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April 10, 2025

VIA ONLINE SUBMISSION

California Labor & Workforce Development Agency
ATTN: PAGA Administrator
(https://dir.govfa.net/418)

Subject: *Nicole Perez v. Quality Behavioral Outcomes, LLC, et al.*

Dear PAGA Administrator:

This office represents Nicole Perez in connection with her claims under the California Labor Code. Ms. Perez was an employee of QUALITY BEHAVIORAL OUTCOMES, LLC; BLUE SPRIG PEDIATRICS, INC.; TRUMPET BEHAVIORAL HEALTH, LLC; and/or TRUMPET BEHAVIORAL HEALTH - ABT, LLC. For the purpose of this letter, Ms. Perez collectively refers to these entities as "BLUESPRIG."

The employers may be contacted directly at the addresses below:

QUALITY BEHAVIORAL OUTCOMES, LLC
390 UNION BLVD SUITE 300
LAKEWOOD, CO 80228-6514

BLUE SPRIG PEDIATRICS, INC.
7500 SAN FELIPE ST, SUITE 900
HOUSTON, TX 77063

TRUMPET BEHAVIORAL HEALTH, LLC
7500 SAN FELIPE ST, SUITE 900
HOUSTON, TX 77063

TRUMPET BEHAVIORAL HEALTH - ABT, LLC
390 UNION BLVD SUITE 300
LAKEWOOD, CO 80228

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

BLUESPRIG employed Ms. Perez as an hourly paid, non-exempt employee from approximately March 2023 to August 2024. Ms. Perez worked for BLUESPRIG as a Behavioral Therapist at BLUESPRIG's Kendall Center in Modesto, California and surrounding Central Valley area. During her employment, Ms. Perez typically worked eight (8) hours or more per day and five (5) days per week. By the end of her employment, Ms. Perez was compensated approximately $16.00 per hour for travel time, $17.00 per hour for administrative work, and $17.25 per hour for therapy sessions. Her job duties included, without limitation, engaging with non-verbal developmentally delayed children, coordinating with parents, and completing administrative paperwork.

BLUESPRIG committed each of the following Labor Code violations against Ms. Perez, the facts and theories of which follow, making her an "aggrieved employee" pursuant to California Labor Code section 2699(c)(1): [1]

BLUESPRIG's Company-Wide and Uniform Payroll and HR Practices

QUALITY BEHAVIORAL OUTCOMES, LLC and TRUMPET BEHAVIORAL HEALTH, LLC are Delaware limited liability companies; BLUE SPRIG PEDIATRICS, INC. is a Delaware corporation; and TRUMPET BEHAVIORAL HEALTH - ABT, LLC is a California limited liability company. Together, they are nationwide providers of Applied Behavioral Analysis therapy services to children with Autism Spectrum Disorder, with 162 locations nationwide, and approximately 18 locations in California. Upon information and belief, BLUESPRIG maintains a single, centralized Human Resources (HR) department at its corporate headquarters either in Lakewood, Colorado or Houston, Texas, for all non-exempt, hourly paid employees working for BLUESPRIG in California, including Ms. Perez and other aggrieved employees. At all relevant times, BLUESPRIG issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Ms. Perez and other aggrieved employees, regardless of their location or position.

Upon information and belief, BLUESPRIG maintains a centralized Payroll department at its corporate headquarters either in Lakewood, Colorado or Houston, Texas, which processes payroll for all non-exempt, hourly paid employees working for BLUESPRIG in California, including Ms. Perez and other aggrieved employees. Further, BLUESPRIG issues the same formatted wage statements in the same manner for all non-exempt, hourly paid employees working in California, including Ms. Perez and other aggrieved employees, irrespective of their location, position, or manner in which each employee's employment ended. In other words, BLUESPRIG utilized the same methods and formulas when calculating wages due to Ms. Perez and other aggrieved employees in California.

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

California Labor Code sections 510 and 1198 and the applicable Industrial Welfare Commission ("IWC") Wage Order require employers to pay employees working more than eight (8) hours in a day or more than forty (40) hours in a workweek at the rate of time-and-one-half (1 ½) times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek. The applicable IWC Wage Order further provides that employers are required

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

to pay employees working more than twelve (12) hours in a day overtime compensation at a rate of two (2) times their regular rate of pay. An employee's regular rate of pay includes all remuneration for employment paid to, or on behalf of, the employee, including nondiscretionary bonuses and incentive pay.

BLUESPRIG willfully failed to pay all overtime wages owed to Ms. Perez and other aggrieved employees. During the relevant time period, Ms. Perez and other aggrieved employees were not paid overtime premiums for all of the hours they worked in excess of eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40) hours in a week, because all hours that they worked were not recorded.

First, BLUESPRIG had, and continues to have, a company-wide policy and/or practice of failing to accurately record hours worked by Ms. Perez and other aggrieved employees and thus restricted overtime accrual. Specifically, BLUESPRIG failed to implement a timekeeping system at its facilities and/or jobsites and did not provide employees with any mechanism, such as a handwritten timesheet, time clock, or electronic timekeeping system, to accurately track and record their hours worked. Instead, upon information and belief, BLUESPRIG required Ms. Perez and other aggrieved employees to record their hours worked through an online platform that was integrated with the company's system for billing labor hours to insurance providers. However, BLUESPRIG's company-wide policy and/or practice is to have its managers and/or administrative staff maintain exclusive control and discretion over employee time records, and upon information and belief, they only recorded employee hours worked according to their scheduled therapy appointments instead of their actual hours worked. Because BLUESPRIG failed to provide Ms. Perez and other aggrieved employees with any mechanism to record their actual hours worked themselves and, instead, granted BLUESPRIG's managers and/or administrative staff exclusive control and discretion over employee time records, Ms. Perez and other aggrieved employees were not paid for all hours worked.

For instance, pursuant to BLUESPRIG's timekeeping policies and/or practices, after completing a therapy session, Ms. Perez and other aggrieved employees were instructed to "convert" their completed therapy session, which was a specific timekeeping code available on BLUESPRIG's online platform for billing labor hours to insurance providers, in order for employees to have their hours recorded. Similarly, Ms. Perez and other aggrieved employees were instructed to "convert" time spent traveling in between therapy session appointment jobsites on the employee-facing side of BLUESPRIG's online platform. However, because BLUESPRIG granted its managers and/or administrative staff exclusive control and discretion over employee time records and/or what was displayed on their online platform, Ms. Perez and other aggrieved employees would sometimes not have a corresponding scheduled travel time entry available for them to "convert" after completing a therapy session. Additionally, after Ms. Perez "converted" a completed therapy session, but before she began traveling to her next assigned jobsite, Ms. Perez was sometimes required to remain with a child's parent to answer questions or obtain their signature on administrative paperwork, which caused the therapy session to go past the allotted time scheduled for the session, and past the time Ms. Perez was able to "convert", time for which she was not paid. Thus, BLUESPRIG failed to track this time spent working in between jobsites, and Ms. Perez and other aggrieved employees received no compensation for this time.

As a further example, BLUESPRIG had, and continues to have, a company-wide policy and/or practice of requiring Ms. Perez and other aggrieved employees to obtain certain training, certifications, licensure, and/or registrations, such as Registered Behavior Technician certifications ("RBT certification"), and to keep their licenses and/or registrations up-to-date. However, because

BLUESPRIG granted its managers and/or administrative staff exclusive control and discretion over employee time records, BLUESPRIG failed to compensate Ms. Perez and other aggrieved employees for all the time spent doing so. For example, Ms. Perez would often spend time traveling to and from the testing center and undergoing the RBT certification examination, but was not paid by BLUESPRIG for all of this time worked. Thus, BLUESPRIG failed to track the time Ms. Perez and other aggrieved employees spent completing the mandatory trainings and/or obtaining required certifications, and Ms. Perez and other aggrieved employees received no compensation for this time.

Alternatively, BLUESPRIG had, and continues to have, a company-wide policy and/or practice of failing to record hours worked by its employees. Instead, on information and belief, BLUESPRIG's policy and/or practice is to simply pay employees, including Ms. Perez and other aggrieved employees, for the therapy sessions and/or hours they are scheduled to work. Because BLUESPRIG failed to accurately record their actual hours worked, Ms. Perez and other aggrieved employees were not paid for all hours worked before or after their scheduled shifts.

Second, BLUESPRIG required Ms. Perez and other aggrieved employees to travel to distant jobsites and assignments, but did not compensate them for all their time spent traveling to and from these locations. On information and belief, BLUESPRIG paid Ms. Perez and other aggrieved employees a flat 25 minutes for all travel time, regardless of how long it actually took them to drive to distant jobsites and assignments. For example, Ms. Perez typically worked at client sites in and around Modesto, California, but BLUESPRIG sometimes assigned her to jobsites outside of her usual geographic area. As a result, when Ms. Perez was required to drive to client sites that were substantially farther away, such as Merced or Ceres, BLUESPRIG only paid her for 25 minutes of travel time instead of the actual time spent driving to distant jobsites. Therefore, Ms. Perez and other aggrieved employees were not fully compensated for time spent traveling to and from jobsites despite being under the direction and control of BLUESPRIG.

Third, BLUESPRIG had, and continues to have, a company-wide policy and/or practice of requiring Ms. Perez and other aggrieved employees to perform various work-related tasks while off-the-clock. For example, Ms. Perez was required to perform work-related administrative tasks while at home after her shifts, on a daily basis and up to an hour each day, such as reviewing, revising, and submitting her therapy appointment session notes to BLUESPRIG's administrative staff in order to meet BLUESPRIG's insurance billing requirements.

Fourth, as stated, BLUESPRIG had, and continues to have, a company-wide policy and/or practice of scheduling its employees' therapy sessions, across various geographical distances and locations, without building in sufficient time to allow for 30-minute meal periods, which prevented Ms. Perez and other aggrieved employees from taking all uninterrupted 30-minute meal periods, and forced them to work off-the-clock during their meal periods to complete their assigned therapy sessions. Moreover, BLUESPRIG failed to schedule meal periods and/or adhere to a schedule for meal periods, which further caused Ms. Perez and other aggrieved employees to not be relieved of their duties for compliant meal periods. As stated, therapy session appointments could take longer than the time BLUESPRIG allotted for them, such that Ms. Perez and other aggrieved employees were unable to take compliant meal periods. In conjunction with varying appointment durations, travel time between patient sites could take longer than anticipated due to traffic conditions, which further impeded Ms. Perez and other aggrieved employees from taking compliant meal periods.

Additionally, upon information and belief, BLUESPRIG had no mechanism in place to permit Ms. Perez and other aggrieved employees to take meal periods when the schedule was thrown off because one or more of their therapy sessions took longer than the scheduled time, or if travel time between therapy sessions was extended by traffic conditions. BLUESPRIG's company-wide policy and/or practice of allotting too little time for employees to actually complete their therapy session, while still requiring that they be on time for their next therapy session, has prevented Ms. Perez and other aggrieved employees from being relieved of their duties to take uninterrupted 30-minute meal periods.

For example, Ms. Perez worked straight through her meal periods approximately twice per week in order to keep up with her busy therapy appointment schedule. Additionally, Ms. Perez's meal periods were frequently interrupted by administrative staff and coworkers asking her work-related questions, or Ms. Perez was required to shorten her meal periods by 10-15 minutes, in order to prepare for her following therapy session. Thus, Ms. Perez and other aggrieved employees worked through meal periods and/or had meal periods cut short or interrupted in order to handle their workloads. BLUESPRIG did not compensate Ms. Perez and other aggrieved employees for the time they spent working off the clock during meal periods.

Fifth, BLUESPRIG's company-wide timekeeping practices and/or policies did not permit employees, including Ms. Perez and other aggrieved employees, to accurately track the start and end times of their meal periods or allow them to report a short, missed, or interrupted meal period. As stated, because BLUESPRIG's managers and/or administrative staff logged the start and end times of meal periods in BLUESPRIG's timekeeping system, which Ms. Perez and other aggrieved employees did not have access to, BLUESPRIG, upon information and belief, would record that compliant meal periods were taken, even if that was not the case. Additionally, because BLUESPRIG frowned upon employees accruing meal period premiums, BLUESPRIG's management pressured Ms. Perez and other aggrieved employees to "convert" their meal periods in BLUESPRIG's online platform to reflect compliant meal periods, even when they did not receive a compliant meal period. For example, sometimes Ms. Perez would clock out for her meal period but would work through her unpaid meal period, out of fear of being disciplined by BLUESPRIG.

Alternatively, BLUESPRIG implemented a company-wide practice and/or policy of automatically deducting meal periods from Ms. Perez's and other aggrieved employees' time records. As a result, because BLUESPRIG's managers and/or administrative staff recorded 30-minute meal periods were taken, even when meal periods were short, missed, or interrupted, Ms. Perez and other aggrieved employees were not paid for all hours worked.

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

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

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

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

First, as set forth above, as a result of BLUESPRIG's policies and/or practices of failing to implement a timekeeping system at its facilities and/or jobsites and not providing employees with any mechanism for accurately tracking and recording their hours worked, granting its managers and/or administrative staff exclusive control and discretion over employee time records, only recording employee hours worked according to therapy appointment schedules or according to scheduled shift times, and limiting the amount of overtime employees could accrue, BLUESPRIG required Ms. Perez and other aggrieved employees to perform work off-the-clock outside of their scheduled shifts to complete work-related tasks, such as: discussing issues with parents or completing paperwork after therapy sessions; traveling to and from distant client sites; reviewing, revising, and submitting therapy appointment session notes; and completing mandatory certification trainings and/or examinations. BLUESPRIG failed to track this time that Ms. Perez and other aggrieved employees spent working off-the-clock, and Ms. Perez and other aggrieved employees received no compensation for this time.

Second, as also stated above, due to BLUESPRIG's policies and/or practices of assigning heavy workloads while allowing insufficient time to complete their therapy sessions, and failing to schedule meal periods and/or adhere to a schedule for meal periods, Ms. Perez and other aggrieved employees were prevented from taking all uninterrupted meal periods to which they were entitled and were required to work off-the-clock during meal periods, have their meal periods interrupted, and/or were otherwise not relieved of all duties during unpaid meal periods. Moreover, as stated, on information and belief, in order to limit meal period premiums that BLUESPRIG would otherwise owe, BLUESPRIG's managers and/or administrative staff automatically recorded compliant meal periods and/or deducted meal periods from Ms. Perez's and other aggrieved employees' time records. Additionally, BLUESPRIG pressured Ms. Perez and other aggrieved employees to "convert" hours worked to reflect compliant meal periods even when meal periods were missed, short, and/or interrupted. Thus, BLUESPRIG systematically failed to pay Ms. Perez and other aggrieved employees for actual hours worked during unpaid meal periods because these hours were not always correctly recorded.

BLUESPRIG did not pay at least minimum wages for all hours worked by Ms. Perez and other aggrieved employees. To the extent that these off-the-clock hours did not qualify for overtime premium payment, BLUESPRIG did not pay at least minimum wages for those hours worked off-the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198.

Accordingly, BLUESPRIG regularly failed to pay at least minimum wages to Ms. Perez and other aggrieved employees for all of the hours they worked in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Ms. Perez and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring BLUESPRIG into compliance with the applicable IWC Wage Order and Labor Code sections

1182.12, 1194, 1197, 1197.1, and 1198, pursuant to Labor Code sections 1197.1 and/or 2699(a), (f), and (k).

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

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

During the relevant time period, as stated, BLUESPRIG had, and continues to have, company-wide policies and/or practices of assigning heavy workloads and scheduling therapy session appointments without building in sufficient time to allow for 30-minute meal periods, which prevented Ms. Perez and other aggrieved employees from taking all timely, uninterrupted meal periods to which they were entitled. As also stated, BLUESPRIG had no mechanism in place to permit Ms. Perez and other aggrieved employees to take meal periods when the appointment schedule was thrown off because one or more of their therapy sessions took longer than the scheduled time, or if travel time between therapy sessions was extended by traffic conditions. Additionally, as also stated, BLUESPRIG had company-wide practices and/or policies of failing to schedule meal periods and/or adhere to a schedule for meal periods, which further caused Ms. Perez and other aggrieved employees to not be relieved of their duties for compliant meal periods.

As a result, Ms. Perez and other aggrieved employees had to work through all or part of their meal periods, had their meal periods interrupted, and/or had to wait extended periods of time before taking meal periods. For example, as stated, Ms. Perez worked straight through her meal periods approximately twice per week in order to keep up with her busy therapy appointment schedule. Additionally, as stated, Ms. Perez's meal periods were frequently interrupted by administrative staff and coworkers asking her work-related questions, or Ms. Perez was required to shorten her meal periods by 10-15 minutes, in order to prepare for her following therapy session. As a further example, sometimes Ms. Perez took her meal periods late, after having worked in excess of five (5) hours into her shift.

Furthermore, as set forth above, BLUESPRIG's company-wide timekeeping practices and/or policies did not permit employees, including Ms. Perez and other aggrieved employees, to accurately track the start and end times of their meal periods or allow them to report a short, missed, or interrupted meal period. As stated, because BLUESPRIG's managers and/or administrative staff logged the start and end times of meal periods in BLUESPRIG's timekeeping system, which Ms. Perez and other aggrieved employees did not have access to, BLUESPRIG, upon information and belief, would record that compliant meal periods were taken, even if that was not the case. Additionally, on information and belief, because BLUESPRIG frowned upon employees accruing meal period premiums, BLUESPRIG's management pressured Ms. Perez and other aggrieved employees to "convert" scheduled meal periods to reflect compliant meal periods regardless of whether they had received a compliant meal period or not, in order to strictly limit the meal period premiums that would need to be paid by BLUESPRIG. For example, as stated, Ms. Perez was sometimes required to record that she had received compliant meal periods on shifts when she had not, in fact, received these timely, uninterrupted meal periods.

Alternatively, BLUESPRIG implemented a company-wide practice and/or policy of automatically deducting meal periods from Ms. Perez's and other aggrieved employees' time records. As a result, because BLUESPRIG's managers and/or administrative staff recorded 30-minute meal periods were taken, even when meal periods were short, missed, or interrupted. Ms. Perez and other aggrieved employees did not sign valid meal period waivers on days that they were entitled to meal periods and were not relieved of all duties.

Moreover, BLUESPRIG had a company-wide policy of requiring all newly hired employees to sign blanket meal period waivers at or near their time of hire. BLUESPRIG took the position that non-exempt, hourly paid employees had waived their rights to first and/or second meal periods for the entirety of their employment and, on that basis, did not provide them with all meal periods to which they were entitled. Further, BLUESPRIG's "California Meal Period Waiver" forms require employees to provide written notice should they wish to revoke the waivers. BLUESPRIG's presumption that meal periods would not be provided for shifts in excess of five (5) hours but less than six (6) hours and/or for shifts in excess of ten (10) hours but less than twelve (12) hours, due to blanket meal period waivers signed at or near the time of hire, discouraged and impeded Ms. Perez and other aggrieved employees from taking all meal periods to which they were entitled.

Furthermore, an employer's obligation to provide a meal period is only "triggered" when the employer "employs an employee for a work period of more than five hours per day." *Brinker*, 53 Cal. 4th at 1039 ("If an employer engages, suffers, or permits anyone to work for a full five hours, its meal break obligation is triggered.").

> [A]fter the meal break obligation is triggered . . . an employer is put to a choice: it must (1) afford an off-duty meal period; (2) consent to a mutually agreed-upon waiver if one hour or less will end the shift; or (3) obtain written agreement to an on-duty meal period if circumstances permit. Failure to do one of these will render the employer liable for premium pay.

Id. (citing Cal. Labor Code § 226.7; Wage Order No. 5, subd. 11(A), (B)). That BLUESPRIG required Ms. Perez and other aggrieved employees to sign meal period waivers simultaneously at or near their time of hire (as opposed to on a specific work day) renders them invalid and unenforceable, because BLUESPRIG's obligation to provide Ms. Perez and other aggrieved employees with meal periods did not arise until they had employed them for a full five (5) hours.

At all times herein mentioned, BLUESPRIG knew or should have known that, as a result of these policies, Ms. Perez and other aggrieved employees were prevented from being relieved of all duties and required to perform some of their assigned duties during meal periods. BLUESPRIG further knew or should have known that BLUESPRIG did not pay Ms. Perez and other aggrieved employees meal period premiums when meal periods were missed, shortened, interrupted, and/or late.

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

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

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

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

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

During the relevant time period, BLUESPRIG regularly failed to authorize and permit Ms. Perez and other aggrieved employees to take a ten (10) minute rest period per each four (4) hour period worked or major fraction thereof. As with meal periods, BLUESPRIG's company-wide scheduling policies and practices, while assigning heavy workloads, prevented Ms. Perez and other aggrieved employees from being able to take rest periods. BLUESPRIG also failed to adhere to a schedule for rest periods, which, coupled with BLUESPRIG's failure to provide adequate rest period coverage, further led to Ms. Perez and other aggrieved employees not being authorized and permitted to take rest periods.

Furthermore, upon information and belief, during the relevant time period, BLUESPRIG maintained a company-wide on-premises rest period policy, which effectively required that Ms. Perez and/or other aggrieved employees remain on the work premises during their rest periods. Because Ms. Perez and/or other aggrieved employees were restricted from leaving the premises during rest periods, they were denied the ability to use their rest periods freely for their own purposes, such as running personal errands. Thus, BLUESPRIG effectively maintained control over Ms. Perez and/or other aggrieved employees during rest periods.

As a result of BLUESPRIG's practices and policies, Ms. Perez and other aggrieved employees worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without receiving all uninterrupted rest periods to which they were entitled. For example, throughout her employment, Ms. Perez was required to forgo about half of her rest periods due to the heavy workload and BLUESPRIG's failure to adhere to a schedule for rest periods for employees. When Ms. Perez was able to take rest periods, they would be cut short because she was required to attend to an urgent situation and had no coverage.

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

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

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

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

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

Because BLUESPRIG did not accurately record the time Ms. Perez and other aggrieved employees spent working off-the-clock and deducted time from their records for meal periods that were interrupted and/or missed (and therefore time for which they should have been paid), BLUESPRIG did not list the correct amount of gross wages and net wages earned by Ms. Perez and other aggrieved employees in compliance with section 226(a)(1) and section 226(a)(5), respectively. For the same reason, BLUESPRIG failed to accurately list the total number of hours worked by Ms. Perez and other aggrieved employees, in violation of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay period and the corresponding accurate number of hours worked at each hourly rate, in violation of section 226(a)(9).

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

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

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

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

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

Violation of California Labor Code § 227.3 – Failure to Pay Vested Vacation Wages

California Labor Code section 227.3 provides that if a contract of employment or employer policy provides for paid vacations and an employer terminates an employee, all vested vacation shall be paid to the employee at the employee's final rate of pay, in accordance with such contract of employment or employer policy respecting eligibility or time served. Vacation time vests on a pro-rata basis and, upon termination, an employee is entitled to a pro rata share of vested vacation pay. An employer may not require an employee to forfeit earned but unused vacation pay.

During the relevant time period, BLUESPRIG had a company-wide policy and practice of failing to pay Ms. Perez and other aggrieved employees all vested vacation wages that were owed to them at the end of their employment, in violation of California Labor Code section 227.3. For example, Ms. Perez had earned vested vacation pay until her employment with BLUESPRIG ended on or about August 26, 2024. However, BLUESPRIG did not pay Ms. Perez the balance of her accrued and unused vacation wages at the end of her employment.

BLUESPRIG's failure to pay other Ms. Perez and other aggrieved employees all vested vacation wages at the end of their employment has caused a forfeiture of vested vacation wages in violation of California Labor Code section 227.3. Ms. Perez and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring BLUESPRIG into compliance with Labor Code section 227.3, pursuant to Labor Code sections 2699(a), (f), and (k).

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

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

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

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

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

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

On information and belief, BLUESPRIG has a company-wide practice or policy of paying departing employees their final wages late, instead of adhering to the time requirements set forth in Labor Code sections 201 and 202. For example, Ms. Perez was terminated from her employment on or around August 26, 2024; however, she received her final paycheck on or around October 4, 2024. Thus, BLUESPRIG failed to pay Ms. Perez her final wages immediately, in violation of California Labor Code section 201.

In addition, BLUESPRIG willfully failed to pay Ms. Perez and other aggrieved employees who are no longer employed by BLUESPRIG the earned and unpaid wages set forth above, including but not limited to, overtime wages, minimum wages, meal and rest period premiums, and/or vested vacation wages, either at the time of discharge, or within seventy-two (72) hours of their leaving BLUESPRIG's employ.

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

Violation of California Labor Code § 2802 – Unreimbursed Business Expenses

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

During the relevant time period, BLUESPRIG, on a company-wide basis, required that Ms. Perez and other aggrieved employees use their personal mobile devices, including, but not limited to, cellular phones, and/or mobile data to carry out their job duties but failed to reimburse them for the costs of their work-related mobile device and/or mobile data expenses. For example, Ms. Perez was required to use her personal cellular phone to communicate with her managers and children's parents over email and text messages regarding scheduling of therapy sessions and for communicating over email with coworkers. Although BLUESPRIG required Ms. Perez and other aggrieved employees to use their personal mobile devices and mobile data to carry out their work-related duties, BLUESPRIG failed to reimburse them for their costs incurred.

BLUESPRIG could have provided Ms. Perez and other aggrieved employees with company mobile devices; or BLUESPRIG could have reimbursed employees for the costs of their mobile device usage. Instead, BLUESPRIG passed these operating costs onto Ms. Perez and other aggrieved employees.

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

California Labor Code § 558(a)

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

Accordingly, Ms. Perez seeks the remedies set forth in Labor Code section 558 for herself, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 1194.5, 2699(a), 2699(k), 2699.3(a), 2699.3(c), 2699.5, and 558, Ms. Perez, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties and injunctive relief for herself, all other aggrieved employees, and the State of California against BLUESPRIG for violations of California Labor Code sections 201, 202, 204, 226(a), 226.7, 227.3, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, and 2802.

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

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

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

Best Regards,

Alexander Lima

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7500 SAN FELIPE ST, SUITE 900
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