

CASE ATTACHMENT COVER PAGE	(ENDORSED) ELECTRONICALLY FILED BY SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Bernardino on Apr 20, 2023 CLERK OF THE SUPERIOR COURT Deputy Clerk: <i>Michelle Gomez Casillas</i>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO STREET ADDRESS: 247 West Third Street MAILING ADDRESS: CITY AND ZIP CODE: San Bernardino, CA 92415 BRANCH NAME: San Bernardino Justice Center WEBSITE: http://www.sb-court.org	
ATTACHMENT NAME: Complaint: Complaint	
CASE NAME: Nahrain Smith vs. CHG Medical Staffing, Inc.	CASE NUMBER: CIVSB2308055
Please log on to www.TurboCourt.com regularly for updates	

Please staple this to your original attachment

1 **SHAKOURI LAW FIRM**

2 Ashkan Shakouri, Esq. [SBN 242072]

3 ash@shakourilawfirm.com

4 Sharon W. Lin, Esq. [SBN 260443]

5 sharon@shakourilawfirm.com

6 11601 Wilshire Blvd., Fifth Floor

7 Los Angeles, California 90025

8 Telephone: (310) 575-1827

9 Fax: (310) 575-1872

10 *Attorneys for Plaintiff*

11 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**

12 **SUPERIOR COURT OF SAN BERNARDINO**

13 NAHRAIN SMITH, on behalf of herself
14 and other aggrieved employees

15 Plaintiff,

16 v.

17 CHG Medical Staffing, Inc. dba
18 RNnetwork; and DOES 1-20, inclusive

19 Defendants.

Case No: **CIV SB 2308055**

REPRESENTATIVE ACTION COMPLAINT:

**1. VIOLATION OF CALIFORNIA LABOR
CODE § 2699, ET SEQ. (PRIVATE
ATTORNEYS GENERAL ACT)**

[AMOUNT DEMANDED EXCEEDS \$25,000.00]

1 Plaintiff Nahrain Smith ("Plaintiff"), an individual, on behalf of herself and all others
2 aggrieved employees, as defined below, hereby alleges the following facts and claims against
3 CHG Medical Staffing, Inc., doing business as RNnetwork, a Delaware corporation
4 ("Defendant"); and DOES 1-20 (collectively "Defendants").

5 **JURISDICTION AND VENUE**

6 1. This Court has jurisdiction over Defendant because it is a corporation with
7 sufficient minimum contacts in California and/or because it intentionally availed and continues
8 to avail itself of the California market so as to render the exercise of jurisdiction over it by the
9 California courts consistent with traditional notions of fair play and justice.

10 2. Pursuant to Code of Civil Procedure §395(a) venue is proper in this County since
11 at least some of the acts and omissions that are the subject matter of this Complaint occurred
12 herein and/or Defendants are found, maintain offices, transact business, exist and/or have
13 agent(s) herein.

14 **PARTIES**

15 3. At all relevant times mentioned herein, Plaintiff was a nurse and a resident of the
16 State of Texas.

17 4. Upon information and belief, Defendant is an employment staffing agency and is,
18 and at all times herein mentioned was, a Delaware corporation duly authorized to do business in
19 California. In particular, Defendant employs, compensates and assigns healthcare professionals
20 to work at various kinds of healthcare facilities throughout California.

21 5. The true names or capacities, whether individual, associate or otherwise, of Does
22 1-20, inclusive, are unknown to Plaintiff and, therefore, Plaintiff sues these doe defendants by
23 such fictitious names. Plaintiff will seek leave of this Court to amend this Complaint to allege
24 such names and capacities as soon as they are ascertained. Upon information and belief, each of
25 these fictitiously named defendants is responsible in some manner for the occurrences alleged
26 herein, and Plaintiff's injuries and damages as alleged and set forth herein were proximately
27 caused by such fictitiously named defendants.
28

1 6. Upon information and belief, Plaintiff alleges that at all relevant times each of the
2 defendants was the principal, agent, employer, employee, partner, joint venturer, officer, director,
3 controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest and
4 predecessor in interest of some or all of the other defendants, and was engaged with some or all
5 of the other defendants in a joint enterprise for profit, and bore such other relationships to some
6 or all of the other defendants so as to be liable for the conduct of each of them.

7 7. Upon information and belief, Plaintiff alleges that each defendant acted pursuant
8 to and within the scope of the relationships alleged above, that each defendant knew or should
9 have known about, authorized, ratified, adopted, approved, controlled, aided and abetted the
10 conduct of all other defendants, and/or that each defendant acted pursuant to a conspiracy and
11 agreement to do the things alleged herein.

12 8. Plaintiff is bringing these claims under Private Attorneys General Act of 2004,
13 Labor Code § 2698, et seq. (“PAGA”) on behalf of herself and all others who worked or work
14 for Defendant inside California and were subject to the violations alleged herein during the
15 applicable recovery period (“Aggrieved Employees”). Aggrieved Employees includes Plaintiff.

16 9. Plaintiff personally suffered some of the Labor Code violations committed by
17 Defendants, while other violations, though not personally suffered by her, were suffered, and
18 continue to be suffered, by other Aggrieved Employees. As held in *Huff v. Securitas Security*
19 *Services USA, Inc.* (2018) 23 Cal.App.5th 745, 758, “[b]y the plain language of the statute, an
20 aggrieved employee need only suffer one of the Labor Code violations alleged against his or her
21 employer to be able to bring a PAGA claim on behalf of himself or herself and current or former
22 employees who suffered any Labor Code violation at the hands of the employer. Plaintiff need
23 not have actually suffered all of the Labor Code violations that he alleges to have taken place for
24 purposes of seeking PAGA penalties.” (citation omitted). Accordingly, Plaintiff plans to pursue
25 penalties for all the violations committed by Defendants against the Aggrieved Employees,
26 including those she did not personally suffer.

1 **FACTUAL ALLEGATIONS**

2 10. Defendant hired, paid and assigned Plaintiff to work at Tri-City Medical Center
3 in Oceanside, California as a non-exempt, hourly-paid travel nurse for an assignment starting on
4 or about July 18, 2022 and set to end on or about January 21, 2023. Plaintiff was assigned to
5 work, and did typically work, three12-hour shifts per week. After the end of her assignment,
6 Plaintiff resigned from working for Defendant.

7 **I. Defendant's Failure to Take "Travel Stipends" into Account in Determining**
8 **Overtime Rates**

9 11. Under Labor Code § 200, "wages" consist of "all amounts for labor performed by
10 employees of every description, whether the amount is fixed or ascertained by the standard of
11 time, task, piece, commission basis, or other method of calculation." In California, overtime is
12 computed based on the regular rate of pay. The regular rate of pay includes many different kinds
13 of remuneration, including hourly earnings, salary, piece work earnings, commissions, certain
14 bonuses, and the value of meals and lodging.

15 12. During the applicable recovery period, Defendant has had a practice of adjusting
16 "travel stipends" it promises to its employees, including housing, meal and/or incidental
17 payments, based on number of hours or shifts they work in a given workweek. For instance,
18 pursuant to Plaintiff's employment agreement with Defendant called "Confirmation Assignment
19 Agreement," Defendant promised to pay Plaintiff "\$1050/weekly" for "Housing Allowance" and
20 another "\$69.00/Daily \$483/Weekly" for "M&I" (i.e., meal and incidentals). However,
21 Plaintiff's employment agreement also provided for a \$250.00 "Missed Shift Adjustment" for
22 each shift missed by her, thereby making the promised travel stipends adjustable. Defendant then
23 failed to include Plaintiff's so-called "travel stipends" in her regular rate of pay in order to
24 determine her proper overtime and double-time pay.

25 13. Defendant's promised "travel stipends" are not intended to reimburse its
26 employees for their travel expenses, but, in fact, are a form of disguised wages.

27 14. Despite the fact that the amount of the promised "travel stipends" are based upon,
28 and vary with, the number of weekly hours or shifts worked by its employees, and thus are

1 actually a form of disguised wages, during the applicable recovery period Defendant has had a
2 practice of not including the value of those “travel stipends,” including lodging, meals and/or
3 incidentals, whether paid in cash or in kind, in its employees’ regular rates of pay, including
4 Plaintiff’s regular rate of pay, for the purposes of calculating their overtime of pay. This practice
5 has, from time to time, resulted in overtime underpayments in instances where Defendant’s paid
6 overtime rate is insufficient to offset the amount it otherwise owes to its non-exempt employees
7 for failing to take “travel stipends” into account for calculating overtime rates.

8 **II. Defendant’s Failure to Authorize or Permit Lawful Meal Breaks or Pay the**
9 **Lawful Premiums**

10 15. During the relevant period, Defendant has, from time to time, not authorized
11 and/or permitted Aggrieved Employees from taking lawful meal breaks under California law.

12 16. Labor Code §512 provides, “[a]n employer may not employ an employee for a
13 work period of more than five hours per day without providing the employee with a meal period
14 of not less than 30 minutes...” Labor Code §226.7(a) provides, “[n]o employer shall require an
15 employee to work during any meal or rest period mandated by an applicable order of the
16 Industrial Welfare Commission.”

17 17. During the applicable recovery period, Aggrieved Employees regularly worked in
18 excess of 5-hour work periods without being authorize and/or permitted to take a lawful first
19 and/or second meal break, as required by Labor Code §§226.7, 512 and the applicable wage
20 orders, due to, among other reasons, work overload and understaffing at their jobsites.

21 18. During the applicable recovery period, Defendant failed to pay Aggrieved
22 Employees’ wages mandated by Labor Code §226.7(b) for these unlawful meal breaks. Moreover,
23 when Defendant paid such premiums it did not pay the lawful amounts. Specifically, under *Ferra*
24 *v. Loews Hollywood Hotel, LLC*, 11 Cal. 5th 858, 280 (2021), an employer is required to pay
25 meal break premiums equivalent to a non-exempt employee’s regular rate of pay. However, from
26 time to time, Defendant paid its non-exempt employees, including Plaintiff, meal break
27 premiums based on their straight rate of pay, without including their “travel stipends,” which, as
28 alleged above, must be included in the regular rate of pay because they function as wages rather

1 than living-away-from-home reimbursement since, among other reasons, Defendant prorates the
2 “travel stipends” based on the numbers of hours/shifts worked; does not verify that such expenses
3 were actually incurred; and does not reduce the travel stipends for scheduled days off.

4 **III. Defendant’s Failure to Authorize and/or Permit Rest Breaks**

5 19. During the relevant period, Defendant has, from time to time, not authorized
6 and/or permitted Aggrieved Employees from taking lawful rest breaks under California law.

7 20. California Labor Code §226.7(a) provides, “No employer shall require any
8 employee to work during any meal or rest period mandated by an applicable order of the
9 Industrial Welfare Commission.” The applicable Wage Orders require that employers authorize
10 or permit non-exempt employees to take a rest break that must, insofar as practicable, be taken
11 in the middle of each work period. The rest break is based on the total hours worked daily and
12 must be at the minimum rate of a net ten consecutive minutes for each four-hour work period, or
13 major fraction thereof.

14 21. Pursuant to Labor Code §226.7, if an employer fails to authorize or permit an
15 employee a rest break in accordance with the applicable Wage Orders, the employer shall pay
16 the employee one additional hour of pay at the employee's regular rate of pay for each workday
17 that the rest break is not provided. The provisions of the applicable Wage Orders state that the
18 rest break is defined as a "net" ten minutes, which means that the rest break begins when the
19 employee reaches an area away from the work area that is appropriate for rest.

20 22. During the applicable recovery period, Defendant, from time to time, did not
21 authorize and/or permit Aggrieved Employees to take lawful rest breaks and failed to pay
22 premium wages mandated by Labor Code §226.7(b).

23 23. Aggrieved Employees are entitled to recover one additional hour of pay at their
24 regular rate of compensation for each workday that a rest break was not authorized and/or
25 permitted by Defendant. Aggrieved Employees are also entitled to their costs and reasonable
26 attorneys’ fees, according to proof and to interest on all due and unpaid wages at the legal rate of
27 interest.

28 **IV. Defendant’s Failure to Reimburse Necessary Work-Related Expenditures**

1 24. An employer is required to reimburse its employees for all necessary expenditures
2 incurred by the employee in direct consequence of the discharge of his or her job duties or in
3 direct consequence of his or her obedience to the directions of the employer. Labor Code §§2800
4 and 2802.

5 25. During the applicable recovery period, Defendant has, from time to time, failed
6 to reimburse Aggrieved Employees for the cost of using their personal mobile phones for work-
7 related purposes. Additionally, Defendant has occasionally failed to fully reimburse its non-
8 exempt employees, including Plaintiff, for costs incurred traveling to and from assignments, such
9 as costs of their flights and luggage, transportation to and from the airport, and/or mileage.

10 **V. Defendant's Failure to Pay Wages Due Upon Termination**

11 26. An employee who is discharged must be paid all of his or her wages, including
12 accrued vacation, immediately at the time of termination. Labor Code §§ 201 and 227.3. Pursuant
13 to Labor Code §202 (a), “[i]f an employee not having a written contract for a definite period quits
14 his or her employment, his or her wages shall become due and payable not later than 72 hours
15 thereafter.”

16 27. Labor Code §203 provides a penalty for the willful failure to pay all wages due to
17 an employee who is discharged or quits. This penalty consists of an amount equal to the sum of
18 the employee's wages at the employee's prior rate of pay, until the unpaid wages are paid, in an
19 amount not to exceed the equivalent of 30 days' pay.

20 28. During the applicable recovery period, Plaintiff and some Aggrieved Employees
21 have separated from Defendant as a result of being discharged or having voluntarily resigned
22 their employment.

23 29. While working for Defendant, Plaintiff was entitled to compensation for the
24 violations set forth herein, but Defendant intentionally and willfully failed to pay all wages due
25 to her at the time of separation in violation of statutes cited above.

26 30. Upon information and belief, Defendant, from time to time, also intentionally and
27 willfully did not pay other Aggrieved Employees all their owed wages at the time of separation
28 in violation of statutes cited above. Plaintiff does not allege that all separated Aggrieved

1 Employees are owed waiting time penalties or that they are owed the full 30-day penalty under
2 Labor Code §203, because it is unknown to Plaintiff at this time whether Defendant paid some
3 of the separated Aggrieved Employees all their owed wages upon separation or paid them all
4 their owed wages less than 30 days after their separation.

5 **VI. Defendant's Failure to Furnish Accurate Wage Statements**

6 31. This claim is brought under Labor Code §226(a), which sets forth reporting
7 requirements for employers when paying wages, including that every employer shall furnish each
8 of his or her employees an itemized statement in writing showing, among other things, (1) gross
9 wages earned, (2) total hours worked by the employee, (3) net wages earned, (4) all applicable
10 hourly rates in effect during the pay period, (5) the corresponding number of hours worked at
11 each hourly rate, and (6) the name and address of the legal entity that is the employer.

12 32. Labor Code §226(e) provides that an employee suffering injury as a result of a
13 knowing and intentional failure by an employer to comply with subdivision (a) is entitled to
14 recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which
15 a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent
16 pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000), and is entitled
17 to an award of costs and reasonable attorney's fees.

18 33. Defendant, from time to time, knowingly and intentionally failed to provide
19 Aggrieved Employees with paycheck deduction statements accurately displaying the information
20 required by Labor Code §226(a).

21 34. As a direct and proximate result of Defendant's conduct as alleged above,
22 Aggrieved Employees affected by said violations are each entitled to a civil penalty of \$50 for
23 the initial pay period and \$100 for each subsequent pay period in which Defendant violated the
24 reporting requirements of Labor Code §226, up to a maximum of \$4,000. Additionally, under
25 Labor Code §226.3, Defendant is subject to a civil penalty in the amount of \$250 per Aggrieved
26 Employee per violation in an initial citation and \$1,000 per Aggrieved Employee for each
27 violation in a subsequent citation, for which it failed to provide them a wage deduction statement
28 or fails to keep their wage statements as required under Labor Code §226(a).

1 **VII. Defendant's Unlawful Non-Compete Requirements**

2 35. Pursuant to Labor Code §432.5 "No employer, or agent, manager, superintendent,
3 or officer thereof, shall require any employee or applicant for employment to agree, in writing,
4 to any term or condition which is known by such employer, or agent, manager, superintendent,
5 or officer thereof to be prohibited by law."

6 36. During the applicable recovery period, Defendant has prohibited some Aggrieved
7 Employees from accepting work with any client introduced by Defendant for a period time from
8 the last day of the Aggrieved Employee has worked for that client, and if the Aggrieved
9 Employee has not worked for the client, from the date of introduction by Defendant of Aggrieved
10 Employees to that client.

11 37. The above non-compete requirement by Defendant are unlawful under Business
12 and Professions Code § 16600, and thus violate Labor Code §432.5.

13 **FIRST CAUSE OF ACTION**

14 **Violation of California Labor Code § 2699, Et Seq.**

15 **(Against All Defendants)**

16 38. Plaintiff hereby incorporates by reference all other allegations contained in this
17 Complaint as though fully set forth herein.

18 39. Plaintiff brings her first and only cause of action as a representative action on
19 behalf of herself and other aggrieved employees in the capacity as private attorneys general
20 pursuant to the PAGA.

21 40. Plaintiff was employed by Defendants and the Labor Code violations alleged
22 herein were committed against them during their time of employment. Plaintiff and the other
23 Aggrieved Employees of Defendants are therefore "aggrieved employees" as defined by Labor
24 Code §2699(c) in that they are all current or former non-exempt employees of Defendants in
25 California, and one or more of the alleged violations were committed against them.

26 41. Defendants committed violations of the Labor Code against Plaintiff and the
27 Aggrieved Employees as alleged in this Complaint, including, but not limited to, the following:
28

- a. Failed and continuing to fail to pay lawful overtime rates for all overtime hours worked in violation of Labor Code §§ 510 and 1194 and the Applicable Wage Orders;
- b. Failed and continuing to fail to authorize or permit lawful meal breaks in violation of Labor Code §§ 226.7 and 512 and the Applicable Wage Orders;
- c. Failed and continuing to fail authorize or permit lawful rest breaks in violation of Labor Code §§ 226.7 and the Applicable Wage Orders;
- d. Failed and continuing to fail to pay meal break premiums at the regular rate of pay in violation of Labor Code §§ 226.7, 512, and the Applicable Wage Orders;
- e. Failed and continuing to fail to reimburse for all business-related expenditures in violation of Labor Code § 2802;
- f. Failed and continuing to fail to timely furnish complete and accurate itemized wage statements in violation of Labor Code § 226 and the Applicable Wage Orders;
- g. Willfully failed to pay, without abatement or reduction, all final wages owed in accordance with Labor Code §§ 201 or 202 and in violation of Labor Code § 203; and
- h. Illegally required and continue to require Aggrieved Employees not to compete in violation of Business & Professions Code § 16600 and Labor Code § 432.5.

42. On February 1, 2023, Plaintiff sent a written notice to Defendants and the Labor and Workforce Development Agency (“LWDA”) notifying them of the specific violations and the facts and theories supporting those violations. More than 60 days have passed since the date the notice was mailed to Defendant and LWDA. A true and correct copy of Plaintiff’s written notice to Defendant and the LWDA is attached hereto as “Exhibit 1,” which Plaintiff incorporates by reference as though fully set forth herein.

43. Plaintiff, individually and on behalf of the Aggrieved Employees and the State of California, seeks to recover all civil penalties and all underpaid wages allowed under Labor Code §§ 558, 2698, 2699, 2699.3 and 2699.5 for which Defendants are liable as a result of their

1 violations of the Labor Code during the applicable recovery period, all in an amount to be proven
2 at trial. These include, but are not limited to, penalties pursuant to Labor Code § 210 for violations
3 of Labor Code §§ 201, 202, 203 and 204; penalties pursuant to Labor Code § 226.3 for violations
4 Labor Code § 226 and the Applicable Wage Orders; penalties and underpaid wages pursuant to
5 Labor Code § 558, including an amount sufficient to recover underpaid wages due for violations
6 of the Labor Code §§ 226.7 and 558 and the Applicable Wage Orders; and penalties pursuant to
7 Labor Code § 1197.1 for violations Labor Code §§ 1182, 1182.12, and 1198 and the Applicable
8 California Wage Orders.

9 **PRAYER FOR RELIEF**

10 WHEREFORE, Plaintiff, individually and on behalf of all other Aggrieved Employees,
11 and as private attorneys general, prays for relief and judgment against Defendants as follows:

- 12 1. For the imposition of all civil penalties allowed under the Labor Code;
13 2. For statutory attorneys' fees and costs pursuant to Labor Code § 2699(g)(1); and
14 3. For such other relief and remedies, whether in law or equity, that the Court deems
15 just and proper.

16
17 Dated: April 20, 2023

Respectfully submitted,

18
19 SHAKOURI LAW FIRM

20
21 By: Ashkan Shakouri
22 Ashkan Shakouri
23 Attorneys for Plaintiff
24
25
26
27
28

EXHIBIT 1

SHAKOURI LAW FIRM
Employment & Civil Litigation

11601 Wilshire Blvd, Fifth Floor
Los Angeles, CA 90025
Tel: (310) 575-1827
Fax: (310) 575-1890
ash@shakourilawfirm.com
shakourilawfirm.com

February 1, 2023

Via Online Filing:

California Labor & Workforce
Development Agency

800 Capitol Mall, Suite 5000 (MIC-55)
Sacramento, CA 95814

455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102

Via Certified U.S. Mail:

CHG Medical Staffing, Inc.
c/o
1505 Corporation, 986
National Registered Agents, Inc.
28 Liberty Street
New York, NY 10005

CHG Medical Staffing, Inc.
Tax Dept, PO BOX 730
Midvale, Utah 84047

Re: *PAGA Notice Pursuant to California Labor Code § 2699*

Claimant: Nahrain Smith
Employer: CHG Medical Staffing, Inc.

Dear Sir or Madam:

Claimant Nahrain Smith ("Claimant") has retained Ashkan Shakouri of Shakouri Law Firm to represent her, and all other aggrieved employees, for wage and hour claims against her former employer CHG Medical Staffing, Inc. (dba RNnetwork) ("CHG").

During the relevant period CHG has violated, and/or has caused to be violated, several Labor Code provisions and is therefore liable for civil penalties under Labor Code §2698, *et seq.* We request that your agency investigate the claims alleged herein or permit Claimant to seek civil penalties under the Private Attorney General Act ("PAGA") on behalf of the Labor and Workforce

and development Agency (“LWDA”) and the State of California in a representative action. This letter will serve as notice of these allegations pursuant to Labor Code § 2699.3.

Claimant is bringing these PAGA claims on behalf of herself and all others who worked or work for CHG inside California and were subject to the violations alleged herein during the applicable recovery period (“Aggrieved Employees”). Aggrieved Employees includes Claimant.

Claimant personally suffered some of the Labor Code violations committed by CHG, while other violations, though not personally suffered by her, were suffered, and continue to be suffered, by other Aggrieved Employees. As held in *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal.App.5th 745, 758, “[b]y the plain language of the statute, an aggrieved employee need only suffer one of the Labor Code violations alleged against his or her employer to be able to bring a PAGA claim on behalf of himself or herself and current or former employees who suffered any Labor Code violation at the hands of the employer. Claimant need not have actually suffered all of the Labor Code violations that he alleges to have taken place for purposes of seeking PAGA penalties.” (citation omitted). Accordingly, Claimant plans to pursue penalties for all the violations committed by CHG against the Aggrieved Employees, including those she did not personally suffer.

Claimant’s Employment with CHG

CHG hired, paid and assigned Claimant to work at Tri-City Medical Center in Oceanside, California as a non-exempt, hourly-paid travel nurse for an assignment starting on or about July 18, 2022 and set to end on or about January 21, 2023. Claimant was assigned to work, and did typically work, three 12-hour shifts per week. After the end of her assignment, Claimant resigned from working for CHG.

CHG’s Failure to Take “Travel Stipends” into Account in Determining Overtime Rates

Under Labor Code § 200, “wages” consist of “all amounts for labor performed by employees of every description, whether the amount is fixed or ascertained by the standard of time, task, piece, commission basis, or other method of calculation.” In California, overtime is computed based on the regular rate of pay. The regular rate of pay includes many different kinds of remuneration, including hourly earnings, salary, piece work earnings, commissions, certain bonuses, and the value of meals and lodging.

During the applicable recovery period, CHG has had a practice of adjusting “travel stipends” it promises to its employees, including housing, meal and/or incidental payments, based on number of hours or shifts they work in a given workweek. For instance, pursuant to Claimant’s employment agreement with CHG called “Confirmation Assignment Agreement,” CHG promised to pay Claimant “\$1050/weekly” for “Housing Allowance” and another “\$69.00/Daily \$483/Weekly” for “M&I” (i.e., meal and incidentals). However, Claimant’s employment agreement also provided for a \$250.00 “Missed Shift Adjustment” for each shift missed by her, thereby making the promised travel stipends adjustable. CHG then failed to include Claimant’s so-called “travel stipends” in her regular rate of pay in order to determine her proper overtime and double-time pay.

CHG’s promised “travel stipends” are not intended to reimburse its employees for their travel expenses, but, in fact, are a form of disguised wages.

Despite the fact that the amount of the promised “travel stipends” are based upon, and vary with, the number of weekly hours or shifts worked by its employees, and thus are actually a form of disguised wages, during the applicable recovery period CHG has had a practice of not including the value of those “travel stipends,” including lodging, meals and/or incidentals, whether paid in cash or in kind, in its employees’ regular rates of pay, including Claimant’s regular rate of pay, for the purposes of calculating their overtime of pay. This practice has, from time to time, resulted in overtime underpayments in instances where CHG’s paid overtime rate is insufficient to offset the amount it otherwise owes to its non-exempt employees for failing to take “travel stipends” into account for calculating overtime rates.

As a result of these violations, CHG is liable for civil penalties pursuant to Labor Code § 558 & 2698 *et seq.*

CHG ’s Failure to Authorize or Permit Lawful Meal Breaks or Pay the Lawful Premiums

During the relevant period, CHG has, from time to time, not authorized and/or permitted Aggrieved Employees from taking lawful meal breaks under California law.

Labor Code §512 provides, “[a]n employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes...” Labor Code §226.7(a) provides, “[n]o employer shall require an employee to work during any meal or rest period mandated by an applicable order of the Industrial Welfare Commission.”

During the applicable recovery period, Aggrieved Employees regularly worked in excess of 5-hour work periods without being authorize and/or permitted to take a lawful first and/or second meal break, as required by Labor Code §§ 226.7, 512 and the applicable wage orders, due to, among other reasons, work overload and understaffing at their jobsites.

During the applicable recovery period, CHG failed to pay Aggrieved Employees’ wages mandated by Labor Code § 226.7(b) for these unlawful meal breaks. Moreover, when CHG paid such premiums it did not pay the lawful amounts. Specifically, under *Ferra v. Loews Hollywood Hotel, LLC*, 11 Cal. 5th 858, 280 (2021), an employer is required to pay meal break premiums equivalent to a non-exempt employee’s regular rate of pay. However, from time to time, CHG paid its non-exempt employees, including Claimant, meal break premiums based on their straight rate of pay, without including their “travel stipends,” which, as alleged above, must be included in the regular rate of pay because they function as wages rather than living-away-from-home reimbursement since, among other reasons, CHG prorates the “travel stipends” based on the numbers of hours/shifts worked; does not verify that such expenses were actually incurred; and does not reduce the travel stipends for scheduled days off.

As a result of violations of Labor Code §§ 226.7 and 512 and the applicable wage orders, CHG is liable for civil penalties pursuant to Labor Code §§ 558 and 2698 *et seq.*

As a result of these violations, CHG is liable for civil penalties pursuant to Labor Code § 558 & 2698 *et seq.*

CHG 's Failure to Authorize and/or Permit Rest Breaks

During the relevant period, CHG has, from time to time, not authorized and/or permitted Aggrieved Employees from taking lawful rest breaks under California law.

California Labor Code § 226.7(a) provides, “No employer shall require any employee to work during any meal or rest period mandated by an applicable order of the Industrial Welfare Commission.” The applicable Wage Orders require that employers authorize or permit non-exempt employees to take a rest break that must, insofar as practicable, be taken in the middle of each work period. The rest break is based on the total hours worked daily and must be at the minimum rate of a net ten consecutive minutes for each four-hour work period, or major fraction thereof.

Pursuant to Labor Code § 226.7, if an employer fails to authorize or permit an employee a rest break in accordance with the applicable Wage Orders, the employer shall pay the employee one additional hour of pay at the employee's regular rate of pay for each workday that the rest break is not provided. The provisions of the applicable Wage Orders state that the rest break is defined as a "net" ten minutes, which means that the rest break begins when the employee reaches an area away from the work area that is appropriate for rest.

During the applicable recovery period, CHG , from time to time, did not authorize and/or permit Aggrieved Employees to take lawful rest breaks and failed to pay premium wages mandated by Labor Code § 226.7(b).

Aggrieved Employees are entitled to recover one additional hour of pay at their regular rate of compensation for each workday that a rest break was not authorized and/or permitted by CHG. Aggrieved Employees are also entitled to their costs and reasonable attorneys' fees, according to proof and to interest on all due and unpaid wages at the legal rate of interest.

As a result of these violations, CHG is liable for, among other things, civil penalties pursuant to Labor Code §§ 558 & 2698 *et seq.*

CHG 's Failure to Reimburse Necessary Work-Related Expenditures

An employer is required to reimburse its employees for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her job duties or in direct consequence of his or her obedience to the directions of the employer. Labor Code §§ 2800 and 2802.

During the applicable recovery period, CHG has, from time to time, failed to reimburse Aggrieved Employees for the cost of using their personal mobile phones for work-related purposes. Additionally, CHG has occasionally failed to fully reimburse its non-exempt employees, including Claimant, for costs incurred traveling to and from assignments, such as costs of their flights and luggage, transportation to and from the airport, and/or mileage.

As a result of these violations, CHG is liable for, among other things, civil penalties pursuant to Labor Code §§ 558 & 2698 *et seq.*

CHG 's Failure to Pay Wages Due Upon Termination

An employee who is discharged must be paid all of his or her wages, including accrued vacation, immediately at the time of termination. Labor Code §§ 201 and 227.3. Pursuant to Labor Code § 202 (a), “[i]f an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter.”

Labor Code § 203 provides a penalty for the willful failure to pay all wages due to an employee who is discharged or quits. This penalty consists of an amount equal to the sum of the employee’s wages at the employee’s prior rate of pay, until the unpaid wages are paid, in an amount not to exceed the equivalent of 30 days’ pay.

During the applicable recovery period, Claimant and some Aggrieved Employees have separated from CHG as a result of being discharged or having voluntarily resigned their employment.

While working for CHG, Claimant was entitled to compensation for the violations set forth herein, but CHG intentionally and willfully failed to pay all wages due to her at the time of separation in violation of statutes cited above.

Upon information and belief, CHG, from time to time, also intentionally and willfully did not pay other Aggrieved Employees all their owed wages at the time of separation in violation of statutes cited above. Claimant does not allege that all separated Aggrieved Employees are owed waiting time penalties or that they are owed the full 30-day penalty under Labor Code § 203, because it is unknown to Claimant at this time whether CHG paid some of the separated Aggrieved Employees all their owed wages upon separation or paid them all their owed wages less than 30 days after their separation.

As a result of these violations, CHG is liable for civil penalties pursuant to Labor Code § 558 & 2698 *et seq.*

CHG 's Failure to Furnish Accurate Wage Statements

This claim is brought under Labor Code § 226(a), which sets forth reporting requirements for employers when paying wages, including that every employer shall furnish each of his or her employees an itemized statement in writing showing, among other things, (1) gross wages earned, (2) total hours worked by the employee, (3) net wages earned, (4) all applicable hourly rates in effect during the pay period, (5) the corresponding number of hours worked at each hourly rate, and (6) the name and address of the legal entity that is the employer.

Labor Code § 226(e) provides that 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 exceeding an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney's fees.

CHG, from time to time, knowingly and intentionally failed to provide Aggrieved Employees with paycheck deduction statements accurately displaying the information required by Labor Code § 226(a).

As a direct and proximate result of CHG's conduct as alleged above, Aggrieved Employees affected by said violations are each entitled to a civil penalty of \$50 for the initial pay period and \$100 for each subsequent pay period in which CHG violated the reporting requirements of Labor Code § 226, up to a maximum of \$4,000. Additionally, under Labor Code § 226.3, CHG is subject to a civil penalty in the amount of \$250 per Aggrieved Employee per violation in an initial citation and \$1,000 per Aggrieved Employee for each violation in a subsequent citation, for which it failed to provide them a wage deduction statement or fails to keep their wage statements as required under Labor Code § 226(a).

Aggrieved Employees will seek penalties as permitted under Labor Code § 226 for each violation. Further, Aggrieved Employees will seek recovery of civil penalties under Labor Code §226.3, 558 and §2698, *et seq.*

CHG's Unlawful Non-Compete Requirements

Pursuant to Labor Code § 432.5 "No employer, or agent, manager, superintendent, or officer thereof, shall require any employee or applicant for employment to agree, in writing, to any term or condition which is known by such employer, or agent, manager, superintendent, or officer thereof to be prohibited by law."

During the applicable recovery period, CHG has prohibited some Aggrieved Employees from accepting work with any client introduced by CHG for a period time from the last day of the Aggrieved Employee has worked for that client, and if the Aggrieved Employee has not worked for the client, from the date of introduction by CHG of Aggrieved Employees to that client.

The above non-compete requirement by CHG are unlawful under Business and Professions Code § 16600, and thus violate Labor Code § 432.5.

As a result of these violations, CHG is liable for civil penalties pursuant to Labor Code § 558 & 2698 *et seq.*

Without limitation, Claimant, if permitted, will further seek any and all penalties otherwise capable of being collected under Labor Code § 558 and PAGA. This includes each of the following, as is set forth in Labor Code § 2699.5, which states:

The provisions of subdivision (a) of Section 2699.3 apply to any alleged violation of the following provisions: subdivision (k) of Section 96, Sections 98.6, 201, 201.3, 201.5, 201.7, 202, 203, 203.1, 203.5, 204, 204a, 204b, 204.1, 204.2, 205, 205.5, 206, 206.5, 208, 209, and 212, subdivision (d) of Section 213, Sections 221, 222, 222.5, 223, and 224, subdivision (a) of Section 226, Sections 226.7, 227, 227.3, 230, 230.1, 230.2, 230.3, 230.4, 230.7, 230.8, and 231, subdivision (c) of Section 232, subdivision (c) of Section 232.5, Sections 233, 234, 351, 353, and 403, subdivision (b) of Section 404, Sections 432.2, 432.5, 432.7, 435, 450, 510, 511, 512, 513, 551, 552, 601, 602, 603, 604, 750, 751.8, 800, 850,

851, 851.5, 852, 921, 922, 923, 970, 973, 976, 1021, 1021.5, 1025, 1026, 1101, 1102, 1102.5, and 1153, subdivisions (c) and (d) of Section 1174, Sections 1194, 1197, 1197.1, 1197.5, and 1198, subdivision (b) of Section 1198.3, Sections 1199, 1199.5, 1290, 1292, 1293, 1293.1, 1294, 1294.1, 1294.5, 1296, 1297, 1298, 1301, 1308, 1308.1, 1308.7, 1309, 1309.5, 1391, 1391.1, 1391.2, 1392, 1683, and 1695, subdivision (a) of Section 1695.5, Sections 1695.55, 1695.6, 1695.7, 1695.8, 1695.9, 1696, 1696.5, 1696.6, 1697.1, 1700.25, 1700.26, 1700.31, 1700.32, 1700.40, and 1700.47, paragraphs (1), (2), and (3) of subdivision (a) of, and subdivision (e) of, Section 1701.4, subdivision (a) of Section 1701.5, Sections 1701.8, 1701.10, 1701.12, 1735, 1771, 1774, 1776, 1777.5, 1811, 1815, 2651, and 2673, subdivision (a) of Section 2673.1, Sections 2695.2, 2800, 2801, 2802, 2806, and 2810, subdivision (b) of Section 2929, and Sections 3095, 6310, 6311, and 6399.7.

Conclusion

Claimant respectfully requests that the agency investigate the above allegations and hereby provide notice of the allegations pursuant to PAGA's provisions. Alternatively, Claimant requests that the agency inform her if it does not intend to investigate these violations so that she may pursue her claims as a representative action in civil court on behalf of herself and other Aggrieved Employees.

Respectfully Submitted,
SHAKOURI LAW FIRM

Ashkan Shakouri
Ashkan Shakouri
Attorney for Claimant and all other
Aggrieved Employees