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

**SUPERIOR COURT OF KERN COUNTY**

CASSANDRA TAYLOR; LEILAH JOHNSON, as aggrieved employees,

Plaintiffs,

v.

STAR NURSING, INC.; STAR NURSING AGENCY, INC.; NANCY FROST; and DOES 1-20, inclusive

Defendants.

Case No: BCV-24-100072

**REPRESENTATIVE ACTION COMPLAINT**

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

[AMOUNT DEMANDED EXCEEDS $25,000.00]

Plaintiffs Cassandra Taylor and Leilah Johnson (collectively, "Plaintiffs"), as aggrieved employees, hereby allege the following facts and claims against Star Nursing, Inc., a California corporation; Star Nursing Agency, Inc., a California Corporation; Nancy Frost, an individual; and Does 1-20 (collectively, "Defendants").

## JURISDICTION AND VENUE

1. This Court has jurisdiction over Defendants because they are entities with sufficient minimum contacts in California, and/or because they intentionally availed themselves of the California market so as to render the exercise of jurisdiction over them by the California courts consistent with traditional notions of fair play and justice.

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

## PARTIES

3. At all relevant times mentioned herein, Plaintiff Cassandra Taylor ("Plaintiff Taylor") was a Certified Nursing Assistant and a resident of Texas.

4. At all relevant times mentioned herein, Plaintiff Leilah Johnson ("Plaintiff Johnson") was a Certified Nursing Assistant and a resident of Louisiana.

5. Upon information and belief, Defendant Star Nursing, Inc. is a staffing agency in the healthcare industry and is, and at all times mentioned herein was, a California corporation duly authorized to do business in California.

6. Upon information and belief, Defendant Star Nursing Agency, Inc. is a staffing agency in the healthcare industry and is, and at all times mentioned herein was, a California corporation duly authorized to do business in California.

7. The true names or capacities, whether individual, associate or otherwise, of Does 1-20, inclusive, are unknown to Plaintiffs and, therefore, Plaintiffs sue these doe defendants by such fictitious names. Plaintiffs will seek leave of this Court to amend this Complaint to allege such names and capacities as soon as they are ascertained. Upon information and belief, each of

these fictitiously named defendants is responsible in some manner for the occurrences alleged herein, and Plaintiffs' injuries and damages as alleged and set forth herein were proximately caused by such fictitiously named defendants.

8. Upon information and belief, Defendant Frost is, and at all relevant times mentioned herein was, an owner, managing agent, Director, President, Officer and/or Chief Executive Officer of Defendants Star Nursing, Inc. and Star Nursing Agency, Inc., and responsible for their operational, financial, personnel and/or administrative functions. Defendant Frost is personally liable for the claims alleged in this Complaint pursuant to Labor Code § 558.1, which provides that persons acting on behalf of an employer, including owners, officers, directors, and managing agents who violate or cause to be violated certain provisions of the Labor Code, are personally liable for such violations.

9. Upon information and belief, Defendant Frost is, in part, responsible for the creation, implementation, and/or granting final approval of the unlawful wage and hour policies and/or practices alleged herein. As the owner and/or managing agent of Defendants Star Nursing, Inc. and Star Nursing Agency, Inc., Defendant Frost also had substantial discretionary authority over the decisions that ultimately determined the unlawful wage and hour policies and/or practices alleged herein. Thus, Defendant Frost exercised ultimate control over such unlawful conduct either: (1) by knowingly authorizing them, or (2) with the knowledge that they were unlawful doing nothing to stop them, and thus ratifying them.

10. Upon information and belief, there is such a unity of interest and ownership between Defendants Star Nursing, Inc. and Star Nursing Agency, Inc., on the one hand, and Defendant Frost, on the other hand, that the separate personalities between them do not exist; and that, if the acts complained of herein are treated as those of Defendants Star Nursing, Inc. and/or Star Nursing Agency, Inc. alone, inequitable results will follow.

11. Upon information and belief, Plaintiffs allege that at all relevant times each of the defendants was the principal, agent, employer, employee, partner, joint venturer, officer, director, controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest and predecessor in interest of some or all of the other defendants, and was engaged with some or all

of the other defendants in a joint enterprise for profit, and bore such other relationships to some or all of the other defendants so as to be liable for the conduct of each of them.

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

13. Plaintiffs are bringing these claims under Private Attorneys General Act of 2004, Labor Code § 2698, et seq. ("PAGA") on behalf of themselves and all other non-exempt employees of Defendants who were assigned to work at a facility inside California and who were subject to at least one of the violations alleged herein during the applicable recovery period ("Aggrieved Employees"). Aggrieved Employees include Plaintiffs.

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

## **FACTUAL ALLEGATIONS**

15. Starting in or around February 2020, Defendants hired, paid, and assigned Plaintiff Taylor to work travel assignments as an hourly-paid, non-exempt Certified Nursing Assistant throughout California. Most recently, Defendants assigned Plaintiff Taylor to work an assignment at Burlingame Skilled Nursing facility in Burlingame, California from approximately

September 26, 2022 to October 29, 2022. Then, Defendants assigned Plaintiff Taylor to work another assignment at Golden Merced Care Center in Merced, California from approximately April 17, 2023 to May 20, 2023. After the end of said assignment, Plaintiff Taylor resigned from her employment with Defendants.

16. Starting in or around May 2022, Defendants hired, paid, and assigned Plaintiff Johnson to work travel assignments as an hourly-paid, non-exempt Certified Nursing Assistant throughout California. Defendants initially assigned Plaintiff Johnson to work an assignment at Westview Healthcare Center in Auburn, California from approximately May 27, 2022 to July 2, 2022. Then, Defendants assigned Plaintiff Johnson to work another assignment at Burlingame Skilled Nursing facility in Burlingame, California from approximately June 27, 2022 to July 30, 2022. On or about October 18, 2023, Plaintiff Johnson resigned from her employment with Defendants.

### I. Defendants' Failure to Pay All Overtime or Double Time Owed

17. Pursuant to Labor Code §§ 200, 226, 500, 510 and 1198 and the applicable California Industrial Welfare Commission Wage Orders ("Applicable Wage Orders") at all times relevant hereto, employers are required to compensate non-exempt employees for all worked overtime hours, which is calculated at one and one-half times the regular rate of pay for all hours worked in excess of 8 hours per day and/or 40 hours per week. Employers are also required to compensate non-exempt employees for all hours worked in excess of 12 hours in any workday at double their regular rate of pay.

18. Defendants, from time to time, failed to pay overtime rates for all overtime hours worked by their Aggrieved Employees. For instance, at times, when Aggrieved Employees worked back-to-back 8 hour shifts, Defendants, from time to time, did not pay these employees overtime or double time.

### II. Defendants' Failure to Take "Travel Stipends" into Account in Determining Overtime Rates

19. Under Labor Code § 200, "wages" consist of "all amounts for labor performed by employees of every description, whether the amount is fixed or ascertained by the standard of

time, task, piece, commission basis, or other method of calculation." In California, overtime is computed based on the regular rate of pay. The regular rate of pay includes many different kinds of remuneration, including hourly earnings, salary, piece work earnings, commissions, certain bonuses, and the value of meals and lodging.

20. During the applicable recovery period, Defendants have had a practice of failing to include the value of their "travel stipends," including meals, incidentals, and lodging, whether paid in cash or in kind, in their Aggrieved Employees' regular rates of pay when calculating overtime or double time wages. For instance, Plaintiff Taylor's employment agreement for the Golden Merced Care Center assignment, titled "Offer & Confirmation," provides:

> 'No-Cost Housing' will only be provided to you as a single occupancy. To qualify for this *incentive*, you must complete an average of 40hrs/wk. If you are unable to complete the weekly average number of hours, you hereby agree and acknowledge that a minimum fee of $100/day or the "Current Hotel Market Rate" per missed shift (or pro-rated amount) may be deducted from payroll. Please note current hotel market rates can be as high as $180+/night. Based on each occurrence review. It is important that you complete an average of 40hrs/wk. to receive the full benefits of 'No-Cost housing.'

(Emphasis added). Plaintiff Johnson's employment agreement for the Burlingame Skilled Nursing facility assignment, also titled "Offer & Confirmation," also contained similar language: "'No-Cost Housing' will be provided to you as a single occupancy only. To qualify for this *incentive*, you are required to complete an average of 40hrs/wk." (Emphasis added).

21. Thus, Defendants' "travel stipends" are not intended to reimburse their employees for their travel expenses, but are, in fact, a form of disguised wages. However, Defendants have had a practice of not including the value of those "travel stipends," including housing, meals and/or incidentals, whether paid in cash or in kind, in their employees' regular rate of pay in order to determine their proper overtime and double-time pay in violation of California law.

### III. Defendants' Failure to Pay Non-Discretionary Bonuses and Defendants' Failure to Take Them Into Account in Determining Overtime Rates

22. Non-discretionary bonuses are considered wages under Labor Code § 200, and thus, must be included in the regular rate of pay to determine the overtime and double rates of pay.

23. During the applicable recovery period, Defendants have, from time to time, not paid non-discretionary bonuses, such as completion bonuses, to Aggrieved Employees and whether they paid those bonuses or not, Defendants, from time to time, have failed to include earned non-discretionary bonuses as part of their Aggrieved Employees' regular rates of pay in determining their overtime or double-time pay.

**IV. Defendants' Failure to Pay On-Call Pay and Defendants' Failure to Take Them Into Account in Determining Overtime Rates**

24. On-call pay is considered wages under Labor Code § 200, and thus, must be included in the regular rate of pay to determine the overtime and double rates of pay.

25. During the applicable recovery period, Defendants have, from time to time, not paid earned on-call pay to Aggrieved Employees and whether they paid those the on-call pay or not, Defendants, from time to time, have failed to include earned on-call part as part of their Aggrieved Employees' regular rates of pay in determining their overtime or double-time pay.

**V. Defendants' Failure to Pay for All Hours Worked**

26. During the applicable recovery period, Defendants have, from time to time, required Aggrieved Employees to take and complete training/orientation courses (or modules), which are client-specific, without compensating them for such time.

27. Under California law, the time spent attending these training/orientation courses is compensable because, among other things, they are not voluntary and are directly related to employees' jobs as they are designed to make employees handle their jobs more effectively as opposed to training them for another job or a new or additional skill. By failing to compensate Aggrieved Employees for time spent reviewing and/or completing competency/ training/orientation courses (or modules) that are facility-specific, Defendants, from time to time, failed to pay these employees their promised rates of pay, or even minimum wage.

28. Moreover, Defendants, from time to time, have failed to compensate Aggrieved Employees for all their worked hours by engaging in improper rounding and auto-deduct practices with respect to meal breaks, so that when Aggrieved Employees worked during their supposed meal breaks, Defendants failed to pay them for such time.

### VI. Defendants' Failure to Authorize and/or Permit Lawful Meal or Rest Breaks

29. During the applicable recovery period, Defendants, from time to time, have not authorized or permitted Aggrieved Employees to take lawful meal or rest breaks under California law.

### VII. Defendants' Failure to Reimburse Necessary Business Expenditures

30. During the applicable recovery period, Defendants, from time to time, have failed to reimburse Aggrieved Employees for all necessary business-related expenses, including, but not limited to, the cost of using personal mobile phones for work purposes and the cost of vehicles Aggrieved Employees were required to rent to commute to work while traveling on assignment.

## FIRST CAUSE OF ACTION

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

**(Against Defendants)**

31. Plaintiffs hereby incorporate by reference all other allegations contained in this Complaint as though fully set forth herein.

32. Plaintiffs bring their first and only cause of action as a representative action on behalf of themselves and other Aggrieved Employees in the capacity as private attorneys general pursuant to the PAGA.

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

34. Defendants committed violations of the Labor Code against Plaintiffs and the Aggrieved Employees as alleged in this Complaint, including, but not limited to, the following:

a. Failed and continue to fail to pay overtime and the proper overtime rates for all overtime hours worked in violation of Labor Code §§ 510, 1194, and the applicable California Industrial Welfare Commission Wage Orders ("Applicable Wage Orders");

b. Failed to pay all wages earned and owed, including non-discretionary bonuses and on call pay, in violation of Labor Code § 200, and the Applicable Wage Orders;

c. Failed and continue to fail to pay minimum wage for all hours worked in violation of Labor Code §§ 1194 and 1197, and the Applicable Wage Orders;

d. Failed and continue to fail to authorize and/or permit meal periods in violation of Labor Code §§ 226.7, 512, and the Applicable Wage Orders;

e. Failed and continue to fail to authorize and/or permit rest periods in violation of Labor Code §§ 226.7, and the Applicable Wage Orders;

f. Failed and continue to fail to reimburse for all business-related expenditures in violation of Labor Code § 2802;

g. Failed and continue to fail to timely furnish itemized wage statements in violation of Labor Code § 226, and the Applicable Wage Orders; and

h. Willfully failed, and willfully continue to fail, to pay without abatement or reduction, all final wages owed in accordance with Labor Code §§ 201 and 202 and in violation of Labor Code § 203.

22. On October 16, 2023, Plaintiff Taylor sent a written notice to Defendants and the Labor and Workforce Development Agency ("LWDA") notifying them of the specific violations and the facts and theories supporting those violations. A true and correct copy of Plaintiff Taylor's written notices to Defendants and the LWDA are attached hereto as "Exhibit 1," which Plaintiffs incorporate by reference as though fully set forth herein. On November 1, 2023, Plaintiff Johnson sent a written notice to Defendants and the LWDA notifying them of the specific violations and the facts and theories supporting those violations. More than 60 days have passed since the date the notices were mailed to Defendants and the LWDA. A true and correct copy of Plaintiff Johnson's written notices to Defendants and the LWDA are attached hereto as "Exhibit 2," which Plaintiffs incorporate by reference as though fully set forth herein.

23. Plaintiffs, individually and on behalf of the Aggrieved Employees and the State of California, seek to recover all civil penalties and all underpaid wages allowed under Labor

Code §§ 558, 2698, 2699, 2699.3 and 2699.5 for which Defendants are liable as a result of their violations of the Labor Code during the applicable recovery period, all in an amount to be proven at trial. These include, but are not limited to, penalties pursuant to Labor Code § 210 for violations of Labor Code §§ 201, 202, 203 and 204; penalties pursuant to Labor Code § 226.3 for violations Labor Code § 226 and the Applicable Wage Orders; penalties and underpaid wages pursuant to Labor Code § 558, including an amount sufficient to recover underpaid wages due for violations of the Labor Code §§ 226.7 and 558 and the Applicable Wage Orders; and penalties pursuant to Labor Code § 1197.1 for violations Labor Code §§ 1182, 1182.12, and 1198 and the Applicable California Wage Orders.

## PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, individually and on behalf of all other Aggrieved Employees, and as private attorneys general, pray for relief and judgment against Defendants as follows:

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

Dated: January 5, 2024

Respectfully submitted,

**SHAKOURI LAW FIRM**

By: Ashkan Shakouri

Ashkan Shakouri
Sharon Lin
Attorneys for Plaintiffs

EXHIBIT 1

# SHAKOURI LAW FIRM
**Employment & Civil Litigation**

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October 16, 2023

**Via Online Filing:**
California Labor & Workforce
Development Agency

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

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

**Via Certified U.S. Mail:**
Star Nursing Agency, Inc.
2795 East Bidwell Street # 100-102
Folsom, CA 95630

Star Nursing, Inc.
2795 East Bidwell Street # 100-102
Folsom, CA 95630

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

Claimant: Cassandra Taylor
Employer: Star Nursing, Inc. & Star Nursing Agency, Inc.

Dear Sir or Madam:

Claimant Cassandra Taylor ("Claimant") has retained Ashkan Shakouri of Shakouri Law Firm to represent her, and all other aggrieved employees, for wage and hour claims against her former employers Star Nursing, Inc. and Star Nursing Agency, Inc. ("Employers").

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

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

Claimant is bringing these PAGA claims on behalf of herself and all other non-exempt employees of Employers who were assigned to work at a facility inside California and who were subject to at least one of the violations alleged herein during the applicable recovery period ("Aggrieved Employees"). Aggrieved Employees includes Claimant.

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

## Claimant's Employment with Employers

Starting in or around February 2020, Employers hired, paid and assigned Claimant to work travel assignments as an hourly-paid, non-exempt Certified Nursing Assistant throughout California. Most recently, Employers assigned Claimant to work an assignment at Burlingame Skilled Nursing facility in Burlingame, California from approximately September 26, 2022 to October 29, 2022. Then, Employers assigned Claimant to work another assignment at Golden Merced Care Center in Merced, California from approximately April 17, 2023 to May 20, 2023. After the end of said assignment, Claimant resigned from her employment with Employers. At times, Claimant worked overtime during her assignments for Employers.

## Employers' Failure to Pay All Overtime or Double Time Owed

Pursuant to Labor Code §§ 200, 226, 500, 510 and 1198 and the Applicable Wage Orders at all times relevant hereto, employers are required to compensate non-exempt employees for all worked overtime hours, which is calculated at one and one-half times the regular rate of pay for all hours worked in excess of 8 hours per day and/or 40 hours per week. Employers are also required to compensate non-exempt employees for all hours worked in excess of 12 hours in any workday at double their regular rate of pay.

Employers, from time to time, failed to pay overtime rates for all overtime hours worked by Aggrieved Employees. For instance, at times, when Aggrieved Employees worked back-to-back 8 hour shifts, Employers, from time to time, did not pay them overtime or double time.

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

**<u>Employers' Failure to Include "Travel Stipends" Into Account In Determining Overtime Rates</u>**

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

During the applicable recovery period, Employers have had a practice of failing to include the value of their travel stipends", including meals, incidentals, and lodging, whether paid in cash or in kind, in the Aggrieved Employees' regular rates of pay when calculating overtime or double time wages. For instance, Claimant's employment agreement for the Golden Merced Care Center assignment, titled "Offer & Confirmation," provides:

> 'No-Cost Housing' will only be provided to you as a single occupancy. To qualify for this *incentive*, you must complete an average of 40hrs./wk. If you are unable to complete the weekly average number of hours, you hereby agree and acknowledge that a minimum fee of $100/day or the ''Current Hotel Market Rate' per missed shift (or pro-rated amount) may be deducted from payroll. Please note current hotel market rates can be as high as $180+/night. Based on each occurrence review. It is important that you complete an average of 40hrs/wk. to receive the full benefits of 'No-Cost housing.'

(Emphasis added). Employers' "travel stipends" are not intended to cover Aggrieved Employees travel expenses, but, in fact, are a form of disguised wages.

Despite the fact that the amount of the promised "travel stipends" are based upon, and vary with, the number of weekly hours or shifts worked by Aggrieved Employees, and thus are actually a form of disguised wages, during the applicable recovery period Employers have had a practice of not including the value of those "travel stipends," including housing, meals and/or incidentals, whether paid in cash or in kind, in the Aggrieved Employees' regular rates of pay for the purposes of calculating their overtime or double time rates of pay.

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

**<u>Employers' Failure to Pay Earned Non-Discretionary Bonuses and Employers' Failure to Take Them Into Account in Determining Overtime Rates</u>**

Non-discretionary bonuses are considered wages under Labor Code § 200, and thus, must be included in the regular rate of pay to determine the overtime and double rates of pay. During the applicable recovery period, Employers have, from time to time, not paid non-discretionary bonuses, such as completion bonuses, to Aggrieved Employees and whether they paid those bonuses or not, Employers, from time to time, have failed to include earned non-discretionary bonuses as part of the Aggrieved Employees' regular rates of pay in determining their overtime or double-time pay.

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

**Employers' Failure to Pay Earned On-Call Pay and Employers' Failure to Take Them Into Account in Determining Overtime Rates**

On-call pay is considered wages under Labor Code § 200, and thus, must be included in the regular rate of pay to determine the overtime and double rates of pay. During the applicable recovery period, Employers have, from time to time, not paid earned on-call pay to Aggrieved Employees and whether they paid those the on-call pay or not, Employers, from time to time, have failed to include earned on-call part as part of the Aggrieved Employees' regular rates of pay in determining their overtime or double-time pay.

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

**Employers' Failure to Pay for All Hours Worked, Including Failure to Pay Minimum Wage**

In California, an employer is required to compensate its non-exempt employees for all hours worked pursuant to the Applicable Wage Orders and Labor Code §§ 200, 223, 226, 500, 510, 1197 and 1198. Furthermore, under Labor Code §§ 1194, 1194.2, and 1197, it is unlawful for an employer to suffer or permit a California employee to work without paying at least minimum wage for all time worked as required by the Applicable Wage Orders.

During the relevant period, Employers have, from time to time, required Aggrieved Employees to take and complete training/orientation courses (or modules), which are client-specific, without compensating them for such time. Under California law, the time spent attending these training/orientation courses is compensable because, among other things, they are not voluntary and are directly related to employees' jobs as they are designed to make employees handle their jobs more effectively as opposed to training them for another job or a new or additional skill. By failing to compensate Aggrieved Employees for time spent reviewing and/or completing competency/training/orientation courses (or modules) that are facility-specific, Employers, from time to time, failed to pay these Aggrieved Employees their promised rates of pay, or even minimum wage.

Moreover, Employers, from time to time, have failed to compensate Aggrieved Employees for all their worked hours by engaging in improper rounding and auto-deduct practices with respect to meal breaks, so that when Aggrieved Employees worked during their supposed meal breaks, Employers failed to pay them for such time.

In violation of California law, Employers have intentionally and willfully refused to perform their obligations to compensate Aggrieved Employees for all wages earned and all worked hours. As a direct result, they have suffered, and continue to suffer, substantial losses related to the use and enjoyment of such wages, lost interest on such unpaid wages, incurred expenses and attorneys' fees in seeking to compel Employers to fully perform their obligations under California law.

Employers' conduct described herein violates Labor Code §§ 200, 223, 226, 500, 1194, 1194.2, 1197 and 1198, and the Applicable Wage Orders. Therefore, pursuant to Labor Code §§ 203, 218.5, 226, 558, 1194 and 1194.2, Aggrieved Employees are entitled to recover damages for the nonpayment of wages of all their worked hours in addition to penalties, liquidated damages, reasonable attorneys' fees, expenses, and costs of suit.

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

**Employers' Failure to Authorize and/or Permit Meal Breaks**

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

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

During the applicable recovery period, Aggrieved Employees regularly worked in excess of 5-hour work periods without being authorized and/or permitted to take a lawful first and/or second meal break, as required by Labor Code §§ 226.7, 512 and the Applicable Wage Orders, due to, among other reasons, work overload and staffing shortages.

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

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

**Employers' Failure to Authorize and/or Permit Rest Breaks**

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

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

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

During the applicable recovery period, Aggrieved Employees regularly worked in excess of 4-hour work periods, or fractions thereof, without being authorized and/or permitted to take a lawful first, second, third, and/or fourth rest breaks, as required by Labor Code §§ 226.7 and the Applicable Wage Orders, due to, among other reasons, work overload and staffing shortages.

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

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

**Employers' Failure to Reimburse Necessary Business Expenditures**

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

During the applicable recovery period, Employers, from time to time, have failed to reimburse Aggrieved Employees for the cost of using their personal mobile phones for work purposes and the costs of vehicles the Aggrieved Employees were required to rent to commute to work while traveling on assignment.

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

**Employers' Failure to Pay Wages Due Upon Termination**

An employee who is discharged must be paid all of his or her wages, including accrued vacation, immediately at the time of termination. Labor Code §§ 201 and 227.3. Pursuant to Labor

Code § 202 (a), "[i]f an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter."

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

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

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

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

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

**Employers' Failure to Furnish Accurate Wage Statements**

During the relevant period, Employers, from time to time, have not furnished accurate wage statements not only because those wage statements fail to accurately display the amount of wages and premiums owed to Aggrieved Employees but also because such wage statements fail to accurately display the number of hours worked by them.

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

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

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

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

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

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

> The provisions of subdivision (a) of Section 2699.3 apply to any alleged violation of the following provisions: subdivision (k) of Section 96, Sections 98.6, 201, 201.3, 201.5, 201.7, 202, 203, 203.1, 203.5, 204, 204a, 204b, 204.1, 204.2, 205, 205.5, 206, 206.5, 208, 209, and 212, subdivision (d) of Section 213, Sections 221, 222, 222.5, 223, and 224, subdivision (a) of Section 226, Sections 226.7, 227, 227.3, 230, 230.1, 230.2, 230.3, 230.4, 230.7, 230.8, and 231, subdivision (c) of Section 232, subdivision (c) of Section 232.5, Sections 233, 234, 351, 353, and 403, subdivision (b) of Section 404, Sections 432.2, 432.5, 432.7, 435, 450, 510, 511, 512, 513, 551, 552, 601, 602, 603, 604, 750, 751.8, 800, 850, 851, 851.5, 852, 921, 922, 923, 970, 973, 976, 1021, 1021.5, 1025, 1026, 1101, 1102, 1102.5, and 1153, subdivisions (c) and (d) of Section 1174, Sections 1194, 1197, 1197.1, 1197.5, and 1198, subdivision (b) of Section 1198.3, Sections 1199, 1199.5, 1290, 1292, 1293, 1293.1, 1294, 1294.1, 1294.5, 1296, 1297, 1298, 1301, 1308, 1308.1, 1308.7, 1309, 1309.5, 1391, 1391.1, 1391.2, 1392, 1683, and 1695, subdivision (a) of Section 1695.5, Sections 1695.55, 1695.6, 1695.7, 1695.8, 1695.9, 1696, 1696.5, 1696.6, 1697.1, 1700.25, 1700.26, 1700.31, 1700.32, 1700.40, and 1700.47, paragraphs (1), (2), and (3) of subdivision (a) of, and subdivision (e) of, Section 1701.4, subdivision (a) of Section 1701.5, Sections 1701.8, 1701.10, 1701.12, 1735, 1771, 1774, 1776, 1777.5, 1811, 1815, 2651, and 2673, subdivision (a) of Section 2673.1, Sections 2695.2, 2800, 2801, 2802, 2806, and 2810, subdivision (b) of Section 2929, and Sections 3095, 6310, 6311, and 6399.7.

## **Conclusion**

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

Respectfully Submitted,

SHAKOURI LAW FIRM

Ashkan Shakouri

Ashkan Shakouri
Attorney for Claimant and all other
Aggrieved Employees

EXHIBIT 2

SHAKOURI LAW FIRM
**Employment & Civil Litigation**

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

November 1, 2023

**Via Online Filing:**
California Labor & Workforce
Development Agency

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

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

**Via Certified U.S. Mail:**
Star Nursing Agency, Inc.
2795 East Bidwell Street # 100-102
Folsom, CA 95630

Star Nursing, Inc.
2795 East Bidwell Street # 100-102
Folsom, CA 95630

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

Claimant: Leilah Johnson
Employer: Star Nursing, Inc. & Star Nursing Agency, Inc.

Dear Sir or Madam:

Claimant Leilah Johnson ("Claimant") has retained Ashkan Shakouri of Shakouri Law Firm to represent her, and all other aggrieved employees, for wage and hour claims against her former employers Star Nursing, Inc. and Star Nursing Agency, Inc. ("Employers").

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

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

Claimant is bringing these PAGA claims on behalf of herself and all other non-exempt employees of Employers who were assigned to work at a facility inside California and who were subject to at least one of the violations alleged herein during the applicable recovery period ("Aggrieved Employees"). Aggrieved Employees includes Claimant.

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

## Claimant's Employment with Employers

Starting in or around May 2022, Employers hired, paid, and assigned Claimant to work travel assignments as an hourly-paid, non-exempt Certified Nursing Assistant throughout California. Employers initially assigned Claimant to work an assignment at Westview Healthcare Center in Auburn, California from approximately May 27, 2022 to July 2, 2022. Then, Employers assigned Claimant to work another assignment at Burlingame Skilled Nursing facility in Burlingame, California from approximately June 27, 2022 to July 30, 2022. On or about October 18, 2023, Claimant resigned from her employment with Employers.

## Employers' Failure to Pay All Overtime or Double Time Owed

Pursuant to Labor Code §§ 200, 226, 500, 510 and 1198 and the Applicable Wage Orders at all times relevant hereto, employers are required to compensate non-exempt employees for all worked overtime hours, which is calculated at one and one-half times the regular rate of pay for all hours worked in excess of 8 hours per day and/or 40 hours per week. Employers are also required to compensate non-exempt employees for all hours worked in excess of 12 hours in any workday at double their regular rate of pay.

Employers, from time to time, failed to pay overtime rates for all overtime hours worked by Aggrieved Employees. For instance, at times, when Aggrieved Employees worked back-to-back 8 hour shifts, Employers, from time to time, did not pay them overtime or double time.

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

**<u>Employers' Failure to Include "Travel Stipends" Into Account In Determining Overtime Rates</u>**

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

During the applicable recovery period, Employers have had a practice of failing to include the value of their travel stipends", including meals, incidentals, and lodging, whether paid in cash or in kind, in the Aggrieved Employees' regular rates of pay when calculating overtime or double time wages. For instance, Claimant's employment agreement for the Burlingame Skilled Nursing assignment, titled "Offer & Confirmation," provides:

> 'No-Cost Housing' will be provided to you as a single occupancy only. To qualify for this *incentive*, you are required to complete an average of 40hrs/wk. (inclusive of any sick leave used under California Paid Sick Leave), provided that at least 40 hrs/wk. of work is provided to you by the facility. If you are unable to complete the weekly average number of hours, you hereby agree and acknowledge that a minimum fee of $100/day or the 'Current Hotel Market Rate' per missed 8 hr./shift (or pro-rated amount) may be deducted from payroll. Please note current hotel market rates can be as high as $180+/night. It is important that you complete an average of 40hrs/wk. to receive the full benefits of 'No-Cost housing'.

(Emphasis added). Employers' "travel stipends" are not intended to cover Aggrieved Employees travel expenses, but, in fact, are a form of disguised wages.

Despite the fact that the amount of the promised "travel stipends" are based upon, and vary with, the number of weekly hours or shifts worked by Aggrieved Employees, and thus are actually a form of disguised wages, during the applicable recovery period Employers have had a practice of not including the value of those "travel stipends," including housing, meals and/or incidentals, whether paid in cash or in kind, in the Aggrieved Employees' regular rates of pay for the purposes of calculating their overtime or double time rates of pay.

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

**Employers' Failure to Pay Earned Non-Discretionary Bonuses and Employers' Failure to Take Them Into Account in Determining Overtime Rates**

Non-discretionary bonuses are considered wages under Labor Code § 200, and thus, must be included in the regular rate of pay to determine the overtime and double rates of pay. During the applicable recovery period, Employers have, from time to time, not paid non-discretionary bonuses, such as completion bonuses, to Aggrieved Employees and whether they paid those bonuses or not, Employers, from time to time, have failed to include earned non-discretionary bonuses as part of the Aggrieved Employees' regular rates of pay in determining their overtime or double-time pay.

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

**Employers' Failure to Pay Earned On-Call Pay and Employers' Failure to Take Them Into Account in Determining Overtime Rates**

On-call pay is considered wages under Labor Code § 200, and thus, must be included in the regular rate of pay to determine the overtime and double rates of pay. During the applicable recovery period, Employers have, from time to time, not paid earned on-call pay to Aggrieved Employees and whether they paid those the on-call pay or not, Employers, from time to time, have failed to include earned on-call part as part of the Aggrieved Employees' regular rates of pay in determining their overtime or double-time pay.

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

**Employers' Failure to Pay for All Hours Worked, Including Failure to Pay Minimum Wage**

In California, an employer is required to compensate its non-exempt employees for all hours worked pursuant to the Applicable Wage Orders and Labor Code §§ 200, 223, 226, 500, 510, 1197 and 1198. Furthermore, under Labor Code §§ 1194, 1194.2, and 1197, it is unlawful for an employer to suffer or permit a California employee to work without paying at least minimum wage for all time worked as required by the Applicable Wage Orders.

During the relevant period, Employers have, from time to time, required Aggrieved Employees to take and complete training/orientation courses (or modules), which are client-specific, without compensating them for such time. Under California law, the time spent attending these training/orientation courses is compensable because, among other things, they are not voluntary and are directly related to employees' jobs as they are designed to make employees handle their jobs more effectively as opposed to training them for another job or a new or additional skill. By failing to compensate Aggrieved Employees for time spent reviewing and/or completing competency/training/orientation courses (or modules) that are facility-specific, Employers, from time to time, failed to pay these Aggrieved Employees their promised rates of pay, or even minimum wage.

Moreover, Employers, from time to time, have failed to compensate Aggrieved Employees for all their worked hours by engaging in improper rounding and auto-deduct practices with respect to meal breaks, so that when Aggrieved Employees worked during their supposed meal breaks, Employers failed to pay them for such time.

In violation of California law, Employers have intentionally and willfully refused to perform their obligations to compensate Aggrieved Employees for all wages earned and all worked hours. As a direct result, they have suffered, and continue to suffer, substantial losses related to the use and enjoyment of such wages, lost interest on such unpaid wages, incurred expenses and attorneys' fees in seeking to compel Employers to fully perform their obligations under California law.

Employers' conduct described herein violates Labor Code §§ 200, 223, 226, 500, 1194, 1194.2, 1197 and 1198, and the Applicable Wage Orders. Therefore, pursuant to Labor Code §§ 203, 218.5, 226, 558, 1194 and 1194.2, Aggrieved Employees are entitled to recover damages for the nonpayment of wages of all their worked hours in addition to penalties, liquidated damages, reasonable attorneys' fees, expenses, and costs of suit.

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

**<u>Employers' Failure to Authorize and/or Permit Meal Breaks</u>**

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

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

During the applicable recovery period, Aggrieved Employees regularly worked in excess of 5-hour work periods without being authorized and/or permitted to take a lawful first and/or second meal break, as required by Labor Code §§ 226.7, 512 and the Applicable Wage Orders, due to, among other reasons, work overload and staffing shortages.

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

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

**Employers' Failure to Authorize and/or Permit Rest Breaks**

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

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

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

During the applicable recovery period, Aggrieved Employees regularly worked in excess of 4-hour work periods, or fractions thereof, without being authorized and/or permitted to take a lawful first, second, third, and/or fourth rest breaks, as required by Labor Code §§ 226.7 and the Applicable Wage Orders, due to, among other reasons, work overload and staffing shortages.

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

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

**Employers' Failure to Reimburse Necessary Business Expenditures**

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

During the applicable recovery period, Employers, from time to time, have failed to reimburse Aggrieved Employees for the cost of using their personal mobile phones for work purposes and the costs of vehicles the Aggrieved Employees were required to rent to commute to work while traveling on assignment.

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

**Employers' Failure to Pay Wages Due Upon Termination**

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

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

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

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

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

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

**Employers' Failure to Furnish Accurate Wage Statements**

During the relevant period, Employers, from time to time, have not furnished accurate wage statements not only because those wage statements fail to accurately display the amount of wages and premiums owed to Aggrieved Employees but also because such wage statements fail to accurately display the number of hours worked by them.

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

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

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

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

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

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

> The provisions of subdivision (a) of Section 2699.3 apply to any alleged violation of the following provisions: subdivision (k) of Section 96, Sections 98.6, 201, 201.3, 201.5, 201.7, 202, 203, 203.1, 203.5, 204, 204a, 204b, 204.1, 204.2, 205, 205.5, 206, 206.5, 208, 209, and 212, subdivision (d) of Section 213, Sections 221, 222, 222.5, 223, and 224, subdivision (a) of Section 226, Sections 226.7, 227, 227.3, 230, 230.1, 230.2, 230.3, 230.4, 230.7, 230.8, and 231, subdivision (c) of Section 232, subdivision (c) of Section 232.5, Sections 233, 234, 351, 353, and 403, subdivision (b) of Section 404, Sections 432.2, 432.5, 432.7, 435, 450, 510, 511, 512, 513, 551, 552, 601, 602, 603, 604, 750, 751.8, 800, 850, 851, 851.5, 852, 921, 922, 923, 970, 973, 976, 1021, 1021.5, 1025, 1026, 1101, 1102, 1102.5, and 1153, subdivisions (c) and (d) of Section 1174, Sections 1194, 1197, 1197.1, 1197.5, and 1198, subdivision (b) of Section 1198.3, Sections 1199, 1199.5, 1290, 1292, 1293, 1293.1, 1294, 1294.1, 1294.5, 1296, 1297, 1298, 1301, 1308, 1308.1, 1308.7, 1309, 1309.5, 1391, 1391.1, 1391.2, 1392, 1683, and 1695, subdivision (a) of Section 1695.5, Sections 1695.55, 1695.6, 1695.7, 1695.8, 1695.9, 1696, 1696.5, 1696.6, 1697.1, 1700.25, 1700.26, 1700.31, 1700.32, 1700.40, and 1700.47, paragraphs (1), (2), and (3) of subdivision (a) of, and subdivision (e) of, Section 1701.4, subdivision (a) of Section 1701.5, Sections 1701.8, 1701.10, 1701.12, 1735, 1771, 1774, 1776, 1777.5, 1811, 1815,

2651, and 2673, subdivision (a) of Section 2673.1, Sections 2695.2, 2800, 2801, 2802, 2806, and 2810, subdivision (b) of Section 2929, and Sections 3095, 6310, 6311, and 6399.7.

**Conclusion**

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

Respectfully Submitted,

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