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August 13, 2025

VIA ONLINE SUBMISSION

California Labor & Workforce Development Agency
ATTN: PAGA Administrator
(https://dir.govfa.net/411)

Subject: *Rosario Ortiz v. Hawthorn Senior Living, LLC*

Dear PAGA Administrator:

This office represents Rosario Ortiz in connection with her claims under the California Labor Code. Ms. Ortiz was an employee of HAWTHORN SENIOR LIVING, LLC (“HAWTHORN”).

The employer may be contacted directly at the address below:

HAWTHORN SENIOR LIVING, LLC
9310 NE VANCOUVER MALL DR, STE 200
VANCOUVER, WA 98662

Ms. Ortiz 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. Williams seeks relief on behalf of herself, the State of California, and other persons who are or were employed by HAWTHORN 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.

HAWTHORN employed Ms. Ortiz as an hourly paid, non-exempt employee from approximately September 2021 to May 2025. Ms. Ortiz worked for HAWTHORN as a Housekeeper and Server at its Scholl Canyon Estates senior living community location in Glendale, California. During her employment, Ms. Ortiz typically worked eight (8) hours or more per day and five (5) days per week. By the end of her employment, Ms. Ortiz was compensated approximately $19.00 per hour. Her job duties included, without limitation, serving meals to residents, cleaning the dining area, and performing housekeeping of residences.

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

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

HAWTHORN SENIOR LIVING, LLC is a Delaware limited liability company and is a senior housing management company with over 70 independent and assisted living communities, with six (6) facilities in California. Upon information and belief, HAWTHORN maintains a single, centralized Human Resources (HR) department at its corporate headquarters in Vancouver, Washington, for all non-exempt, hourly paid employees working for HAWTHORN in California, including Ms. Ortiz and other aggrieved employees. At all relevant times, HAWTHORN issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Ms. Ortiz and other aggrieved employees, regardless of their location or position.

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

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

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

HAWTHORN willfully failed to pay all overtime wages owed to Ms. Ortiz and other aggrieved employees. During the relevant time period, Ms. Ortiz 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

[1] These facts, theories, and claims are based on Ms. Ortiz's experience and counsel's review of those records currently available relating to Ms. Ortiz'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. Ortiz 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.

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

During the relevant time period, HAWTHORN had, and continues to have, a company-wide policy and/or practice of discouraging and impeding Ms. Ortiz and other aggrieved employees from recording hours worked that were outside of their scheduled shifts in order to limit the amount of overtime employees could accrue. Specifically, HAWTHORN's managers pressured Ms. Ortiz and other aggrieved employees to record their scheduled shift start-times and shift end-times instead of their actual hours worked to limit the overtime hours employees were eligible to be compensated for. This policy of limiting overtime led Ms. Ortiz and other aggrieved employees to work off-the-clock before and after their scheduled shifts in order to complete their assigned tasks. For example, Ms. Ortiz and other aggrieved employees were required to change into and/or don their uniform items, which included specific uniform sets used for different assigned tasks (such as a uniform set for serving meals to residents and a different uniform set for housekeeping activities), on HAWTHORN's premises, before clocking in at the start of their shifts. As another example, after clocking out at the end of their shifts, Ms. Ortiz and other aggrieved employees were required to change out of and/or doff their uniform items, and drop them off in a designated area before they could go home for the day. However, HAWTHORN did not allow Ms. Ortiz and other aggrieved employees to report all of the time spent donning and doffing their uniforms at the beginning and end of their shifts despite being on HAWTHORN's premises and under HAWTHORN's control. As a result, Ms. Ortiz and other aggrieved employees were required to spend time donning and doffing their uniforms off-the-clock.

HAWTHORN knew or should have known that as a result of these company-wide practices and/or policies, Ms. Ortiz and other aggrieved employees were performing their assigned duties off-the-clock before and after their shifts, and were suffered or permitted to perform work for which they were not paid. Because Ms. Ortiz 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. Ortiz and other aggrieved employees were not paid overtime wages for all of the overtime hours they actually worked.

HAWTHORN's failure to pay Ms. Ortiz 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. Ortiz and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring HAWTHORN 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. 5-2001 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 for the employer, whether or not required to do so." Cal. Code Regs. Tit. 8, § 11050(2)(M) (defining "Hours Worked").

As set forth above, as a result of HAWTHORN's policies and/or practices of limiting the amount of overtime employees could accrue and pressuring employees to record only their scheduled hours in the timekeeping system rather than actual hours worked, HAWTHORN required Ms. Ortiz and other aggrieved employees to perform work off-the-clock before and after their scheduled shifts to complete work-related tasks, such as donning and doffing uniforms, including when they entered the premises before clocking in prior to a shift and when they exited the premises after clocking out at the end of a shift. HAWTHORN failed to track this time that Ms. Ortiz and other aggrieved employees spent working off-the-clock, and Ms. Ortiz and other aggrieved employees received no compensation for this time.

HAWTHORN did not pay at least minimum wages for all hours worked by Ms. Ortiz and other aggrieved employees. To the extent that these off-the-clock hours did not qualify for overtime premium payment, HAWTHORN 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, HAWTHORN regularly failed to pay at least minimum wages to Ms. Ortiz 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. Ortiz and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring HAWTHORN 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, 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, HAWTHORN maintained and implemented, on a company-wide basis, a non-compliant written on-premises rest period policy, that required that Ms. Ortiz and other aggrieved employees remain on the work premises during their rest periods and prevented Ms. Ortiz and other aggrieved employees from taking compliant rest periods. Specifically, HAWTHORN's "Time-Clock Work Rules" section in its "Memorandum RE: Performance Standards" dated December 18, 2019, states, in relevant part, "[i]f you leave the Community while on duty for any reason other than your 30-minute meal period, you ***must seek*** managerial approval when you leave the building and you ***must also notify*** a member of the Management Team when you return to work . . . ." (Emphasis in original.) However, under California law, an employer must relinquish any control over how the employees spend their rest period time. Thus, HAWTHORN's written rest period policy is non-compliant on its face, as it fails to relinquish control over how employees spend their rest periods. Further, because Ms. Ortiz and other aggrieved employees were restricted from leaving the premises during rest periods, they were denied the ability to use their rest periods freely for their own purposes, such as running personal errands. Thus, HAWTHORN effectively maintained control over Ms. Ortiz and other aggrieved employees during rest periods.

As a result of HAWTHORN's practices and policies, Ms. Ortiz 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.

HAWTHORN 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. Ortiz and other aggrieved employees have not received premium pay for all non-compliant rest periods.

Accordingly, HAWTHORN failed to authorize and permit all rest periods in violation of California Labor Code sections 226.7, 516, and 1198. Ms. Ortiz and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring HAWTHORN 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. HAWTHORN has not provided Ms. Ortiz 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, HAWTHORN has knowingly and intentionally provided Ms. Ortiz and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. For example, HAWTHORN issued uniform wage statements to Ms. Ortiz 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, HAWTHORN violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

Because HAWTHORN did not accurately record the time Ms. Ortiz and other aggrieved employees spent working off-the-clock, HAWTHORN did not list the correct amount of gross wages and net wages earned by Ms. Ortiz and other aggrieved employees in compliance with section 226(a)(1) and section 226(a)(5), respectively. For the same reason, HAWTHORN failed to accurately list the total number of hours worked by Ms. Ortiz 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), HAWTHORN willfully failed to maintain accurate payroll records for Ms. Ortiz 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, HAWTHORN engaged in company-wide practices and/or policies of failing to record actual hours worked and thereby failed to keep accurate records of work period start and end times for Ms. Ortiz and other aggrieved employees, in violation of section 1198.

Because HAWTHORN failed to provide the correct net and gross wages earned, applicable rates of pay, and number of total hours worked on wage statements, Ms. Ortiz 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. Ortiz 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. Ortiz and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring HAWTHORN into compliance with the applicable IWC Wage Order and Labor Code sections 226(a), 1174(d), and 1198, pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f), and (k).

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

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

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

Ms. Ortiz and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring HAWTHORN 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.

HAWTHORN had a company-wide practice and/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, HAWTHORN terminated Ms. Ortiz on May 5, 2025; however, HAWTHORN did not provide Ms. Ortiz with her final wages until May 6, 2025. Thus, HAWTHORN failed to pay Ms. Ortiz her final wages immediately, in violation of California Labor code section 201.

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

Ms. Ortiz and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring HAWTHORN 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 § 2810.5(a)(1)(A)-(C) – Failure to Provide Notice of Material Terms of Employment

California's Wage Theft Prevention Act was enacted to ensure that employers provide employees with basic information material to their employment relationship at the time of hiring, and to ensure that employees are given written and timely notice of any changes to basic information material to their employment. Codified at California Labor Code section 2810.5, the Wage Theft Prevention Act provides that at the time of hiring, an employer must provide written notice to employees of the rate(s) of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, the regular payday designated by the employer, and any allowances claims as part of the minimum wage, including meal or lodging allowances. Effective January 1, 2015, an employer's written notice pursuant to section 2810.5 must also include a statement that the employee may accrue and use sick leave; has a right to request and use accrued paid sick leave; may not be terminated or retaliated against for using or requesting the use of accrued paid sick leave; and has the right to file a complaint against an employer who retaliates.

HAWTHORN failed to provide Ms. Ortiz and other aggrieved employees written notice that lists all the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C). Specifically, HAWTHORN failed to provide Ms. Ortiz and other aggrieved employees with the hourly rate(s) of pay, including the overtime rate(s) of pay, in violation of section 2810.5(a)(1)(A). Instead, the wage theft form that HAWTHORN provided to Ms. Ortiz is blank where the aforementioned wage information should be filled in. HAWTHORN's failure to provide Ms. Ortiz and other aggrieved employees with written notice of basic information regarding their employment with HAWTHORN is in violation of Labor Code section 2810.5.

Ms. Ortiz and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring HAWTHORN into compliance with Labor Code section 2810.5, 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." HAWTHORN, at all relevant times, was an employer or person acting on behalf of an employer(s) who violated Ms. Ortiz's and other aggrieved employees' rights by violating various sections of the California Labor Code.

Accordingly, Ms. Ortiz 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. Ortiz, 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 HAWTHORN for violations of California Labor Code sections 201, 202, 204, 226(a), 226.7, 510, 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, and 2810.5.

Therefore, on behalf of all aggrieved employees, Ms. Ortiz 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

Copy: HAWTHORN SENIOR LIVING, LLC (via U.S. Certified Mail)

Capstone Law, APC
1875 Century Park, East, 1000
Los Angeles, CA. 90067

CERTIFIED MAIL

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SENIOR LIVING, LLC
9310 NE VANCOUVER
MALL DR, STE 200
VANCOUVER, WA 98662

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SENIOR LIVING, LLC
9310 NE VANCOUVER
MALL DR, STE 200
VANCOUVER, WA 98662

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