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VIA ONLINE FILING

Labor & Workforce Development Agency

Website: <https://dir.tfaforms.net/116>

Email: PAGAfiling@dire.ca.gov

VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED

Emanate Health

Attn: CEO/President

P.O. Box 6108

Covina, CA 91722-5108

Re: Sandra Santana v. Emanate Health, et al.

**NOTICE PURSUANT TO LABOR CODE SECTION 2699.3, *et seq.*; VIOLATIONS OF
LABOR CODE SECTIONS 2802, 226, 226.7, 510, 512, 1194, 1194.2, 1197 *et seq.* BY
EMANATE HEALTH**

To: California Labor and Workforce Development Agency; Emanate Health

From: Sandra Santana, on behalf of all aggrieved employees who were subject to the employer's wage and hour policies set forth below

This letter is intended to comply with the requirements of California Labor Code Private Attorneys General Act of 2004 (PAGA), California Labor Code section 2698, *et seq.*, including section 2699.3 with respect to notice of violations of the Labor Code by Emanate Health (collectively hereinafter "Respondents"). Unless the Labor & Workforce Development Agency proceeds against Respondents, my client, Sandra Santana ("Claimant"), intends to amend her operative complaint against Respondents to alleged a PAGA cause of action on her behalf and on behalf of all other "aggrieved employees" that seeks civil penalties, costs, and attorney fees under PAGA.

Please note that this firm represents the interests of Claimant and:

all other current and former hourly non-exempt employees of Respondents in the state of California ("Aggrieved Employees").

Claimant is informed, believes and thereon alleges that Respondents subjected them and the Aggrieved Employees to common wage and hour practices that resulted in multiple violations of the Labor Code and Wage Order.

Claimant is informed and believes that Respondent failed to provide her and the Aggrieved Employees off-the-clock meal periods of not less than thirty (30) minutes for shifts lasting longer than six (6) hours without exemption. Claimant further contend that Respondent failed to provide her and other Aggrieved Employees accurate itemized wage statements reflecting the gross wages earned, net wages earned, total hours worked, the applicable hourly rates at the corresponding hours worked, and/or list the meal period premium payments on the wage statement. Claimant alleges that Respondents used Claimant and the Aggrieved Employees' personal vehicles and cell phones for business without proper cost reimbursement. Claimant further alleges that Respondents unlawfully failed to provide compensation for "boot-up" time spent clocking in for Claimant and the Aggrieved Employees resulting in an underpayment of minimum wage and/or overtime wages.

Claimant alleges that Respondents violated Labor Code §§2802, 226, 226.7, 510, 512, 1194, 1194.2, 1197 in addition to claims under the Business and Professions Code §17200, *et seq.* Claimant further alleges that Respondents violated IWC Wage Order No. 5- 2001 ("WO 5-01").

Claimant, and the Aggrieved Employees, performed work for Respondents as non-exempt hourly employees in the state of California. Claimant alleges that Respondents failed to indemnify Claimants and the aggrieved employees for reimbursements of personal vehicles and/or cell phones used for business needs in violation of Labor Code §2802. For example, Claimant had to drive between Respondents locations and was not properly reimbursed for mileage despite Respondents requiring her to use her personal vehicle to drive between locations. Further, Respondents required Claimant to use her personal cell phone to communicate with Respondents and/or be reached by Respondents while travelling between its locations. This failure to reimburse Claimant and the aggrieved employees who incurred those expenses is unlawful under the laws and regulations of the State of California.

Claimant further alleges that Respondents failed to provide the requisite number of timely duty-free meal periods for shifts lasting longer than six (6) hours, without exemption in violation of Labor Code §§512 and 226.7 and WO 5-01. Claimant is informed and believes that Respondents failed to provide her and the Aggrieved Employees the requisite number of timely off-the-clock, duty free, meal periods of not less than thirty (30) minutes during their shifts. Claimant and the Aggrieved Employees were not provided full, thirty (30) minute meal periods due to, in part, Respondents "boot-up"/clock-in process, which required a multi-step login process that had to be completed prior to the end of the 30 minute meal period, resulting in meal periods of less than 30 minutes. Respondents failed to pay meal period premium payments at the regular rate of pay for these short meal periods. This violates Labor Code §§512 and 226.7 and WO 5-01.

Claimant further alleges that Respondents failed to pay Claimant and the Aggrieved Employees all earned minimum wage and overtime compensation for all minimum wage and overtime hours worked. Labor Code §1194 provides that notwithstanding any agreement to work for lesser wage, any employee receiving less than the legal minimum wage or legal overtime

compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation. The time Claimant and Aggrieved Employees spent completing Respondent's multi-step "boot-up"/clocking-in practice was not properly included in the hours worked for Claimant and the Aggrieved Employees and thus Respondents failed to pay all minimum wages and overtime compensation for Claimant and the Aggrieved Employees for all hours worked. This violates Labor Code §§510 and 1194.

The wage statements provided by Respondents to Claimant and other Aggrieved Employees failed to provide accurate information as to the gross wages earned, net wages earned, total hours worked, the applicable hourly rates at the corresponding hours worked, and/or list the meal period premium payment on the wage statement. This violates Labor Code §226.

Please advise if the LWDA has any objection to our client filing a PAGA cause of action to seek any and all appropriate civil penalties for these underlying factual allegations and Labor Code violations, pursuant to Labor Code §2699, *et seq.*

Very truly yours,
THE MYERS LAW GROUP, A.P.C.



Cassandra A. Castro
*Attorneys for Sandra Santana and all others
similarly situated*