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ELECTRONICALLY FILED
Superior Court of California,
County of San Diego

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Clerk of the Superior Court
By Shiela Retez, Deputy Clerk

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO**

SAUDIA RICHARDSON, individually and on
behalf of all others similarly situated and the
State of California under the Private Attorneys
General Act,

Plaintiffs,

vs.

EDUCATION WORKS CONSULTING FIRM
CORPORATION and DOES 1 through 50,
inclusive,

Defendants.

Case No. 37-2023-00046728-CU-OE-CTL

Hon. Matthew C. Braner
Dept. 60

CLASS ACTION

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT**

1. Minimum Wage Violations
2. Failure to Pay All Overtime Wages
3. Meal Period Violations
4. Rest Period Violations
5. Failure to Pay for Authorized Rest
Periods/Non-Productive Time
6. Untimely Payment of Wages
7. Wage Statement Violations
8. Waiting Time Penalties
9. Failure to Reimburse Business Expenses
10. Unfair Competition
11. Civil Penalties under the Private Attorneys
General Act (Labor Code §§ 2698 *et seq.*)

1 Plaintiff SAUDIA RICHARDSON, individually and on behalf of all others similarly situated
2 and the State of California under the Private Attorneys General Act (“Plaintiff”) brings this FIRST
3 AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT against Defendants
4 EDUCATION WORKS CONSULTING FIRM CORPORATION and DOES 1 through 50, inclusive
5 (collectively “Defendants”), alleging as follows:

6 **INTRODUCTION**

7 1. This is a class action brought under California Code of Civil Procedure section 382 for
8 Defendants’ violations of the California Labor Code and Business and Professions Code.

9 2. Defendants underpaid the class members’ wages by failing to pay at least the applicable
10 minimum wage for all hours worked, resulting in off-clock, unpaid work.

11 3. Defendants also failed to consistently provide or facilitate compliant meal and rest
12 periods for Plaintiff and class members.

13 4. Defendants also did not reimburse Plaintiff or class members for necessary expenses
14 incurred in furtherance of the class members’ job duties.

15 5. Defendants’ employment policies, practices, and payroll administration systems
16 enabled and facilitated these violations on a company-wide basis with respect to the class members.

17 **JURISDICTION & VENUE**

18 6. Jurisdiction of this action is proper in this Court under Article VI, Section 10 of the
19 California Constitution as the causes of action are premised upon violations of California law.

20 7. The monetary damages and restitution sought exceed the minimal jurisdiction limits of
21 the Superior Court.

22 8. This Court has jurisdiction over Defendants because, upon information and belief,
23 Defendants have sufficient minimum contacts in California, or otherwise intentionally avail
24 themselves to the California economy so as to render the exercise of jurisdiction over them by the
25 California courts consistent with traditional notions of fair play and substantial justice.

26 9. Venue is proper in this Court under Code of Civil Procedure sections 393(a), 395,
27 and/or 395.5 because, upon information and belief, Defendants conduct business and committed some
28 of the alleged violations in this county.

PARTIES

A. Plaintiff Saudia Richardson

10. Plaintiff Richardson is an individual over 18 years of age who worked for Defendants in California as a non-exempt employee from about June 2023 to August 2023. Plaintiff worked as a Psychology Intern.

11. The State of California, via the Labor and Workforce Development Agency (“LWDA”), is the real party in interest in this action. (*Kim v. Reins Int’l California, Inc.* (2020) 9 Cal. 5th 73, 81 [The “government entity on whose behalf the plaintiff files suit is always the real party in interest.”])

B. Defendants

12. Defendant Education Works Consulting Firm Corporation is a California corporation that maintains operations and conducts business throughout the State of California, including in this county.

13. The true names and capacities, whether individual, corporate, or otherwise, of the parties sued as DOES 1 through 50, are presently unknown, unascertainable, or uncertain, and are sued by such fictitious names under Code of Civil Procedure section 474. Upon information and belief, each of DOES 1 through 50 constitutes a legal employer or is otherwise legally responsible in some manner for the acts and omissions alleged herein. This Complaint may be amended to reflect their true names and capacities once ascertained.

14. Upon information and belief, Defendants in this action are employers, co-employers, joint employers, and/or part of an integrated employer enterprise, as each of the Defendants exercised control over the wages, hours, and working conditions of the employees, suffered and permitted them to work, and otherwise engaged them as employees under California law.

15. Upon information and belief, at least some of the Defendants have common ownership, common management, interrelationship of operations, and centralized control over labor relations and are therefore part of an integrated enterprise and thus jointly and severally responsible for the acts and omissions alleged herein, including pursuant to Labor Code sections 558, 558.1, and 1197.1.

16. Upon information and belief, Defendants acted in all respects pertinent to this action as an alter-ego, agent, servant, joint employer, joint venturer, co-conspirator, partner, in an integrated enterprise, or in some other capacity on behalf of all other co-defendants, such that the acts and omissions of each defendant may be legally attributable to all others.

CLASS ALLEGATIONS

17. This action is brought individually and on behalf of the following class pursuant to Code of Civil Procedure section 382:

a. All current and former non-exempt employees who worked for Defendants in California at any time from four years (plus the additional 178-day statutory tolling period under Emergency Rule 9) prior to the filing of this action through date of class certification.

18. Plaintiff reserves the right to establish various subclass definitions as appropriate at the class certification stage, according to proof.

19. The class is ascertainable and shares a well-defined community of interest in this litigation:

a. Numerosity: The class is estimated to exceed 50 individuals, although the precise membership of the entire class is unknown at this time. The class is so numerous that joinder of all class members is impracticable. The identities of class members are ascertainable by inspection of Defendants' employment and payroll records.

b. Typicality: Plaintiff's claims are typical of the claims of the other class members. They were subject to the same policies and practices of Defendants, which resulted in losses to the class. Proof of common unlawful business practices, which Plaintiff experienced, will establish the right of the class to recover on the causes of action alleged herein.

c. Adequacy: Plaintiff is an adequate class representative; will take all necessary steps to protect the class members' interests adequately and fairly; has no interest antagonistic to other class members; and is represented by attorneys

1 who have substantial experience prosecuting, defending, resolving, and
2 litigating wage and hour class, collective, and representative actions in
3 California state and federal courts.

4 d. Superiority: A class action is superior to other means for adjudicating this
5 dispute. Individual joinder is impractical. Class treatment will allow for
6 common issues to be resolved in a single forum, simultaneously, and without
7 duplication of effort and expense.

8 e. Public Policy Considerations: Certification of this lawsuit as a class action
9 advances the State of California's strong public interest in ensuring its
10 approximately millions of employed residents are properly paid the wages they
11 earned for the hours they worked. Class actions provide a mechanism for
12 enforcement of labor laws and allow for vindication of employee rights by
13 unnamed class members.

14 20. Common questions of law and fact as to the class members predominate over questions
15 affecting only individual members. The common questions of law and fact exist as to whether the
16 employment policies and practices formulated by Defendants and applied to the class members
17 constitute violations of California law.

18 **GENERAL ALLEGATIONS**

19 21. Plaintiff and class members worked for Defendants and were compensated on an hourly
20 basis as nonexempt employees.

21 22. Defendants failed to pay Plaintiff and class members the lawful minimum wage rate
22 for all hours worked. Despite Defendants' representations in her offer letter that Plaintiff would be
23 paid on an hourly basis, Defendants underpaid her wages according to patient sessions utilized instead
24 of hours worked. This session-only method of calculation excluded administrative work between
25 sessions, pre and post session tasks, and patient cancellations where Plaintiff was still required to be
26 in office, on duty. This time was spent for the benefit of the employer, but unpaid due to Defendants'
27 practice of paying employees per session instead of per hour.

23. For example, Plaintiff's regular working schedule was around 28-32 hours a week, according to scheduled meal periods and notwithstanding the meal period deficiencies alleged below. Plaintiff worked 11 days in June 2023, or at least 77 hours. At a rate of \$35 per hour, as stated in her offer letter, this June monthly total should have approximately led to at least a Gross Income of \$2,695. However, Defendants did not provide Plaintiff a timely wage statement for that amount. Instead, Defendants sent two personal checks, one on June 30, 2023, and one on July 15, 2023, to account for all of Plaintiff's June hours worked totaling \$1,755.84. Not only were these two lump-sum checks untimely, but the checks also amounted to a monthly payment of nearly \$1,000 less than Plaintiff's rightful gross income for June.

24. Likewise, Plaintiff worked a total of 16 days in July under the same schedule. However, Defendants only paid her a Gross Income of \$1,400.

25. Defendants systematically failed to accurately record all hours worked by only providing Plaintiff and aggrieved employees weekly patient logs with no entry spaces for start times, end times, or meal period breaks. Therefore, Plaintiff and class members were not paid at least the lawful minimum wage for administrative working hours between patients or for paid, non-productive time during the employees' compliant rest periods.

26. Further, Plaintiff and class members occasionally worked off-clock to complete necessary work tasks. For example, when Plaintiff needed to compose Child Welfare Services reports and communicate with investigators, Plaintiff was often only able to do so after-hours, uncompensated. Plaintiff alleges that Defendants likewise did not pay other class members for time spent completing necessary work-tasks off-clock.

27. Lastly, as discussed in more depth below, to the extent Plaintiff or class members' deficient meal periods resulted in hours worked while employees were on unpaid breaks, Plaintiff alleges that Defendants did not pay at least the applicable minimum wage for those hours, too.

28. Moreover, to the extent that any of the off-clock work Plaintiff and class members performed resulted in unrecorded overtime hours, Plaintiff alleges that those overtime wages are unpaid. Additionally, Defendants maintain an underinclusive overtime policy in the Employee Handbook active during Plaintiff's employment. The handbook states on page 15 that Defendants

only pay overtime where a nonexempt employee works more than 40 hours in a week, but the policy noticeably omits California's additional overtime laws requiring overtime payment for nonexempt employees who work more than eight hours in a single day.

29. As mentioned above, Plaintiff and class members suffered several deficient meal and rest periods due to tight scheduling and the volume of patient appointments. For example, Plaintiff was unable to timely take her meal or rest period, or even use the restroom, on several occasions because of back-to-back patient scheduling. On information and belief, Defendants did not pay class members their due premiums for these deficiencies.

30. Because of these violations, Defendants failed to provide accurate, itemized wage statements to class members that included the accurate gross or net wages earned, as the employees earned regular, overtime, and premium wages that were not paid at the lawful rate. In fact, Defendant did not provide Plaintiff with *any* wage statements until Plaintiff specifically requested them. However, even the wage statements Plaintiff received were incomplete and inaccurate. The statements did not list the correct gross wages or net wages earned, the correct hourly rates in effect and number of hours worked at that rate, the total number of hours worked in the pay period, the dates of the pay period for each wage statement, or the correct identifying information for both the employer and employee, in violation of Labor Code § 226(a)(1) through (9) respectively.

31. These violations create derivative liability for failure to pay all wages owed each payday or upon separation of employment. Specifically, Defendants did not maintain a regular pay schedule for Plaintiff or class members. Defendants paid undefined lump sums once monthly, or late deferred wages for work performed in prior months. Plaintiff did not receive her final pay for July 2023 until August 3, 2023, despite Defendants terminating Plaintiff's employment on August 1, 2023. This final check was also underpaid due to the hourly rate miscalculations mentioned above. Defendants did not pay waiting time penalties for the late payments.

32. Finally, Defendants required Plaintiff and class members to incur necessary, work-related costs, without reimbursement. Defendants did not provide Plaintiff or class members with laptops or desktop computers to complete administrative work or conduct appointments. Further, Defendants also required Plaintiff to work from home at least one day each week due to office

scheduling conflicts. However, despite this requirement, Plaintiff had to personally supply and incur expenses for her personal laptop, cell phone, and home internet to fulfill her job responsibilities. Lastly, although Defendants provided a direct business line for class members to communicate with patients, colleagues, providers, and other outside referrals, Plaintiff still needed to use her personal cell phone to communicate with Child Welfare Services investigators because the investigators often reached out at unpredictable times, including after-hours. Defendants never reimbursed Plaintiff for any of the foregoing expenses and Plaintiff alleges that other class members likewise incurred similar expenses without reimbursement.

FIRST CAUSE OF ACTION

MINIMUM WAGE VIOLATIONS

Violation of Labor Code §§ 1194, 1194.2 and 1197

(All Claims Alleged by Plaintiff and Class Members Against All Defendants)

33. All outside paragraphs of this Complaint are incorporated into this section.

34. This cause of action is brought pursuant to the IWC Wage Orders and Labor Code §§ 1182.12, 1194, 1194.2, 1197, 1197.1 and 1198 and the IWC Wage Orders (the “Hours and Days of Work” and “Minimum Wages” sections of the applicable orders), which require non-exempt employees be timely paid at least the state or local minimum wage (if higher) for each hour of work, and further provide a private right of action for an employer’s failure to pay all minimum wages (plus liquidated damages).

35. Defendants willfully failed in their affirmative obligation to pay Plaintiff and class members at least the lawful minimum wage for each hour worked in violation of Labor Code sections 1182.12, 1194, 1194.2, 1197, 1197.1 and 1198 and the IWC Wage Orders (the “Hours and Days of Work” and “Minimum Wages” sections of the applicable orders), including payment at the lawful local and county minimum wage ordinances in effect. As a result, Defendants are liable for all associated damages, including liquidated damages for the minimum wage violations pursuant to Labor Code § 1194.2.

36. Defendants’ unlawful acts and omissions deprived Plaintiff and class members of minimum, regular and overtime wages in amounts to be determined at trial. Plaintiff and class

members are entitled to recover the full amount of the unpaid wages, plus liquidated damages in an amount equal to the wages unlawfully unpaid (and interest thereon), in addition to interest, attorneys' fees, and costs to the extent permitted by law, including under Labor Code sections 1194 and 1194.2.

SECOND CAUSE OF ACTION

FAILURE TO PAY ALL OVERTIME WAGES

Violation of Labor Code §§ 510 and 1194

37. All outside paragraphs of this Complaint are incorporated into this section.

38. This cause of action is brought pursuant to the IWC Wage Orders and Labor Code §§ 204, 510, 558, 1194, and 1198, which require non-exempt employees be timely paid overtime wages all overtime hours worked, and which further provide a private right of action for an employer's failure to pay all overtime compensation for overtime hours worked.

39. Defendants failed in their affirmative obligation to pay Plaintiff and class members no less than one and one-half times their respective "regular rate of pay" for all hours worked in excess of eight hours in one day, 40 hours in one week, or the first eight hours worked on the seventh day of work in any one workweek, and no less than twice their respective "regular rate of pay" for all hours over 12 hours in one day and any work in excess of eight hours on any seventh day of a workweek for such hours worked, in violation of Labor Code sections 204, 510, 558, 1194, and 1198 and the IWC Wage Orders (the "Hours and Days of Work" sections of the applicable orders).

40. Plaintiff and class members are entitled to recover the full amount of the unpaid overtime, in addition to interest, statutory and civil penalties, and attorneys' fees, and costs to the extent permitted by law.

THIRD CAUSE OF ACTION

MEAL PERIOD VIOLATIONS

Violation of Labor Code §§ 226.7 and 512

41. All outside paragraphs of this Complaint are incorporated into this section.

42. This cause of action is brought pursuant to the IWC Wage Orders and Labor Code §§ 226.7, 558 and 512, which require non-exempt employees be provided complaint meal periods (or meal period premiums in lieu thereof), and which further provide a private right of action for an

1 employer's failure to lawfully provide all meal periods and/or pay meal period premiums at the lawful
2 regular rate of compensation.

3 43. Defendants willfully failed in their affirmative obligation to consistently provide
4 Plaintiff and class members compliant, duty-free meal periods of not less than 30 minutes beginning
5 before the fifth hour of hour for each work period of more than five hours per day and a second duty-
6 free meal period of not less than 30 minutes beginning before the tenth hour of hour of work in
7 violation of Labor Code sections 226.7, 512, 558, 1198 and the IWC Wage Orders (the "Meal Periods"
8 sections of the applicable orders).

9 44. Further, Defendants willfully failed in their affirmative obligation to consistently pay
10 Plaintiff and class members one additional hour of pay at the respective regular rate of compensation
11 for each workday that a fully compliant meal period was not provided, in violation of Labor Code
12 sections 226.7, 512, 558, and 1198 and the IWC Wage Orders (the "Meal Periods" sections of the
13 applicable orders).

14 45. Plaintiff and class members are entitled to recover the full amount of the meal period
15 premiums owed, in addition to interest, statutory and civil penalties, and attorneys' fees, and costs to
16 the extent permitted by law.

17 **FOURTH CAUSE OF ACTION**

18 **REST PERIOD VIOLATIONS**

19 **Violation of Labor Code §§ 226.7 and 516**

20 46. All outside paragraphs of this Complaint are incorporated into this section.

21 47. This cause of action is brought pursuant to the IWC Wage Orders and Labor Code
22 §§ 226.7 and 516, which require non-exempt employees be authorized to take complaint rest periods
23 (or rest period premiums in lieu thereof), and which further provide a private right of action for an
24 employer's failure to lawfully provide all rest periods and/or pay rest period premiums at the lawful
25 regular rate of compensation.

26 48. Defendants willfully failed in their affirmative obligation to consistently authorize and
27 permit Plaintiff and class members to receive compliant, duty-free rest periods of not less than ten
28 (10) minutes for every four hours worked (or major fraction thereof) in violation of Labor Code

sections 226.7, 516, 558, and 1198 and the IWC Wage Orders (the “Rest Periods” sections of the applicable orders).

49. Further, Defendants willfully failed in their affirmative obligation to consistently pay Plaintiff and class members one additional hour of pay at the respective regular rate of compensation for each workday that a fully compliant rest period was not provided, in violation of Labor Code sections 226.7, 516, 558, and 1198 and the IWC Wage Orders.

FIFTH CAUSE OF ACTION

FAILURE TO PAY FOR AUTHORIZED REST PERIODS/NON-PRODUCTIVE TIME

50. All outside paragraphs of this Complaint are incorporated into this section.

51. Because Plaintiff and class members were not separately compensated for rest periods (a rate required by statute) and non-productive time, Plaintiff and class members are owed wages for this time.¹

52. The IWC Wage Orders state Plaintiff and class members must be paid for all “hours worked” for time they are “subject to the control of the employer, and includes all the time the employee is suffered or permitted to work.” Cal. Code Regs., tit. 8, § 11040, subd. 2(k).

53. The IWC Wage Orders state rest periods are “hours worked for which there will be no deduction from wages.” Cal. Code Regs., tit. 8, § 11040, subd. 12(a).

54. Labor Code section 226.2 applies to employees who are compensated in whole, or in part, on a piece-rate basis. Section 226.2(a)(1) requires employers to compensate employees for “rest and recovery periods and other non-productive time spent separate from any piece rate compensation.”

55. Non-productive time must be compensated at a rate no less than the applicable state or local minimum wage. Cal. Lab. Code § 226.2(a)(4).

56. Rest and recovery periods must be compensated the *higher* of (1) an average hourly rate taken by dividing an employee’s total compensation for the workweek (exclusive of overtime and rest and recovery compensation) by the employee’s total hours worked or (2) the applicable minimum wage. Cal. Lab. Code § 226.2(a)(3)(A).

¹ See *Vaquero v. Stoneledge Furniture, LLC* (2017) 9 Cal. App. 5th 98; *Bluford v. Safeway Stores, Inc.* (2013) 216 Cal. App. 4th 864, 872.

57. Section 226.2 expressly requires that any employees paid in whole or in part on a piece rate basis must receive at least minimum wage for all hours worked as well as any required overtime compensation.

59. Defendants also failed in their affirmative obligation to pay Plaintiff and class members for rest periods at the rate required by section 226.2(a)(3)(A), resulting in unpaid wages to Plaintiff and class members.

SIXTH CAUSE OF ACTION

61. All outside paragraphs of this Complaint are incorporated into this section.

63. Defendants willfully failed in their affirmative obligation to timely pay all wages, including paid sick leave and meal and rest premiums, earned by Plaintiff and class members twice

1 during each calendar month on days designated in advance by the employer as regular paydays (for
2 employees paid on a non-weekly basis) and on the regularly-scheduled weekly payday for weekly
3 employees, if any, in violation of Labor Code sections 204 and 204b and the IWC Wage Orders (the
4 “Minimum Wages” sections of the applicable orders).

5 64. Plaintiff and class members are entitled to recover the full amount of the unpaid wages,
6 in addition to a statutory penalty in the amount of \$100 for the initial violation for each failure to pay
7 each employee and \$200 for all subsequent violations and for all willful or intentional violations for
8 each failure to pay each employee, plus 25 percent of the amount unlawfully withheld under provided
9 in Labor Code § 210, in addition to interest, attorneys’ fees, and costs to the extent permitted by law.

10 **SEVENTH CAUSE OF ACTION**

11 **WAGE STATEMENT VIOLATIONS**

12 **Violation of Labor Code § 226**

13 65. All outside paragraphs of this Complaint are incorporated into this section.

14 66. This cause of action is brought by a wage statement subclass pursuant to Labor Code
15 § 226(a) which requires non-exempt employees be provided accurate itemized wage statements each
16 pay period, and which further provide a private right of action for an employer’s failure to comply
17 with this obligation.

18 67. Defendants knowingly and intentionally failed in their affirmative obligation to provide
19 accurate itemized wage statements to Plaintiff and class members resulting in injury to Plaintiff and
20 class members. Specifically, the wage statements issued to Plaintiff and class members did not
21 accurately state each pay period all of the information required by Labor Code § 226(a)(1)-(9).

22 68. Defendants’ unlawful acts and omissions deprived Plaintiff and class members of
23 accurate itemized wage statements, causing confusion and concealing wage and premium
24 underpayments.

25 69. As a result, Plaintiff and class members are entitled to recover the statutory penalty of
26 \$50 per employee for the initial pay period in which a violation occurred and \$100 per employee for
27 each violation in a subsequent pay period, up to an aggregate penalty of \$4,000 per employee, in
28

1 addition to interest, attorneys' fees, and costs to the extent permitted by law, including under Labor
2 Code section 226(e).

3 **EIGHTH CAUSE OF ACTION**

4 **WAITING TIME PENALTIES**

5 **Violation of Labor Code §§ 201 *et seq.***

6 70. All outside paragraphs of this Complaint are incorporated into this section.

7 71. This cause of action is brought by a waiting time subclass pursuant to Labor Code
8 §§ 201 through 203, which require an employer to timely pay all wages earned upon termination of
9 employment, and which further provide a private right of action to recover statutory waiting time
10 penalties each day an employer fails to comply with this obligation, up to a maximum of 30 days
11 wages.

12 72. Defendants willfully failed and continue to fail in their affirmative obligation to pay all
13 wages earned and unpaid to Plaintiff and class members immediately upon termination of employment
14 or within 72 hours thereafter for employees who did not provide at least 72 hours prior notice of his
15 or her intention to quit, and further failed to pay those sums for 30 days thereafter in violation of Labor
16 Code sections 201 through 203 and the IWC Wage Orders.

17 73. Plaintiff and class members are entitled to recover a waiting time penalty for a period
18 of up to 30 days, in addition to interest, attorneys' fees, and costs to the extent permitted by law.

19 **NINTH CAUSE OF ACTION**

20 **FAILURE TO REIMBURSE BUSINESS EXPENSES**

21 **Violation of Labor Code § 2802**

22 74. All outside paragraphs of this Complaint are incorporated into this section.

23 75. Defendants willfully failed in their affirmative obligation to reimburse Plaintiff and a
24 reimbursement subclass for all necessary expenditures, losses, expenses, and costs incurred by them
25 in direct discharge of the duties of their employment, in violation of Labor Code section 2802.

26 76. Defendants' unlawful acts and omissions deprived Plaintiff and class members of
27 lawful reimbursements for business expenses in amounts to be determined at trial. Plaintiff and class
28 members are entitled to recover the amount unreimbursed expenses of Plaintiff and class members in

1 addition to interest, attorneys' fees, and costs to the extent permitted by law, including under Labor
2 Code section 2802.

3 **TENTH CAUSE OF ACTION**

4 **UNFAIR COMPETITION**

5 **Violation of Business and Professions Code §§ 17200 *et seq.***

6 77. All outside paragraphs of this Complaint are incorporated into this section.

7 78. Defendants have engaged and continue to engage in unfair and/or unlawful business
8 practices in the State of California in violation of California Business and Professions Code § 17200
9 by committing the foregoing wage and hour violations alleged throughout this Complaint.

10 79. Defendants' dependence on these unfair and/or unlawful business practices deprived
11 Plaintiff and continue to deprive other class members of compensation to which they are legally
12 entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage to
13 Defendants over competitors who have been and/or are currently employing workers in compliance
14 with California's wage and hour laws. These failures constitute unlawful, deceptive, and unfair
15 business acts and practices in violation of Business and Professions Code section 17200 *et seq.*

16 80. Plaintiff is a victim of Defendants' unfair and/or unlawful conduct alleged in this
17 Complaint, and Plaintiff, as an individual and on behalf of others similarly situated, seeks full
18 restitution of the moneys as necessary and according to proof to restore all monies withheld, acquired,
19 and/or converted by Defendants pursuant to Business and Professions Code §§ 17203 and 17208.

20 81. Plaintiff does not have an adequate remedy at law for past or future violations, to the
21 extent the statute of limitations on each of the alleged causes of action do not extend to the four year
22 limitation provided under the UCL or to the extent the underlying Labor Code and IWC Wage Order
23 violations do not provide a private right of action.

24 82. Plaintiff and class members are entitled to injunctive relief against Defendants,
25 restitution, and other equitable relief to return all funds over which Plaintiff and class members have
26 an ownership interest and to prevent future damage and the public interest under Business and
27 Professions Code § 17200 *et seq.* Plaintiff and class members are further entitled to recover interest,
28

attorneys' fees, and costs to the extent permitted by law, including under Code of Civil Procedure § 1021.5.

ELEVENTH CAUSE OF ACTION

CIVIL PENALTIES UNDER THE PRIVATE ATTORNEYS GENERAL ACT

Violation of Labor Code §§ 2698 *et seq.*

(By Plaintiff on Behalf of the State and the Aggrieved Employees Against All Defendants)

83. All outside paragraphs of this Complaint are incorporated into this section.

84. Plaintiff brings this cause of action as a proxy for the State of California on behalf of the following "aggrieved employees" pursuant to the Private Attorneys General Act ("PAGA"), codified as Labor Code section 2698 *et seq.*:

a. All current and former non-exempt employees who worked for Defendants in California at any time from one year prior to the postmark date of the initial PAGA notice through date of trial.

85. Plaintiff reserves the right to amend, supplement, or add to this description of the aggrieved employees, according to proof.

86. The State of California, via the Labor and Workforce Development Agency ("LWDA"), is the real party in interest in this action with respect to this cause of action. (*Kim v. Reins Int'l California, Inc.* (2020) 9 Cal. 5th 73, 81 [The "government entity on whose behalf the plaintiff files suit is always the real party in interest."])

87. Labor Code section 2699(a) provides: "Notwithstanding any other provision of law,, any provision of this code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency or any of its departments, divisions, commissions, boards, agencies, or employees, for a violation of this code, may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees pursuant to the procedures specified in Section 2699.3. "

88. Labor Code section 2699(f) provides: "For all provisions of this code except those for which a civil penalty is specifically provided, there is established a civil penalty for a violation of these provisions, as follows: ... (2) If, at the time of the alleged violation, the person employs one or more

employees, the civil penalty is one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation.”

89. Any allegations regarding violations of the IWC Wage Orders are enforceable as violations of Labor Code section 1198, which states: “[t]he employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.”

90. Labor Code section 2699.3 sets forth the procedure for commencing an action for civil penalties under the PAGA.

91. On or about **October 12, 2023**, Plaintiff paid the requisite PAGA filing fee and provided written notice (by online electronic filing with the LWDA and by certified mail to Defendants) of Defendants’ alleged Labor Code violations, including the facts and theories to support the alleged violations.

92. A true and correct copy of Plaintiff’s written PAGA notice, entitled “Notice of Labor Code Violations” is attached hereto as Exhibit 1 and incorporated by reference as though fully set forth herein (the “PAGA notice”).

93. To date, neither Plaintiff nor Plaintiff’s counsel has received a response to Plaintiff’s written PAGA notice from the LWDA.

94. Within 33 calendar days of the postmark date of the notice sent by Plaintiff, neither Plaintiff nor Plaintiff’s counsel has received written notice by certified mail from any defendant providing a description of any actions taken to cure the alleged violations.

95. Now that at least 65 days have passed from Plaintiff notifying Defendants of these violations, without notice of cure from Defendants or notice from the LWDA of its intent to investigate the alleged allegations and issue the appropriate citations to Defendants, Plaintiff exhausted all prerequisites and commenced this civil action under Labor Code section 2699 *et seq.*

96. As set forth in the PAGA notice attached as Exhibit 1 and incorporated into this Complaint, Defendants committed the following violations and are liable for all corresponding civil penalties:

- a. ***Unpaid Hours Worked/Minimum Wage.*** Violation of Labor Code §§ 1194, 1197, 1198; IWC Wage Orders.
- b. ***Unpaid Hours Worked/Non-Productive, Rest, and Recovery Periods.*** Violation of Labor Code §§ 226.2; IWC Wage Orders.
- c. ***Unpaid Overtime.*** Violation of Labor Code §§ 510, 1194, 1198; IWC Wage Orders.
- d. ***Unpaid Meal Period Premium Wages.*** Violation of Labor Code §§ 226.7, 512, 1198; IWC Wage Orders.
- e. ***Unpaid Rest Period Premium Wages.*** Violation of Labor Code §§ 226.7, 516, 1198; IWC Wage Orders.
- f. ***Untimely Payment of Wages During Employment.*** Violation of Labor Code §§ 204, 204b, 210.
- g. ***Untimely Payment of Wages Upon Separation of Employment.*** Violation of Labor Code §§ 201, 202, 203, 256.
- h. ***Non-Compliant Wage Statements.*** Violation of Labor Code §§ 226, 226.3.
- i. ***Unreimbursed Employee Expenses.*** Violation of Labor Code §§ 2802, 2804.
- j. ***Failure to Maintain Accurate Records.*** Violation of Labor Code § 1174; IWC Wage Orders.

97. Plaintiff seeks to collect all recoverable civil penalties for the Labor Code violations alleged in this Complaint and the PAGA notice (including amendments thereto) against Defendants pursuant to Labor Code section 2699(a) and (f), in addition to attorneys' fees, costs, and interest to the extent permitted by law, including under Labor Code section 2699(g).

PRAYER

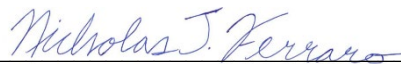
Plaintiff prays for judgment as follows:

- a. For certification of this action as a class action;
- b. For appointment of Plaintiff as the class representative;
- c. For appointment of above-captioned counsel for Plaintiff as Class Counsel;

- 1 d. For division of class members into appropriate classes and/or subclasses according to
2 proof;
- 3 e. For recovery of damages in amount according to proof;
- 4 f. For all recoverable pre- and post-judgment interest;
- 5 g. For recovery of all civil and statutory penalties and liquidated damages;
- 6 h. For disgorgement of all amounts wrongfully obtained;
- 7 i. For this action to be maintained as a representative action under the PAGA;
- 8 j. For Plaintiff and counsel of record to be provided with all enforcement capability as if
9 the action were brought by the State of California or the California Division of Labor
10 Enforcement;
- 11 k. For recovery of all civil penalties and other recoverable amounts under the PAGA;
- 12 l. For restitution and injunctive relief;
- 13 m. For reasonable attorneys' fees and costs of suit, including expert fees, to the extent
14 permitted by law, including (without limitation) under Labor Code §§ 218.5, 226,
15 1194, 2802, 2699, and Code of Civil Procedure section 1021.5; and
- 16 n. For such other relief the Court deems just and proper.

17
18 Dated: December 17, 2023

Ferraro Vega Employment Lawyers, Inc.

19
20 

Nicholas J. Ferraro

Attorneys for Plaintiff Saudia Richardson

EXHIBIT 1

Notice of Labor Code Violations

FERRARO VEGA

SAN DIEGO EMPLOYMENT LAWYERS

Nicholas J. Ferraro
nick@ferrarovega.com
Lauren N. Vega
lauren@ferrarovega.com

ATTORNEYS AT LAW
3160 Camino del Rio South, Suite 308
San Diego, California 92108

619-693-7727
619-350-6855 fax
ferrarovega.com

October 12, 2023

NOTICE OF LABOR CODE VIOLATIONS CALIFORNIA LABOR CODE SECTIONS 2698 *et seq.*

VIA CERTIFIED U.S. MAIL
- Electronic Return Receipt -

**Education Works Consulting
Corporation**
1700 W. Cameron Ave. Suite 100
West Covina, California 91790

- PAGA Notice & Filing Fee -
Submitted electronically to the Labor and
Workforce Development Agency

Dear LWDA Officer and Company Representatives:

This letter serves as written notice under Labor Code section 2699.3 on behalf of **SAUDIA RICHARDSON** (“Plaintiff(s)”) and all other “aggrieved employees” of the following “Defendant(s)”:

EDUCATION WORKS CONSULTING CORPORATION

Defendant(s) shall mean and include the foregoing in addition to any other related employer entities, individuals under Labor Code sections 558 and 558.1, and all others who may be later added upon further investigation and discovery as liable employers.

This office serves as legal counsel for Plaintiff. If the California Labor and Workforce Development Agency (“LWDA”) does not investigate the facts, allegations, and violations set forth in this notice within the statutorily prescribed 65-day period under Labor Code section 2699.3, Plaintiff intends to commence a civil action against Defendants as a proxy and agent of the State of California under the Private Attorneys General Act (“PAGA”). “PAGA allows an ‘aggrieved employee’—a person affected by at least one Labor Code violation committed by an employer—to pursue penalties for all the Labor Code violations committed by that employer.” *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal. App. 5th 745, 751; *Kim v. Reins International California, Inc.* (2020) 9 Cal. 73, 79. Plaintiff maintains standing to pursue these claims against Defendants, as Plaintiff experienced one or more of the alleged violations during the relevant statutory period, which continue through the present date. *Cf. Johnson v. Maxim Healthcare Servs., Inc.*, 281 Cal. Rptr. 3d 478, 481 (Cal. Ct. App. 2021).

Through this notice, Plaintiff requests that Defendants complete an internal investigation and audit of the wage and hour and employment practices at issue and make a good faith effort to correct any violations. Plaintiff attempts to identify the non-compliant policies and practices affecting the aggrieved employees so that the parties may resolve the underlying damages and penalties in judgment or settlement approved by the Superior Court of California under Labor Code section 2699(k). Defendants are notified that any attempt to resolve this case should be conducted in coordination with Plaintiff's counsel to protect the interests of Plaintiff, the aggrieved employees, and the State of California via the LWDA. Plaintiff advises Defendants this letter should be also considered a reasonable attempt at settlement of this matter, subject to an exchange of additional documents and information. *Graham v. Daimler Chrysler Corp.* (2004) 24 Cal. 4th 553, 561.

- BACKGROUND -

Defendants employed Plaintiff during the PAGA Period in the position of Psychology Intern from about June 2023 to July 2023. During their employment Plaintiff and the other aggrieved employees were subject to the wage and hour and employment protections set forth in the California Labor Code and IWC Wage Orders.

Through this notice, Plaintiff informs the LWDA of the Labor Code violations set forth herein. The “aggrieved employees” include Plaintiff and the following individuals:

All current and former non-exempt employees who worked for Defendants in the State of California during one-year period preceding the date of this notice through the current date and the date of trial in any pending action (the “aggrieved employees” and the “PAGA Period”).

Plaintiff reserves the right to expand or narrow the definition of the “aggrieved employees” in the forthcoming civil action. Furthermore, Plaintiff seeks all recoverable civil penalties for Defendants’ violations and reserves the right to supplement this notice as further investigation is completed and further facts, witnesses, and violations are uncovered.

- PAGA CLAIMS –

Unpaid Hours Worked/Minimum Wage Violation of Labor Code §§ 1194, 1197, 1198; IWC Wage Orders

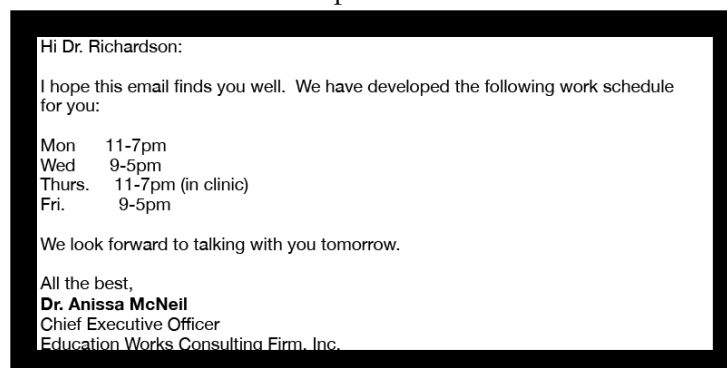
Defendants violated Labor Code sections 1194, 1197, and 1198, along with the California Minimum Wage Order, the applicable local minimum wage ordinances, and the “Hours and Days of Work” and “Minimum Wages” sections of the applicable IWC Wage Orders with respect to the aggrieved employees.

Labor Code section 1194 renders it unlawful for an employee to receive less than the legal minimum wage for hours worked in California. Labor Code section 1197 further mandates that “[t]he minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a lower wage than the minimum so fixed is unlawful.” Labor Code section 1198 renders “employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]” unlawful. The California Minimum Wage Order and the applicable sections of the IWC Wage Orders further require payment of minimum wages for all hours worked. The “Minimum Wages” sections of the applicable IWC Wage Order provide that “[e]very employer shall pay to each employee, on the established payday for the period involved, not less than the applicable minimum wage for all hours worked in the payroll period, whether the remuneration is measured by time, piece, commission, or otherwise.” The foregoing California wage laws require payment of “not less than the applicable minimum wage *for all hours worked* in the payroll period” and California law does not allow averaging of pay over the hours worked in the pay period, even if the total pay results in an average above the minimum wage. *Armenta v. Osmose, Inc.* (2005) 135 Cal. App. 3d 314, 324.

Defendants failed to pay Plaintiff and the aggrieved employees at the lawful minimum wage rate for all hours worked, resulting in unpaid minimum wages. Defendants violated California’s minimum wage laws in several ways.

First, rather than pay Plaintiff at her hourly rate of \$35 *per hour* for all hours worked, Defendants only paid Plaintiff for utilized patient sessions, resulting in a severe underpayment of wages. This session-only method of calculation excluded administrative work between sessions, pre and post session tasks, patient cancellations where Plaintiff was still required to be in office and on duty. The time was spent for the benefit of the employer, but unpaid due to Defendants’ policy and practice of only paying for the patient sessions.

Plaintiff’s regular schedule was four days a week, 9 AM to 5 PM with an unpaid lunch. Defendants set this schedule for Plaintiff upon commencement of her employment.



Defendant’s email to Plaintiff communicating the expectation for Plaintiff’s weekly work schedule to consist of 32 hours. While Plaintiff’s schedule eventually switched to Monday-Thursday 9-5, the hour requirement remained consistent throughout.

This means, on a weekly basis, Plaintiff worked 28-32 hours (according to the scheduled meal breaks and notwithstanding the meal period deficiencies alleged below). Plaintiff worked 11 days in June 2023, or at least 77 hours. At a rate of \$35 per hour, as stated in her offer letter below, this June monthly total should have approximately led to at least a Gross Income of \$2,695.

EDUCATION WORKS
CONSULTING FIRM INC.

Employment Offer- Saudia Richardson, Psy D.

Position: Psychologist Intern for Mental Health and Social Justice Clinic

Hourly Wage: \$35 an hour **Site:** San Diego Clinic Office

Hours: 4 Days a Week **Start Date:** June 5, 2023

Plaintiff's offer letter indicating that her wages will be paid at \$35 per hour, not per session.

Rather than provide Plaintiff with regular wage statements explaining hours and rates paid, Defendants sent Plaintiff two personal checks, one on June 30, 2023, and one on July 15, 2023, to account for all of Plaintiff's June hours worked, totaling \$1,755.84. Defendants did not pay Plaintiff any additional money from the start of her employment June 12, 2023, to June 30, 2023. Not only were these two lump-sum checks untimely, but the checks also amounted to a monthly payment of nearly \$1,000 less than Plaintiff's rightful gross income for the month of June.

EDUCATION WORKS CONSULTING
FIRM CORPORATION
1142 E. DIAMOND BAR BLVD # 534
DIAMOND BAR, CA 91765

9169

DATE: 6/30/23 80-7152322

PAY TO THE ORDER OF: Saudia Richardson \$365.80

Three hundred sixty-five and 80/100 DOLLARS & CENTS

CHASE
JPMorgan Chase Bank, N.A.
www.chase.com

FOR: June 2023 Dr. Anissa McNeil

Plaintiff's first wage payment for June 2023



Plaintiff's second wage payment for June 2023

Similarly, Plaintiff worked a total of 16 days in July under the same schedule. However, Defendants only paid her a Gross income of \$1,400.

Defendants systematically failed to accurately record all hours worked by only providing Plaintiff and aggrieved employees weekly patient logs with no entry spaces for start times, end times, or meal period breaks.

By excluding time spent working outside of sessions, Defendants did not pay Plaintiff and aggrieved employees at least the applicable minimum wage for all hours worked. Stated differently, Plaintiff and aggrieved employees were not paid at least the applicable minimum wage for administrative working hours between patients, or for paid, non-productive time during the employees' compliant rest periods.

Second, Plaintiff and aggrieved employees occasionally worked off-the-clock to complete necessary work tasks. For example, when Plaintiff needed to compose Child Welfare Services reports and communicate with Child Welfare Service investigators, she was often only able to do so after-hours, uncompensated. Defendants did not pay Plaintiff at least the applicable minimum wage for these off-clock hours worked, despite the time-sensitive, necessary nature of these tasks. Plaintiff believes and alleges that Defendants likewise did not pay other aggrieved employees for time spent completing necessary work-tasks off-clock.

Third, as discussed in more depth below, to the extent Plaintiff or aggrieved employees' deficient meal periods resulted in hours worked while employees were on unpaid breaks, Plaintiff believes and alleges that Defendants likewise did not pay at least the applicable minimum wage for those hours.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code sections 558 (\$50/\$100), 1197.1 (\$100/\$250), 1199 / "Penalties" section of the IWC Wage Orders (\$50/\$100), and 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unpaid Hours Worked/Non-Productive, Rest, and Recovery Periods
Violation of Labor Code §§ 226.2; IWC Wage Orders

In addition to the foregoing unpaid wage violations, Defendants also violated Labor Code sections 226.2 and the “Hours and Days of Work,” “Minimum Wages,” and “Rest Periods” sections of the applicable IWC Wage Orders with respect to the aggrieved employees.

Labor Code section 226.2(a)(1) also requires employers to compensate employees for “rest and recovery periods and other non-productive time spent separate from any piece rate compensation.” Under Labor Code section 226.2(a)(3), rest and recovery periods must be paid at an hourly rate that is no less than the higher of (i) an average hourly rate taken by dividing an employee’s total compensation for the workweek (exclusive of overtime and rest and recovery compensation) by the employee’s total hours worked and (ii) the applicable minimum wage. Under Labor Code section 226.2(a)(4), other nonproductive time must be paid at an hourly rate that is no less than the applicable minimum wage.

To the extent Defendants elected to pay Plaintiff and aggrieved employees on a piece-rate basis per patient session worked, Defendants failed to separately pay the aggrieved employees at least the applicable minimum wage for non-productive rest periods.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code sections 558 (\$50/\$100), 1197.1 (\$100/\$250), 1199 / “Penalties” section of the IWC Wage Orders (\$50/\$100), and 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unpaid Overtime
Violation of Labor Code §§ 510, 1194, 1198; IWC Wage Orders

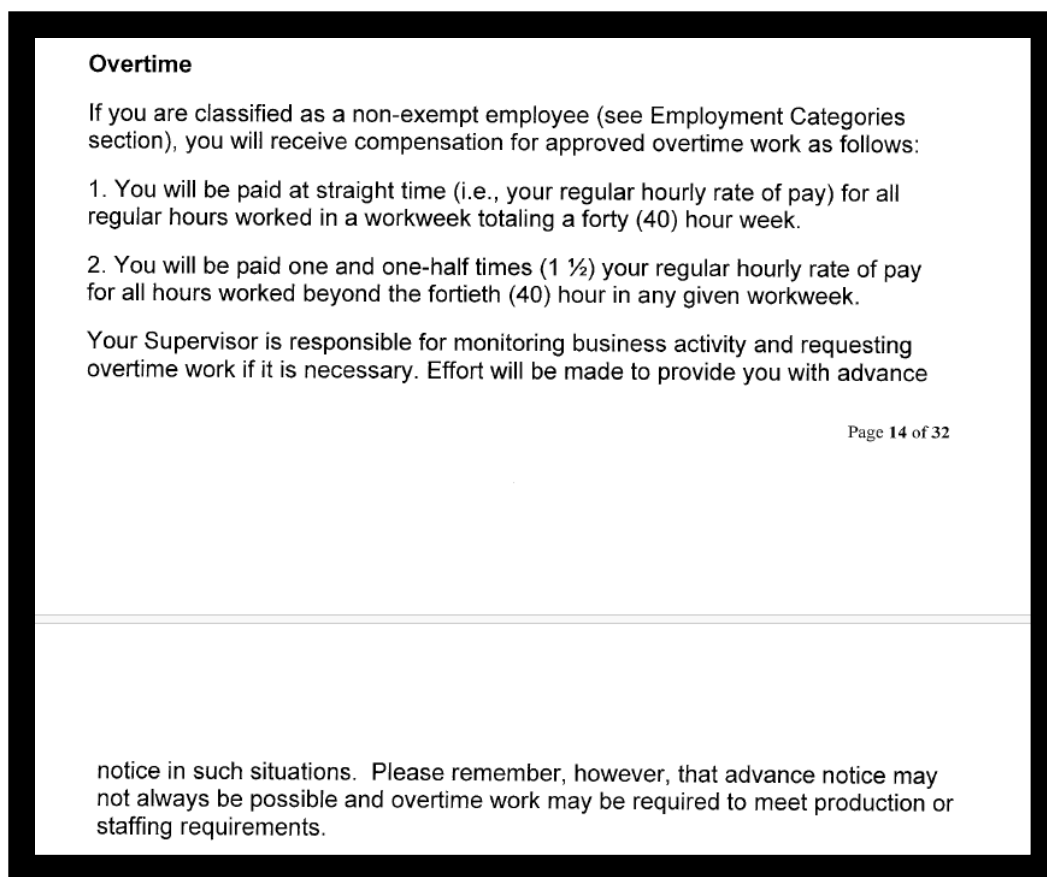
Defendants violated Labor Code sections 510, 1194, and 1198, along with the “Hours and Days of Work” sections of the applicable IWC Wage Orders with respect to the aggrieved employees.

Labor Code section 510 requires “[a]ny work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee;” and “any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee;” and “any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.” Labor Code section 1194 renders it unlawful for an employee to receive less than the legal overtime rate for overtime hours worked in California. Labor Code section 1198 renders “employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]” unlawful. The IWC Wage Orders

further require payment of overtime wages for all overtime hours worked, including the “Hours and Days of Work” sections.

Defendants failed to pay Plaintiff and the aggrieved employees overtime wages at the lawful rate of pay for overtime hours worked, resulting in unpaid overtime wages. To the extent any of the off-clock work Plaintiff and aggrieved employees completed resulted in unrecorded overtime hours, Plaintiff believes and alleges that Defendants did not pay overtime wages for those hours.

Additionally, Defendants maintain an underinclusive overtime policy in the Employee Handbook active during Plaintiff’s employment. Here, in a list of Defendants’ overtime payment policies, Defendants state that overtime is only paid where an employee works more than 40 hours in a week. The policy noticeably excludes California’s additional overtime laws, which also require overtime payment for employees who work more than eight hours in a single day.



Defendants’ Employee Handbook overtime policy on pages 14 and 15.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code sections 558 (\$50/\$100), 1199 / “Penalties” section of the IWC Wage Orders) (\$50/\$100), and 2699

(\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unpaid Meal Period Premium Wages
Violation of Labor Code §§ 226.7, 512, 1198; IWC Wage Orders

Defendants violated Labor Code sections 226.7, 512, and 1198, along with the related sections of the IWC Wage Orders with respect to the aggrieved employees.

Labor Code section 512 and the IWC Wage Orders require that employers provide an uninterrupted 30-minute meal period after no more than five hours of work and a second meal period after no more than 10 hours of work. *See Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal. 4th 1004, 1049. Labor Code section 226.7 requires that if a meal period is late, missed, short, or interrupted, the employer must pay one additional hour of pay at the employee's "regular rate" of compensation. *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal. 5th 858, 862 ("We hold that the terms are synonymous: "regular rate of compensation" under section 226.7(c), like "regular rate of pay" under section 510(a), encompasses all nondiscretionary payments, not just hourly wages"). "[T]ime records showing noncompliant meal periods raise a rebuttable presumption of meal period violations, including at the summary judgment stage." *Donohue v. AMN Services, LLC* (2021) 11 Cal. 5th 58, 61. Labor Code section 1198 renders "employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]" unlawful. The IWC Wage Orders, including Section 11 (Meal Periods), further require one uninterrupted 30-minute meal period after no more than five hours of work and a second meal period after no more than 10 hours of work and an additional hour of pay at the employee's regular rate of compensation for each workday that a compliant meal period is not provided. Pursuant to Section 11(A) of the IWC Wage Orders, the California Supreme Court has held that the on-duty meal period exception is "exceedingly narrow" and applies only when (1) "the nature of the work prevents the employee from being relieved of all duty" and (2) *both* "the employer and employee have agreed, in writing, to the on-duty meal period." *Augustus v. AMB Security Services, Inc.* (2016) 2 Cal. 5th 257, 266-276 (emphasis added). If these two requirements are not met, then the employer owes the employee one hour of premium pay for each non-compliant meal period taken under the purported on-duty meal arrangement. *Naranjo v. Spectrum Security Services, Inc.* (2019) 40 Cal. 5th 444, 459.

Due to tight scheduling and the volume of patient appointments, Plaintiff and aggrieved employees suffered short, late, missed, and/or interrupted meal periods. On several occasions, Plaintiff was not able to take her meal period until on or after her fifth hour of work. Defendants did not produce meal period waivers for Plaintiff or aggrieved employees. Defendants never paid Plaintiff a meal period premium for these deficiencies, and Plaintiff believes and alleges that Defendants likewise did not pay aggrieved employees their due premiums for deficient meal periods for first or second meal periods.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unpaid Rest Period Premium Wages
Violation of Labor Code §§ 226.7, 516, 1198; IWC Wage Orders

Defendants violated Labor Code sections 226.7, 516, and 1198, and the related sections of the IWC Wage Orders with respect to Plaintiff and the aggrieved employees.

Labor Code sections 226.7 and 516 and the IWC Wage Orders require that employers authorize and permit an uninterrupted 10-minute rest period for each four-hour period (or major fraction thereof) that an employee works. Labor Code section 226.7 requires that if a rest period is non-compliant, the employer must pay one additional hour of pay at the employee's "regular rate" of compensation. *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal. 5th 858, 862 ("We hold that the terms are synonymous: "regular rate of compensation" under section 226.7(c), like "regular rate of pay" under section 510(a), encompasses all nondiscretionary payments, not just hourly wages"). Labor Code section 1198 renders "employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]" unlawful. The IWC Wage Orders, including Section 12 (Rest Periods), further require one uninterrupted 10-minute rest period for each four-hour period (or major fraction thereof) worked and an additional hour of pay at the employee's regular rate of compensation for each workday that a compliant rest period is not authorized or permitted.

Due to tight scheduling and volume of patient appointments, Plaintiff and aggrieved employees suffered deficient rest periods. Plaintiff was only able to take her due rest periods if there were scheduled gaps in between patient appointments. If Defendants scheduled Plaintiff for back-to-back appointments, she was unable to either go to the bathroom or take a rest period. Defendants did not pay Plaintiff any premiums for these deficient rest periods, and Plaintiff believes and alleges that Defendants likewise did not pay premiums to other aggrieved employees who suffered deficient rest periods.

Finally, as mentioned above in the minimum wage section, Defendants underpaid Plaintiff and aggrieved employees for their rest periods to the extent Defendants only paid the aggrieved employees per session, not per hour. Defendants did not separately compensate Plaintiff or aggrieved employees for their paid, non-productive time, resulting in underpaid rest periods.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Untimely Payment of Wages During Employment
Violation of Labor Code §§ 204, 204b, 210

Defendants violated Labor Code sections 204 and/or 204b and 210, as applicable, with respect to Plaintiff and the aggrieved employees.

Labor Code section 204(a) requires payment of “all wages” for non-exempt employees at least twice each calendar month. Labor Code section 204(d) states all wages due must be paid “not more than seven calendar days following the close of the payroll period.” Labor Code section 204b applies to employees paid on a weekly basis and also requires the payment for all labor within the required pay periods. Labor Code section 210 provides “every person who fails to pay the wages of an employee as provided in Section ... 204 ... shall be subject to a civil penalty” of \$100 for an initial violation and \$200 plus 25% of the amount unlawfully withheld for a subsequent violation.

Because Defendants failed to pay all wages and premiums in each pay period in which such wages were earned at the lawful rate, Defendants violated Labor Code section 204 and/or 204b (for weekly employees, as applicable). Specifically, Defendants underpaid regular, overtime, and premium wages. Further, Defendants did not maintain a regularly scheduled pay schedule for Plaintiff or aggrieved employees. Defendants paid undefined lump sums once monthly, or late deferred wages for work performed in prior months. Defendants violated Labor Code sections 204 and 204b by failing to pay all wages and premiums owed on the regular pay days scheduled each pay period within seven calendar days of the close of the payroll period, as a result of the policies and practices set forth in this notice.

Wages were paid late and not on scheduled paydays or within the permissible period after the close of the pay period, pursuant to Sections 204 and 204b.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, and Labor Code section 210 (\$100/\$200) per violation per pay period, along with all other civil penalties permitted by law.

Untimely Payment of Wages Upon Separation of Employment
Violation of Labor Code §§ 201, 202, 203, 256

Defendants violated Labor Code sections 201, 202, and 203 with respect to the aggrieved employees by failing to pay all wages and premiums owed upon termination of employment.

Labor Code section 201 requires that if an employer fires an employee, the wages must be paid immediately. Labor Code section 202 requires that if an employee quits without providing 72 hours’ notice, his or her wages must be paid no later than 72 hours thereafter. Labor Code section 202 states that if an employee provides 72 hours’ notice, the final wages are payable upon his or her final day of employment. Labor Code section 203 requires an

employer who fails to comply with Labor Code sections 201 or 202 to pay a waiting time penalty for each employee, up to a period of 30 days additional compensation.

Defendants failed to pay all wages and premiums owed to aggrieved employees during their employment as set forth in this notice, and also failed to timely pay those amounts to departing employees upon separation of employment. Specifically, Defendants underpaid regular, overtime, and premium wages. Further, Defendants did not maintain a regularly scheduled pay schedule for Plaintiff or aggrieved employees. Defendants paid undefined lump sums once monthly, or late deferred wages for work performed in prior months. To the extent Defendants argue that Defendants rightfully deferred Plaintiff or aggrieved employees' wages due to incomplete tasks, this is unpersuasive. Plaintiff and aggrieved employees completed all tasks in timely, shift-based manners. The aggrieved employees should have been paid timely wages regardless of administrative hang-ups like therapy notes requiring both the aggrieved employees *and a supervisor* to complete. Finally, Plaintiff did not receive her final pay for July until August 3, 2023, despite terminating Plaintiff's employment August 1, 2023. This final check was also underpaid due to the hourly rate miscalculations mentioned above. Defendants did not pay waiting time penalties for the late payments. As a result, Defendants violated Labor Code sections 201, 202, and 203.

As a result, Plaintiff may recover civil penalties on behalf of aggrieved employees and the State of California as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Non-Compliant Wage Statements **Violation of Labor Code §§ 226, 226.3**

Defendants violated Labor Code sections 226(a) and 226.3 with respect to the aggrieved employees by failing to furnish itemized wage statements each pay period that accurately list all information required by Labor Code section 226(a)(1) through (9).

Labor Code section 226(a) requires an employer to furnish wage statements to employees semimonthly or at the time of each payment of wages, "an accurate itemized statement in writing showing:" (1) gross wages earned, (2) total hours worked, (3) the number of piece rate units earned and applicable piece-rate in effect, (4) all deductions, (5) net wages earned, (6) the inclusive dates of the pay period, (7) the name of the employee and last four digits of SSN or an EIN, (8) the name and address of the legal name of the employer, and (9) all applicable hourly rates in effect during the pay period and the number of hours worked at each hourly rate by the employee.

Defendants failed to provide accurate itemized wage statements to the aggrieved employees each pay period as a result of the policies and practices set forth in this notice. Defendants did not provide Plaintiff with any wage statements before Plaintiff specifically requested them. However, even the wage statements received were incomplete and inaccurate in several ways.

Works
 Consulting
 Inc., Inc.

Employee name: **Richardson, Saudia**
 Type: **Manual Check**
 Check date: **06/30/2023**

Description	Hours	Rate	Amount
Regular	38.00		1,520.00
Total earnings			\$1,520.00
Federal Income Tax			0.00
Social Security			94.24
Medicare			22.04
California State Income Tax			0.00
California State Disability Insurance			13.68
Total taxes			\$129.96
Total employee deductions			\$0.00
Total employer deductions			\$0.00
		Net pay:	\$1,390.04

Plaintiff's wage statement, missing pay periods, hourly rates, employer address, employee identification number or SSN, and total hours worked in the pay period.

First, Defendants violated Labor Code section 226(a)(1) and (5) by not listing the correct "gross wages earned" or "net wages earned," as the employees earned wages and premiums that were not paid, resulting in an inaccurate reflection, and recording of "gross wages earned" on those wage statements.

Second, in violation of Labor Code section 226(a)(9), Defendants failed to state on employee wage statements each pay period the applicable hourly rates in effect and the number of hours worked at that rate, as Defendants failed to pay all wages and premiums owed to employees. The amounts stated are instead depreciated and underpaid, resulting in an inaccurate reflection

on the pay stub. Additionally, as seen above, Defendants wholly failed to include hourly rates in wage statements.

Third, in violation of Labor Code section 226(a)(2), Defendants did not include the total number of hours worked in the pay period.

Fourth, in violation of Labor Code section 226(a)(6) Defendants did not include the dates of the pay period which the wage statement represents.

Fifth, in violations of Labor Code section 226(a)(7) and (8), Defendants failed to include any identifying information for the employer, such as the proper employer's name and address. Defendants also failed to include identifying information for the employee, only listing Plaintiff's name but no SSN or employee ID.

Moreover, Defendants failed to issue any wage statements to Plaintiff and the aggrieved employees during their employment, in violation of Labor Code § 226(a). Based on the failure to provide wage statements, Defendants are liable for the heightened penalty under Labor Code § 226.3.

Plaintiff and other aggrieved employees cannot promptly and easily determine from the wage statement alone the wages paid or earned without reference to other documents or information. Indeed, these wage statement violations are significant because they sow confusion among Plaintiff and other aggrieved employees with respect to what amounts were owed and paid, at what rates, the number of hours worked, and how those amounts were or should be calculated. The wage statements reflect a false statement of earnings and concealed the underlying problems and underpayments of employee wages.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code sections 226.3 (\$250/\$1,000) and 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unreimbursed Employee Expenses **Violation of Labor Code §§ 2802, 2804**

Defendants violated Labor Code section 2802 with respect to the aggrieved employees by failing to reimburse the aggrieved employees for all necessary expenditures or losses incurred as part of their job duties.

Labor Code section 2802 requires an employer to “indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed

them to be unlawful.” See, e.g., *Espinoza v. West Coast Tomato Growers, LLC*, 2016 WL 4468175 at *4, n.2 (S.D. Cal. Aug. 24, 2016, No. 14-CV-2984 W (KSC)).

Labor Code section 2804 affirms that “[a]ny contract or agreement, express or implied, made by any employee to waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive any employee or his personal representative of any right or remedy to which he is entitled under the laws of this State.”

Defendants required Plaintiff and the aggrieved employees to incur costs for work-related purposes without full reimbursement. In direct consequence of their job duties, Plaintiff and the aggrieved employees unavoidably and necessarily incurred these losses, expenditures, costs, and as a matter of policy and practice. Defendants did not provide Plaintiff or aggrieved employees with laptops or desktop computers to complete administrative work or conduct appointments. This practice resulted in Plaintiff and aggrieved employees using their personal laptops to complete work tasks, without reimbursement.

Defendants also required Plaintiff to work at least one day each week from home due to office scheduling conflicts. However, despite this requirement, Plaintiff supplied and paid for her own laptop, home internet, and cell phone to fulfill her job responsibilities. Despite Defendants providing a direct business line to correspond with patients, colleagues, providers, and other outside referrals, Plaintiff still needed to use her cell phone to communicate with Child Welfare Services representatives who would often conduct follow-up calls at unpredictable times, including after-hours. Defendants never reimbursed Plaintiff for these expenses, and Plaintiff believes and alleges that Defendants likewise did not reimburse aggrieved employees for expenses incurred from required remote work.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Failure to Maintain Accurate Records **Violation of Labor Code § 1174; IWC Wage Orders**

Defendants violated Labor Code sections 1174 and the IWC Wage Orders by failing to maintain accurate employee payroll records with respect to Plaintiff and other aggrieved employees.

Labor Code section 1174 requires that employers maintain accurate “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.” Section 7(A) of the IWC Wage Orders, which may be enforced through Labor Code section 1198, mandates similar recordkeeping obligations.

Because of the policies and practices set forth in this notice, including the failure to accurately account for wages earned or hours worked, Defendants failed to accurately maintain records in accordance with Labor Code section 1174 and the IWC Wage Orders.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code section 1174.5 (\$500) and 2699 (\$100/\$200), along with all other civil penalties permitted by law.

Attorneys' Fees and Costs
Labor Code § 2699(g)

Plaintiff has been compelled to retain the services of counsel to protect the interests of other aggrieved employees and the State of California. Plaintiff continues to incur attorneys' fees and costs, which are recoverable under California law, including Labor Code section 2699(g).

- LITIGATION HOLD NOTICE -

This letter imposes a duty upon all defendants and their respective employees, officers, directors, executives, attorneys, human resource and payroll personnel, accountants, and other agents to preserve all physical and electronic evidence, including electronically stored information and emails, which relate to the employment of Plaintiff and the aggrieved employees specified in this notice. Evidence includes, but is not limited to, Defendants' written employment and payroll policies and handbooks; the aggrieved employees' personnel files and payroll records, such as paystubs, time records, wage statements, compensation reports, as well as the underlying electronically data in Excel or similar format. Memoranda and internal and external correspondence relating to the subject matter of this notice shall also be maintained. Failure to preserve and retain relevant evidence may constitute spoliation of evidence and result in an adverse inference or sanctions.

If you have any questions regarding the scope of your obligations to preserve evidence, please consult your legal counsel and always err on the side of caution. Periodic or regularly scheduled purges or deletions of information covered by this hold must be suspended immediately.

- CONCLUSION -

If the LWDA does not pursue enforcement, Plaintiff intends to bring representative claims on behalf of the State of California and the aggrieved employees seeking civil penalties for violations of the Labor Code and the IWC Wage Orders, along with attorneys' fees, costs, interest, and other appropriate relief.

Please advise if the LWDA intends to investigate any of the factual or legal allegations set forth in this notice. Defendants may contact Plaintiff's counsel with any questions regarding this letter or the forthcoming lawsuit.

Sincerely,

A handwritten signature in blue ink that reads "Nicholas J. Ferraro". The signature is written in a cursive, flowing style.

Nicholas J. Ferraro

REJ

Cc Plaintiff Saudia Richardson

Dr. Anissa McNeil

anissa@edworks4u.org

EXHIBIT 2

Amended Notice of Labor Code Violations

FERRARO VEGA

SAN DIEGO EMPLOYMENT LAWYERS

Nicholas J. Ferraro
nick@ferrarovega.com
Lauren N. Vega
lauren@ferrarovega.com

ATTORNEYS AT LAW
3160 Camino del Rio South, Suite 308
San Diego, California 92108

Telephone: 619-693-7727
Facsimile: 619-350-6855
www.ferrarovega.com

October 26, 2023

VIA EMAIL & CERTIFIED U.S. MAIL

Education Works Consulting Firm Corporation
1700 W. Cameron Ave. Suite 100
West Covina, California 91790

**Re: LWDA Notice dated October 12, 2023 - Plaintiff Saudia
Richardson**

To Whom It May Concern:

Please be advised that our office filed and mailed the enclosed Notice of Labor Code Violations to **“Education Works Consulting Corporation”** on behalf of Plaintiff Saudia Richardson.

This letter is provided to correct the recipient entity’s name to **Education Works Consulting Firm Corporation**, and to provide direct notice of their inclusion in the original Notice as defendant employer and as such liable for civil penalties under the PAGA for the claims alleged in the Notice.

Please contact our office if you have any questions.

Sincerely,



Nicholas J. Ferraro

Enclosure – LWDA Notice, dated October 12, 2023

Cc Lauren N. Vega (lauren@ferrarovega.com)

Dr. Anissa McNeil
anissa@edworks4u.org

FERRARO VEGA

SAN DIEGO EMPLOYMENT LAWYERS

Nicholas J. Ferraro
nick@ferrarovega.com
Lauren N. Vega
lauren@ferrarovega.com

ATTORNEYS AT LAW
3160 Camino del Rio South, Suite 308
San Diego, California 92108

619-693-7727
619-350-6855 fax
ferrarovega.com

October 12, 2023

NOTICE OF LABOR CODE VIOLATIONS CALIFORNIA LABOR CODE SECTIONS 2698 *et seq.*

VIA CERTIFIED U.S. MAIL
- Electronic Return Receipt -

**Education Works Consulting
Corporation**
1700 W. Cameron Ave. Suite 100
West Covina, California 91790

- PAGA Notice & Filing Fee -
Submitted electronically to the Labor and
Workforce Development Agency

Dear LWDA Officer and Company Representatives:

This letter serves as written notice under Labor Code section 2699.3 on behalf of **SAUDIA RICHARDSON** (“Plaintiff(s)”) and all other “aggrieved employees” of the following “Defendant(s)”:

EDUCATION WORKS CONSULTING CORPORATION

Defendant(s) shall mean and include the foregoing in addition to any other related employer entities, individuals under Labor Code sections 558 and 558.1, and all others who may be later added upon further investigation and discovery as liable employers.

This office serves as legal counsel for Plaintiff. If the California Labor and Workforce Development Agency (“LWDA”) does not investigate the facts, allegations, and violations set forth in this notice within the statutorily prescribed 65-day period under Labor Code section 2699.3, Plaintiff intends to commence a civil action against Defendants as a proxy and agent of the State of California under the Private Attorneys General Act (“PAGA”). “PAGA allows an ‘aggrieved employee’—a person affected by at least one Labor Code violation committed by an employer—to pursue penalties for all the Labor Code violations committed by that employer.” *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal. App. 5th 745, 751; *Kim v. Reins International California, Inc.* (2020) 9 Cal. 73, 79. Plaintiff maintains standing to pursue these claims against Defendants, as Plaintiff experienced one or more of the alleged violations during the relevant statutory period, which continue through the present date. *Cf. Johnson v. Maxim Healthcare Servs., Inc.*, 281 Cal. Rptr. 3d 478, 481 (Cal. Ct. App. 2021).

Through this notice, Plaintiff requests that Defendants complete an internal investigation and audit of the wage and hour and employment practices at issue and make a good faith effort to correct any violations. Plaintiff attempts to identify the non-compliant policies and practices affecting the aggrieved employees so that the parties may resolve the underlying damages and penalties in judgment or settlement approved by the Superior Court of California under Labor Code section 2699(k). Defendants are notified that any attempt to resolve this case should be conducted in coordination with Plaintiff's counsel to protect the interests of Plaintiff, the aggrieved employees, and the State of California via the LWDA. Plaintiff advises Defendants this letter should be also considered a reasonable attempt at settlement of this matter, subject to an exchange of additional documents and information. *Graham v. Daimler Chrysler Corp.* (2004) 24 Cal. 4th 553, 561.

- BACKGROUND -

Defendants employed Plaintiff during the PAGA Period in the position of Psychology Intern from about June 2023 to July 2023. During their employment Plaintiff and the other aggrieved employees were subject to the wage and hour and employment protections set forth in the California Labor Code and IWC Wage Orders.

Through this notice, Plaintiff informs the LWDA of the Labor Code violations set forth herein. The “aggrieved employees” include Plaintiff and the following individuals:

All current and former non-exempt employees who worked for Defendants in the State of California during one-year period preceding the date of this notice through the current date and the date of trial in any pending action (the “aggrieved employees” and the “PAGA Period”).

Plaintiff reserves the right to expand or narrow the definition of the “aggrieved employees” in the forthcoming civil action. Furthermore, Plaintiff seeks all recoverable civil penalties for Defendants' violations and reserves the right to supplement this notice as further investigation is completed and further facts, witnesses, and violations are uncovered.

- PAGA CLAIMS -

Unpaid Hours Worked/Minimum Wage Violation of Labor Code §§ 1194, 1197, 1198; IWC Wage Orders

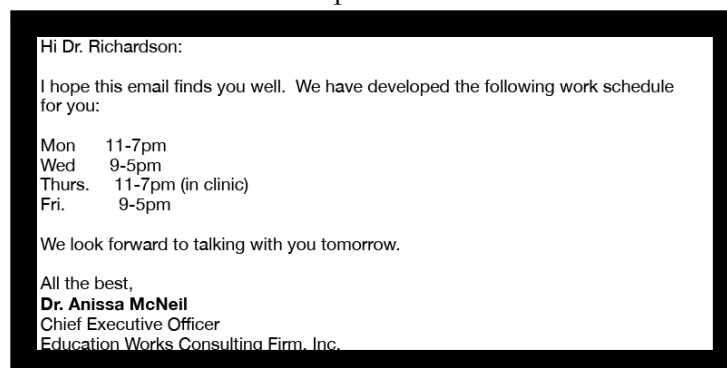
Defendants violated Labor Code sections 1194, 1197, and 1198, along with the California Minimum Wage Order, the applicable local minimum wage ordinances, and the “Hours and Days of Work” and “Minimum Wages” sections of the applicable IWC Wage Orders with respect to the aggrieved employees.

Labor Code section 1194 renders it unlawful for an employee to receive less than the legal minimum wage for hours worked in California. Labor Code section 1197 further mandates that “[t]he minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a lower wage than the minimum so fixed is unlawful.” Labor Code section 1198 renders “employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]” unlawful. The California Minimum Wage Order and the applicable sections of the IWC Wage Orders further require payment of minimum wages for all hours worked. The “Minimum Wages” sections of the applicable IWC Wage Order provide that “[e]very employer shall pay to each employee, on the established payday for the period involved, not less than the applicable minimum wage for all hours worked in the payroll period, whether the remuneration is measured by time, piece, commission, or otherwise.” The foregoing California wage laws require payment of “not less than the applicable minimum wage *for all hours worked* in the payroll period” and California law does not allow averaging of pay over the hours worked in the pay period, even if the total pay results in an average above the minimum wage. *Armenta v. Osmose, Inc.* (2005) 135 Cal. App. 3d 314, 324.

Defendants failed to pay Plaintiff and the aggrieved employees at the lawful minimum wage rate for all hours worked, resulting in unpaid minimum wages. Defendants violated California’s minimum wage laws in several ways.

First, rather than pay Plaintiff at her hourly rate of \$35 *per hour* for all hours worked, Defendants only paid Plaintiff for utilized patient sessions, resulting in a severe underpayment of wages. This session-only method of calculation excluded administrative work between sessions, pre and post session tasks, patient cancellations where Plaintiff was still required to be in office and on duty. The time was spent for the benefit of the employer, but unpaid due to Defendants’ policy and practice of only paying for the patient sessions.

Plaintiff’s regular schedule was four days a week, 9 AM to 5 PM with an unpaid lunch. Defendants set this schedule for Plaintiff upon commencement of her employment.



Defendant’s email to Plaintiff communicating the expectation for Plaintiff’s weekly work schedule to consist of 32 hours. While Plaintiff’s schedule eventually switched to Monday-Thursday 9-5, the hour requirement remained consistent throughout.

This means, on a weekly basis, Plaintiff worked 28-32 hours (according to the scheduled meal breaks and notwithstanding the meal period deficiencies alleged below). Plaintiff worked 11 days in June 2023, or at least 77 hours. At a rate of \$35 per hour, as stated in her offer letter below, this June monthly total should have approximately led to at least a Gross Income of \$2,695.

EDUCATION WORKS
CONSULTING FIRM, INC.

Employment Offer- Saudia Richardson, Psy D.

Position: Psychologist Intern for Mental Health and Social Justice Clinic

Hourly Wage: \$35 an hour **Site:** San Diego Clinic Office

Hours: 4 Days a Week **Start Date:** June 5, 2023

Plaintiff's offer letter indicating that her wages will be paid at \$35 per hour, not per session.

Rather than provide Plaintiff with regular wage statements explaining hours and rates paid, Defendants sent Plaintiff two personal checks, one on June 30, 2023, and one on July 15, 2023, to account for all of Plaintiff's June hours worked, totaling \$1,755.84. Defendants did not pay Plaintiff any additional money from the start of her employment June 12, 2023, to June 30, 2023. Not only were these two lump-sum checks untimely, but the checks also amounted to a monthly payment of nearly \$1,000 less than Plaintiff's rightful gross income for the month of June.

EDUCATION WORKS CONSULTING
FIRM CORPORATION
1142 E. DIAMOND BAR BLVD # 534
DIAMOND BAR, CA 91765

DATE: 6/30/23 80-7152322

PAY TO THE ORDER OF: Saudia Richardson \$365.80

Three hundred sixty-five and 80/100 DOLLARS & CENTS

CHASE
JPMorgan Chase Bank, N.A.
www.chase.com

FOR: June 2023 Dr. Anissa McNeil

Plaintiff's first wage payment for June 2023



Plaintiff's second wage payment for June 2023

Similarly, Plaintiff worked a total of 16 days in July under the same schedule. However, Defendants only paid her a Gross income of \$1,400.

Defendants systematically failed to accurately record all hours worked by only providing Plaintiff and aggrieved employees weekly patient logs with no entry spaces for start times, end times, or meal period breaks.

By excluding time spent working outside of sessions, Defendants did not pay Plaintiff and aggrieved employees at least the applicable minimum wage for all hours worked. Stated differently, Plaintiff and aggrieved employees were not paid at least the applicable minimum wage for administrative working hours between patients, or for paid, non-productive time during the employees' compliant rest periods.

Second, Plaintiff and aggrieved employees occasionally worked off-the-clock to complete necessary work tasks. For example, when Plaintiff needed to compose Child Welfare Services reports and communicate with Child Welfare Service investigators, she was often only able to do so after-hours, uncompensated. Defendants did not pay Plaintiff at least the applicable minimum wage for these off-clock hours worked, despite the time-sensitive, necessary nature of these tasks. Plaintiff believes and alleges that Defendants likewise did not pay other aggrieved employees for time spent completing necessary work-tasks off-clock.

Third, as discussed in more depth below, to the extent Plaintiff or aggrieved employees' deficient meal periods resulted in hours worked while employees were on unpaid breaks, Plaintiff believes and alleges that Defendants likewise did not pay at least the applicable minimum wage for those hours.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code sections 558 (\$50/\$100), 1197.1 (\$100/\$250), 1199 / "Penalties" section of the IWC Wage Orders (\$50/\$100), and 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unpaid Hours Worked/Non-Productive, Rest, and Recovery Periods
Violation of Labor Code §§ 226.2; IWC Wage Orders

In addition to the foregoing unpaid wage violations, Defendants also violated Labor Code sections 226.2 and the “Hours and Days of Work,” “Minimum Wages,” and “Rest Periods” sections of the applicable IWC Wage Orders with respect to the aggrieved employees.

Labor Code section 226.2(a)(1) also requires employers to compensate employees for “rest and recovery periods and other non-productive time spent separate from any piece rate compensation.” Under Labor Code section 226.2(a)(3), rest and recovery periods must be paid at an hourly rate that is no less than the higher of (i) an average hourly rate taken by dividing an employee’s total compensation for the workweek (exclusive of overtime and rest and recovery compensation) by the employee’s total hours worked and (ii) the applicable minimum wage. Under Labor Code section 226.2(a)(4), other nonproductive time must be paid at an hourly rate that is no less than the applicable minimum wage.

To the extent Defendants elected to pay Plaintiff and aggrieved employees on a piece-rate basis per patient session worked, Defendants failed to separately pay the aggrieved employees at least the applicable minimum wage for non-productive rest periods.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code sections 558 (\$50/\$100), 1197.1 (\$100/\$250), 1199 / “Penalties” section of the IWC Wage Orders (\$50/\$100), and 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unpaid Overtime
Violation of Labor Code §§ 510, 1194, 1198; IWC Wage Orders

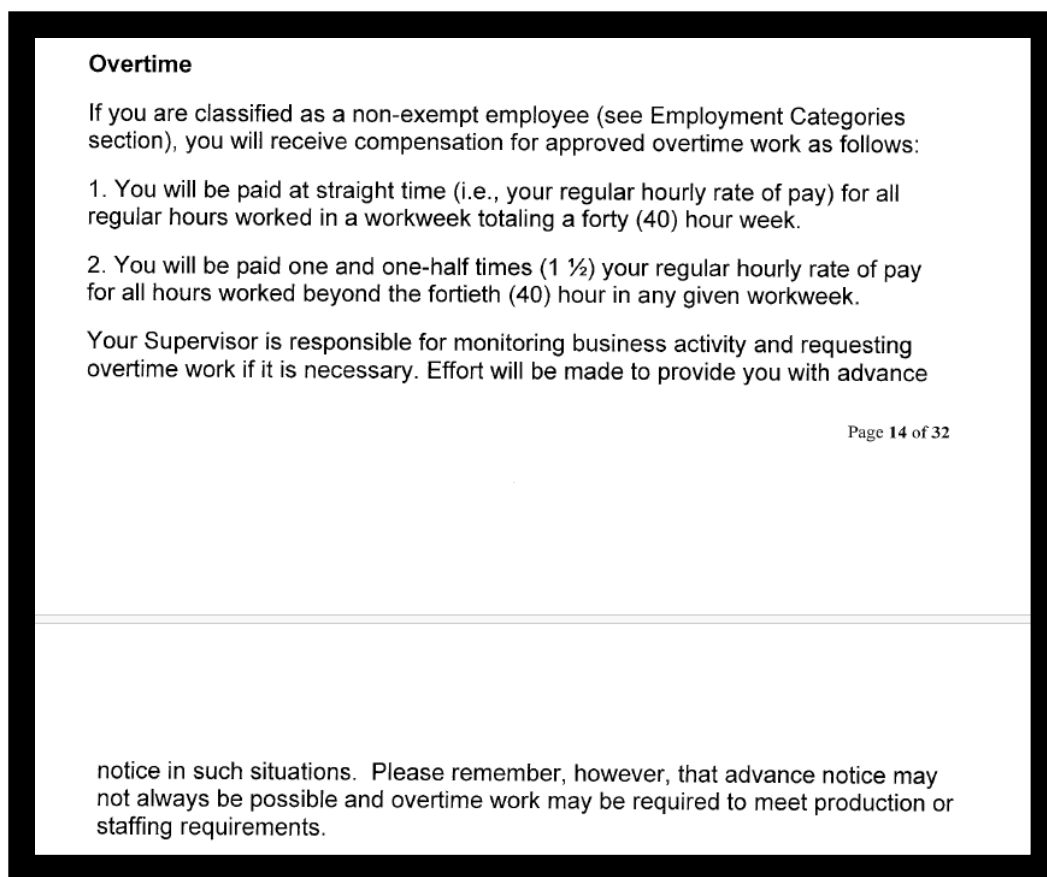
Defendants violated Labor Code sections 510, 1194, and 1198, along with the “Hours and Days of Work” sections of the applicable IWC Wage Orders with respect to the aggrieved employees.

Labor Code section 510 requires “[a]ny work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee;” and “any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee;” and “any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.” Labor Code section 1194 renders it unlawful for an employee to receive less than the legal overtime rate for overtime hours worked in California. Labor Code section 1198 renders “employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]” unlawful. The IWC Wage Orders

further require payment of overtime wages for all overtime hours worked, including the “Hours and Days of Work” sections.

Defendants failed to pay Plaintiff and the aggrieved employees overtime wages at the lawful rate of pay for overtime hours worked, resulting in unpaid overtime wages. To the extent any of the off-clock work Plaintiff and aggrieved employees completed resulted in unrecorded overtime hours, Plaintiff believes and alleges that Defendants did not pay overtime wages for those hours.

Additionally, Defendants maintain an underinclusive overtime policy in the Employee Handbook active during Plaintiff’s employment. Here, in a list of Defendants’ overtime payment policies, Defendants state that overtime is only paid where an employee works more than 40 hours in a week. The policy noticeably excludes California’s additional overtime laws, which also require overtime payment for employees who work more than eight hours in a single day.



Defendants’ Employee Handbook overtime policy on pages 14 and 15.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code sections 558 (\$50/\$100), 1199 / “Penalties” section of the IWC Wage Orders) (\$50/\$100), and 2699

(\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unpaid Meal Period Premium Wages
Violation of Labor Code §§ 226.7, 512, 1198; IWC Wage Orders

Defendants violated Labor Code sections 226.7, 512, and 1198, along with the related sections of the IWC Wage Orders with respect to the aggrieved employees.

Labor Code section 512 and the IWC Wage Orders require that employers provide an uninterrupted 30-minute meal period after no more than five hours of work and a second meal period after no more than 10 hours of work. *See Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal. 4th 1004, 1049. Labor Code section 226.7 requires that if a meal period is late, missed, short, or interrupted, the employer must pay one additional hour of pay at the employee's "regular rate" of compensation. *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal. 5th 858, 862 ("We hold that the terms are synonymous: "regular rate of compensation" under section 226.7(c), like "regular rate of pay" under section 510(a), encompasses all nondiscretionary payments, not just hourly wages"). "[T]ime records showing noncompliant meal periods raise a rebuttable presumption of meal period violations, including at the summary judgment stage." *Donohue v. AMN Services, LLC* (2021) 11 Cal. 5th 58, 61. Labor Code section 1198 renders "employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]" unlawful. The IWC Wage Orders, including Section 11 (Meal Periods), further require one uninterrupted 30-minute meal period after no more than five hours of work and a second meal period after no more than 10 hours of work and an additional hour of pay at the employee's regular rate of compensation for each workday that a compliant meal period is not provided. Pursuant to Section 11(A) of the IWC Wage Orders, the California Supreme Court has held that the on-duty meal period exception is "exceedingly narrow" and applies only when (1) "the nature of the work prevents the employee from being relieved of all duty" and (2) *both* "the employer and employee have agreed, in writing, to the on-duty meal period." *Augustus v. AMB Security Services, Inc.* (2016) 2 Cal. 5th 257, 266-276 (emphasis added). If these two requirements are not met, then the employer owes the employee one hour of premium pay for each non-compliant meal period taken under the purported on-duty meal arrangement. *Naranjo v. Spectrum Security Services, Inc.* (2019) 40 Cal. 5th 444, 459.

Due to tight scheduling and the volume of patient appointments, Plaintiff and aggrieved employees suffered short, late, missed, and/or interrupted meal periods. On several occasions, Plaintiff was not able to take her meal period until on or after her fifth hour of work. Defendants did not produce meal period waivers for Plaintiff or aggrieved employees. Defendants never paid Plaintiff a meal period premium for these deficiencies, and Plaintiff believes and alleges that Defendants likewise did not pay aggrieved employees their due premiums for deficient meal periods for first or second meal periods.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unpaid Rest Period Premium Wages
Violation of Labor Code §§ 226.7, 516, 1198; IWC Wage Orders

Defendants violated Labor Code sections 226.7, 516, and 1198, and the related sections of the IWC Wage Orders with respect to Plaintiff and the aggrieved employees.

Labor Code sections 226.7 and 516 and the IWC Wage Orders require that employers authorize and permit an uninterrupted 10-minute rest period for each four-hour period (or major fraction thereof) that an employee works. Labor Code section 226.7 requires that if a rest period is non-compliant, the employer must pay one additional hour of pay at the employee's "regular rate" of compensation. *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal. 5th 858, 862 ("We hold that the terms are synonymous: "regular rate of compensation" under section 226.7(c), like "regular rate of pay" under section 510(a), encompasses all nondiscretionary payments, not just hourly wages"). Labor Code section 1198 renders "employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]" unlawful. The IWC Wage Orders, including Section 12 (Rest Periods), further require one uninterrupted 10-minute rest period for each four-hour period (or major fraction thereof) worked and an additional hour of pay at the employee's regular rate of compensation for each workday that a compliant rest period is not authorized or permitted.

Due to tight scheduling and volume of patient appointments, Plaintiff and aggrieved employees suffered deficient rest periods. Plaintiff was only able to take her due rest periods if there were scheduled gaps in between patient appointments. If Defendants scheduled Plaintiff for back-to-back appointments, she was unable to either go to the bathroom or take a rest period. Defendants did not pay Plaintiff any premiums for these deficient rest periods, and Plaintiff believes and alleges that Defendants likewise did not pay premiums to other aggrieved employees who suffered deficient rest periods.

Finally, as mentioned above in the minimum wage section, Defendants underpaid Plaintiff and aggrieved employees for their rest periods to the extent Defendants only paid the aggrieved employees per session, not per hour. Defendants did not separately compensate Plaintiff or aggrieved employees for their paid, non-productive time, resulting in underpaid rest periods.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Untimely Payment of Wages During Employment
Violation of Labor Code §§ 204, 204b, 210

Defendants violated Labor Code sections 204 and/or 204b and 210, as applicable, with respect to Plaintiff and the aggrieved employees.

Labor Code section 204(a) requires payment of “all wages” for non-exempt employees at least twice each calendar month. Labor Code section 204(d) states all wages due must be paid “not more than seven calendar days following the close of the payroll period.” Labor Code section 204b applies to employees paid on a weekly basis and also requires the payment for all labor within the required pay periods. Labor Code section 210 provides “every person who fails to pay the wages of an employee as provided in Section ... 204 ... shall be subject to a civil penalty” of \$100 for an initial violation and \$200 plus 25% of the amount unlawfully withheld for a subsequent violation.

Because Defendants failed to pay all wages and premiums in each pay period in which such wages were earned at the lawful rate, Defendants violated Labor Code section 204 and/or 204b (for weekly employees, as applicable). Specifically, Defendants underpaid regular, overtime, and premium wages. Further, Defendants did not maintain a regularly scheduled pay schedule for Plaintiff or aggrieved employees. Defendants paid undefined lump sums once monthly, or late deferred wages for work performed in prior months. Defendants violated Labor Code sections 204 and 204b by failing to pay all wages and premiums owed on the regular pay days scheduled each pay period within seven calendar days of the close of the payroll period, as a result of the policies and practices set forth in this notice.

Wages were paid late and not on scheduled paydays or within the permissible period after the close of the pay period, pursuant to Sections 204 and 204b.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, and Labor Code section 210 (\$100/\$200) per violation per pay period, along with all other civil penalties permitted by law.

Untimely Payment of Wages Upon Separation of Employment
Violation of Labor Code §§ 201, 202, 203, 256

Defendants violated Labor Code sections 201, 202, and 203 with respect to the aggrieved employees by failing to pay all wages and premiums owed upon termination of employment.

Labor Code section 201 requires that if an employer fires an employee, the wages must be paid immediately. Labor Code section 202 requires that if an employee quits without providing 72 hours’ notice, his or her wages must be paid no later than 72 hours thereafter. Labor Code section 202 states that if an employee provides 72 hours’ notice, the final wages are payable upon his or her final day of employment. Labor Code section 203 requires an

employer who fails to comply with Labor Code sections 201 or 202 to pay a waiting time penalty for each employee, up to a period of 30 days additional compensation.

Defendants failed to pay all wages and premiums owed to aggrieved employees during their employment as set forth in this notice, and also failed to timely pay those amounts to departing employees upon separation of employment. Specifically, Defendants underpaid regular, overtime, and premium wages. Further, Defendants did not maintain a regularly scheduled pay schedule for Plaintiff or aggrieved employees. Defendants paid undefined lump sums once monthly, or late deferred wages for work performed in prior months. To the extent Defendants argue that Defendants rightfully deferred Plaintiff or aggrieved employees' wages due to incomplete tasks, this is unpersuasive. Plaintiff and aggrieved employees completed all tasks in timely, shift-based manners. The aggrieved employees should have been paid timely wages regardless of administrative hang-ups like therapy notes requiring both the aggrieved employees *and a supervisor* to complete. Finally, Plaintiff did not receive her final pay for July until August 3, 2023, despite terminating Plaintiff's employment August 1, 2023. This final check was also underpaid due to the hourly rate miscalculations mentioned above. Defendants did not pay waiting time penalties for the late payments. As a result, Defendants violated Labor Code sections 201, 202, and 203.

As a result, Plaintiff may recover civil penalties on behalf of aggrieved employees and the State of California as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Non-Compliant Wage Statements **Violation of Labor Code §§ 226, 226.3**

Defendants violated Labor Code sections 226(a) and 226.3 with respect to the aggrieved employees by failing to furnish itemized wage statements each pay period that accurately list all information required by Labor Code section 226(a)(1) through (9).

Labor Code section 226(a) requires an employer to furnish wage statements to employees semimonthly or at the time of each payment of wages, "an accurate itemized statement in writing showing:" (1) gross wages earned, (2) total hours worked, (3) the number of piece rate units earned and applicable piece-rate in effect, (4) all deductions, (5) net wages earned, (6) the inclusive dates of the pay period, (7) the name of the employee and last four digits of SSN or an EIN, (8) the name and address of the legal name of the employer, and (9) all applicable hourly rates in effect during the pay period and the number of hours worked at each hourly rate by the employee.

Defendants failed to provide accurate itemized wage statements to the aggrieved employees each pay period as a result of the policies and practices set forth in this notice. Defendants did not provide Plaintiff with any wage statements before Plaintiff specifically requested them. However, even the wage statements received were incomplete and inaccurate in several ways.

Works
 Consulting
 New, Inc.

Employee name: **Richardson, Saudia**
 Type: **Manual Check**
 Check date: **06/30/2023**

Description	Hours	Rate	Amount
Regular	38.00		1,520.00
Total earnings			\$1,520.00
Federal Income Tax			0.00
Social Security			94.24
Medicare			22.04
California State Income Tax			0.00
California State Disability Insurance			13.68
Total taxes			\$129.96
Total employee deductions			\$0.00
Total employer deductions			\$0.00
		Net pay:	\$1,390.04

Plaintiff's wage statement, missing pay periods, hourly rates, employer address, employee identification number or SSN, and total hours worked in the pay period.

First, Defendants violated Labor Code section 226(a)(1) and (5) by not listing the correct "gross wages earned" or "net wages earned," as the employees earned wages and premiums that were not paid, resulting in an inaccurate reflection, and recording of "gross wages earned" on those wage statements.

Second, in violation of Labor Code section 226(a)(9), Defendants failed to state on employee wage statements each pay period the applicable hourly rates in effect and the number of hours worked at that rate, as Defendants failed to pay all wages and premiums owed to employees. The amounts stated are instead depreciated and underpaid, resulting in an inaccurate reflection

on the pay stub. Additionally, as seen above, Defendants wholly failed to include hourly rates in wage statements.

Third, in violation of Labor Code section 226(a)(2), Defendants did not include the total number of hours worked in the pay period.

Fourth, in violation of Labor Code section 226(a)(6) Defendants did not include the dates of the pay period which the wage statement represents.

Fifth, in violations of Labor Code section 226(a)(7) and (8), Defendants failed to include any identifying information for the employer, such as the proper employer's name and address. Defendants also failed to include identifying information for the employee, only listing Plaintiff's name but no SSN or employee ID.

Moreover, Defendants failed to issue any wage statements to Plaintiff and the aggrieved employees during their employment, in violation of Labor Code § 226(a). Based on the failure to provide wage statements, Defendants are liable for the heightened penalty under Labor Code § 226.3.

Plaintiff and other aggrieved employees cannot promptly and easily determine from the wage statement alone the wages paid or earned without reference to other documents or information. Indeed, these wage statement violations are significant because they sow confusion among Plaintiff and other aggrieved employees with respect to what amounts were owed and paid, at what rates, the number of hours worked, and how those amounts were or should be calculated. The wage statements reflect a false statement of earnings and concealed the underlying problems and underpayments of employee wages.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code sections 226.3 (\$250/\$1,000) and 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unreimbursed Employee Expenses **Violation of Labor Code §§ 2802, 2804**

Defendants violated Labor Code section 2802 with respect to the aggrieved employees by failing to reimburse the aggrieved employees for all necessary expenditures or losses incurred as part of their job duties.

Labor Code section 2802 requires an employer to “indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed

them to be unlawful.” See, e.g., *Espinoza v. West Coast Tomato Growers, LLC*, 2016 WL 4468175 at *4, n.2 (S.D. Cal. Aug. 24, 2016, No. 14-CV-2984 W (KSC)).

Labor Code section 2804 affirms that “[a]ny contract or agreement, express or implied, made by any employee to waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive any employee or his personal representative of any right or remedy to which he is entitled under the laws of this State.”

Defendants required Plaintiff and the aggrieved employees to incur costs for work-related purposes without full reimbursement. In direct consequence of their job duties, Plaintiff and the aggrieved employees unavoidably and necessarily incurred these losses, expenditures, costs, and as a matter of policy and practice. Defendants did not provide Plaintiff or aggrieved employees with laptops or desktop computers to complete administrative work or conduct appointments. This practice resulted in Plaintiff and aggrieved employees using their personal laptops to complete work tasks, without reimbursement.

Defendants also required Plaintiff to work at least one day each week from home due to office scheduling conflicts. However, despite this requirement, Plaintiff supplied and paid for her own laptop, home internet, and cell phone to fulfill her job responsibilities. Despite Defendants providing a direct business line to correspond with patients, colleagues, providers, and other outside referrals, Plaintiff still needed to use her cell phone to communicate with Child Welfare Services representatives who would often conduct follow-up calls at unpredictable times, including after-hours. Defendants never reimbursed Plaintiff for these expenses, and Plaintiff believes and alleges that Defendants likewise did not reimburse aggrieved employees for expenses incurred from required remote work.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Failure to Maintain Accurate Records **Violation of Labor Code § 1174; IWC Wage Orders**

Defendants violated Labor Code sections 1174 and the IWC Wage Orders by failing to maintain accurate employee payroll records with respect to Plaintiff and other aggrieved employees.

Labor Code section 1174 requires that employers maintain accurate “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.” Section 7(A) of the IWC Wage Orders, which may be enforced through Labor Code section 1198, mandates similar recordkeeping obligations.

Because of the policies and practices set forth in this notice, including the failure to accurately account for wages earned or hours worked, Defendants failed to accurately maintain records in accordance with Labor Code section 1174 and the IWC Wage Orders.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code section 1174.5 (\$500) and 2699 (\$100/\$200), along with all other civil penalties permitted by law.

Attorneys' Fees and Costs
Labor Code § 2699(g)

Plaintiff has been compelled to retain the services of counsel to protect the interests of other aggrieved employees and the State of California. Plaintiff continues to incur attorneys' fees and costs, which are recoverable under California law, including Labor Code section 2699(g).

- LITIGATION HOLD NOTICE -

This letter imposes a duty upon all defendants and their respective employees, officers, directors, executives, attorneys, human resource and payroll personnel, accountants, and other agents to preserve all physical and electronic evidence, including electronically stored information and emails, which relate to the employment of Plaintiff and the aggrieved employees specified in this notice. Evidence includes, but is not limited to, Defendants' written employment and payroll policies and handbooks; the aggrieved employees' personnel files and payroll records, such as paystubs, time records, wage statements, compensation reports, as well as the underlying electronically data in Excel or similar format. Memoranda and internal and external correspondence relating to the subject matter of this notice shall also be maintained. Failure to preserve and retain relevant evidence may constitute spoliation of evidence and result in an adverse inference or sanctions.

If you have any questions regarding the scope of your obligations to preserve evidence, please consult your legal counsel and always err on the side of caution. Periodic or regularly scheduled purges or deletions of information covered by this hold must be suspended immediately.

- CONCLUSION -

If the LWDA does not pursue enforcement, Plaintiff intends to bring representative claims on behalf of the State of California and the aggrieved employees seeking civil penalties for violations of the Labor Code and the IWC Wage Orders, along with attorneys' fees, costs, interest, and other appropriate relief.

Please advise if the LWDA intends to investigate any of the factual or legal allegations set forth in this notice. Defendants may contact Plaintiff's counsel with any questions regarding this letter or the forthcoming lawsuit.

Sincerely,

A handwritten signature in blue ink that reads "Nicholas J. Ferraro". The signature is written in a cursive, flowing style.

Nicholas J. Ferraro

REJ

Cc Plaintiff Saudia Richardson

Dr. Anissa McNeil

anissa@edworks4u.org