

Dorota A. James (State Bar No. 309933)
Nicolas P. Ahadzadeh (State Bar No. 365386)
Nicholas J. Ferraro (State Bar No. 306528)
Ferraro Vega Employment Lawyers, Inc.
3333 Camino del Rio South, Suite 300
San Diego, California 92108
(619) 693-7727 main / (619) 350-6855 fax
dorota@ferrarovega.com
npa@ferrarovega.com
nick@ferrarovega.com

Attorneys for Plaintiff Jose Carrasco

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

JOSE CARRASCO, on behalf of others similarly
situated and the State of California under the
Private Attorneys General Act,

Plaintiffs,

vs.

VARSITY TEAM INC. and DOES 1 through 50,
inclusive,

Defendants.

Case No. 26CU038282C

Hon. Judy S. Bae
Dept. C-62

CLASS ACTION

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT**

1. Failure to Pay All Wages Owed
2. Failure to Pay All Overtime Wages
3. Meal Period Violations
4. Rest Period Violations
5. Paid Sick Leave Violations
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 JOSE CARRASCO, on behalf of all others similarly situated and the State of
2 California under the Private Attorneys General Act (“Plaintiff”) brings this FIRST AMENDED
3 CLASS AND REPRESENTATIVE ACTION COMPLAINT against Defendants VARSITY TEAM
4 INC. and DOES 1 through 50, inclusive (collectively “Defendants”), alleging as follows:

5 **INTRODUCTION**

6 1. This is a class action for wage and hour violations of the California Labor Code.

7 2. Defendants failed to pay Plaintiff and the putative class members at the lawful
8 minimum wage rate for all hours worked, resulting in unpaid minimum wages.

9 3. Defendants failed to pay Plaintiff and the putative class members overtime wages and
10 the lawful rate of pay for overtime hours worked, resulting in unpaid overtime wages.

11 4. Defendants’ underpayment of wages was facilitated by their company-wide practice of
12 requiring off-the-clock work, including unpaid training.

13 5. Defendants failed to comply with California’s paid sick leave laws with respect to
14 Plaintiff and the putative class members.

15 6. Defendants failed to provide, authorize, and/or permit Plaintiff and the putative class
16 members to take compliant meal periods and rest periods to which they were entitled. Further,
17 Defendants failed to pay meal period premiums or rest period premiums.

18 7. Defendants failed to reimburse Plaintiff and the putative class members for work-
19 related costs incurred as a direct consequence of their job duties.

20 8. Defendants’ employment policies, practices, and payroll administration systems
21 enabled and facilitated these violations on a company-wide basis with respect to the putative class
22 members.

23 9. Defendants are further liable for derivative claims for wage statements, untimely
24 payment, and other associated violations.

25 10. Plaintiff seeks to recover the underpaid damages, plus associated penalties, interests,
26 attorney’s fees, and costs.

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12. The monetary damages and restitution sought exceed the minimal jurisdiction limits of the Superior Court.

14. Venue is proper in this Court under Code of Civil Procedure sections 393(a), 395, and/or 395.5 because, upon information and belief, Defendants conducted business and committed some of the alleged violations in this County.

A. Plaintiff Jose Carrasco

16. 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.”]). To the extent permitted by law, including pursuant *Balderas v. Fresh Start Harvesting, Inc.* (2024) 101 Cal. App. 5th 533 and *Rodriguez v. Packers Sanitation Services Ltd., LLC* (2025) 109 Cal.App.5th 69, the PAGA claim is brought exclusively as a representative action and does not include arbitrable claims.

17. Defendant Varsity Team Inc. is a California nonprofit corporation that maintains operations and conducts business throughout the State of California, including in this county.

18. 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.

19. 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.

20. 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.

21. 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

22. 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 prior to the filing of this action through date of class certification.

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

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

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

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

13 c. Adequacy: Plaintiff is an adequate class representative; will take all necessary
14 steps to protect the class members' interests adequately and fairly; has no
15 interest antagonistic to other class members; and is represented by attorneys
16 who have substantial experience prosecuting, defending, resolving, and
17 litigating wage and hour class, collective, and representative actions in
18 California state and federal courts.

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

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

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

GENERAL ALLEGATIONS

26. Plaintiff and the putative class members worked for Defendants as non-exempt employees and were compensated on an hourly basis.

27. Defendants failed to pay Plaintiff and the putative class members at the lawful minimum wage rate for all hours worked, resulting in unpaid minimum wages.

28. Plaintiff and the putative class members were subject to a rigid, manual paper timesheet tracking system where no subsequent adjustments or corrections could be made to reflect true hours worked.

29. In addition, Defendants required Plaintiff and the putative class members to only record scheduled time worked as opposed to actual time worked. Specifically, Plaintiff's shifts were typically scheduled to end at 10:00 PM, so Plaintiff was required to record that as the end of his shift regardless of when his shift actually ended. Incoming relief coverage was explicitly scheduled to arrive at 10:00 PM to facilitate an orderly changeover, so employees could depart at their scheduled time. However, incoming relief staff members consistently arrived late.

30. Because state licensing regulations and internal corporate directives strictly prohibit leaving vulnerable, at-risk residential youth unsupervised at any time, Plaintiff and the putative class members were legally mandated to remain on active duty to preserve mandatory supervisor-to-client ratios. This restrictive policy forced Plaintiff and the putative class members to wait between thirty minutes and a full hour completely clocked out while actively rendering care, supervising residents, and waiting for the incoming shift to arrive and take over.

31. Because timesheet metrics were restricted by a manual paper system, Defendants' management refused to permit adjustments or corrections when incoming staff arrived late, causing this critical safety coverage to go entirely unpaid. Plaintiff was subjected to this uncompensated post-shift waiting time approximately twice a week throughout his employment.

1 32. In addition to these shift-relief holdovers, Defendants systematically required Plaintiff
2 and the putative class members to perform substantial blocks of mandatory operational labor
3 completely off-the-clock. Upon hire, Plaintiff was forced to complete a standardized compliance and
4 shadow training program over a span of a few months, totaling fourteen hours of mandatory initial
5 labor, completely off-the-clock.

6 33. Furthermore, Defendants' management routinely required Plaintiff and the putative
7 class members to attend mandatory corporate case management meetings via Zoom outside of their
8 scheduled shifts; these off-the-clock Zoom meetings lasted one hour per session and pertained to client
9 care.

10 34. Defendants also expanded shift obligations to accommodate community client
11 activities without tracking or compensating the extra labor. For example, on Saturday, December 13,
12 2025, management explicitly instructed Plaintiff to attend a wrestling tournament from 10:00 AM to
13 11:45 AM to act as "support" for a residential client. Plaintiff was denied minimum wage
14 compensation for these hours of direct client care before clocking in for his regularly scheduled shift
15 at 12:00 PM. Plaintiff alleges, based on information and belief, that this was a matter of common
16 policy and practice.

17 35. Defendants failed to pay Plaintiff and the putative class members overtime wages and
18 the lawful rate of pay for overtime hours worked, resulting in unpaid overtime wages. As stated above,
19 Defendants regularly failed to compensate Plaintiff and the putative class members for time worked
20 off-the-clock while waiting for incoming shift, completing training programs, and attending
21 community events. These policies and practices often resulted in more than 8 hours worked in a day
22 or more than 40 hours worked in a week. As a result, Defendants failed to pay Plaintiff and the putative
23 class members for all overtime hours worked.

24 36. Defendants failed to comply with California's paid sick leave laws with respect to
25 Plaintiff and the putative class members. Because Defendants failed to record and pay for all hours
26 that Plaintiff and the putative class members worked, Defendants failed to credit them with all paid
27 sick leave hours that they actually accrued.

1 37. Additionally, each time Plaintiff and the putative class members worked off-the-clock,
2 resulting in unpaid overtime, the overtime hours they actually worked were not accounted for when
3 calculating an employee's accrued paid sick leave. Therefore, Plaintiff and the putative class members
4 were not awarded the total accrued sick leave they earned.

5 38. Due to the continuous direct-care nature of Defendants' group home facilities and
6 understaffing these facilities, Plaintiff and the putative class members were systematically denied
7 compliant, uninterrupted, unpaid 30-minute meal periods. Plaintiff was forced to work through his
8 meal periods approximately 85% of his shifts because residential clients could not legally or safely be
9 left unsupervised, and there was not enough coverage provided by Defendants for another employee
10 to take over Plaintiff's clients.

11 39. Furthermore, Defendants' management explicitly prohibited direct-care staff from
12 eating the meals prepared for the residents, violating their own internal corporate pledge and handbook
13 policy to provide staff with free matching meals during shared mealtimes. Plaintiff states that this was
14 a common practice amongst him and other putative class members.

15 40. Defendants maintained an unlawful corporate policy and institutional practice of failing
16 to authorize and permit compliant, off-duty rest periods. As explicitly delineated in Defendants'
17 updated Personnel Policy, management declared that "under Industrial Welfare Commission Order
18 No. 5-2001, Chapter 11(e) and Chapter 12(c) ... both meals and breaks are considered 'on duty'." This
19 policy is facially unlawful to the extent it applies to employees who were not in sole charge of the
20 residents. Under this unlawful policy, Plaintiff and the putative class members were mandated to
21 remain inside the facility at all times during rest periods to visually observe residents and remain on
22 active alert to handle behavioral crises, even if they were not in sole charge of the residents.

23 41. Because Plaintiff was structurally deemed "on-duty" and continuously forced to remain
24 engaged with clients, Plaintiff was nearly completely denied the opportunity to take uninterrupted 10-
25 minute rest periods free from employer control approximately 95% of the time. Plaintiff observed that
26 this standard condition of employment applied to every single coworker on his team.

27 42. Whenever Defendants failed to provide a compliant rest period, Plaintiff was entitled
28 to one additional hour of pay at his regular rate of compensation as a rest period premium. Defendants

1 systematically failed to pay the required one full hour of premium compensation for these pervasive
2 violations.

3 43. Because Defendants failed to pay all wages and premiums in each pay period in which
4 such wages were earned at the lawful rate, Defendants violated Labor Code section 204 and/or 204b
5 (for weekly employees, as applicable). Defendants violated Labor Code sections 204 and 204b by
6 failing to pay all wages and premiums owed on the regular pay days scheduled each pay period within
7 seven calendar days of the close of the payroll period, as a result of the policies and practices set forth
8 in this notice.

9 44. Defendants failed to provide accurate itemized wage statements to the putative class
10 member each pay period as a result of the policies and practices set forth in this notice. Defendants
11 violated Labor Code section 226(a)(1) and (5) by not listing the correct “gross wages earned” or “net
12 wages earned,” as the employees earned wages and premiums that were not paid, resulting in an
13 inaccurate reflection, and recording of “gross wages earned” on those wage statements.

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

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

26 47. Defendants required Plaintiff and the putative class members to incur costs for work-
27 related purposes without full reimbursement. In direct consequence of their job duties, Plaintiff and
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1 the putative class members unavoidably and necessarily incurred these losses, expenditures, costs, and
2 as a matter of policy and practice.

3 48. For example, Plaintiff used his personal cell phone to communicate directly with
4 corporate administrators and facility supervisors, coordinate operational shift schedules, arrange
5 necessary client “pick-ups”, and maintain ongoing contact with residential clients. Plaintiff was not
6 reimbursed for the costs of using his personal cell phone for work-related purposes.

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

10 **FIRST CAUSE OF ACTION**

11 **FAILURE TO PAY ALL WAGES OWED**

12 **Violation of Labor Code §§ 200, 218, 1194, 1194.2 and 1197**

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

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

15 51. This cause of action is brought pursuant to the IWC Wage Orders and Labor Code
16 §§ 200, 218, 1182.12, 1194, 1194.2, 1197, 1197.1 and 1198 and the IWC Wage Orders (the “Hours
17 and Days of Work” and “Minimum Wages” sections of the applicable orders), which require non-
18 exempt employees be timely paid at least the state or local minimum wage (if higher) for each hour of
19 work, and further provide a private right of action for an employer’s failure to pay all minimum wages
20 (plus liquidated damages). In addition to minimum wages, Labor Code § 200 states that “‘wages’
21 includes all amounts for labor performed by employees of every description, whether the amount is
22 fixed or ascertained by the standard of time, task, piece, commission basis, or other method of
23 calculation.”

24 52. Defendants willfully failed in their affirmative obligation to pay Plaintiff and class
25 members at least the lawful minimum wage for each hour worked in violation of Labor Code sections
26 1182.12, 1194, 1194.2, 1197, 1197.1 and 1198 and the IWC Wage Orders (the “Hours and Days of
27 Work” and “Minimum Wages” sections of the applicable orders), including payment at the lawful
28 local and county minimum wage ordinances in effect. As a result, Defendants are liable for all

1 associated damages, including liquidated damages for the minimum wage violations pursuant to Labor
2 Code § 1194.2.

3 53. Defendants' unlawful acts and omissions deprived Plaintiff and class members of
4 minimum, regular and overtime wages in amounts to be determined at trial. Plaintiff and class
5 members are entitled to recover the full amount of the unpaid wages, plus liquidated damages in an
6 amount equal to the wages unlawfully unpaid (and interest thereon), in addition to interest, attorneys'
7 fees, and costs to the extent permitted by law, including under Labor Code sections 1194 and 1194.2,
8 218.6 and any other applicable statutes.

9 **SECOND CAUSE OF ACTION**

10 **FAILURE TO PAY ALL OVERTIME WAGES**

11 **Violation of Labor Code §§ 510 and 1194**

12 54. All outside paragraphs of this Complaint are incorporated into this section.

13 55. This cause of action is brought pursuant to the IWC Wage Orders and Labor Code
14 §§ 204, 510, 558, 1194, and 1198, which require non-exempt employees be timely paid overtime
15 wages all overtime hours worked, and which further provide a private right of action for an employer's
16 failure to pay all overtime compensation for overtime hours worked.

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

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

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1 64. This cause of action is brought pursuant to the IWC Wage Orders and Labor Code
2 §§ 226.7 and 516, which require non-exempt employees be authorized to take complaint rest periods
3 (or rest period premiums in lieu thereof), and which further provide a private right of action for an
4 employer’s failure to lawfully provide all rest periods and/or pay rest period premiums at the lawful
5 regular rate of compensation.

6 65. Defendants willfully failed in their affirmative obligation to consistently authorize and
7 permit Plaintiff and class members to receive compliant, duty-free rest periods of not less than ten
8 (10) minutes for every four hours worked (or major fraction thereof) in violation of Labor Code
9 sections 226.7, 516, 558, and 1198 and the IWC Wage Orders (the “Rest Periods” sections of the
10 applicable orders).

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

15 **FIFTH CAUSE OF ACTION**

16 **FAILURE TO PAY ALL PAID SICK LEAVE WAGES**

17 **Violation of Labor Code §§ 200, 218, 246 *et seq.***

18 67. All outside paragraphs of this Complaint are incorporated into this section.

19 68. Defendants knowingly and intentionally failed in their affirmative obligation to pay
20 sick leave wages to Plaintiff and a paid sick leave subclass in violation of Labor Code section 246
21 *et seq.* Paid sick leave earnings constitute wages for purposes of California wage and hour law.
22 (*Murphy v. Kenneth Cole Productions, Inc.* (2007) 40 Cal.4th 1094, 1103 [“Courts have recognized
23 that ‘wages’ also include those benefits to which an employee is entitled as a part of his or her
24 compensation, including money, room, board, clothing, vacation pay, and sick pay”].)

25 69. Labor Code section 246(l), in conjunction with Labor Code section 248 *et seq.*, 248.1,
26 248.2, and 248.6, in addition to the applicable County sick pay ordinances in locales worked by class
27 members, govern how Defendants were required to calculate paid sick leave.
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70. Defendants failed to pay Plaintiff and class members their paid sick leave wages at one of the lawful rates set forth in the statute or ordinance because Defendants failed to include in their sick leave calculation the additional remuneration received by Plaintiff and class members (i.e., at the regular rate of pay and/or calculated based on total wages earned).

71. As a result, Defendants violated the Labor Code and are liable to Plaintiff and class members for underpaid sick leave wages, in addition to interest, attorneys' fees, and costs.

SIXTH CAUSE OF ACTION

UNTIMELY PAYMENT OF WAGES

Violation of Labor Code §§ 204, 210, 218

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

73. This cause of action is brought pursuant to the IWC Wage Orders and Labor Code §§ 204, 204b, and 210 which require non-exempt employees be timely paid all wages owed each pay period, and which further provide a private right of action for an employer's failure to comply with this obligation. Labor Code § 218 authorizes individuals to sue directly for wages and penalties due under these sections, including Labor Code § 210(c)'s statutory late payment penalties.

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

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

1 **SEVENTH CAUSE OF ACTION**

2 **WAGE STATEMENT VIOLATIONS**

3 **Violation of Labor Code § 226**

4 76. All outside paragraphs of this Complaint are incorporated into this section.

5 77. This cause of action is brought by a wage statement subclass pursuant to Labor Code
6 § 226(a) which requires non-exempt employees be provided accurate itemized wage statements each
7 pay period, and which further provide a private right of action for an employer's failure to comply
8 with this obligation.

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

13 79. Defendants' unlawful acts and omissions deprived Plaintiff and class members of
14 accurate itemized wage statements, causing confusion and concealing wage and premium
15 underpayments.

16 80. As a result, Plaintiff and class members are entitled to recover the statutory penalty of
17 \$50 per employee for the initial pay period in which a violation occurred and \$100 per employee for
18 each violation in a subsequent pay period, up to an aggregate penalty of \$4,000 per employee, in
19 addition to interest, attorneys' fees, and costs to the extent permitted by law, including under Labor
20 Code section 226(e).

21 **EIGHTH CAUSE OF ACTION**

22 **WAITING TIME PENALTIES**

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

24 81. All outside paragraphs of this Complaint are incorporated into this section.

25 82. This cause of action is brought by a waiting time subclass pursuant to Labor Code
26 §§ 201 through 203, which require an employer to timely pay all wages earned upon termination of
27 employment, and which further provide a private right of action to recover statutory waiting time
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penalties each day an employer fails to comply with this obligation, up to a maximum of 30 days wages.

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

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

NINTH CAUSE OF ACTION

FAILURE TO REIMBURSE BUSINESS EXPENSES

Violation of Labor Code § 2802

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

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

87. Defendants' unlawful acts and omissions deprived Plaintiff and class members of lawful reimbursements for business expenses in amounts to be determined at trial. Plaintiff and class members are entitled to recover the amount unreimbursed expenses of Plaintiff and class members in addition to interest, attorneys' fees, and costs to the extent permitted by law, including under Labor Code section 2802.

TENTH CAUSE OF ACTION

UNFAIR COMPETITION

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

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

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

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

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

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

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

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

95. 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.*:

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

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

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

10 98. Labor Code section 2699(a) provides: “Notwithstanding any other provision of law,,
11 any provision of this code that provides for a civil penalty to be assessed and collected by the Labor
12 and Workforce Development Agency or any of its departments, divisions, commissions, boards,
13 agencies, or employees, for a violation of this code, may, as an alternative, be recovered through a civil
14 action brought by an aggrieved employee on behalf of the employee and other current or former
15 employees against whom a violation of the same provision was committed pursuant to the procedures
16 specified in Section 2699.3. “

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

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

22 101. On or about **July 10, 2026**, Plaintiff paid the requisite PAGA filing fee and provided
23 written notice (by online electronic filing with the LWDA and by certified mail to Defendants) of
24 Defendants’ alleged Labor Code violations, including the facts and theories to support the alleged
25 violations.

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

1 103. To date, neither Plaintiff nor Plaintiff's counsel has received a response to Plaintiff's
2 written PAGA notice from the LWDA.

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

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

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

- 13 a. ***Unpaid Hours Worked/Minimum Wage.*** Violation of Labor Code §§ 1194,
14 1197, 1198; IWC Wage Orders.
- 15 b. ***Unpaid Overtime.*** Violation of Labor Code §§ 510, 1194, 1198; IWC Wage
16 Orders.
- 17 c. ***Unpaid Paid Sick Leave.*** Violation of Labor Code §§ 246 through 248.7.
- 18 d. ***Unpaid Meal Period Premium Wages.*** Violation of Labor Code §§ 226.7, 512,
19 1198; IWC Wage Orders.
- 20 e. ***Unpaid Rest Period Premium Wages.*** Violation of Labor Code §§ 226.7, 516,
21 1198; IWC Wage Orders.
- 22 f. ***Untimely Payment of Wages During Employment.*** Violation of Labor Code
23 §§ 204, 204b, 210.
- 24 g. ***Non-Compliant Wage Statements.*** Violation of Labor Code §§ 226, 226.3.
- 25 h. ***Unreimbursed Employee Expenses.*** Violation of Labor Code §§ 2802, 2804.
- 26 i. ***Failure to Maintain Accurate Records.*** Violation of Labor Code § 1174; IWC
27 Wage Orders.

107. 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(k).

PRAAYER

Plaintiff prays for judgment as follows:

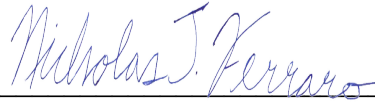
- a. For certification of this action as a class action;
- b. For appointment of Plaintiff as the class representative;
- c. For appointment of above-captioned counsel for Plaintiff as Class Counsel;
- d. For division of class members into appropriate classes and/or subclasses according to proof;
- e. For recovery of all statutory penalties and liquidated damages;
- f. For disgorgement of all amounts wrongfully obtained to the extent permitted by law;
- g. For restitution and injunctive relief;
- h. For attorneys' fees and costs of suit, including expert fees, to the extent permitted by law, including (without limitation) under Labor Code §§ 218.5, 226, 1194, 2802 and Code of Civil Procedure § 1021.5.
- i. For recovery of damages in amount according to proof;
- j. For all recoverable pre- and post-judgment interest;
- k. For this action to be maintained as a representative action under the PAGA;
- l. For Plaintiff and counsel of record to be provided with all enforcement capability as if the action were brought by the State of California or the California Division of Labor Enforcement;
- m. For recovery of all civil penalties and other recoverable amounts under the PAGA;
- n. For reasonable attorneys' fees and costs of suit, including expert fees, to the extent permitted by law, associated with the PAGA claims pursuant to Labor Code § 2699, and Code of Civil Procedure section 1021.5 and any other applicable sections; and

///

1 o. For such other relief the Court deems just and proper.

2
3 Dated: September 17, 2026

Ferraro Vega Employment Lawyers, Inc.

4
5 

6 Dorota A. James

7 Nicolas P. Ahadzadeh

8 Nicholas J. Ferraro

9 *Attorneys for Plaintiff Jose Carrasco*

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
3333 Camino del Rio South, Suite 300
San Diego, California 92108

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

July 9, 2026

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

VIA CERTIFIED U.S. MAIL

- Electronic Return Receipt -

Varsity Team Inc.
PO BOX 26633
San Diego, CA 92196

Varsity Team Inc.
3914 Murphy Canyon Road Suite A227
San Diego, CA 92123

- 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 **JOSE CARRASCO** (“Plaintiff(s)”) and all other “covered employees” of the following “Defendant(s)”:

VARSITY TEAM INC.

Defendants 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.5th 73, 79. Plaintiff maintains standing to pursue these claims against Defendants as an aggrieved employee.

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(s). 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 Child Care Worker from about June 2025 to present. During their employment Plaintiff and the other covered (i.e., 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 "covered employees" and the "PAGA Period"). As defined, these covered current and former employees are "aggrieved employees" under PAGA.

Plaintiff reserves the right to expand or narrow the definition of the "covered 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 covered 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 covered employees at the lawful minimum wage rate for all hours worked, resulting in unpaid minimum wages. Plaintiff and the covered employees were subject to a rigid, manual paper timesheet tracking system where no subsequent adjustments or corrections could be made to reflect true hours worked. In addition, Defendants required Plaintiff and the covered employees to only record scheduled time worked as opposed to actual time worked. Specifically, Plaintiff's shifts were typically scheduled to end at 10:00 PM, so Plaintiff was required to record that as the end of his shift regardless of when his shift actually ended. Incoming relief coverage was explicitly scheduled to arrive at 10:00 PM to facilitate an orderly changeover, so employees could depart at their scheduled time. However, incoming relief staff members consistently arrived late. Because state licensing regulations and internal corporate directives strictly prohibit leaving vulnerable, at-risk residential youth unsupervised at any time, Plaintiff and the covered employees were legally mandated to remain on active duty to preserve mandatory supervisor-to-client ratios. This restrictive policy forced Plaintiff and the covered employees to wait between thirty minutes and a full hour completely clocked out while actively rendering care, supervising residents, and waiting for the incoming shift to arrive and take over. Because timesheet metrics were restricted by a manual paper system, Defendants' management refused to permit adjustments or corrections when incoming staff arrived late, causing this critical safety coverage to go entirely unpaid. Plaintiff was subjected to this uncompensated post-shift waiting time approximately twice a week throughout his employment.

In addition to these shift-relief holdovers, Defendants systematically required Plaintiff and the covered employees to perform substantial blocks of mandatory operational labor

completely off-the-clock. Upon hire, Plaintiff was forced to complete a standardized compliance and shadow training program over a span of a few months, totaling fourteen hours of mandatory initial labor, completely off-the-clock. Furthermore, Defendants' management routinely required Plaintiff and the covered employees to attend mandatory corporate case management meetings via Zoom outside of their scheduled shifts; these off-the-clock Zoom meetings lasted one hour per session and pertained to client care.

Defendants also expanded shift obligations to accommodate community client activities without tracking or compensating the extra labor. For example, on Saturday, December 13, 2025, management explicitly instructed Plaintiff to attend a wrestling tournament from 10:00 AM to 11:45 AM to act as "support" for a residential client. Plaintiff was denied minimum wage compensation for these hours of direct client care before clocking in for his regularly scheduled shift at 12:00 PM. Plaintiff alleges, based on information and belief, that this was a matter of common policy and practice.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the covered employees, up to the maximum amount allowed as set forth under the Labor Code.

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 covered 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 covered employees overtime wages and the lawful rate of pay for overtime hours worked, resulting in unpaid overtime wages. As stated in the "Unpaid Hours Worked" section above, Defendants regularly failed to compensate Plaintiff

and the covered employees for time worked off-the-clock while waiting for incoming shift, completing training programs, and attending community events.

These policies and practices often resulted in more than 8 hours worked in a day or more than 40 hours worked in a week. As a result, Defendants failed to pay Plaintiff and the covered employees for all overtime hours worked.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the covered employees, up to the maximum amount allowed as set forth under the Labor Code.

Unpaid Paid Sick Leave **Violation of Labor Code §§ 246 through 248.7**

Defendants violated Labor Code sections 246 through 248.7 with respect to the covered employees.

Labor Code section 246 requires employers to provide paid sick leave to its workforce on the terms set forth in the statute. Employers must comply with the accrual, use, and notice provisions of Labor Code sections 246, 246.5, 247, and must further ensure that they maintain the paid sick leave records required by Labor Code section 247.5. Employers have the option of providing 40 hours of paid sick leave to employees or to allow employees to accrue paid sick leave each pay period. If an employer chooses the accrual method, employees must accrue sick leave at a rate of one hour for every thirty hours worked in a given pay period as set forth in Labor Code section 246(b)(1). Under the accrual method, employees must begin accruing paid sick leave at the commencement of employment.

Employers must pay sick leave in accordance with one of the three permissible methods provided in Labor Code section 246(l): (1) “the same manner as the regular rate of pay for the workweek;” (2) “by dividing the employee’s total wages, not including overtime premium pay, by the employee’s total hours worked in the full pay periods of the prior 90 days;” or (3) “for exempt employee ... in the same manner as the employer calculates wages for other forms of paid leave time.” Labor Code sections 248.6 and 248.7 similarly require paid sick leave to be paid at a regular rate-based calculation in excess of the base hourly rate and at the lawful accrual rate.

Under Labor Code section 246(i), employers must provide employees “with written notice of the amount of paid sick leave available ... for use on either the employee’s itemized wage statement ... or in a separate writing provided on the designated pay date with the employee’s payment of wages.”

Defendants failed to comply with California’s paid sick leave laws with respect to Plaintiff and the covered employees. Because Defendants failed to record and pay for all hours that Plaintiff and the covered employees worked, Defendants failed to credit them with all paid sick leave hours that they actually accrued. Additionally, each time Plaintiff and the covered

employees worked off-the-clock, resulting in unpaid overtime, the overtime hours they actually worked were not accounted for when calculating an employee's accrued paid sick leave. Therefore, Plaintiff and the covered employees were not awarded the total accrued sick leave time they earned.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the covered employees, up to the maximum amount allowed as set forth under the Labor Code.

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 covered 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 the continuous direct-care nature of Defendants' group home facilities and understaffing these facilities, Plaintiff and the covered employees were systematically denied compliant, uninterrupted, unpaid 30-minute meal periods. Plaintiff was forced to work

through his meal periods approximately 85% of his shifts because residential clients could not legally or safely be left unsupervised, and there was not enough coverage provided by Defendants for another employee to take over Plaintiff's clients. Furthermore, Defendants' management explicitly prohibited direct-care staff from eating the meals prepared for the residents, violating their own internal corporate pledge and handbook policy to provide staff with free matching meals during shared mealtimes. Plaintiff states that this was a common practice amongst him and other covered employees.

Each time Plaintiff and the covered employees experienced a non-compliant meal period, they were owed a meal period premium at their regular rate of compensation. As a matter of policy and practice, Plaintiff and the covered employees were not provided meal period premiums in lieu of non-compliant meal periods as required by Labor Code section 226.7. Plaintiff alleges, based on information and belief, that this was a matter of common policy and practice.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the covered employees, up to the maximum amount allowed as set forth under the Labor Code.

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 covered 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.

Defendants maintained an unlawful corporate policy and institutional practice of failing to authorize and permit compliant, off-duty rest periods. As explicitly delineated in Defendants' updated Personnel Policy, management declared that "under Industrial Welfare Commission Order No. 5-2001, Chapter 11(e) and Chapter 12(c) ... both meals and breaks are considered

‘on duty’.” This policy is facially unlawful to the extent it applies to employees who were not in sole charge of the residents. Under this unlawful policy, Plaintiff and the covered employees were mandated to remain inside the facility at all times during rest periods to visually observe residents and remain on active alert to handle behavioral crises, even if they were not in sole charge of the residents.

Because Plaintiff was structurally deemed “on-duty” and continuously forced to remain engaged with clients, Plaintiff was nearly completely denied the opportunity to take uninterrupted 10-minute rest periods free from employer control approximately 95% of the time. Plaintiff observed that this standard condition of employment applied to every single coworker on his team. Whenever Defendants failed to provide a compliant rest period, Plaintiff was entitled to one additional hour of pay at his regular rate of compensation as a rest period premium. Defendants systematically failed to pay the required one full hour of premium compensation for these pervasive violations.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the covered employees, up to the maximum amount allowed as set forth under the Labor Code.

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 covered 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). 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.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the covered employees, up to the maximum amount allowed as set forth under the Labor Code.

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 covered 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 covered employees each pay period as a result of the policies and practices set forth in this notice. 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. Likewise, 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.

Plaintiff and the covered 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 covered 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 covered employees, up to the maximum amount allowed as set forth under the Labor Code.

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

Defendants violated Labor Code section 2802 with respect to the covered employees by failing to reimburse the covered 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 covered employees to incur costs for work-related purposes without full reimbursement. In direct consequence of their job duties, Plaintiff and the covered employees unavoidably and necessarily incurred these losses, expenditures, costs, and as a matter of policy and practice.

For example, Plaintiff used his personal cell phone to communicate directly with corporate administrators and facility supervisors, coordinate operational shift schedules, arrange necessary client “pick-ups,” and maintain ongoing contact with residential clients. Plaintiff was not reimbursed for the costs of using his personal cell phone for work-related purposes.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the covered employees, up to the maximum amount allowed as set forth under the Labor Code.

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 covered 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 covered employees, up to the maximum amount allowed as set forth under the Labor Code.

Attorneys’ Fees and Costs
Labor Code § 2699(k)(1)

Plaintiff has been compelled to retain the services of counsel to protect the interests of other covered 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(k)(1).

- 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 covered employees specified in this notice. Evidence includes, but is not limited to, Defendants’ written employment and payroll policies and handbooks; the covered employees’ personnel files and payroll records, such as paystubs, time records, wage statements, compensation reports, as well as the underlying electronic 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 covered 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 "Ninel Kocharyan". The signature is fluid and cursive, with the first name "Ninel" and last name "Kocharyan" clearly distinguishable.

Ninel Kocharyan

MT

Cc Plaintiff Jose Carrasco

Defense Counsel – berger@bergerwilliams.com

HR Representative – drew@varsityteamincorporated.org