for the civil penalties provided for in Labor Code § 226.3 for failing to timely furnish accurate itemized wage statements.

Failure to Indemnify for Necessary Expenditures

Labor Code § 2802(a) provides that employers shall indemnify their employees for all necessary business expenditures or losses that have been incurred by the employees in direct discharge of his or her duties. Throughout the statute of limitations period applicable to this cause of action, Employers at times wrongfully required Employee and the Aggrieved Employees, or some of them, to pay expenses that they incurred in direct discharge of their duties for Employers. Employee and the Aggrieved Employees, or some of them, at times paid out-of-pocket for necessary employment-related expenses. Employee and the Aggrieved Employees, or some of them, incurred substantial expenses as a direct result of performing their job duties for Employers, but Employers failed to indemnify Employee and the Aggrieved Employees, or some of them, for these employment-related expenses. Specifically, Employee had to purchase a hair dryer for patient's hair after showers and specific boots to shower patients in. Employee was never reimbursed for her expenses.

As a result, Employers are liable to Employee and the Aggrieved Employees, or some of them, for the civil penalties provided for in Labor Code §§ 2802 and 2699(f)(2) for failing to indemnify Employee and the Aggrieved Employees, or some of them, for necessary business expenditures.

Recordkeeping Requirement Violations

California Labor Code section 1174 requires employers to keep "accurate and complete" payroll records showing, among other things, the hours worked daily by Employees and Aggrieved Employees. All applicable IWC Wage Orders, section 7 similarly requires employers to keep accurate time records reflecting the times during which all owed meal periods were provided each day.

Based on information and belief, Employers at times failed, and continue at times to fail, to keep accurate and complete payroll records as required by law, including but not limited to the following records: total daily hours worked, applicable rates of pay, time records showing when Employee and other Aggrieved Employees began and ended each work period, time records of meal periods, and accurate itemized wage statements.

Based on information and belief, Employers at times failed and continue at times to fail to keep

accurate and complete records showing total hours worked by Employee and Aggrieved Employees, or some of them, by virtue of Employers' time rounding and/or auto deduction policies and practices and/or other off-the-clock work policies and practices. Employers failed at times and continue at times to fail to keep accurate and complete records showing total hours worked by virtue of Employers' failure to relieve Employee and Aggrieved Employees, or some of them, of all duties and Employers' control for unpaid meal periods, resulting in unpaid hours worked.

Based on information and belief, Employers further failed at times, and continue at times to fail, to record the true start and end times of Employee's and Aggrieved Employees' meal periods, or some of them.

Based on further information and belief, Employers further failed at times and continue at times to fail, to record the true start and end times of Employee's and Aggrieved Employees' work shifts, or some of them.

Additionally, Employers at times failed, and continue at times to fail, to keep accurate records and issue accurate wage statements by not documenting accrued sick time for Employee and Aggrieved Employees, or some of them. Employers' failure to keep "accurate and complete" payroll records for Employee and Aggrieved Employees, or some of them, violates Labor Code sections 1174, 1198, 1199, and all applicable IWC Wage Orders, section 7. These violations subject Employers to civil penalties under Labor Code sections 558.1, 226.6, 1174.5 and 2699. Each violation of each Labor Code section and Wage Order provision, for each Aggrieved Employee (or some of them), results in a separate civil penalty.¹

Action for Civil Penalties Under PAGA

In light of the above, Employee alleges that Employers violated the following provisions of the Labor Code with respect to the Aggrieved Employees, or some of them:

1. Labor Code §§ 204, 510, 1194, 1197, and 1198 by failing at times to pay for all hours worked, including minimum wages, straight time wages, and overtime wages;
2. Labor Code § 226.7 and applicable Wage Orders by failing at times to provide meal periods;
3. Labor Code § 226.7 and applicable Wage Orders by failing at times to authorize and permit rest periods;
4. Labor Code § 204 by failing at times to pay all earned wages two times per month;
5. California Labor Code § 1174.5 and applicable Wage Orders by failing at times to maintain accurate records of hours worked and meal periods taken or missed;
6. Labor Code §§ 201 to 203 by willfully failing at times to pay all wages owed at termination;
7. Labor Code § 226 by failing at times to provide accurate itemized wage statements;
8. Labor Code § 2802 by failing at times to indemnify for necessary expenditures;
9. Labor Code §§ 226, 432, and 1198.5 by failing at times to timely produce requested payroll records, timecards, and personnel records; and
10. Labor Code § 1174 by failing at times to keep accurate and complete payroll records.

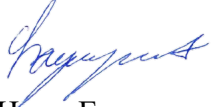
¹ See Lab. Code §2699(f)(2) (establishing that the civil penalty is "for each aggrieved employee per pay period").

Therefore, on behalf of potentially Aggrieved Employees, Employee seeks applicable penalties related to the violations alleged above pursuant to the PAGA. These include, but are not limited to, penalties under Labor Code §§ 210, 226.3, 1174.5, 1197.1, and 2699.

Employee has placed Employers on notice by mailing a certified copy of this correspondence, as indicated on the first page. Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me.

Sincerely,

WILSHIRE LAW FIRM



Harry Erganyan, Esq.

EXHIBIT 8

WILSHIRE LAW FIRM, PLC

3055 Wilshire Blvd, 12th Floor
Los Angeles, CA 90010
Tel: (213) 381-9988
Fax: (213) 381-9989
wilshirelawfirm.com



Sean Paisan, Esq.
John Yslas, Esq.
Tyler Woods, Esq.
Stephanie Mazepa, Esq.
Nicol Hajjar, Esq.
Thiago Coelho, Esq.
Benjamin Haber, Esq.

June 25, 2025

LWDA
Attn. PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612
(Via Online Submission)

Ensign Services, Inc.
29222 Rancho Viejo Rd Ste. 127
San Juan Capistrano, CA 92675
(Via Certified Mail, Return Receipt Requested)
#9489 0090 0027 6620 2463 05

Stagecoach Healthcare, Inc. dba Desert Mountain
Care Center
47763 Monroe Street
Indio, CA 92201
(Via Certified Mail, Return Receipt Requested)
#9489 0090 0027 6620 2462 82

Cogency Global, Inc.
Agent for Service of Process
Ensign Services, Inc.
The Ensign Group, Inc.
Stagecoach Healthcare, Inc. dba Desert
Mountain Care Center
1325 J. St., Ste. 1550
Sacramento, CA 95814
(Via Certified Mail, Return Receipt Requested)
#9489 0090 0027 6620 2463 12

The Ensign Group, Inc.
29222 Rancho Viejo Rd., Ste. 127
San Juan Capistrano, CA 92675
(Via Certified Mail, Return Receipt Requested)
#9489 0090 0027 6620 2462 99

Re: ***Vesenia Aguilar Hernandez v. Stagecoach Healthcare, Inc. dba Desert Mountain
Care Center, et al.***
Notice of Labor Code Violations and PAGA Penalties

To Whom It May Concern:

Please be advised that my office has been retained by Vesenia Aguilar Hernandez ("Ms. Aguilar" "Employee") to pursue a Labor Code Private Attorneys General Act of 2004 ("PAGA") representative action (Cal. Lab. Code §§ 2699, *et seq.*) against Employee's former employers, Stagecoach Healthcare, Inc. dba Desert Mountain Care Center, Ensign Services, Inc., and The Ensign Group, Inc. ("Employers"). The purpose of this letter is to comply with PAGA and set forth the facts and theories of California Labor Code violations which we allege Employers engaged in with respect to Employee and potentially all of Employers' Aggrieved Employees.

Ms. Aguilar wishes to pursue this action on behalf of Employees as Aggrieved Employees, on behalf of the State of California, as well as on behalf of potentially all other persons who worked for Employers in California as a non-exempt or hourly-paid employee at any time within the applicable statutory period (hereafter, the "Aggrieved Employees").

Employee and the Aggrieved Employees, or some of them, suffered the Labor Code violations described below.

///

Ms. Aguilar's Employment with Employers

Employers are a skilled nursing facility. Employee worked as a Certified Nursing Assistant. Employee's primary job function was to provide each assigned resident with routine nursing care and services in accordance with the resident's care plan. In performing Employee's duties, Employee was regularly required to perform work (off-the-clock), without compensation, including, but not limited to, attending to residents' needs in lieu of taking a meal and/or rest period. Employee was also frequently deprived of an opportunity to take legally compliant meal and rest breaks. Specifically, Employee regularly and consistently had late, short, and interrupted meal breaks, and Employee has no recollection of receiving meal and rest break premiums as required by the Labor Code. Additionally, Employee necessarily incurred business-related expenses, including, but not limited to, the use of Employee's personal cell phone for work related purposes, but Employers failed to reimburse such business-related expenses. These are just non-exhaustive examples of the facts and theories the Employee asserts, which are described in more detail below.

Employers own/owned and operate/operated an industry, business, and establishment within the State of California. As such and based upon all the facts and circumstances incident to Employers' business in California, Employers are subject to the California Labor Code, Wage Orders issued by the Industrial Welfare Commission ("IWC"), and the California Business & Professions Code.

Vesenia Aguilar Hernandez is a resident of Indio, California who worked for Employers in Riverside County, California as an hourly-paid, non-exempt employee from approximately September 2023 to approximately June 2024.

During Employee's employment for Employers, Employers paid Employee an hourly wage and classified Employee as non-exempt from overtime. Employers typically scheduled Employee to work at least six days in a workweek and at least twelve hours per day.

Throughout Employee's employment, Employers failed to pay for all hours worked (including minimum, straight time, and overtime wages), failed to provide Employee with legally compliant meal periods, failed to authorize and permit Employee to take rest periods, failed to timely pay all final wages to Employee when Employers terminated Employee's employment, failed to furnish accurate wage statements to Employee, failed to indemnify Employee for business expenditures, and failed to timely produce Employee's requested employment records. As discussed below, Employee's experience working for Employers was typical and illustrative.

Failure to Pay for All Hours Worked, Including Minimum, Straight, and Overtime Wages

Under California law, an employer must pay for all hours worked by an employee. "Hours worked" is 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.

In addition, Labor Code § 510 provides that employees in California shall not be employed more than eight hours in any workday or forty (40) hours in a workweek unless they receive additional compensation beyond their regular wages in amounts specified by law.

Labor Code §§ 1194 and 1198 also provide that employees in California shall not be employed more than eight hours in any workday unless they receive additional compensation beyond their regular wages in amounts specified by law. Additionally, Labor Code § 1198 states that the employment of an employee for longer hours than those fixed by the IWC is unlawful.

Throughout the statutory period, Employers failed to pay Employee and the Aggrieved Employees, or some of them, for all hours worked, including minimum, straight time, and overtime wages. Employers at time required Employee and the Aggrieved Employees, or some of them, to work “off-the-clock,” uncompensated, by, for example, requiring Employee and the Aggrieved Employees to perform work during uncompensated meal periods and rest periods, and requiring Employee and the Aggrieved Employees to perform work before clocking in and/or after clocking out. For example, Employee was required to attend to residents’ needs despite being on her meal break. Employee’s meal breaks were also often interrupted by management, who would have inquiries about an issue or needed assistance. As another example, Employee often communicated with management, on her personal cellphone, off-the-clock.

California Labor Code § 510 requires that employers compensate employees 1.5 times their regular rate of pay when employees work over eight hours per day, 40 hours per week, or when employees work up to eight hours on any seventh day of a workweek. Employers failed to properly calculate Employee’s regular rate of pay when paying overtime, by failing to include all compensation in Employee’s overtime calculations, including hours worked off-the-clock. In failing to pay for all hours worked, Employers also failed to maintain accurate records of the hours Employee and the Aggrieved Employees, or some of them, worked.

As a result, Employers are liable to Employee and the Aggrieved Employees, or some of them, for the civil penalties provided for in Labor Code §§ 210, 1197.1, and 2699(f)(2) for failing to pay for all hours worked, including minimum, straight time, and overtime wages.

Failure to Provide Meal Periods

Under California law, employers have an affirmative obligation to relieve employees of all duty in order to take their first 30-minute, duty-free meal periods no later than the start of sixth hour of work in a workday, and to allow employees to take their second 30-minute, duty-free meal period no later than the start of the eleventh hour of work in the workday. Further, employees are entitled to be paid one hour of additional wages for each workday they were not provided with all required meal period(s). Despite these legal requirements, Employers at times wrongfully failed to provide Employee and the Aggrieved Employees, or some of them, with their legally mandated 30-minute, uninterrupted, and duty-free meal period in a manner required by law (and also including but not limited to failing at times to provide Employee and the Aggrieved Employees, or some of them, the opportunity to leave the work premises to take meal periods). For example, Employee routinely experienced missed, late, and interrupted meal periods due to the busy nature and understaffing of the work environment. Indeed, Employee was expected to address and attend to residents’ needs while on her meal break. Additionally, Employee and other Aggrieved Employees were unable to leave the work premises during their meal break, due to Employers’ requirement that employees be readily available to address residents’ calls and needs.

Employers also continued to assert control over Employee and the Aggrieved Employees, or some of them, by, among other things, requiring, pressuring, or encouraging them to perform work tasks which could not be completed without working in lieu of taking mandatory meal periods, or by denying Employee and the Aggrieved Employees, or some of them, permission to take a meal period under the conditions required by law, and without properly compensating Employee and the Aggrieved Employees, or some of them, for meal periods that were not provided as required by law. Employers also did not inform Employee of Employee’s right to, nor permitted Employee to take, all of Employee’s second meal periods when Employee worked at least ten hours of work in a workday and otherwise unlawfully pressured Employee to waive such breaks. Accordingly,

Employers at times failed to provide meal periods to Employee and the Aggrieved Employees, or some of them, in compliance with California law.

Employee and the Aggrieved Employees, or some of them, are thus entitled to be paid one hour of additional wages for each workday they were not provided with all required meal period(s). Employers, however, at times failed to pay Employee and the Aggrieved Employees, or some of them, the additional wages to which they were entitled for meal periods that were not provided. Employee does not recall receiving meal and rest break premiums for all of the late, short, and interrupted breaks.

As a result, Employers are liable to Employee and the Aggrieved Employees, or some of them, for the civil penalties provided for in Labor Code §§ 210 and 2699(f)(2) for failing to provide meal periods and pay meal period premium wages.

Failure to Authorize and Permit Rest Periods

Employers are required by California law to authorize and permit breaks of ten uninterrupted minutes for each four hours of work or major fraction of four hours (i.e., more than two hours). Thus, for example, if an employee's work time is six hours and ten minutes, the employee is entitled to two rest breaks. Each failure to authorize rest breaks as so required is itself a violation of California's rest break laws.

Throughout the statutory period, Employers at times have wrongfully failed to authorize and permit Employee and the Aggrieved Employees, or some of them, to take legally compliant rest periods in a manner required by law (and also including but not limited to failing, at times, to authorize and permit Employee and the Aggrieved Employees, or some of them, the opportunity to leave the work premises to take rest periods). Employers at times required Employee and the Aggrieved Employees, or some of them, to work in excess of four consecutive hours a day without Employers' authorizing and permitting Employee to take a 10-minute, uninterrupted, duty-free rest period for every four hours of work (or major fraction of four hours), or without compensating Employee and the Aggrieved Employees, or some of them, for rest periods that were not authorized or permitted.

Instead, Employers at times continued to assert control over Employee and the Aggrieved Employees, or some of them, by requiring, pressuring, or encouraging them to perform work tasks which could not be completed without working in lieu of taking mandatory rest periods, or at times by denying Employee and the Aggrieved Employees, or some of them, permission to take a rest period. Indeed, similar to is meal period practices, Employee and other Aggrieved Employees routinely and consistently were not afforded complaint rest breaks due to the busy nature of the work environment and Employers' unrealistic expectations.

Accordingly, Employers at times failed to authorize and permit Employee and the Aggrieved Employees, or some of them, to take rest periods in compliance with California law. Employee and the Aggrieved Employees, or some of them, are thus entitled to be paid one hour of additional wages for each workday he or she was not authorized and permitted to take all required rest period(s). Employers, however, at times failed to pay Employee and the Aggrieved Employees, or some of them, the additional wages to which they were entitled for rest periods that they were not authorized and permitted to take.

///

As a result, Employers are liable to Employee and the Aggrieved Employees, or some of them, for the civil penalties provided for in Labor Code §§ 210 and 2699(f)(2) for failing to authorize and permit rest periods and pay rest period premium wages.

Failure to Pay All Earned Wages Twice Per Month

Based on Employers' failure at times to pay Employee and the Aggrieved Employees, or some of them, for all wages as discussed above, Employers also violated Labor Code § 204.

Labor Code § 204 requires employers to pay employees all earned wages two times per month. Throughout the statute of limitations period applicable to this cause of action, employees were entitled to be paid twice a month at their regular rates, including all meal period premium wages owed, rest period premium wages owed, and wages owed for overtime hours worked. However, at times, Employers failed and refused to pay the Employee all wages due, and failed to pay those wages twice a month, in that Employee was not paid all wages for all meal periods not provided by Employers, all wages for all rest periods not authorized and permitted by Employers, and all wages for all hours worked. As a result, Employers owe Employee the legally required wages for unpaid wages, and Employee and the Aggrieved Employees, or some of them, suffered damages in those amounts.

Moreover, Employers are liable to Employee and the Aggrieved Employees, or some of them, for the civil penalties provided for in Labor Code § 210 for failing to pay all earned wages twice per month.

Failure to Maintain Accurate Records of Hours Worked and Meal Periods

Employee seeks penalties under California Labor Code § 1174(d). Pursuant to California Labor Code § 1174.5, any person, including any entity, employing labor who willfully fails to maintain accurate and complete records required by California Labor Code § 1174 is subject to a penalty under § 1174.5. Pursuant to the applicable IWC Order § 7(A)(3), every employer shall keep time records showing when the employee begins and ends each work period. Meal periods and total hours worked daily shall also be recorded.

Employers, however, at times failed to maintain accurate records of hours worked and all meal periods taken or missed by Employee and the Aggrieved Employees, or some of them.

Employers' failure to provide and maintain records required by the California Labor Code and the applicable IWC Wage Orders deprived Employee and the Aggrieved Employees, or some of them, the ability to know, understand and question the accuracy and frequency of meal periods, and the accuracy of their hours worked stated in Employers' records. Therefore, Employee and the Aggrieved Employees, or some of them, had no way to dispute the resulting failure to pay wages, all of which resulted in an unjustified economic enrichment to Employers. As a direct result, Employee and the Aggrieved Employees, or some of them, have suffered and continue to suffer, substantial losses related to the use and enjoyment of such wages, lost interest on such wages and expenses and attorneys' fees in seeking to compel Employers to fully perform their obligation under state law, all to their respective damage in amounts according to proof at trial. As a result of Employers' knowing failure, at times, to comply with the California Labor Code and applicable IWC Wage Orders, Employee and the Aggrieved Employees, or some of them, have also suffered an injury in that they were prevented from knowing, understanding, and disputing the wage payments paid to them.

Failure to Timely Pay All Wages at Termination

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 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. Direct deposits of wages to an employee's bank, saving and loan, or credit union account that were previously authorized by the employee are immediately terminated when an employee quits or is discharged, and the payment of wages upon termination of employment in the manner described above shall apply unless the employee has voluntarily authorized that deposit and provided that the employer complies with the provisions of Labor Code § 213(d) relating to the payment of wages upon termination or quitting of employment.

Within the applicable statute of limitations, the employment of Employee and many other Aggrieved Employees ended, i.e., was terminated by quitting or being discharged, and the employment of others will be terminated. However, during the relevant time period, Employers at times failed, and continue at times to fail, to pay Employee and terminated Aggrieved Employees, or some of them, without abatement, all wages required to be paid by Labor Code sections 201 and 202 either at the time of discharge, or within seventy-two (72) hours of their leaving Employers' employment. These unpaid wages include wages for unpaid work time (including minimum, straight time, and overtime wages), missed meal period premium wages, and missed rest period premium wages. Employers also violated, and continue to violate, Labor Code section 213(d) by paying final wages (if any are paid at all) via direct deposit without the employee's voluntary authorization. Employee recalls that she did not receive her owed final wages at the time of her termination.

Employers' conduct violates Labor Code §§ 201 and 202. Labor Code § 203 provides that if an employer willfully fails to pay wages owed, in accordance with sections 201 and 202, then the wages of the employee shall continue as a penalty wage from the due date, and at the same rate until paid or until an action is commenced; but the wages shall not continue for more than thirty (30) days.

Accordingly, Employee and the Aggrieved Employees, or some of them, are entitled to recover from Employers their additionally accruing wages for each day they were not paid, at their regular hourly rate of pay, up to thirty (30) days maximum pursuant to Labor Code § 203.

Moreover, Employers are liable to Employee and the Aggrieved Employees, or some of them, for the civil penalties provided for in Labor Code § 2699(f)(2) for failing to timely pay all wages at termination, and for unlawfully making any such payment (if any) via direct deposit without the employee's voluntary authorization.

Failure to Furnish Accurate Itemized Wage Statements

Labor Code § 226(a) provides that every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees an accurate itemized wage statement in writing showing nine pieces of information, including: (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee

and the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. An employee is presumed to suffer an injury if this information is missing. (Lab. Code § 226(e)(2)(B)(iii).)

The statute further provides: “An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney’s fees.” (Lab. Code § 226(e)(1).)

Throughout the statutory period, Employers at times failed to, and continue at times to fail, to timely furnish Employee and the Aggrieved Employees, or some of them, with accurate, itemized wage statements showing all applicable hourly rates, and all gross and net wages earned (including correct hours worked, correct wages for meal periods that were not provided in accordance with California law, and correct wages for rest periods that were not authorized and permitted to take in accordance with California law).

Because Employers at times violated Labor Code § 226, Employee and similarly Aggrieved Employees, or some of them, suffered injury and damage to their statutorily protected rights. Accordingly, Employee and similarly Aggrieved Employees, or some of them, are entitled to recover from Employers the greater of their actual damages caused by Employers’ failure to comply with Labor Code § 226(a), or an aggregate penalty not exceeding four thousand dollars (\$4,000) per employee.

Moreover, Employers are liable to Employee and the Aggrieved Employees, or some of them, for the civil penalties provided for in Labor Code § 226.3 for failing to timely furnish accurate itemized wage statements.

Failure to Indemnify for Necessary Expenditures

Labor Code § 2802(a) provides that employers shall indemnify their employees for all necessary business expenditures or losses that have been incurred by the employees in direct discharge of his or her duties. Throughout the statute of limitations period applicable to this cause of action, Employers at times wrongfully required Employee and the Aggrieved Employees, or some of them, to pay expenses that they incurred in direct discharge of their duties for Employers. Employee and the Aggrieved Employees, or some of them, at times paid out-of-pocket for necessary employment-related expenses, including, but not limited to, the use of a personal cell phone. Employee and the Aggrieved Employees, or some of them, incurred substantial expenses as a direct result of performing their job duties for Employers, but Employers failed to indemnify Employee and the Aggrieved Employees, or some of them, for these employment-related expenses.

As a result, Employers are liable to Employee and the Aggrieved Employees, or some of them, for the civil penalties provided for in Labor Code §§ 2802 and 2699(f)(2) for failing to indemnify Employee and the Aggrieved Employees, or some of them, for necessary business expenditures.

///

Failure to Produce Requested Employment Records

Employee requested a copy of her personnel file, but Employer did not provide it. Labor Code § 226 provides that current and former employees have the right to inspect or receive a copy of their records pertaining to their employment, upon reasonable request to their employer. Under this statute, an employer that receives a request to inspect or receive a copy of records pertaining to a current or former employee must comply with the request as soon as practicable, but no later than twenty-one (21) calendar days from the date of the request.

Labor Code § 1198.5(a) also provides that every current and former employee, or his or her representative, has the right to inspect and receive a copy of the personnel records that the employer maintains relating to the employees' performance or to any grievance concerning the employee. Under this statute, upon written request from a current or former employee or his or her representative, an employer must make the contents of those personnel records available for inspection or provide a copy of the personnel records to the current or former employee, or his or her representative, not later than thirty (30) calendar days from the date the employer receives the written request, subject to some limited exceptions.

Labor Code § 432 provides that if an employee or applicant signs any instrument relating to the obtaining or holding of employment, he or she shall be given a copy of the instrument upon request. On information and belief, Employee and the Aggrieved Employees, or some of them, submitted written request(s) to Employers for their payroll records, timecards, and personnel records but did not timely receive them as required by the Labor Code.

As a result, Employers are liable to Employee and the Aggrieved Employees, or some of them, for the civil penalties provided for in Labor Code §§ 226(f), 1198.5(k), and 2699 for failing to timely produce the requested records.

Recordkeeping Requirement Violations

California Labor Code section 1174 requires employers to keep "accurate and complete" payroll records showing, among other things, the hours worked daily by Employees and Aggrieved Employees. All applicable IWC Wage Orders, section 7 similarly requires employers to keep accurate time records reflecting the times during which all owed meal periods were provided each day.

Based on information and belief, Employers at times failed, and continue at times to fail, to keep accurate and complete payroll records as required by law, including but not limited to the following records: total daily hours worked, applicable rates of pay, time records showing when Employee and other Aggrieved Employees began and ended each work period, time records of meal periods, and accurate itemized wage statements.

Based on information and belief, Employers at times failed and continue at times to fail to keep accurate and complete records showing total hours worked by Employee and Aggrieved Employees, or some of them, by virtue of Employers' time rounding and/or auto deduction policies and practices and/or other off-the-clock work policies and practices. Employers failed at times and continue at times to fail to keep accurate and complete records showing total hours worked by virtue of Employers' failure to relieve Employee and Aggrieved Employees, or some of them, of all duties and Employers' control for unpaid meal periods, resulting in unpaid hours worked.

///

Based on information and belief, Employers further failed at times, and continue at times to fail, to record the true start and end times of Employee's and Aggrieved Employees' meal periods, or some of them.

Based on further information and belief, Employers further failed at times and continue at times to fail, to record the true start and end times of Employee's and Aggrieved Employees' work shifts, or some of them.

Additionally, Employers at times failed, and continue at times to fail, to keep accurate records and issue accurate wage statements by not documenting accrued sick time for Employee and Aggrieved Employees, or some of them. Employers' failure to keep "accurate and complete" payroll records for Employee and Aggrieved Employees, or some of them, violates Labor Code sections 1174, 1198, 1199, and all applicable IWC Wage Orders, section 7. These violations subject Employers to civil penalties under Labor Code sections 558.1, 226.6, 1174.5 and 2699. Each violation of each Labor Code section and Wage Order provision, for each Aggrieved Employee (or some of them), results in a separate civil penalty.¹

Action for Civil Penalties Under PAGA

In light of the above, Employee alleges that Employers violated the following provisions of the Labor Code with respect to the Aggrieved Employees, or some of them:

1. Labor Code §§ 204, 510, 1194, 1197, and 1198 by failing at times to pay for all hours worked, including minimum wages, straight time wages, and overtime wages;
2. Labor Code § 226.7 and applicable Wage Orders by failing at times to provide meal periods;
3. Labor Code § 226.7 and applicable Wage Orders by failing at times to authorize and permit rest periods;
4. Labor Code § 204 by failing at times to pay all earned wages two times per month;
5. California Labor Code § 1174.5 and applicable Wage Orders by failing at times to maintain accurate records of hours worked and meal periods taken or missed;
6. Labor Code §§ 201 to 203 by willfully failing at times to pay all wages owed at termination;
7. Labor Code § 226 by failing at times to provide accurate itemized wage statements;
8. Labor Code § 2802 by failing at times to indemnify for necessary expenditures;
9. Labor Code §§ 226, 432, and 1198.5 by failing at times to timely produce requested payroll records, timecards, and personnel records; and
10. Labor Code § 1174 by failing at times to keep accurate and complete payroll records.

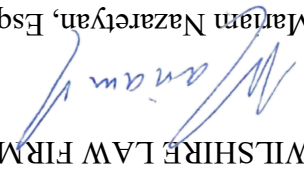
Therefore, on behalf of potentially Aggrieved Employees, Employee seeks applicable penalties related to the violations alleged above pursuant to the PAGA. These include, but are not limited to, penalties under Labor Code §§ 210, 226.3, 1174.5, 1197.1, and 2699.

¹ See Lab. Code §2699(f)(2) (establishing that the civil penalty is "for each aggrieved employee per pay period").

Employee has placed Employers on notice by mailing a certified copy of this correspondence, as indicated on the first page. Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me.

Sincerely,

WILSHIRE LAW FIRM



Mariam Nazaretyan, Esq.

CC: Kevin Holloway

Associate General Counsel

Ensign Services, Inc.

Email: kholloway@ensignservices.net

EXHIBIT 9

**WILSHIRE LAW FIRM,
PLC**

660 S. Figueroa Street, Sky Lobby
Los Angeles, California 90017
Tel: (213) 381-9988
Fax: (213) 381-9989
wilshirelawfirm.com



Sean Paisan, Esq.
John Yslas, Esq.
Tyler Woods, Esq.
Stephanie Mazepa, Esq.
Nicol Hajjar, Esq.
Thiago Coelho, Esq.
Benjamin Haber, Esq.

August 20, 2025

LWDA

Attn. PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612
(Via Online Submission)

Ensign Sonoma LLC
dba Broadway Villa Post Acute
29222 Rancho Viejo Rd., # 127
San Juan Capistrano, CA 92675
(Via Certified Mail, Return Receipt Requested)
#9489 0090 0027 6638 7735 58

Cogency Global Inc.
Agent for Service of Process for:
Ensign Sonoma LLC dba Broadway Villa Post
Acute
1325 J ST Ste 1550, Sacramento, CA
(Via Certified Mail, Return Receipt Requested)
#9489 0090 0027 6638 7735 65

Re: ***Simone Woods, et al. v Ensign Sonoma LLC dba Broadway Villa Post Acute***
Notice of Labor Code Violations and PAGA Penalties

To Whom It May Concern:

Please be advised that my office has been retained by Simone Woods (“Ms. Woods”) and Victor Spencer Wiley (“Mr. Wiley,” and together with Ms. Woods, the “Employees”) to pursue a Labor Code Private Attorneys General Act (“PAGA”) representative action (Cal. Lab. Code §§ 2699, *et seq.*) against their former employer, Ensign Sonoma LLC dba Broadway Villa Post Acute (“Broadway Villa”). The purpose of this letter is to comply with PAGA and set forth the facts and theories of California Labor Code violations which we allege Broadway Villa engaged in with respect to Employees and all of Broadway Villa’s Aggrieved Employees.

Employees wish to pursue this action as aggrieved employees, on behalf of the State of California, as well as on behalf of all other persons who worked for Broadway Villa in California as non-exempt or hourly-paid employees at any time within the applicable statutory period (hereafter, the “Aggrieved Employees”).

Employees and the Aggrieved Employees suffered the Labor Code violations described below.

Employees’ Employment with Broadway Villa

Broadway Villa Post Acute is a Short-Term Rehabilitation and Long-Term Care center in Sonoma County. Employees worked as caregivers and were responsible for assisting patients with a variety of daily activities. In performing their duties, Employees were regularly required to perform work

(off-the-clock), without compensation. Employees were never provided with rest periods or with second meal periods when they worked more than 10 hours in a workday. Due to understaffing and high workloads, they were also sometimes deprived of an opportunity to take meal period breaks, altogether. Their meal periods were often cut short or interrupted, and they were not allowed to leave the premises. Broadway Villa also failed to provide Employees and other Aggrieved Employees with meal and rest break premiums as required by the Labor Code.

Additionally, Employees necessarily incurred business-related expenses, including, but not limited to, use of personal cell phones and vehicles, but Broadway Villa failed to reimburse such business-related expenses. These are simply non-exhaustive examples of the facts and theories Employees assert, which are described in more detail below.

Broadway Villa owns/owned and operates/operated an industry, business, and establishment within the State of California, including Sonoma County. As such, and based upon all the facts and circumstances incident to Broadway Villa's business in California, Broadway Villa is subject to the California Labor Code, Wage Orders issued by the Industrial Welfare Commission ("IWC"), and the California Business & Professions Code.

Employees are residents of Sonoma County, California who worked for Broadway Villa in California as hourly-paid, non-exempt employees from approximately December 2023 to August 2024. Broadway Villa typically scheduled Employees to work at least five days in a workweek and at least eight hours per day, but Employees regularly worked more than eight hours in a workday and/or more than forty (40) hours in a workweek.

Throughout Employees' employment, Broadway Villa: failed to pay for all hours worked (including minimum, straight time, and overtime wages); failed to provide Employees with legally compliant meal periods (and pay corresponding meal period premium wages at the correct rate of pay); failed to authorize and permit Employees to take rest periods; failed to include all non-discretionary remuneration when calculating overtime pay, sick pay, and meal and rest period premium pay; failed to timely pay all final wages to Employees when Broadway Villa terminated their employment; failed to furnish accurate wage statements to Employees; and failed to indemnify Employees for expenditures. As discussed below, Employees' experiences working for Broadway Villa were typical and illustrative.

Failure to Pay for All Hours Worked, Including Minimum, Straight Time, and Overtime Wages

Under California law, an employer must pay for all hours worked by an employee. "Hours worked" is 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.

In addition, Labor Code § 510 provides that employees in California shall not be employed more than eight hours in any workday or forty (40) hours in a workweek unless they receive additional compensation beyond their regular wages in amounts specified by law.

Labor Code §§ 1194 and 1198 also provide that employees in California shall not be employed more than eight hours in any workday unless they receive additional compensation beyond their regular wages in amounts specified by law. Additionally, Labor Code § 1198 states that the employment of an employee for longer hours than those fixed by the IWC is unlawful.

Throughout the statutory period, Broadway Villa maintained a policy and practice of not paying Employees and the Aggrieved Employees for all hours worked, including minimum, straight time, and overtime wages. Broadway Villa, at times, required its employees to work overtime without providing overtime pay. Broadway Villa also required Employees and the Aggrieved Employees to work “off-the-clock,” uncompensated, by, for example, requiring Employees and the Aggrieved Employees to perform work before clocking in for the workday, during unpaid meal periods, and after clocking out for the workday. Additionally, Employees were expected to work on call or on standby. Some of this unpaid work should have been paid at the overtime rate. In failing to pay for all hours worked, Broadway Villa also failed to maintain accurate records of the hours Employees and the Aggrieved Employees worked.

As a result, Broadway Villa is liable to Employees and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210, 1197.1, and 2699(f)(2) for failing to pay for all hours worked, including minimum, straight time, and overtime wages.

Failure to Provide Meal Periods

Under California law, employers have an affirmative obligation to relieve employees of all duty in order to take their first 30-minute, duty-free meal periods no later than the start of sixth hour of work in a workday, and to allow employees to take their second 30-minute, duty-free meal period no later than the start of the eleventh hour of work in the workday. Further, employees are entitled to be paid one hour of additional wages for each workday they were not provided with all required meal period(s).

Despite these legal requirements, Broadway Villa wrongfully failed to provide Employees and the Aggrieved Employees with legally compliant meal periods. Broadway Villa regularly, but not always, required Employees and the Aggrieved Employees to work in excess of five consecutive hours a day without providing a 30-minute, uninterrupted, and duty-free meal period for every five hours of work, or without compensating Employees and the Aggrieved Employees for meal periods that were not provided by the end of the fifth hour of work or tenth hour of work. Instead, Broadway Villa continued to assert control over Employees and the Aggrieved Employees by requiring, pressuring, or encouraging them to perform work tasks which could not be completed without working in lieu of taking mandatory meal periods, or by denying Employees and the Aggrieved Employees permission to take a meal period. Broadway Villa also never informed Employees of the right to, nor permitted Employees to take, a second meal period when Employees worked at least ten hours in a workday. Accordingly, Broadway Villa’s policy and practice was not to provide meal periods to Employees and the Aggrieved Employees in compliance with California law.

Employees and the Aggrieved Employees are thus entitled to be paid one hour of additional wages for each workday he or she was not provided with all required meal period(s). Broadway Villa, however, regularly failed to pay Employees and the Aggrieved Employees the additional wages to which they were entitled for meal periods and that were not provided.

As a result, Broadway Villa is liable to Employees and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210 and 2699(f)(2) for failing to provide meal periods and pay meal period premium wages.

Failure to Authorize and Permit Rest Periods

Employers are required by California law to authorize and permit breaks of ten uninterrupted minutes for each four hours of work or major fraction of four hours (i.e. more than two hours). Thus, for example, if an employee's work time is six hours and ten minutes, the employee is entitled to two rest breaks. Each failure to authorize rest breaks as so required is itself a violation of California's rest break laws.

Throughout the statutory period, Broadway Villa has wrongfully failed to authorize and permit Employees and the Aggrieved Employees to take legally compliant rest periods. Broadway Villa regularly required Employees and the Aggrieved Employees to work in excess of four consecutive hours a day without Broadway Villa authorizing and permitting them to take a 10-minute, uninterrupted, duty-free rest period for every four hours of work (or major fraction of four hours), or without compensating Employees and the Aggrieved Employees for rest periods that were not authorized or permitted. Instead, Broadway Villa continued to assert control over Employees and the Aggrieved Employees by requiring, pressuring, or encouraging them to perform work tasks which could not be completed without working in lieu of taking mandatory rest periods, or by denying Employees and the Aggrieved Employees permission to take a rest period. Accordingly, Broadway Villa's policy and practice was to not authorize and permit Employees and the Aggrieved Employees to take rest periods in compliance with California law.

Employees and the Aggrieved Employees are thus entitled to be paid one hour of additional wages for each workday he or she was not authorized and permitted to take all required rest period(s). Broadway Villa, however, regularly failed to pay Employees and the Aggrieved Employees the additional wages to which they were entitled for rest periods and that they were not authorized and permitted to take.

As a result, Broadway Villa is liable to Employees and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210 and 2699(f)(2) for failing to authorize and permit rest periods and pay rest period premium wages.

Failure to Pay All Earned Wages Twice Per Month

Based on its failure to pay Employees and the Aggrieved Employees for all wages as discussed above, Broadway Villa also violated Labor Code § 204.

Labor Code § 204 requires employers to pay employees all earned wages two times per month. Throughout the statute of limitations period applicable to this cause of action, employees were entitled to be paid twice a month at their regular rates, including all meal period premium wages owed, rest period premium wages owed, and wages owed for overtime hours worked. However, during all such times, Broadway Villa systematically failed and refused to pay the employees all wages due, and failed to pay those wages twice a month, in that employees were not paid all wages for all meal periods not provided by Broadway Villa, all wages for all rest periods not authorized and permitted by Broadway Villa, and all wages for all hours worked. As a result, Broadway Villa owes employees the legally required wages for unpaid wages, and Employees and the Aggrieved Employees suffered damages in those amounts.

Moreover, Broadway Villa is liable to Employees and the Aggrieved Employees for the civil penalties provided for in Labor Code § 210 for failing to pay all earned wages twice per month.

Failure to Maintain Accurate Records of Hours Worked and Meal Periods

Employees seek penalties under California Labor Code § 1174(d). Pursuant to California Labor Code § 1174.5, any person, including any entity, employing labor who willfully fails to maintain accurate and complete records required by California Labor Code § 1174 is subject to a penalty under § 1174.5. Pursuant to the applicable IWC Order § 7(A)(3), every employer shall keep time records showing when the employee begins and ends each work period. Meal periods and total hours worked daily shall also be recorded.

Broadway Villa, however, failed to maintain accurate records of hours worked and all meal periods taken or missed by Employees and the Aggrieved Employees.

Broadway Villa's failure to provide and maintain records required by the California Labor Code and the applicable IWC Wage Orders deprived Employees and the Aggrieved Employees the ability to know, understand and question the accuracy and frequency of meal periods, and the accuracy of their hours worked stated in Broadway Villa's records. Therefore, Employees and the Aggrieved Employees had no way to dispute the resulting failure to pay wages, all of which resulted in an unjustified economic enrichment to Broadway Villa. As a direct result, Employees and the Aggrieved Employees have suffered, and continue to suffer, substantial losses related to the use and enjoyment of such wages, lost interest on such wages and expenses and attorney's fees in seeking to compel Broadway Villa to fully perform its obligation under state law, all to their respective damage in amounts according to proof at trial. As a result of Broadway Villa's knowing failure to comply with the California Labor Code and applicable IWC Wage Orders, Employees and the Aggrieved Employees have also suffered injury in that they were prevented from knowing, understanding, and disputing the wage payments paid to them.

Failure to Timely Pay All Wages at Termination

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 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.

Within the applicable statute of limitations, the employment of Employees and many other Aggrieved Employees ended, i.e., was terminated by quitting or being discharged, and the employment of others will be terminated. However, during the relevant time period, Broadway Villa failed, and continues to fail, to pay Employees and terminated Aggrieved Employees, without abatement, all wages required to be paid by Labor Code sections 201 and 202 either at the time of discharge, or within seventy-two (72) hours of their leaving Broadway Villa's employment. These unpaid wages include wages for unpaid work time (including minimum, straight time, and overtime wages), missed meal period premium wages, and missed rest period premium wages.

Broadway Villa's conduct violates Labor Code §§ 201 and 202. Labor Code § 203 provides that if an Broadway Villa willfully fails to pay wages owed, in accordance with sections 201 and 202, then the wages of the employee shall continue as a penalty wage from the due date, and at the same rate until paid or until an action is commenced; but the wages shall not continue for more than thirty (30) days.

Accordingly, Employees and terminated Aggrieved Employees are entitled to recover from Broadway Villa their additionally accruing wages for each day they were not paid, at their regular hourly rate of pay, up to thirty (30) days maximum pursuant to Labor Code § 203.

Moreover, Broadway Villa is liable Employees and terminated Aggrieved Employees for the civil penalties provided for in Labor Code § 2699(f)(2) for failing to timely pay all wages at termination.

Failure to Furnish Accurate Itemized Wage Statements

Labor Code § 226(a) provides that every employer shall furnish each of his or her employees an accurate itemized wage statement in writing showing nine pieces of information, including: (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. An employee is presumed to suffer an injury if this information is missing. (Lab. Code § 226(e)(2)(B)(iii).)

The statute further provides: “An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney’s fees.” (Lab. Code § 226(e)(1).)

Throughout the statutory period, Broadway Villa failed to furnish Employees and the Aggrieved Employees with accurate, itemized wage statements showing all applicable hourly rates, and all gross and net wages earned (including correct hours worked, correct wages for meal periods that were not provided in accordance with California law, and correct wages for rest periods that were not authorized and permitted to take in accordance with California law). Whether unpaid premiums for missed meal periods must be reported as “wages earned” and credited as “hours worked” in wage statements has been a settled issue since at least 2022.

Because Broadway Villa violated Labor Code § 226, Employees and similarly Aggrieved Employees suffered injury and damage to their statutorily protected rights. Accordingly, Employees and similarly Aggrieved Employees are entitled to recover from Broadway Villa the greater of their actual damages caused by Broadway Villa’s failure to comply with Labor Code § 226(a), or an aggregate penalty not exceeding four thousand dollars (\$4,000) per employee.

Moreover, Broadway Villa is liable to Employees and the Aggrieved Employees for the civil penalties provided for in Labor Code § 226.3 for failing to furnish accurate itemized wage statements.

Failure to Indemnify for Necessary Expenditures

Labor Code § 2802(a) provides that employers shall indemnify their employees for all necessary business expenditures or losses that have been incurred by the employees in direct discharge of his or her duties. Throughout the statute of limitations period applicable to this cause of action, Broadway Villa wrongfully required Employees and/or the Aggrieved Employees to pay expenses that they incurred in direct discharge of their duties for Broadway Villa. Employees and/or the Aggrieved Employees paid out-of-pocket for necessary employment-related expenses including, without limitation, use of personal cell phones and vehicles. Employees and/or the Aggrieved Employees incurred substantial expenses as a direct result of performing their job duties for Broadway Villa, but Broadway Villa failed to indemnify Employees and/or the Aggrieved Employees for these employment-related expenses.

As a result, Broadway Villa is liable to Employees and/or the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 2802 and 2699(f)(2) for failing to indemnify Employees and/or the Aggrieved Employees for necessary business expenditures.

Action for Civil Penalties Under PAGA

In light of the above, Employees allege that Broadway Villa violated the following provisions of the Labor Code with respect to the Aggrieved Employees:

1. Labor Code § 204, 510, 1194, 1197, and 1198 by failing to pay for all hours worked, including minimum wages, straight time wages, and overtime wages;
2. Labor Code § 226.7 and applicable Wage Orders by failing to provide meal periods;
3. Labor Code § 226.7 and applicable Wage Orders by failing to authorize and permit rest periods;
4. Labor Code § 204 by failing to pay all earned wages two times per month;
5. Labor Code § 1174.5 and applicable Wage Orders by failing to maintain accurate records of hours worked and meal periods taken or missed;
6. Labor Code §§ 201 to 203 by willfully failing to pay all wages owed at termination;
7. Labor Code § 226 by failing to provide accurate itemized wage statements; and
8. Labor Code § 2802 by failing to indemnify for necessary expenditures.

Therefore, on behalf of all Aggrieved Employees, Employees seek applicable penalties related to the violations alleged above pursuant to the PAGA. These include, but are not limited to, penalties under Labor Code §§ 210, 226.3, 1174.5, 1197.1, and 2699(f)(2).

The facts and claims contained herein are based on the information available at the time of this writing. Therefore, if through discovery and/or expert review, Employees become aware of additional claims, they reserve the right to revise these facts and/or add any new claims by amending the claim letter or by adding applicable causes of action in the complaint for damages.

Employees have placed Broadway Villa on notice by mailing a certified copy of this correspondence, as indicated on the first page. Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me.

Sincerely,

WILSHIRE LAW FIRM



John O. Bishay, Esq.

EXHIBIT 10

WILSHIRE LAW FIRM, PLC

660 S. Figueroa St., Sky Lobby
Los Angeles, CA 90017
Tel: (213) 381-9988
Fax: (213) 381-9989
wilshirelawfirm.com



Sean Paisan, Esq.
John Yslas, Esq.
John Lucas, Esq.
Tyler Woods, Esq.
Nicol Hajjar, Esq.
Thiago Coelho, Esq.
Benjamin Haber, Esq.
Arrash Fattahi, Esq.

June 1, 2026

Julie R. Trotter
Ellen Connelly Cohen
CALL & JENSEN
jtrotter@calljensen.com
ecohen@calljensen.com
(Via Email)

LWDA
Attn. PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612
(Via Online Submission)

Re: ***Christopher Villa, et al. v. Ensign Southland LLC, et al.***
Amended Notice of Labor Code Violations and PAGA Penalties
LWDA Case No.: LWDA-CM-896901-22

To Whom It May Concern:

This letter amends Christopher Villa's LWDA notice letter sent on July 21, 2022, including, but not limited to, by adding additional named Employees, additional Employers, and additional theories of liability.

Please be advised that my office has been retained by Christopher Villa, Crystal Applon, Jenny Brown, Angie Duran, Vesenia Aguilar Hernandez, Dayana Lobera-Rojas, Darnell Mendros, Stephanie Thomas, Victor Spencer Wiley, and Simone Woods ("Employees") to pursue a Labor Code Private Attorneys General Act of 2004 ("PAGA") representative action (Cal. Lab. Code §§ 2699, *et seq.*) against the following entities ("Employers"):

1. Ensign Southland, LLC
2. Southland Management LLC dba Southland Care Center
3. Ensign Services, Inc.
4. The Ensign Group, Inc.
5. Midnight Healthcare, Inc. dba Alamitos Belmont Health and Rehabilitation;
6. Malcolm Healthcare, Inc. dba Alamitos West Health and Rehabilitation;
7. Ensign San Dimas LLC dba Arbor Glen Care Center;
8. Dragonfly Senior Living, Inc. dba Arbor Place;
9. Brody Bay Healthcare, Inc. dba Arbor Rehabilitation & Nursing Center;
10. Perris Hills Healthcare LLC dba Arrowhead Springs Healthcare;
11. City Heights Health Associates LLC dba Arroyo Vista Nursing Center;
12. Atlantic Memorial Healthcare Associates Inc. dba Atlantic Memorial Healthcare Center;
13. Dessert Mallow Healthcare, Inc. dba Beachside Nursing Center;
14. Dusk Healthcare, Inc. dba Broadway by the Sea;
15. Ensign Sonoma LLC dba Broadway Villa Post Acute;
16. Downey Community Care LLC dba Brookfield Healthcare Center;
17. Redbrook Associates LLC dba Brookside Healthcare Center;
18. Camarillo Community Care, Inc. dba Camarillo Healthcare Center;

19. Pine Forest Healthcare, Inc. dba Camino Healthcare;
20. Bernardo Heights Healthcare, Inc. dba Carmel Mountain Rehabilitation and Healthcare Center;
21. Powers Park Healthcare, Inc. dba Channel Islands Post Acute;
22. Starburst Healthcare, Inc. dba Chatsworth Park Health Care Center;
23. Claremont Foothills Health Associates LLC dba Claremont Care Center;
24. Ensign Cloverdale LLC dba Cloverdale Healthcare Center;
25. West Court Lane Healthcare, Inc. dba Courtyard Health Care Center;
26. Manzanita Healthcare, Inc. dba Coventry Court Health Center;
27. Mountain Violet Healthcare, Inc. dba Danville Post Acute Rehabilitation;
28. Stagecoach Healthcare, Inc. dba Desert Mountain Care Center;
29. Rio Hondo Healthcare, Inc. dba Downey Post Acute;
30. Moonrise Healthcare, Inc. dba Edgewater Skilled Nursing Center;
31. Sagebrush Healthcare, Inc. dba Fairfield Post Acute Rehabilitation;
32. Deergrass Healthcare, Inc. dba Fairmont Rehabilitation Hospital;
33. Clear Skies Healthcare, Inc. dba Garden View Post Acute Rehabilitation;
34. C Street Health Associates LLC dba Glenwood Care Center;
35. Devonshire Healthcare, Inc. dba Golden Hill Post Acute;
36. Morning Glory Healthcare, Inc. dba Grand Terrace Health Care Center;
37. Mission Trails Healthcare LLC dba Grossmont Post Acute Care;
38. Seaboard Healthcare, Inc. dba Huntington Park Nursing Center;
39. Rigby Creek Senior Living, Inc. dba Katella Senior Living Community;
40. Nightfall Healthcare, Inc. dba Lake Balboa Care Center;
41. Lemon Grove Health Associates LLC dba Lemon Grove Care & Rehabilitation Center;
42. Sungazer Healthcare, Inc. dba Lomita Post Acute Care Center;
43. Glimmer Healthcare, Inc. dba Madera Post Acute Center (formerly known as Ramona Nursing and Rehabilitation Center);
44. Jefferson Healthcare LLC dba Magnolia Post Acute Care;
45. La Veta Healthcare, Inc. dba Mainplace Post Acute;
46. Seagull Lane Healthcare, Inc. dba Miramar Healthcare Center;
47. Ramon Healthcare Associates LLC dba Mission Care Center;
48. Portside Healthcare, Inc. dba Mission Hills Post Acute Care;
49. Hollyleaf Healthcare, Inc. dba New Orange Hills;
50. Ensign Willits LLC dba Northbrook Healthcare Center;
51. Juniper Springs Healthcare, Inc. dba Pacific Gardens Nursing and Rehabilitation Center;
52. Strawberry Pond Healthcare LLC dba Pacific Haven Subacute and Healthcare Center;
53. Mussel Rock Healthcare, Inc. dba Pacifica Nursing and Rehabilitation Center;
54. Goldenstar Healthcare, Inc. dba Palm Terrace Care Center;
55. Gate Three Healthcare LLC dba Palm Terrace Healthcare and Rehabilitation Center;
56. West Escondido Healthcare LLC dba Palomar Vista Healthcare Center;
57. Ensign Panorama LLC dba Panorama Gardens Nursing and Rehabilitation Center;
58. Ensign Montgomery LLC dba Park View Post Acute;
59. Parkside Healthcare, Inc. dba Parkside Health and Wellness Center;
60. Ensign Palm I LLC dba Premier Care Center for Palm Springs;
61. Bell Villa Care Associates LLC Rose Villa Healthcare Center;

62. Sandpiper Senior Living LLC dba Sea Cliff Assisted Living;
63. HB Healthcare Associates LLC dba Sea Cliff Healthcare Center;
64. Rose Park Healthcare Associates, Inc. dba Shoreline Healthcare Center;
65. North Silver Healthcare, Inc. dba Solimar Post Acute;
66. Claydelle Healthcare LLC dba Somerset Subacute and Care;
67. Bayside Healthcare, Inc. dba South Bay Post Acute Care;
68. Southland Management LLC dba Southland Living;
69. La Jolla Skilled LLC dba The Springs at Pacific Regent;
70. Santa Catalina Healthcare, Inc. dba St. Catherine Healthcare;
71. Fullerton Healthcare, Inc. dba St. Elizabeth Healthcare and Rehabilitation;
72. Ensign Santa Rosa LLC dba Summerfield Health Care Center;
73. Nautilus Healthcare, Inc. dba The Cove at La Jolla;
74. Golden Eagle Senior Living, Inc. dba The Grove Assisted Living;
75. Empirecare Health Associates LLC dba The Grove Care & Wellness;
76. Tustin Hills Healthcare, Inc. dba The Hills Post Acute;
77. Ensign Whittier West LLC dba The Orchard Post Acute Care;
78. West Start Healthcare LLC dba Toluca Lake Transitional Care;
79. Tracy Ridge Healthcare, Inc. dba Turlock Nursing and Rehabilitation Center;
80. Lost Cane Senior Living, Inc. dba Turlock Residential;
81. Ensign Pleasonton LLC dba Ukiah Post Acute;
82. Upland Community Care, Inc. dba Upland Rehabilitation & Care Center;
83. Bouverie Healthcare Services, Inc. dba Valley of the Moon Post Acute;
84. Victoria Ventura Healthcare LLC dba Victoria Care Center;
85. Costa Victoria Healthcare LLC dba Victoria Healthcare & Rehabilitation Center;
86. Anza Healthcare, Inc. dba Victoria Post Acute Care;
87. Santa Maria Healthcare, Inc. dba Villa Maria Post Acute;
88. Vintage Court Healthcare, Inc. dba Vintage Faire Nursing & Rehabilitation Center;
89. Deer Tail Senior Living, Inc. dba Vintage Faire Residential;
90. Vista Woods Health Associates LLC dba Vista Knoll Specialized Care Facility;
91. Ensign Whittier East LLC dba Whittier Hills Healthcare Center;
92. Flagstone Healthcare North LLC;
93. Flagstone Healthcare Central LLC; and
94. Flagstone Healthcare South LLC.

The purpose of this letter is to comply with PAGA and set forth the facts and theories of California Labor Code violations which we allege Employers engaged in with respect to Employees and potentially all of Employers' Aggrieved Employees.

Employees wish to pursue this action on behalf of Employees as Aggrieved Employees, on behalf of the State of California, as well as on behalf of potentially all other persons who worked for Employers in California as a non-exempt or hourly-paid employee at any time within the applicable statutory period (hereafter, the "Aggrieved Employees").

Employees and the Aggrieved Employees, or some of them, suffered the Labor Code violations described below.

Employees' Employment with Employers

Employers own and/or operate facilities that provide skilled nursing, senior living, and rehabilitative care services within the State of California. Employers jointly employ Employees and the Aggrieved Employees. As such, and based upon all the facts and circumstances incident to Employers' business in California, Employers are subject to the California Labor Code, Wage Orders issued by the Industrial Welfare Commission ("IWC"), and the California Business & Professions Code.

Employees worked for Employers in various capacities, including but not limited to physical therapist aide, dietary aide, nursing assistant, and certified nursing assistant. Their job duties included, but were not limited to, assisting residents with their daily living activities, such as bathing, dressing, and eating, monitoring vital signs, preparing and serving resident meals, cleaning, preparing treatment areas, assisting with varied non-clinical tasks.

In performing Employees' duties, Employees were regularly required to perform work (off-the-clock), without compensation, including, but not limited to, attending to residents' needs in lieu of taking a meal period. Employees were also frequently deprived of an opportunity to take legally compliant meal and rest breaks. Specifically, Employees regularly and consistently had late, short, and interrupted meal and rest breaks, and Employees have no recollection of receiving meal and rest break premiums at the regular rate of pay as required by the Labor Code. Additionally, Employees were expected to and did incur business-related expenses, including, but not limited to, the use of Employees' personal cell phones for work related purposes, and the purchase of scrubs, but Employers failed to reimburse such business-related expenses. These are just a few non-exhaustive examples of the facts and theories the Employees assert, which are described in more detail below.

Employee Christopher Villa is a resident of California who worked for Employers in California as an hourly-paid, non-exempt employee from approximately June 2021 to approximately August 2021.

Employee Crystal Applon is a resident of California who worked for Employers in California as an hourly-paid, non-exempt employee from approximately June 2023 to approximately February 2024.

Employee Jenny Brown is a resident of California who worked for Employers in California as an hourly-paid, non-exempt employee from approximately November of 2020 to the present.

Employee Angie Duran is a resident of California who worked for Employers in California as an hourly-paid, non-exempt employee from approximately December 2022 to approximately February 2023.

Employee Vesenia Aguilar Hernandez is a resident of California who worked for Employers in California as an hourly-paid, non-exempt employee from approximately August 2023 to approximately June 2024.

Employee Dayana Lobera-Rojas is a resident of California who worked for Employers in California as an hourly-paid, non-exempt employee from approximately August 2022 to approximately May 2024.

///

Employee Darnell Mendros is a resident of California who worked for Employers in California as an hourly-paid, non-exempt employee from approximately February 2009 to approximately June 2023.

Employee Stephanie Thomas is a resident of California who worked for Employers in California as an hourly-paid, non-exempt employee from approximately August 2021 to approximately July 2023.

Employee Victor Spencer Wiley is a resident of California who worked for Employers in California as an hourly-paid, non-exempt employee from approximately December 2023 to approximately August 2024.

Employee Simone Woods is a resident of California who worked for Employers in California as an hourly-paid, non-exempt employee from approximately December 2023 to approximately August 2024.

During Employees' employment for Employers, Employers paid Employees an hourly wage and classified Employees as non-exempt from overtime. In some cases, Employers misclassified Employees as exempt from overtime requirements. Employers typically scheduled Employees to work at least, on average, five days in a workweek and at least, on average, eight hours per day, but Employees also worked more than eight hours in a workday and more than forty (40) hours in a workweek.

Throughout Employees' employment, Employers failed to pay for all hours worked (including minimum, straight time, and overtime wages), failed to provide Employees with legally compliant meal periods, failed to authorize and permit Employees to take rest periods, failed to timely pay all final wages to Employees when Employers terminated Employees' employment, failed to furnish accurate wage statements to Employees, failed to indemnify Employees for business expenditures, and failed to timely produce Employees' requested employment records. As discussed below, Employees' experience working for Employers was typical and illustrative.

Failure to Pay for All Hours Worked, Including Minimum, Straight Time, and Overtime Wages; Improper Rounding; Uncompensated On-Call/Standby

Labor Code 90.5(a) provides that "it is the policy of this state to vigorously enforce minimum labor standards in order to ensure employees are not required or permitted to work under substandard unlawful conditions...." Under California law, an employer must pay for all hours worked by an employee. "Hours worked" is 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. In addition, Labor Code § 510 provides that employees in California shall not be employed more than eight hours in any workday or forty (40) hours in a workweek unless they receive additional compensation beyond their regular wages in amounts specified by law.

Labor Code §§ 1194 and 1198 also provide that employees in California shall not be employed more than eight hours in any workday unless they receive additional compensation beyond their regular wages in amounts specified by law. Additionally, Labor Code § 1198 states that the employment of an employee for longer hours than those fixed by the IWC is unlawful.

Throughout the statutory period, Employers failed to pay Employees and the Aggrieved Employees for all hours worked, including minimum, straight time, and overtime wages. Employers required Employees and the Aggrieved Employees to work "off-the-clock," uncompensated, by, for example, requiring Employees and the Aggrieved Employees to perform

work during uncompensated meal periods and rest periods, and requiring Employees and the Aggrieved Employees to perform work before clocking in and/or after clocking out. For example, Employers required employees to clock in at the exact minute of their scheduled work time. Employees, however, were instructed by management to arrive at least 30 minutes before their scheduled shifts, where employees were expected to assist with the tasks for the day, all while off the clock. As another example, Employers required Employees and Aggrieved Employees to clock out at the end of their shifts, as to not go over their scheduled hours, and to continue working even though they were clocked out. As another example, Employers required Employees and Aggrieved Employees to remain on-call and respond to work-related requests without compensation.

Some of this unpaid work should have been paid at the overtime rate. California Labor Code § 510 requires that employers compensate employees 1.5 times their regular rate of pay when employees work over eight hours per day, 40 hours per week, or when employees work up to eight hours on any seventh day of a workweek. Employers failed to properly calculate Employees' regular rate of pay when paying overtime, by failing to include all required compensation in Employees' overtime calculations, including hours worked off-the-clock. In failing to pay for all hours worked, Employers also failed to maintain accurate records of the hours Employees and the Aggrieved Employees worked.

Throughout the statutory period, Employers also engaged in a practice of improper rounding. Under *Camp v. Home Depot U.S.A., Inc.* (2022) 84 Cal.App.5th 638, because Employers could and did track the exact time in minutes that Employees worked, they must pay for all time worked. When an employer uses an electronic timekeeping system to record time worked, this ability to "precisely capture time worked" means that "the employer must pay the employee for that worktime when due." (*Id.* at 671.) As a result of Employers' rounding policy, Employees consistently were not compensated at least minimum wage for all hours that Employees worked.

As a result, Employers are liable to Employees and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210, 558, 1197.1, and 2699(f)(2) for failing to pay for all hours worked, including minimum, straight time, and overtime wages.

Failure to Provide Meal Periods; On-Premises Meal Periods; Unlawful On-Duty Meal Period Agreements

Under California Labor Code §§ 226.7, 512, 516, and Section 11 of the applicable Wage Orders, employers have an affirmative obligation to relieve employees of all duty in order to take their first 30-minute, duty-free meal periods no later than the start of sixth hour of work in a workday, and to allow employees to take their second 30-minute, duty-free meal period no later than the start of the eleventh hour of work in the workday. Further, employees are entitled to be paid one hour of additional wages for each workday they were not provided with all required meal period(s).

Despite these legal requirements, Employers wrongfully failed to provide Employees and the Aggrieved Employees with their legally mandated 30-minute, uninterrupted, and duty-free meal period in a manner required by law (and also including but not limited to failing to provide Employees and the Aggrieved Employees the opportunity to leave the work premises to take meal periods). For example, Employees and Aggrieved Employees were required to address and attend to the needs of patients during, and in lieu of, taking a meal break due to Employers' threats, as communicated to employees by their supervisors, that if an employee either recorded a late meal period or failed to take a meal period, then they would be written up. As a result, Employees felt compelled to clock out for a timely meal period but continued working as necessary. Employees' and Aggrieved Employees' meal breaks were also often interrupted by management, who would inquire about a resident or instruct Employees to tend to residents' needs.

Employers also continued to assert control over Employees and the Aggrieved Employees by, among other things, requiring, pressuring, or encouraging them to perform work tasks which could not be completed without working in lieu of taking mandatory meal periods, or by denying Employees and the Aggrieved Employees permission to take a meal period under the conditions required by law, and without properly compensating Employees and the Aggrieved Employees for meal periods that were not provided as required by law. Employers also did not inform Employees of Employees' right to, nor permitted Employees to take, all of Employees' second meal periods when Employees worked at least ten hours of work in a workday and otherwise unlawfully pressured Employees to waive such breaks. Accordingly, Employers failed to provide meal periods to Employees and the Aggrieved Employees in compliance with California law.

Additionally, Employers maintained and required some Employees and Aggrieved Employees to enter into unlawful on-duty meal period agreements. The California Supreme Court has held that the on-duty meal period exception is "exceedingly narrow," and applies only when (1) the nature of the work prevents the employee from being relieved of all duty and (2) both the employer and employee have agreed, in writing, to the on-duty meal period. (*Augustus v. AMB Security Services, Inc.* (2016) 2 Cal. 5th 257, 266-276.) Where these two requirements are not met, the employer owes the employee one hour of premium pay for each non-compliant meal period taken under the purported on-duty meal arrangement. (*Naranjo v. Spectrum Security Services, Inc.* (2019) 40 Cal. 5th 444, 459.)

Further, on information and belief, Employers had an unlawful policy and practice of editing Employees' and other Aggrieved Employees' time records to make it appear as if timely, compliant 30-minute meal periods had been taken, when that was not the case, resulting in unpaid off-the-clock work.

Additionally, Employers maintained and enforced a policy and practice of automatically deducting meal period time from Employees' and Aggrieved Employees' recorded hours worked, even when no meal periods had been provided. These practices resulted in the systematic underpayment of wages (including overtime wages) in violation of California law.

Employees and the Aggrieved Employees are thus entitled to be paid one hour of additional wages for each workday they were not provided with all required meal period(s). Employers, however, regularly failed to pay Employees and the Aggrieved Employees the additional wages to which they were entitled for meal periods that were not provided. Employees do not recall receiving meal and rest break premiums for all of the late, short, and interrupted breaks.

As a result, Employers are liable to Employees and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210 and 2699(f)(2) for failing to provide meal periods and pay meal period premium wages.

Failure to Authorize and Permit Rest Periods; Unlawful On-Premises Rest Periods

Employers are required by California Labor Code §§ 226.7, 512, and 516 and the applicable Wage Orders to authorize and permit breaks of ten uninterrupted minutes for each four hours of work or major fraction of four hours (i.e., more than two hours). Thus, for example, if an employee's work time is six hours and ten minutes, the employee is entitled to two rest breaks. Each failure to authorize rest breaks as so required is itself a violation of California's rest break laws.

Throughout the statutory period, Employers have wrongfully failed to authorize and permit Employees and the Aggrieved Employees to take legally compliant rest periods in a manner required by law (and also including but not limited to failing to authorize and permit Employees

and the Aggrieved Employees the opportunity to leave the work premises to take rest periods). Employers regularly required Employees and the Aggrieved Employees to work in excess of four consecutive hours a day without Employers' authorizing and permitting Employees to take a 10-minute, uninterrupted, duty-free rest period for every four hours of work (or major fraction of four hours), or without compensating Employees and the Aggrieved Employees for rest periods that were not authorized or permitted.

Instead, Employers continued to assert control over Employees and the Aggrieved Employees by requiring, pressuring, or encouraging them to perform work tasks which could not be completed without working in lieu of taking mandatory rest periods, or by denying Employees and the Aggrieved Employees permission to take a rest period. Indeed, similar to its meal period practices, many employees did not receive a complaint 10-minute rest break, whether first, second, or third rest breaks. Instead of taking their rest breaks, Employees were required to continue working as Employers' expectations and requirements were that Employees must perform all job duties in lieu of taking their breaks.

Accordingly, Employers failed to authorize and permit Employees and the Aggrieved Employees to take rest periods in compliance with California law. Employees and the Aggrieved Employees are thus entitled to be paid one hour of additional wages for each workday he or she was not authorized and permitted to take all required rest period(s). Employers, however, regularly failed to pay Employees and the Aggrieved Employees the additional wages to which they were entitled for rest periods that they were not authorized and permitted to take.

As a result, Employers are liable to Employees and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210 and 2699(f)(2) for failing to authorize and permit rest periods and pay rest period premium wages.

Failure to Accurately Calculate Regular Rate of Pay

Federal law defining and interpreting "regular rate" under the FLSA governs this case. (*Alonzo v. Maximus, Inc.* (C.D. Cal. 2011) 832 F.Supp.2d 1122, 1129.) This "construction is supported by California case law and the DLSE Manual, each of which looks to FLSA standards to interpret the 'regular rate of pay' under California law." (*Ibid.*) "Under the FLSA, the 'regular rate' of pay 'at which an employee is employed shall be deemed to include all remuneration for employment paid to, or on behalf of, the employee,' subject to certain enumerated exceptions." (*Id.* at pp. 1129-30, quoting 29 U.S.C. § 207(e)(3).) "The burden is on Defendant to establish that its bonus payments fall within one of the exceptions in § 207(e)." (*Ibid.*)

The Department of Labor has interpreted section 207 to permit an employer to exclude a "discretionary bonus," but not a "promised bonus" from the "regular rate" of pay:

Bonuses which are announced to employees to induce them to work more steadily or more rapidly or more efficiently or to remain with the firm are regarded as part of the regular rate of pay. Attendance bonuses, individual or group production bonuses, bonuses for quality and accuracy of work, bonuses contingent upon the employee's continuing in employment until the time the payment is to be made and the like are in this category. They must be included in the regular rate of pay.

(29 C.F.R. § 778.211 (2011); *see also* DLSE Manual § 49.1.2.4(3), incorporating 29 C.F.R. § 778.211.)

Additionally, California and federal law require that shift differentials be included in calculating the regular rate of pay. (29 C.F.R. § 778.207(b).) However, on information and belief, Employers failed to include shift differentials in calculating the regular rate.

Employees and/or the Aggrieved Employees received various forms of bonuses/commissions/incentive payments/shift differentials during pay periods where overtime was worked, but Employers failed to *accurately* factor in the non-discretionary remuneration into their regular rate of pay.

As outlined by the California Supreme Court in *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal.5th 858, 878, for purposes of paying sick pay and meal and rest premiums, “the term ‘regular rate of compensation’ in section 226.7(c) has the same meaning as ‘regular rate of pay’ in section 510(a) and encompasses not only hourly wages but all nondiscretionary payments for work performed by the employee.”

Employers should have included all non-discretionary remuneration and shift differentials when calculating overtime pay, sick pay, COVID-19 supplemental paid sick leave, reporting time pay, and meal and rest period premium pay. Because they didn’t, Employers are liable to Employees and/or the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210 and 2699(f)(2).

Failure to Timely Pay All Earned Wages During Employment

Based on Employers’ failure to timely pay Employees and the Aggrieved Employees for all wages earned during as discussed above, Employers also violated Labor Code § 204 and 204b.

Labor Code § 204 requires employers to pay employees all earned wages two times per month. Labor Code § 204b imposes specific payroll requirements for employees paid on a weekly basis. Throughout the statute of limitations period applicable to this cause of action, employees were entitled to be paid according to the timeframes set by Labor Code § 204 and 204b at their regular rates, including all meal period premium wages owed, rest period premium wages owed, and wages owed for overtime hours worked. However, during all such times, Employers failed and refused to pay the Employees all wages due, and failed to pay those wages according to the timeframes set by Labor Code § 204 and 204b, in that Employees were not paid all wages for all meal periods not provided by Employers, all wages for all rest periods not authorized and permitted by Employers, and all wages for all hours worked. As a result, Employers owe Employees and the Aggrieved Employees the legally required wages for unpaid wages, and Employees and the Aggrieved Employees suffered damages in those amounts.

Moreover, Employers are liable to Employees and the Aggrieved Employees for the civil penalties provided for in Labor Code § 210 for failing to pay all earned wages according to the timeframes set by Labor Code § 204 and 204b.

Failure to Maintain Accurate Records of Hours Worked and Meal Periods

Employees and the Aggrieved Employees seek penalties under California Labor Code § 1174(d). Pursuant to California Labor Code § 1174.5, any person, including any entity, employing labor who willfully fails to maintain accurate and complete records required by California Labor Code § 1174 is subject to a civil penalty under § 1174.5. Pursuant to the applicable IWC Order § 7(A)(3), every employer shall keep time records showing when the employee begins and ends each work period. Meal periods and total hours worked daily shall also be recorded. Employers, however,

failed to maintain accurate records of hours worked and all meal periods taken or missed by Employees and the Aggrieved Employees.

Employers' failure to provide and maintain records required by the California Labor Code and the applicable IWC Wage Orders deprived Employees and the Aggrieved Employees the ability to know, understand and question the accuracy and frequency of meal periods, and the accuracy of their hours worked stated in Employers' records. Therefore, Employees and the Aggrieved Employees had no way to dispute the resulting failure to pay wages, all of which resulted in an unjustified economic enrichment to Employers. As a direct result, Employees and the Aggrieved Employees have suffered and continue to suffer, substantial losses related to the use and enjoyment of such wages, lost interest on such wages and expenses and attorneys' fees in seeking to compel Employers to fully perform their obligation under state law, all to their respective damage in amounts according to proof at trial. As a result of Employers' knowing failure to comply with the California Labor Code and applicable IWC Wage Orders, Employees and the Aggrieved Employees have also suffered an injury in that they were prevented from knowing, understanding, and disputing the wage payments paid to them.

Failure to Timely Pay All Wages at Termination

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 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.

Within the applicable statute of limitations, the employment of Employees and many other Aggrieved Employees ended, i.e., was terminated by quitting or being discharged, and the employment of others will be terminated. However, during the relevant time period, Employers failed, and continue to fail to pay Employees and terminated Aggrieved Employees, without abatement, all wages required to be paid by Labor Code sections 201 and 202 either at the time of discharge, or within seventy-two (72) hours of their leaving Employers' employment. These unpaid wages include wages for unpaid work time (including minimum, straight time, and overtime wages), missed meal period premium wages, and missed rest period premium wages.

Employers also violated, and continue to violate, Labor Code section 213(d) by paying final wages (if any are paid at all) via direct deposit without the employee's voluntary authorization. Employees recall that they did not receive their owed final wages at the time of their termination.

Employers' conduct violates Labor Code §§ 201 and 202. Labor Code § 203 provides that if an employer willfully fails to pay wages owed, in accordance with sections 201 and 202, then the wages of the employee shall continue as a penalty wage from the due date, and at the same rate until paid or until an action is commenced; but the wages shall not continue for more than thirty (30) days.

Accordingly, Employees and the Aggrieved Employees are entitled to recover from Employers their additionally accruing wages for each day they were not paid, at their regular hourly rate of pay, up to thirty (30) days maximum pursuant to Labor Code § 203. Moreover, Employers are liable to Employees and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 256 and 2699(f)(2) for failing to timely pay all wages at termination, and for unlawfully making any such payment (if any) via direct deposit without the employee's voluntary authorization.

Failure to Furnish Accurate Itemized Wage Statements – Facial and Derivative

Labor Code § 226(a) provides that every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees an accurate itemized wage statement in writing showing nine pieces of information, including: (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. An employee is presumed to suffer an injury if this information is missing. (Lab. Code § 226(e)(2)(B)(iii).)

The statute further provides: “An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney’s fees.” (Lab. Code § 226(e)(1).)

Throughout the statutory period, Employers failed to, and continue to fail to timely furnish Employees and the Aggrieved Employees with accurate, itemized wage statements showing all applicable hourly rates, and all gross and net wages earned (including correct hours worked, correct wages for meal periods that were not provided in accordance with California law, and correct wages for rest periods that were not authorized and permitted to take in accordance with California law).

Employers knowingly and intentionally issued wage statements that were *facially* noncompliant with Labor Code section 226(a) due to inaccuracies and omissions. As one example, some wage statements contain the line item “Details Not Displayed,” which provides no explanation and does not reflect the associated number of hours worked and corresponding rate of pay. As another example, some wage statements do not accurately reflect the name and address of the employer. And as another example, some wage statements do not correctly identify the actual total number of hours worked because overtime hours and overtime premiums are broken out and duplicated as separate line items.

Additionally, the wage statements are inaccurate on a *derivative* basis due to Employers’ failure to properly calculate and pay all wages and premiums owed. (*Naranjo v. Spectrum Security Services, Inc.* (2022) 13 Cal.5th 93, 121 (“failure to report premium pay for missed breaks can support monetary liability under section 226 for failure to supply an accurate itemized statement reflecting an employee’s gross wages earned, net wages earned, and credited hours worked”).)

Because Employers violated Labor Code § 226, Employees and similarly Aggrieved Employees suffered injury and damage to their statutorily protected rights. Accordingly, Employees and similarly Aggrieved Employees are entitled to recover from Employers the greater of their actual damages caused by Employers’ failure to comply with Labor Code § 226(a), or an aggregate penalty not exceeding four thousand dollars (\$4,000) per employee. Moreover, Employers are liable to Employees and the Aggrieved Employees for the civil penalties provided for in Labor Code § 226.3 for failing to timely furnish accurate itemized wage statements.

Failure to Indemnify for Necessary Expenditures

Labor Code § 2800 requires an employer to indemnify their employees for losses caused by the employer's want of ordinary care. Labor Code § 2802(a) also provides that employers shall indemnify their employees for all necessary business expenditures or losses that have been incurred by the employees in direct discharge of his or her duties. Throughout the statute of limitations period applicable to this cause of action, Employers wrongfully required Employees and the Aggrieved Employees to pay expenses that they incurred in direct discharge of their duties for Employers. Employees and the Aggrieved Employees regularly paid out-of-pocket for necessary employment-related expenses, including, but not limited to, the use of personal cell phones, computers, internet, and vehicles, and the purchasing of scrubs, uniforms, footwear, PPE, and other tools, supplies, and equipment. Employees and the Aggrieved Employees incurred substantial expenses as a direct result of performing their job duties for Employers, but Employers failed to indemnify Employees and the Aggrieved Employees for these employment-related expenses.

As a result, Employers are liable to Employees and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 2802 and 2699(f)(2) for failing to indemnify Employees and the Aggrieved Employees for necessary business expenditures.

Failure to Produce Requested Employment Records

Employees requested a copy of their personnel files, but Employers did not provide them. Labor Code § 226 provides that current and former employees have the right to inspect or receive a copy of their records pertaining to their employment, upon reasonable request to their employer. Under this statute, an employer that receives a request to inspect or receive a copy of records pertaining to a current or former employee must comply with the request as soon as practicable, but no later than twenty-one (21) calendar days from the date of the request.

Labor Code § 1198.5(a) also provides that every current and former employee, or his or her representative, has the right to inspect and receive a copy of the personnel records that the employer maintains relating to the employees' performance or to any grievance concerning the employee. Under this statute, upon written request from a current or former employee or his or her representative, an employer must make the contents of those personnel records available for inspection or provide a copy of the personnel records to the current or former employee, or his or her representative, not later than thirty (30) calendar days from the date the employer receives the written request, subject to some limited exceptions.

Labor Code § 432 provides that if an employee or applicant signs any instrument relating to the obtaining or holding of employment, he or she shall be given a copy of the instrument upon request. On information and belief, not just Employees, but also Aggrieved Employees, or some of them, have submitted written request(s) to Employers for their payroll records, timecards, and personnel records but did not timely receive them as required by the Labor Code.

As a result, Employers are liable to Employees and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 226(f), 1198.5(k), and 2699 for failing to timely produce the requested records.

Recordkeeping Requirement Violations

California Labor Code section 1174 requires employers to keep "accurate and complete" payroll records showing, among other things, the hours worked daily by Employees and Aggrieved

Employees. All applicable IWC Wage Orders, section 7 similarly requires employers to keep accurate time records reflecting the times during which all owed meal periods were provided each day.

Based on information and belief, Employers failed, and continue to fail, to keep accurate and complete payroll records as required by law, including but not limited to the following records: total daily hours worked, applicable rates of pay, time records showing when Employees and other Aggrieved Employees began and ended each work period, time records of meal periods, and accurate itemized wage statements.

Based on information and belief, Employers failed and continue to fail to keep accurate and complete records showing total hours worked by Employees and Aggrieved Employees by virtue of Employers' time rounding and/or auto deduction policies and practices and/or other off-the-clock work policies and practices. Employers failed and continue to fail to keep accurate and complete records showing total hours worked by virtue of Employers' failure to relieve Employees and Aggrieved Employees of all duties and Employers' control for unpaid meal periods, resulting in unpaid hours worked.

Based on information and belief, Employers further failed, and continue to fail, to record the true start and end times of Employees' and Aggrieved Employees' meal periods.

Based on further information and belief, Employers further failed and continue to fail, to record the true start and end times of Employees' and Aggrieved Employees' work shifts. Additionally, Employers failed, and continue to fail to keep accurate records and issue accurate wage statements by not documenting accrued sick time and sick leave balances for Employees and Aggrieved Employees.

Employers' failure to keep "accurate and complete" payroll records for Employees and Aggrieved Employees violates Labor Code sections 1174, 1198, 1199, and all applicable IWC Wage Orders, section 7. These violations subject Employers to civil penalties under Labor Code sections 558.1, 226.6, 1174.5 and 2699. Each violation of each Labor Code section and Wage Order provision, for each Aggrieved Employees, results in a separate civil penalty.¹

Violation of Wage Theft Protection Act of 2011

Based on information and belief, Employers failed, and continue to fail, to comply with the notice requirements of Labor Code section 2810.5 (*i.e.*, the Wage Theft Protection Act of 2011) by, among other things, failing to provide Employees and Aggrieved Employees with the rates of pay and overtime rates of pay applicable to their employment, allowances claimed as part of the minimum wage, the regular payday designated by Employers, the name of the employer, including any "doing business as" names used, the name, address and telephone number of the workers' compensation insurance carrier, information regarding paid sick leave, and other pertinent information required to be disclosed by Employers under Labor Code section 2810.5. Employees are informed and believe that failure to provide such information, including rates of pay that are in effect, has permitted Employers to pay employees at rates of pay that were not agreed upon and violate minimum wage and overtime wage laws in California. Employees are additionally informed and believe that the notice requirement of Labor Code section 2810.5 involves a mandatory payroll or workplace injury reporting. Among other relief, Employees and Aggrieved

¹ See Lab. Code §2699(f)(2) (establishing that the civil penalty is "for each aggrieved employee per pay period").

Employees may collect from Employers in connection with these violations' civil penalties pursuant to Labor Code sections 558 and 2699.

Violation of California Labor Code §§ 245-249 (California Paid Sick Leave Law)

Throughout the relevant time period, Employers failed to provide proper paid sick leave to Employees and other Aggrieved Employees as required by Labor Code sections 246 and 246.5. Employers either failed to provide paid sick leave at all or improperly calculated the sick leave accrual and the sick leave rate of pay owed to Employees and other Aggrieved Employees by failing to base the accrued sick leave hours on the correct number of hours worked (as a result of the rounding/automatic deduction policies and practices for meal periods and/or shift start and end times/other required off-the-clock work including but not limited to unpaid meal periods that were restricted to Employers' premises) and by failing to incorporate multiple rates of pay and/or all non-discretionary remuneration, including but not limited to, non-discretionary bonuses, shift differential pay and/or other non-discretionary compensation into the sick leave pay rate calculation.

Based on information and belief, Employers further failed to provide notice of the correct sick leave amount balance available to Employees and other Aggrieved Employees on their wage statements or other written statement.

Based on information and belief, Employers failed to put Aggrieved Employees on notice of their paid sick leave rights, thereby failing to put their entitlement to sick leave in a Labor Code section 2810.5 notice. In addition, Employers failed to maintain accurate records of used sick leave and the balance of paid sick leave left to the Aggrieved Employees, or some of them.

Based on information and belief, Employers further failed to provide notice of the correct sick leave amount balance available to Employees and other Aggrieved Employees, thus affecting their intelligent exercise of their paid sick leave. But for this failure, Employees and other Aggrieved Employees would have used their paid sick leave at least prior to their respective separations, for as on several occasions thereafter, he or she would have been entitled to use the banked sick leave and earn appropriate compensation. This illegal retention of paid sick leave is unlawful, and Employees seek all forms of injunctive relief, restitution, and declaratory relief as permitted by California law, on behalf of Employees and all Aggrieved Employees.

In violation of Labor Code section 247.5, Employers failed to maintain records documenting the hours worked and paid sick days accrued and used by Employees and all Aggrieved Employees, permitting the presumption that Employees and all Aggrieved Employees were entitled to the maximum number of hours accruable under this article.

Upon information and belief, Employers further failed and continue to fail to comply with Labor Code section 246, by failing to provide Employees and all Aggrieved Employees with a Labor Code section 226 wage statement, or separate writing containing the amount of paid sick leave available, or paid time off leave an employer provides in lieu of sick leave, at the time it pays wages. Employers unlawfully retained and continue to retain paid sick leave that should have been paid but was not, as a result of Employers' failure to properly institute a paid sick leave program.

Additionally, Employers failed and continue to fail to comply with Labor Code sections 233 and 234 by denying Employees and Aggrieved Employees the right to use accrued sick leave to care for ill family members on the same terms permitted for their own illness. On information and belief, Employees allege that all of these practices were experienced and continue to be experienced by other Aggrieved Employees.

Employees and Aggrieved Employees request all appropriate relief under the PAGA and these statutes, including but not limited to the restitution of earned paid sick leave that could have been used, but was not due to Employers' sole failure to institute such a paid sick leave entitlement or paid sick leave bank as required by California law.

Accordingly, Employees and other Aggrieved Employees are entitled to injunctive relief, attorneys' fees, declaratory relief, restitution, and penalties as permitted by law. Employees and Aggrieved Employees request all relief pursuant to the aforementioned code provisions, including but not limited to Labor Code sections 233 and 234, which incorporates the paid sick leave requirements.

Failure To Provide Supplemental Paid Sick Leave (COVID-19 Leave)

Labor Code section 248.2 provides that all employers with 26 or more employees are required to provide up to 80 hours for covered employees to take 2021 COVID-19 Supplemental Paid Sick Leave to care for themselves, to care for a family member or if it is vaccine-related. Based on information and belief, Employers violated Labor Code section 248.2 by failing to properly calculate and accrue COVID-19 leave, failing to allow use of COVID-19 leave for purposes permitted by law, failing to pay COVID-19 leave at the proper rate, and failing to provide balance information for COVID-19 leave as required by law.

Refusal to Make Payment

Labor Code section 216 declares unlawful an employer's refusal to pay wages due and payable and/or denial of the validity of any claim to wages due. Employers violated and continue to violate Labor Code section 216 by failing to pay Employees and all Aggrieved Employees for all hours worked at the proper wage rate and by failing to pay Employees and all Aggrieved Employees an additional hour of pay for each meal and/or rest period not provided or that was invalid. *Gould v. Maryland Sound Industries, Inc.* (1995) 31 Cal.App.4th 1137, 1154-1155.

These violations subject Employers to civil penalties under Labor Code section 225.5. Each violation results in a *separate* civil penalty, for each Aggrieved Employee, for each pay period during which the statute's provisions were violated.²

Suitable Seating Violations

Per section 14(A-B) of all applicable IWC Wage Orders, employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats and when they are not actively engaged in the work duties that would not permit them to be seated.

All applicable IWC Wage Orders, Section 14(A-B) provides:

(A) All working employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats.

(B) When employees are not engaged in the active duties of their employment and the nature of the work requires standing, an adequate number of suitable seats shall be placed

² Labor Code § 225.5 (establishing that “[i]n addition to, and entirely independent and apart from, any other penalty provided in this article, every person who unlawfully withholds wages due any employee in violation of sections 212, 216, 221, 222, or 223 shall be subject to a civil penalty...for each failure to pay each employee”) (emphasis added).

in reasonable proximity to the work area and employees shall be permitted to use such seats when it does not interfere with the performance of their duties.

Suitable seating is one of the worker protections covered by California's Wage Orders, which have the same dignity as statutes, are remedial in nature and are to be broadly construed to effectuate the goal of protecting the comfort and welfare of employees. *Brinker Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004, 1027 (2012).

Based on information and belief, Employers failed to provide Aggrieved Employees with suitable seating, and when such employees were not engaged in duties which required them to stand, no seating was placed in reasonable proximity to their workstations.

Moreover, based on information and belief, the nature of the work reasonably permitted the use of seats for at least part of the time that Aggrieved Employees were working. Lastly, based on information and belief, there were periods of time when Aggrieved Employees were not engaged in active duties of their employment, yet there were no suitable seats in reasonable proximity to the work area and use of seats would not interfere with the performance of their duties.

Employers' Aggrieved Employees worked in various positions. The nature of Employees' and other Aggrieved Employees' work reasonably permitted the use of seats. However, Employers failed to provide suitable seating in reasonable proximity to Aggrieved Employees' work areas in violation of section 14(A-B) of all applicable Wage Orders, and Labor Code sections 1198 and 1199, subjecting Employers to civil penalties under Labor Code sections 1199 and 2699. Each violation of each Labor Code section and IWC Wage Order provision, for each Aggrieved Employee, results in a separate civil penalty.³

Statutory Wage Violations

Labor Code section 223 makes it unlawful for an employer to secretly pay wages lower than required by statute while purporting to pay legal wages.

As described above, Employers willfully and systematically denied Employees and other Aggrieved Employees of minimum and overtime wage compensation for all hours worked which resulted in the payment of less than statutorily required wages owed to them. Employers acted with the intent to deprive them of statutory wages, including, but not limited to, overtime wages and minimum wages, to which they were entitled to under California law.

Thus, Employers paid Employees and other Aggrieved Employees lower wages than those they were entitled to while purporting that Employees and all Aggrieved Employees were properly paid. As such, Employees and all Aggrieved Employees are entitled to recover penalties, attorneys' fees, costs, and interest thereon, pursuant to Labor Code § 2699(f)-(g).

Failure to Allow Use of Vacation/Paid Time Off During Employment; Failure to Pay Vested Vacation/Paid Time Off at Proper Rate at Time of Termination

Based on information and belief, Employers had and continue to have a uniform policy and practice of failing to allow Employees and other Aggrieved Employees and to use their earned vacation/paid time off during their employment. Further, California Labor Code section 227.3

³ See Lab. Code §2699(f)(2) (establishing that the civil penalty is "for each aggrieved employee per pay period").

provides that when an employer policy provides for paid vacations and/or paid time off, and an employee is terminated without having taken off his, her, or their vested vacation time, all vested vacation shall be paid to the employee as wages at the employee's final rate in accordance with such contract of employment or employer policy respecting eligibility or time served and that there shall be no forfeiture of vested vacation time or paid time off upon termination. Based on information and belief, Employers had and continue to have a uniform policy and practice of failing to pay all vested, accrued paid time off to Employees and other Aggrieved Employees upon separation of employment at the proper rate, in violation of California law, including but not limited to, Labor Code section 227.3.

Failure to Timely Provide Temporary Workers with Owed Wages

On information and belief, Employers had and have a policy of failing to provide all temporary workers with owed wages weekly by not later than the regular payday of the following week. As a result, pursuant to Labor Code section 201.3, Employers would be liable for civil penalties pursuant to Labor Code sections 201.3.

Unlawful Agreements/ Unlawful Criminal History Inquiries

Unlawful Agreements

Labor Code section 432.5 provides that "no employer ... shall require any employee or applicant for employment to agree, in writing, to any term or condition which is known by such employer ... to be prohibited by law." Based on information and belief, Employers required Employees and Aggrieved Employees to agree in writing to unlawful conditions of employment including but not limited to, unlawful non-compete and/or non-solicitation agreements as well as unlawful criminal and/or financial checks as a condition of obtaining and/or continuing employment in violation of Labor Code section 432.5.

The California Labor Code places certain procedural and substantive limits on employers' ability to conduct employee background checks and on how employers can use the information they obtain through those background checks. Labor Code section 1024.5 states that employers, except for financial institutions, may order a credit check only if the individual works (or is applying to work) in certain positions (e.g., managerial positions, financially-related positions, and certain government positions). Additionally, the Investigative Consumer Reporting Agencies Act (ICRAA - CA Civil Code section 1786, *et seq.*) and the Fair Credit Reporting Act (FCRA - 15 U.S.C. section 1681, *et seq.*) mandate several requirements prior to and following an employee background check, including but not limited to identifying an appropriate reason for the background check, a separate consent form with required disclosures and certain formatting requirements, additional forms such as a summary of rights, a way by which to request a copy of the report, as well as proper notice of adverse actions taken, among other statutory requirements.

Based on information and belief, Employers ordered unlawful financial credit checks on Employees and Aggrieved Employees, in violation of Labor Code section 1024.5, and required Employees and Aggrieved Employees to provide ongoing written consent to the unlawful credit checks as a condition of employment, in violation of California and Federal law, which results in a further violation of Labor Code section 432.5.

Based on information and belief, Employers also required Employees and Aggrieved Employees to submit and/or agree to submit in writing to unlawful criminal background checks as a condition of obtaining and/or holding employment in violation of the ICRAA and the FCRA. For example, based on information and belief, Employers required Employees to submit and/or agree to submit

in writing to an unlawful background check as a condition of obtaining and/or holding employment in violation of, including but not limited to, Labor Code section 432.5.

Based on information and belief, Employers required Employees and Aggrieved Employees to agree in writing to a background check which failed to abide by the requirements set forth in CA Civil Code section 1786, *et seq.* and 15 U.S.C. section 1681, *et seq.*, including but not limited to by failing to provide a clear and conspicuous disclosure (and/or failing to provide any disclosure at all), failing to provide disclosures free of extraneous information, failing to provide a lawful purpose for the background check, failing to provide a summary of rights under the ICRAA and/or the FCRA, failing to provide a way by which the individual could request a copy of the report, failing to disclose the name, address, and telephone number of the third party preparing the report, and failing to properly obtain authorization or consent to such a background check, and thus was an unlawful background check. By requiring Employees and Aggrieved Employees to agree in writing to unlawful criminal and/or financial checks not in conformance with the applicable laws, Employers violated Labor Code section 432.5, the ICRAA, and the FCRA.

Based on information and belief, Employers also required Employees and Aggrieved Employees to agree in writing to provide ongoing consent to Employers to conduct background checks throughout the duration of employment, in violation of the ICRAA and/or FCRA and/or other applicable laws, resulting in a further violation of Labor Code section 432.5, by requiring applicants and employees to agree to an unlawful provision as a condition of employment.

Based on further information and belief, Employers knew that requiring Employees and Aggrieved Employees to agree to unlawful criminal and/or financial background checks as a condition of obtaining and/or holding employment was unlawful. By requiring Employees and Aggrieved Employees to agree in writing to unlawful provisions as a condition of employment, Employers violated Labor Code section 432.5, the ICRAA, and the FCRA.

Unlawful Inquires into Criminal History

Labor Code section 432.7 prohibits an employer from asking applicants about past arrest(s) unless they resulted in conviction(s) and even then, certain limitations apply. Based on information and belief, Employers asked Employees and Aggrieved Employees about arrests not resulting in convictions on their employment application, in violation of California law.

Upon information and belief, Employers, in violation of California law, including but not limited to the Fair Chance Act (Government Code § 12952)/the California Fair Employment and Housing Act (“FEHA”), asked Employees and Aggrieved Employees about convictions prior to extending an offer of employment and/or otherwise impermissibly inquired into criminal history on their employment application in violation of California law.

By asking about arrests not resulting in convictions, Employers violated Labor Code section 432.7. By asking about convictions at the application phase or prior to extending an employment offer, Employers violated California’s Fair Chance Act, and thereby violated Labor Code section 432.5 by unlawfully requiring Employees and Aggrieved Employees to agree in writing to disclose arrests and/or convictions as a condition of employment.

Unlawful PAGA Waiver

Additionally, Employers violated Labor Code section 432.5 by requiring Employees and Aggrieved Employees to agree in writing to other unlawful agreements, including but not limited to, an unlawful waiver of PAGA and or representative actions as a condition of employment.

An action pursuant to PAGA “...is a representative action on behalf of the state” *Kim v Reins Int’l California, Inc.*, (2020) 9 Cal. 5th 73, 86-87. It is well settled that agreements purporting to waive an employee’s right to a trial of PAGA claims is contrary to California law and unenforceable. *See Iskanian v CLS Transportation Los Angeles, LLC* (2014) 59 Cal. 4th 348, 384 (“We conclude that where, as here, an employment agreement compels the waiver of representative claims under the PAGA, it is contrary to public policy and unenforceable as a matter of state law.”)

Moreover, the California Supreme Court has ruled that a court cannot compel arbitration of an aggrieved employee’s individual PAGA claim because there is no such thing as an individual PAGA claim. *Kim v Reins Int’l California, Inc.*, (2020) 9 Cal. 5th 73, 86-87 (“There is no individual component to a PAGA action because ‘every PAGA action ... is a representative action on behalf of the state.’”)

Upon information and belief, Employers required Employees and Aggrieved Employees to agree in writing to waive their right to a trial of PAGA claims in violation of California law. By requiring Employees and Aggrieved Employees to agree, in writing, to an unlawful PAGA waiver, Employers required written agreement to an unlawful provision as a condition of employment which is a violation of labor code section 432.5. As such, Employees and Aggrieved Employees continue to be subject to various unlawful provisions as a condition of employment.

Preventing Employees from Using or Disclosing Skills, Knowledge, and Experience

On information and belief, Employers had and have a policy or practice of preventing Employees and/or other Aggrieved Employees from using or disclosing the skills, knowledge, and experience they obtained at Employers for purposes of competing with Employers, including, without limitation, preventing Employees from disclosing their wages in negotiating a new job with a prospective employer, and from disclosing who else works at Employers and under what circumstances they might be receptive to an offer from a rival employer. As such, Employees are informed and believe that this violates Business and Professions Code sections 17200, 16600 and 16700, and, by virtue thereof, various provisions of the Labor Code, including Labor Code sections 232, 232.5, and 1197.5, subdivision (k). Employers would be liable for civil penalties pursuant to Labor Code section 2699.

Whistleblower Violations

On information and belief, Employers had and have a policy or practice of preventing Employees and/or other Aggrieved Employees from disclosing violations of state and federal law, either within Employers to their managers or outside Employers to private attorneys or government officials, among others, in violation of Business and Professions Code section 17200, and, thus, in violation of Labor Code section 1102.5. In addition, Employees are informed and believe that these policies and/or practices prevent Employees and/or other Aggrieved Employees from disclosing information about unsafe or discriminatory working conditions, or about wage and hour violations in violation of Labor Code sections 98.6, 232, and 232.5. These violations of the Labor Code would expose Employers to liability for civil penalties pursuant to Labor Code section 2699.

Workplace Health and Safety Violations

On information and belief, Employers had and have a policy or practice of failing to furnish and use safety devices and safeguards, and adopt and use practices, means, methods, operations and processes which are reasonably adequate to render such employment and place of employment safe and healthful, pursuant to, including but not limited to, Labor Code section 6401. Employees

are informed and believe, and based thereon allege that Employers had and have a policy or practice of requiring or permitting employees to go or be in any employment or place of employment which is not safe and healthful, pursuant to Labor Code section 6402. Employees are informed and believe, and based thereon allege that Employers had and have a policy or practice of failing or neglecting to: provide and use safety devices and safeguards reasonably adequate to render the employment and place of employment safe; adopt and use methods and processes reasonably adequate to render the employment and place of employment safe; and do every other thing reasonably necessary to protect the life, safety, and health of employees, pursuant to Labor Code section 6403. Employees are informed and believe, and based thereon allege that these failures include, without limitation, failing to disinfect time clocks and other surfaces after use by Employees and/or other Aggrieved Employees; failing to provide adequate protection equipment to Employees and/or other Aggrieved Employees; and failing to provide adequate distance in working conditions between Employees and/or other Aggrieved Employees.

On information and belief, Employers violated section 1527, 3366, 3457 and 8397.4 by failing to provide adequate and readily accessible sanitation facilities; a regular schedule for servicing, cleaning, and supplying each facility to ensure it is maintained in a clean, sanitary and serviceable condition; an adequate supply of suitable cleansing agents, water, single-use towels or blowers; and a sufficient number of toilets to be used by each sex of employee.

Failure to Pay Reporting Time

Under Section 5 of the applicable Wage Order, employers are required to pay employees reporting time pay when an employee reports to work, but is not put to work or works less than half of his or her usual or scheduled day's work. In said circumstances, employees are entitled to be paid for at least one-half of their shift for a minimum of two hours and a maximum of four hours, at his or her regular rate of pay. Despite this, Employers wrongfully failed to pay Employees and Aggrieved Employees their owed reporting time pay, in instances where Employees and Aggrieved Employees reported to work but were not put to work or worked less than half of their usual or scheduled day's work. On information and belief, Employers violated section 1198 and applicable Wage Orders by failing to pay reporting time pay at the proper rate.

Day of Rest Violations

California Labor Code §§ 551 and 552 requires employers to provide employees with one day's rest in a seven day workweek and prohibits employers from causing their employees to work more than six days in a seven day workweek. On information and belief, Employers regularly scheduled and/or required Employees and/or other Aggrieved Employees to work seven consecutive days, without providing the legally required day of rest. Employers knew, or reasonably should have known, that their scheduling practices failed to comply with California law, yet they continued to engage in such conduct throughout the relevant time period. These violations of the Labor Code would expose Employers to liability for civil penalties pursuant to Labor Code section 2699.

Failure to Pay Split Shift Premiums

Under Section 4(C) of the applicable Wage Order, employers must pay a premium of one hour of pay when an employee's work schedule is interrupted by non-paid non-working periods established by the employer, other than a rest or meal period. Throughout the statutory period, Employers have wrongfully required Employees and the Aggrieved Employees to work split shifts, and have failed to pay them their owed split shift premiums. Employers' failure to do so violates Labor Code §§ 200, 204, 226(a), 510, 1194, 1197, and 1198.

Unlawful Deductions from Wages

California Labor Code § 221 makes it illegal for an employer to collect or receive from an employee any part of wages paid by an employer to an employee. Despite this, Employers unlawfully deducted wages paid to Employees and Aggrieved Employees throughout the statutory period. For example, Employers had and have a practice of paying meal period premiums and/or overtime premiums in one paycheck and then “clawing back” or deducting those premiums from subsequent paychecks without the employee’s authorization or consent. As a result, Employers are liable for civil penalties pursuant to Labor Code section 225.5.

Misclassification as Exempt

On information and belief, Employers intentionally misclassified some Employees and Aggrieved Employees as exempt from overtime and meal and rest break requirements, thereby depriving Employees and Aggrieved Employees of protections afforded by the Labor Code. Employers’ misclassification violates Labor Code §§ 200, 204, 226, 226.6, 226.7, 510, 512, 516, 558, 558.1, 1174, 1185, 1194, 1194.2, 1197, 1198, 1199, and 2810.5.

Unfair Business Practices Under Business and Professions Code §§ 17200, *et seq.*

Employers’ conduct has been, and continues to be, unfair, unlawful, and harmful to Employees and other Aggrieved Employees, and to the general public. Employers’ activities are violations of California law, and constitute unlawful business acts and practices in violation of California Business & Professions Code §§ 17200, *et seq.* A violation of California Business & Professions Code §§ 17200, *et seq.* may be predicated on the violation of any state or federal law. All of the acts described herein as violations of, among other things, the California Labor Code, are unlawful and in violation of public policy; and in addition are immoral, unethical, oppressive, fraudulent and unscrupulous, and thereby constitute unfair, unlawful and/or fraudulent business practices in violation of California Business & Professions Code §§ 17200, *et seq.*

Action for Civil Penalties Under PAGA

In light of the above, Employees allege that Employers violated the following provisions of the Labor Code with respect to the Employees and Aggrieved Employees:

1. Labor Code §§ 90.5(a), 200, 204, 218, 510, 558, 558.1, 1182.11-1182.12, 1185, 1194, 1194.2, 1197, 1197.1, 1197.5, 1198, and 1199 by failing to pay for all hours worked, including minimum wages, straight time wages, and overtime wages;
2. Labor Code §§ 226.7, 512, and 516 and applicable Wage Orders by failing to provide meal periods;
3. Labor Code §§ 226.7, 512, and 516 and applicable Wage Orders by failing to authorize and permit rest periods;
4. Labor Code §§ 200, 204, 226.7, 246, and 510, and applicable Wage Orders by failing to include all non-discretionary remuneration and shift differentials when calculating overtime pay, sick pay, COVID-19 supplemental paid sick leave, reporting time pay, and meal and rest period premium pay;
5. Labor Code §§ 204, 204b, 210, and 216 by failing to pay all earned wages two times per month and/or as required for employees paid on a weekly basis;

6. California Labor Code §§ 1174 and 1174.5 and applicable Wage Orders by failing to maintain accurate records of hours worked and meal periods taken or missed;
7. Labor Code §§ 201 to 203, 213(d), 256, 2926, and 2927 by willfully failing to pay all wages owed at termination;
8. Labor Code §§ 226, 226.2, 226.3, and 226.6 by failing to provide accurate itemized wage statements;
9. Labor Code §§ 2800, 2802, and 2804 by failing to indemnify for necessary expenditures;
10. Labor Code §§ 226, 432, and 1198.5 by failing to timely produce requested payroll records, timecards, and personnel records;
11. Labor Code §§ 1174 and 1174.5 by failing to keep accurate and complete payroll records;
12. Labor Code § 2810.5 for failing to provide compliant Wage Theft Prevention Act notices;
13. Labor Code §§ 233, 234, and 245-249 (Healthy Workplaces, Healthy Families Act of 2014) by failing to provide proper sick leave and supplemental COVID-19 paid sick leave and kin care leave;
14. Labor Code § 216 for refusal to pay wages due and payable and/or denial of the validity of any claim to wages due;
15. Section 14(A-B) of all applicable IWC Wage Orders for failure to provide suitable seating;
16. Labor Code §§ 223, 224, 225, and 225.5 for secretly paying wages lower than required by statute while purporting to pay legal wages;
17. Labor Code § 227.3 for failure to allow use of vacation/PTO during employment and failure to pay vested vacation and/or paid time off at proper rate at termination;
18. Labor Code § 201.3 for failure to timely provide temporary workers with wages;
19. Labor Code §§ 232, 232.5, 432, 432.5, 432.7, and 2804 for unlawful agreements;
20. Labor Code §§ 432.5 and 432.7 and Government Code § 12952 (Fair Chance Act) for unlawful inquiries into criminal histories;
21. Labor Code §§ 432.5, 1024.5, Civil Code §§ 1786, *et seq.* (California Investigative Consumer Reporting Agencies Act), and 15 U.S.C. section 1681, *et seq.* (Fair Credit Reporting Act) for unlawful credit inquiries and unlawful and non-compliant background checks;
22. Labor Code §§ 98.6, 232, 232.5, 1102.5, and 1197.5 for preventing employees from using or disclosing the skills, knowledge and experience they obtained at Employers, and whistleblower violations;
23. Labor Code §§ 6401, 6402, and 6403 and Title 8 of California Code of Regulations sections 1527, 3366, 3457, 8397.4, for workplace health and safety violations;

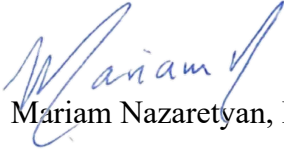
24. Labor Code §§ 200, 204, 558, 558.1, 1185 and 1198 and applicable Wage Orders by failing to pay reporting time pay;
25. Labor Code §§ 551 and 552 by failing to provide employees with at least one day of rest in a seven-day workweek;
26. Labor Code §§ 200, 204, 226(a), 510, 1194, 1197, and 1198 for failure to pay split shift premiums;
27. Labor Code § 221 for unlawful deductions from wages; and
28. Labor Code §§ 200, 204, 226, 226.6, 226.7, 510, 512, 516, 558, 558.1, 1174, 1185, 1194, 1194.2, 1197, 1198, 1199, and 2810.5 for misclassifying employees as exempt.

Therefore, on behalf of potentially all Aggrieved Employees, Employees seek applicable penalties related to the violations alleged above pursuant to the PAGA. These include, but are not limited to, penalties under Labor Code §§ 210, 225.5, 226.3, 256, 558, 1174.5, 1197.1, and 2699.

Employees have placed Employers on notice by mailing a certified copy of this correspondence, as indicated on the first page. Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me.

Sincerely,

WILSHIRE LAW FIRM



Mariam Nazaretyan, Esq.