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Labor and Workforce Development Agency
Attn. PAGA Administrator

Re: *KAREN TUCKER V. AMN ALLIED SERVICES, LLC; and AMN HEALTHCARE, INC.*

Dear Administrator,

Please allow this correspondence to serve as written notice, as required by California Labor Code § 2699.3(a)-(c), of the specific provisions of the California Labor Code violated by AMN ALLIED SERVICES, LLC; and AMN HEALTHCARE, INC. (together, "Defendants"). As detailed below, Plaintiff KAREN TUCKER ("Plaintiff"), on behalf of Plaintiff and all other non-exempt employees of Defendants in the state of California ("aggrieved employees"), alleges that Defendants have violated the following Labor Code provisions:

a. Underpayment of minimum wages and hourly wages in violation of California Labor Code §§ 204, 210, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, IWC Wage Order, California Minimum Wage Order.

b. Underpayment of overtime wages in violation of California Labor Code §§ 210, 510, 1194, 1198, and IWC Wage Order.

c. Failure to provide compliant meal periods in violation of California Labor Code §§ 226.7, 512, 558, and IWC Wage Order.

d. Failure to provide compliant rest periods in violation of California Labor Code §§ 226.7, 512, 558, and IWC Wage Order.

e. Failure to reimburse business expenses in violation of California Labor Code § 2802 and IWC Wage Order.

f. Non-compliant wage statements in violation of California Labor Code §§ 226(a), 226.3.

g. Failure to pay, appropriately accrue, and disclose sick pay wages in violation of California Labor Code § 246.

h. Failure to pay all wages upon resignation or termination due to the underpayment of wages and/or overtime in violation of California Labor Code §§ 201-203.

i. Failure to keep payroll records showing total hours worked and wages paid in violation of California Labor Code §§ 1174-1174.5 and IWC Wage Order.

Both Defendants exercised control over Plaintiff's employment, the conditions of her employment, and her payment of wages. Plaintiff alleges that Defendants were also Plaintiff's joint employer and/or are liable under the joint employer or single enterprise theories. See Laird v. Capital Cities, 68 Cal. App. 4th 727, 737-38 (1998) (four factors to prove single enterprise are "interrelation of operations, common management, centralized control of labor relations, and common ownership or financial control. … Although courts consider the four factors together, they often deem centralized control of labor relations the most important."); see also Vernon v. State of California, 116 Cal. App. 4th 114, 128 (2004) (separate entities can also be deemed a "joint employer" by having the right to control the employment relationship, as evaluated by focusing on "an examination of defendant's role with respect to the right to hire, fire, transfer, promote, discipline, set the terms, conditions and privileges of employment, train and pay the plaintiff."). Defendants were also joint employers for purposes of wage-and-hour laws under Cal. Code Regs., tit. 8, § 11070, subd. 2(F) by exercising enough control over the intermediary entity to indirectly dictate the wages, hours, or working conditions of the employee, that is a sufficient showing of joint employment. Medina v. Equilon Enters., LLC, 68 Cal. App. 5th 868, 879 (2021). Plaintiff alleges that Defendants are each an "employer or other person acting on behalf of an employer" giving rise to liability pursuant to California Labor Code section 558.1.

Starting on approximately March 2, 2026 through approximately March 20, 2026, Plaintiff was employed by Defendants in the position of Anesthesia Tech.

Plaintiff and other aggrieved employees working for Defendants were not compensated for all time worked, Defendants failed to accurately keep track of their time, had their time entries altered/decreased by Defendants, had their time rounded, were required to work "off the clock," were not paid for mandatory trainings, were not paid for mandatory security screenings, and not paid for reporting time pay.

Further, Defendants failed to pay Plaintiff and other aggrieved employees all wages due to them within any time period specified by Labor Code § 204, including earned and unpaid minimum wages, overtime wages, and wages in the form of penalties for non-complaint meal and rest periods. Accordingly, Defendants are subject to civil penalties under Labor Code § 210 for these violations.

Plaintiff and other aggrieved employees are entitled to liquidated damages equal to unlawfully unpaid minimum wages with interest pursuant to Labor Code § 1194.2.

Due to these and other issues, Plaintiff and other aggrieved employees were also not compensated appropriately for overtime wages and double overtime wages. Plaintiff and other aggrieved employees worked overtime during their employment with Defendants by working over eight (8) hours in a workday and/or forty (40) hours in a workweek.

Plaintiff and other aggrieved employees were also not compensated for all hours worked and were not compensated at the appropriate overtime rate, which resulted in underpayments of overtime wages and double overtime wages.

During the relevant period, Defendants promised Plaintiff and other aggrieved employees non-discretionary 'travel per diems' and/or housing, meal, and incidental stipends, the amounts of which varied based on the number of shifts or hours worked in a workweek, were not reduced for scheduled days off, and were not tied to documented expenses. As a result, these payments functioned as wages rather than reimbursements, yet Defendants failed to include them in the regular rate of pay when calculating overtime, double-time, paid sick time, and meal and rest period premiums, in violation of Labor Code §§ 200, 510, 1194, 1197, 226.7, 246, and applicable Wage Orders.

Under California law, the determination of the regular rate of pay for purposes of determining the amount of overtime pay must include all remuneration earned by the employee including housing and meal benefits. See DLSE Manual § 49.1.2.2 ("**All Goods Or Facilities Received By Employee Are To Be Utilized In Determining Regular Hourly Rate For Overtime Computation**. Following the long-established enforcement policy of the DLSE (which closely tracks the federal regulations in this regard) housing benefits, meals, etc., are added to the cash wage paid for purposes of determining the "regular rate" of pay."); see also Dalchau v. Fastaff, LLC, No. 17-CV-01584-WHO, 2018 U.S. Dist. LEXIS 60162, 2018 WL 1709925, at *7 (N.D. Cal. Apr. 9, 2018) (certifying class where all employees who were "eligible to receive housing benefits" were subject to the "same policy of having the value of housing benefits excluded from the regular rate used to calculate overtime. Therefore, there exists at least one common question—whether Fastaff's policy of excluding the value of the housing benefits from the regular rate properly compensates class members pursuant to California law.")

Defendants did not include non-discretionary compensation, including housing and meal benefits paid to Plaintiff and other aggrieved employees, in calculating the hourly rate of pay for overtime purposes. However, the regular rate of pay used for calculating the overtime rate of pay was strictly based on the employees' hourly wage. Therefore, Defendants owe Plaintiff and other aggrieved employees additional overtime pay based on a calculation using the correct, higher rate of pay (taking into account the non-discretionary compensation).

This exclusion was not a clerical oversight but part of a uniform compensation policy applied across all assignments, in direct conflict with the DLSE Manual § 49.1.2.2 and the California Supreme Court's decision in Ferra v. Loews Hollywood Hotel, LLC, 11 Cal. 5th 858 (2021).

Plaintiff and other aggrieved employees working for Defendants were forced to miss taking compliant meal periods (30-minute meal periods after the first five hours worked). Moreover, Plaintiff and other non-exempt hourly employees were deprived of taking a second meal period after ten hours worked. Plaintiff and other aggrieved employees working for Defendants were denied compliant meal periods based on Defendants' failure to implement an adequate relief system by which employees could receive work-free meal periods.

Plaintiff and other aggrieved employees worked at least 3.5 hours or more and were entitled to a 10-minute paid rest break for every 3.5 hours of continuous work. Defendants knew or should have known that Plaintiff and other aggrieved employees worked 3.5 hours or more on any given day.

During Plaintiff's employment by Defendants, Plaintiff and other aggrieved employees working for Defendants were forced to miss taking compliant rest periods (ten minutes rest time per four hours worked) due to the demands placed on them by Defendants and lack of coverage.

Defendants failed to pay all penalties for noncompliant meal and rest periods (premium pay as required by Labor Code § 226.7(b) and Sections 11 and 12 of the applicable Wage Order in lieu of meal and/or rest periods).

To the extent Defendants paid some penalties (one hour of pay) for certain missed or non-compliant meal or rest periods, Defendants paid such penalties at an incorrect rate that is lower than the rate required by law. More specifically, because the Legislature intended "regular rate of compensation" under Lab. Code, § 226.7, subd. (c), to have the same meaning as "regular rate of pay" under Lab. Code, § 510, subd. (a), the calculation of premium pay for a noncompliant meal, rest, or recovery period, like the calculation of overtime pay, had to account for not only hourly wages but also other nondiscretionary payments. Ferra v. Loews Hollywood Hotel, LLC, 11 Cal. 5th 858 (2021). Defendants did not include non-discretionary compensation, including housing and meal benefits, in calculating the regular rate of pay for penalties for noncompliant rest and meal periods (premium pay as required by Labor Code § 226.7(b) and Sections 11 and 12 of the applicable Wage Order in lieu of meal and/or rest periods).

Defendants violated California Labor Code § 246 by failing to properly accrue and pay sick pay at the regular rate of pay. Defendants also failed to provide the written notice required by California Labor Code § 246 that sets forth the amount of paid sick leave available on either the employee's itemized wage statement described in Section 226 or in a separate writing provided on the designated pay date with the employee's payment of wages.

Upon termination of employment, Plaintiff and other aggrieved employees were not paid all wages owed, including minimum wages, overtime wages, and missing meal/rest period premiums. In doing so, Defendants violated and continued to violate California Labor Code §§ 201-203 (failure to pay all wages upon termination or resignation).

In addition, Defendants did not provide Plaintiff and other aggrieved employees with accurate wage statements as required under California law. More specifically, the wage statements provided to Plaintiff and other employees did not reflect or did not accurately reflect the: (1) gross wages earned, (2) total hours worked by the employee, (3) net wages earned, and (4) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. Accordingly, Plaintiff and other aggrieved employees were not able to promptly and easily determine the missing information without reference to other documents or information.

The wage statements also did not provide accurate information by understating the lack of meal/rest break premium pay that should have been paid to Plaintiff and the other aggrieved employees. Also, the wage statements failed to show the true regular rate or overtime rate of pay or reflect stipends used in pay calculations. Specifically, they failed to disclose the true regular rate of pay and overtime rate, as required by § 226(a)(2) and (a)(9), because they excluded nondiscretionary compensation –such as housing and meal stipends– that were legally required to be factored into those rates. Moreover, the wage statements also did not provide accurate information by omitting the lack of meal/rest break premium pay that should have been paid and the correct rate for the meal/rest break premium pay that should have been paid. Naranjo v. Spectrum Sec. Servs., Inc., 13 Cal. 5th 93 (2022) (Because premium pay for missed meal and rest breaks under Lab. Code, § 226.7, compensated employees for the work performed during a break period and therefore constituted wages within the meaning of Lab. Code, §§ 200, subd. (a), 203, 226, penalties could be available for an employer's alleged failure to timely pay or report such payments.).

Plaintiff and other aggrieved employees were not able to promptly and easily determine the missing information without reference to other documents or information. As a result of these wage-statement violations, Defendants are liable for civil penalties under Labor Code §§ 226, 226.3.

Plaintiff and other aggrieved employees were not reimbursed for all business expenses and, to the extent such reimbursement was provided, it was provided in an amount not sufficient to reimburse Plaintiff and other employees for such expenses, including use of their personal mobile phones and data plans, which were required to perform their duties. See Cochran v. Schwan's Home Service, Inc., 228 Cal. App. 4th 1137 (2014) (Lab. Code, § 2802, requires an employer to reimburse an employee for the reasonable expense of the mandatory use of a personal cell phone, regardless of the details of the employee's cell phone plan, whether the phone bill is paid for by a third person or at all, and whether the employee changed plans to accommodate worked-related cell phone usage; to show liability under § 2802, an employee need only show that he or she was required to use a personal cell phone to make work-related calls, and that he or she was not reimbursed).

Defendants violated California Labor Code §§ 1174, 1174.5 by failing to keep 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 employees employed at the respective plants or establishments.

Based on the foregoing detailed facts, Defendants undertook actions against Plaintiff and other aggrieved employees that violated the above-enumerated provisions of the California Labor Code and applicable Wage Order.

To confirm, Defendants is a “person” as defined within California Labor Code section 18.

As detailed above, Defendants have violated or have caused to be violated a number of California wage and hour laws. Plaintiff requests the agency investigate the above allegations and provide notice of the allegations pursuant to PAGA’s provisions. Alternatively, Plaintiff requests the agency inform them if it does not intend to investigate these violations so that Plaintiff may proceed by filing a Court Action under PAGA on behalf of Plaintiff and other aggrieved employees.

Thank you for your assistance and instruction throughout this matter. Should you have any questions or comments, please do not hesitate to contact the undersigned.

Best Regards,

George S. Azadian, Esq.
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cc: Via Certified U.S. Mail
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