

Nicholas J. Ferraro (State Bar No. 306528)
Lauren N. Vega (State Bar No. 306525)
Mariela R. Romo (State Bar No. 341657)
Ferraro Vega Employment Lawyers, Inc.
3333 Camino del Rio South, Suite 300
San Diego, California 92108
(619) 693-7727 main / (619) 350-6855 fax
nick@ferrarovega.com / lauren@ferrarovega.com
mariela@ferrarovega.com

Attorneys for Plaintiff Ghazi Sankari

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego
05/17/2024 at 10:40:27 AM
Clerk of the Superior Court
By Danielle Cortez, Deputy Clerk

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

GHAZI SANKARI, on behalf of all others
similarly situated and the State of California
under the Private Attorneys General Act,

Plaintiffs,

vs.

INSIGHT GLOBAL LLC; MARKETWISE,
INC.; LEGACY RESEARCH GROUP; and
DOES 1 through 50, inclusive,

Defendants.

Case No. 37-2024-00023010-CU-OE-CTL

**REPRESENTATIVE ACTION
COMPLAINT**

1. Civil Penalties under the Private Attorneys
General Act (Labor Code §§ 2698 *et seq.*)

1 Plaintiff GHAZI SANKARI, on behalf of all others similarly situated and the State of
2 California under the Private Attorneys General Act (“Plaintiff”) brings this REPRESENTATIVE
3 ACTION COMPLAINT against Defendants INSIGHT GLOBAL LLC; MARKETWISE, INC.;
4 LEGACY RESEARCH GROUP; and DOES 1 through 50, inclusive (collectively “Defendants”),
5 alleging as follows:

6 **INTRODUCTION**

7 1. This is a representative action filed for wage and hour violations of the California Labor
8 Code.

9 2. Defendants underpaid the aggrieved employees’ wages by failing to accurately record
10 overtime hours and failing to pay commissions earned.

11 3. Defendants also failed to reimburse the aggrieved employees for necessary expenses
12 the aggrieved employees incurred in furtherance of their job duties.

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

15 **JURISDICTION & VENUE**

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

18 6. The monetary damages and restitution sought exceed the minimal jurisdiction limits of
19 the Superior Court.

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

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

PARTIES

A. Plaintiff Ghazi Sankari

9. Plaintiff Sankari is an individual over 18 years of age who worked for Defendants in California as a non-exempt employee from about September 11, 2023 to December 18, 2023. Plaintiff worked as a Sales Representative.

10. 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.*, Court of Appeals Case No. B326759 (2nd App. Dist.) ____ Cal. App. 5th ____ (Mar. 20, 2024, as modified Apr. 18, 2024), Plaintiff brings the PAGA claims in a representative capacity seeking relief on behalf of the State of California and all aggrieved employees.

B. Defendants

11. Defendant Insight Global LLC is a Delaware limited liability company that maintains operations and conducts business throughout the State of California, including in this county.

12. Defendant MarketWise, Inc. is a Delaware corporation that maintains operations and conducts business throughout the State of California, including in this county.

13. Defendant Legacy Research Group is a Florida limited liability company that maintains operations and conducts business throughout the State of California, including in this county.

14. 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.

15. 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.

16. 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.

17. 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.

GENERAL ALLEGATIONS

18. Plaintiff was employed by Defendants as an hourly, non-exempt employee until December 2023. Defendants paid Plaintiff and the aggrieved employees commissions in addition to their hourly wages. However, Defendants failed to pay Plaintiff and aggrieved employees for all hours worked, resulting in unpaid, minimum, regular, and overtime wages.

19. Defendants compelled Plaintiff and aggrieved employees to complete off the clock work. Defendants encouraged Plaintiff and aggrieved employees to clock out but continue working as they approached eight hours worked in a day. Consequently, Plaintiff and aggrieved employees held client meetings and took phone calls off the clock. Defendants' requirement and practice of not compensating employees for work performed off-the-clock resulted in unpaid regular and overtime wages for Plaintiff and aggrieved employees.

20. Further, Defendants did not compensate Plaintiff and aggrieved employees for all sales commissions that they were due. In addition to their hourly wages, Defendants told Plaintiff and the aggrieved employees that they would receive a 3% commission on every sale they made. Defendants failed to provide a written commission plan to Plaintiff and the aggrieved employees that explained how commissions were computed and paid. Moreover, despite closing sales every pay period, Defendants did not pay Plaintiff and aggrieved employees commissions for sales made each corresponding pay period. Additionally, when Defendants paid overtime to Plaintiff and aggrieved

employees, Defendants failed to include the employees' additional remuneration into the regular rate of pay.

21. Notably, on the occasions that Defendants did compensate Plaintiff and aggrieved employees for commissions, those commissions were omitted from wage statements which resulted in inaccurate wage statements. For example, Plaintiff's wage statement corresponding to pay date, November 17, 2023, does not include any commissions within the "Earnings" section. The total earnings on that statement are \$560.68. However, that same date Plaintiff received an additional deposit for \$1,245.33 which Plaintiff surmised were for commissions. By omitting commissions for wage statements Defendants misinformed Plaintiff and aggrieved employees of all their wages.

22. Defendants also failed to compensate Plaintiff and aggrieved employees in a timely manner for all wages earned. During and after separation of employment, Plaintiff and aggrieved employees did not receive all wages, sick leave, and premiums they were owed by Defendants. For example, upon Plaintiff's termination Defendants informed him that he would not receive his commissions until February 1, 2024, six weeks after his last day of employment. To date, he has not received all commissions.

23. Defendants also required that Plaintiff and aggrieved employees incur costs for work-related purposes, including expenses associated with internet, electricity expenses and other costs associated with performing work from home. Defendants did not fully reimburse Plaintiff and aggrieved employees for the expenses incurred above. While Defendants paid Plaintiff and aggrieved employees a credit of \$8.08 for work from home expenses every pay period, that amount is insufficient to adequately compensate employees for expenses incurred to complete their job duties.

24. These violations create derivative liability for failure to pay all wages owed each or upon separation of employment.

FIRST 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)

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

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

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

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

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

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

19 30. Labor Code section 2699(f) provides: “For all provisions of this code except those for
20 which a civil penalty is specifically provided, there is established a civil penalty for a violation of these
21 provisions, as follows: ... (2) If, at the time of the alleged violation, the person employs one or more
22 employees, the civil penalty is one hundred dollars (\$100) for each aggrieved employee per pay period
23 for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for
24 each subsequent violation.”

25 31. Any allegations regarding violations of the IWC Wage Orders are enforceable as
26 violations of Labor Code section 1198, which states: “[t]he employment of any employee for longer
27 hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.”
28

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

33. On or about **March 12, 2024**, Plaintiff paid the requisite PAGA filing fee and provided written notice (by online electronic filing with the LWDA and by certified mail to Defendants) of Defendants' alleged Labor Code violations, including the facts and theories to support the alleged violations.

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

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

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

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

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

- a. ***Unpaid Hours Worked/Minimum Wage.*** Violation of Labor Code §§ 1194, 1197, 1198; IWC Wage Orders.
- b. ***Unpaid Overtime.*** Violation of Labor Code §§ 510, 1194, 1198; IWC Wage Orders.
- c. ***Failure to Pay All Commissions Owed.*** Violation of Labor Code §§ 200, 201, 204.1, 210; IWC Wage Orders.
- d. ***Unpaid Paid Sick Leave.*** Violation of Labor Code §§ 246 through 248.7.

- e. ***Untimely Payment of Wages During Employment.*** Violation of Labor Code §§ 204, 204b, 210.
- f. ***Untimely Payment of Wages Upon Separation of Employment.*** Violation of Labor Code §§ 201, 202, 203, 256.
- g. ***Non-Compliant Wage Statements.*** Violation of Labor Code §§ 226, 226.3.
- h. ***Unreimbursed Employee Expenses.*** Violation of Labor Code §§ 2802, 2804.
- i. ***Failure to Provide Commission Agreement.*** Violation of Labor Code § 2751.
- j. ***Failure to Maintain Accurate Records.*** Violation of Labor Code § 1174; IWC Wage Orders.

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

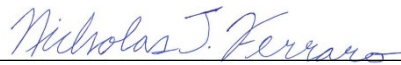
PRAYER

Plaintiff prays for judgment as follows:

- a. For recovery of damages in amount according to proof;
- b. For all recoverable pre- and post-judgment interest;
- c. For this action to be maintained as a representative action under the PAGA;
- d. 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;
- e. For recovery of all civil penalties and other recoverable amounts under the PAGA;
- f. For reasonable attorneys' fees and costs of suit, including expert fees, to the extent permitted by law, including (without limitation) under Labor Code § 2699, and Code of Civil Procedure section 1021.5; and
- g. For such other relief the Court deems just and proper.

Dated: May 17, 2024

Ferraro Vega Employment Lawyers, Inc.



Nicholas J. Ferraro

Lauren N. Vega

Mariela R. Romo

Attorneys for Plaintiff Ghazi Sankari

EXHIBIT 1

Notice of Labor Code Violations

FERRARO VEGA
SAN DIEGO EMPLOYMENT LAWYERS

Nicholas J. Ferraro
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

March 12, 2024

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

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

Insight Global LLC
1224 Hammond Dr., Suite 1500
Atlanta, GA 30346

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

MarketWise, Inc.
1125 N. Charles St.
Baltimore, MD 21201

Legacy Research Group
455 NE 5th Avenue, Suite D317
Delray Beach, FL 33483

Dear LWDA Officer and Company Representatives:

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

INSIGHT GLOBAL LLC; MARKETWISE, INC.; AND LEGACY RESEARCH GROUP

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. 73, 79. Plaintiff maintains standing to pursue these claims against Defendants, as Plaintiff experienced one or more of the alleged violations during the relevant statutory period, which continue through the present date. *Cf. Johnson v. Maxim Healthcare Servs., Inc.*, 281 Cal. Rptr. 3d 478, 481 (Cal. Ct. App. 2021).

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

- BACKGROUND -

Defendants employed Plaintiff during the PAGA Period in the position of Sales Representative from about September 11, 2023 to December 18, 2023. During their employment Plaintiff and the other aggrieved employees were subject to the wage and hour and employment protections set forth in the California Labor Code and IWC Wage Orders.

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

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

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

- PAGA CLAIMS -

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

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

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

Defendants failed to pay Plaintiff and the aggrieved employees at the lawful minimum wage rate for all hours worked, resulting in unpaid minimum wages. Due to Defendants’ practice of discouraging employees from working overtime, Plaintiff and the aggrieved employees often completed overtime work off the clock to comply with Defendants’ policy of refraining from overtime work. To meet job duties while adhering to Defendants’ practice of clocking less than 40 hours per week, Plaintiff and the aggrieved employees often completed off the clock, overtime work when they had calls and attended client meetings after their regularly scheduled work hours. Defendants did not pay Plaintiff and other aggrieved employees wages for the time they worked off the clock despite being on notice of the off the clock work.

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

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

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

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

Defendants failed to pay Plaintiff and the aggrieved employees overtime wages and the lawful rate of pay for overtime hours worked, resulting in unpaid overtime wages. Specifically, Defendants compelled Plaintiff and other aggrieved employees to clock out but continue working off-the-clock and/or clock out as they approached 40 hours worked in a week (or 8 in a day) so that they could avoid compensating employees for overtime hours worked. Due to business needs and job duties, Plaintiff and other aggrieved employees were required to work more than 40 hours per week. However, to comply with Defendants’ policy of discouraging overtime, Plaintiff and other aggrieved employees often conducted client calls and meetings off the clock. Therefore, Defendants’ illegal practices and procedures deprived Plaintiff and other aggrieved employees of all overtime wages earned.

Additionally, Defendants paid Plaintiff and the aggrieved employees sales commissions, non-discretionary bonuses, and other forms of remuneration that Defendants also failed to include in the “regular rate of pay” when employees earned overtime. Defendants paid overtime to Plaintiff and the aggrieved employees at 1.5x their base hourly rate. For each overtime hour worked during the period in which Plaintiff and the aggrieved employees earned commissions and bonuses, Defendants should have (but failed to) pay overtime “at the rate of no less than one and one-half times the regular rate of pay for an employee” as required by the plain language of Labor Code section 510(a) and the IWC Wage Orders.

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

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

Failure to Pay All Commissions Owed
Violation of Labor Code §§ 200, 201, 204.1, 210; IWC Wage Orders

Defendants violated Labor Code sections 200, 201, 204.1, and 210 with respect to the aggrieved employees.

Labor Code section 204.1 defines commissions as “compensation paid to any person for services rendered in the sale of such employer’s property or services and based proportionately upon the amount or value thereof.” Under Labor Code section 200, commissions are considered wages. Labor Code section 210 authorizes penalties against employers who fail to pay employees wages as provided in Labor Code section 204.1.

Defendants failed to pay Plaintiff and, on information and belief, the aggrieved employees, for all commission wages that they were due during and after their employment. Plaintiff and other aggrieved employees made sales every pay period which earned them commissions, however, Defendants failed to fully pay employees those commissions on each regularly scheduled pay day. On information and belief, Defendants omitted all commissions earned from wage statements and sporadically paid Plaintiff and other employees a lump sum for commissions. Per Defendants’ representations, Plaintiff and the aggrieved employees were to receive a 3% commission on every sale they made. At one point, during his employment with Defendants, Plaintiff closed \$194,100.00 worth of sales. However, Plaintiff believes that he (and others) were not fully compensated for their full commissions owed.

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

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 aggrieved 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 24 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 the aggrieved employees. First, Defendants failed to provide Plaintiff and aggrieved employees with all sick leave accrued. Plaintiff and aggrieved employees worked off the clock, overtime hours that were not accounted for when calculating an employee’s accrued paid sick leave. Therefore, Plaintiff and other aggrieved employees were not awarded the total accrued sick leave time they had earned.

On information and belief, Defendants failed to pay sick leave at the correct rate because they failed to factor in bonuses, commissions, and/or other forms of remuneration, as required by section 246. Instead, Defendants paid sick leave to Plaintiff and the aggrieved employees at their base hourly rate, resulting in inaccurate sick leave accrual.

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

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

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

Labor Code section 204(a) requires payment of “all wages” for non-exempt employees at least twice each calendar month. Labor Code section 204(d) states all wages due must be paid “not more than seven calendar days following the close of the payroll period.” Labor Code section 204b applies to employees paid on a weekly basis and also requires the payment for all labor

within the required pay periods. Labor Code section 210 provides “every person who fails to pay the wages of an employee as provided in Section ... 204 ... shall be subject to a civil penalty” of \$100 for an initial violation and \$200 plus 25% of the amount unlawfully withheld for a subsequent violation.

Because Defendants failed to pay all wages and premiums in each pay period in which such wages were earned at the lawful rate, Defendants violated Labor Code section 204 and/or 204b (for weekly employees, as applicable). 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 aggrieved employees as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, and Labor Code section 210 (\$100/\$200) per violation per pay period, along with all other civil penalties permitted by law.

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

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

Labor Code section 201 requires that if an employer fires an employee, the wages must be paid immediately. Labor Code section 202 requires that if an employee quits without providing 72 hours’ notice, his or her wages must be paid no later than 72 hours thereafter. Labor Code section 202 states that if an employee provides 72 hours’ notice, the final wages are payable upon his or her final day of employment. Labor Code section 203 requires an employer who fails to comply with Labor Code sections 201 or 202 to pay a waiting time penalty for each employee, up to a period of 30 days additional compensation.

Defendants failed to pay all wages, sick leave, and premiums owed to aggrieved employees during their employment as set forth in this notice, and also failed to timely pay those amounts to departing employees upon separation of employment. Defendants did not pay waiting time penalties for the late payments. As a result, Defendants violated Labor Code sections 201, 202, and 203.

Further, after being terminated, Defendants informed Plaintiff and the aggrieved employees that they would not receive their commissions until February 1, 2024, despite their employment ending over one month prior to that date and despite Defendants’ ability to calculate employees’ commissions owed prior to that date. Ultimately, Plaintiff and the aggrieved employees did not receive commissions until one month after termination which exceeds the requirements of Labor Code section 201. Furthermore, to date, Plaintiff has not

received all wages earned because Defendants has not paid him for *all commissions* owed nor for off the clock hours worked.

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

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

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

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

Defendants failed to provide accurate itemized wage statements to the aggrieved employees each pay period as a result of the policies and practices set forth in this notice. Defendants 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, sick leave, and premiums that were not paid, resulting in an inaccurate reflection, and recording of “gross wages earned” on those wage statements.

Likewise, Defendants violated Labor Code section 226(a)(2) because the total hours listed on each wage statement are inaccurate because those hours listed do not include off the clock hours worked by Plaintiff and the aggrieved employees, therefore, undercounting the total hours worked.

Moreover, 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.

As a separate and distinct violation of Labor Code sections 226 and 226.3, Defendants failed to provide wage statements to employees showing the commission earned. Defendants omitted commission payments from wage statements, despite then paying Plaintiff and

employees an additional sum via direct deposit that was not included in earnings on the wage statement. On information and belief, these additional direct deposits represent commissions. Below is an example of a pay period when Plaintiff received commissions via direct deposit but Defendants never included the payment on a wage statement or ever issued a wage statement to Plaintiff for the commission.



Insight Global LLC
1224 Hammond Dr NE
Suite 1500
Atlanta, GA 30346-1537
404-257-7900

Pay Statement

Period Start Date 11/05/2023
Period End Date 11/11/2023
Pay Date 11/17/2023
Document 4233045
Net Pay \$560.68

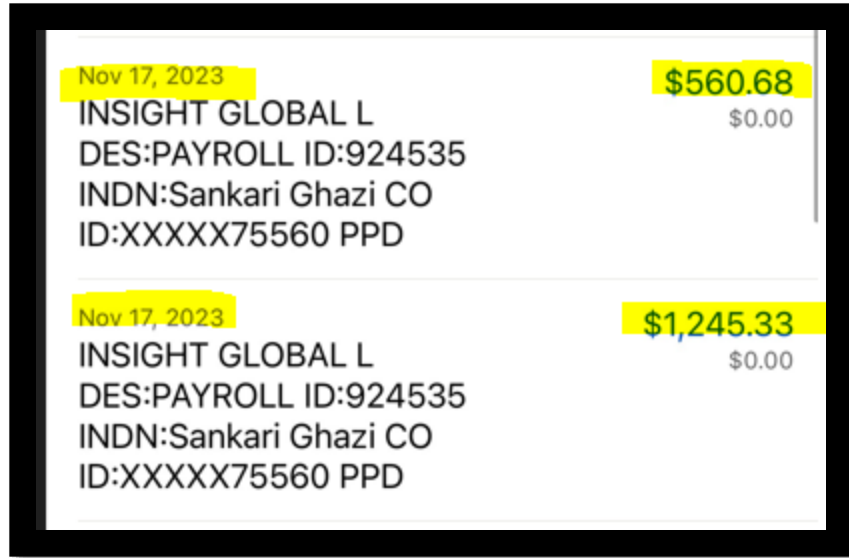
Pay Details

GHAZI SANKARI	Employee Number	924535	Pay Group	Insight Global
	SSN	XXX-XX-XXXX	Location	CA-CALIFORNIA
	Job	Sales	Division	AFE - IG Business
	Pay Rate	\$16.9000	Office	FTL - Ft. Lauderdale Office
	Pay Frequency	Weekly	Department	321 - Contract Employees

Earnings

Pay Type	Hours	Pay Rate	Current	YTD
Overtime-Hourly	0.0000	\$0.0000	\$0.00	\$202.80
Regular-Hourly	40.0000	\$16.9000	\$676.00	\$6,084.00
WFH Expense			\$8.08	\$72.72
Total Hours Worked 40.0000		Total Hours 40.0000		

Plaintiff's paystub with a pay date of 11/17/2023 without any commissions earned included in the "Earnings" section.



Screenshot of Plaintiff receiving two direct deposits for the same pay date of November 17, 2023, despite the paystub above only accounting for a payment of \$560.68.

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

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

Failure to Provide Commission Agreement **Violation of Labor Code § 2751**

Defendants violated Labor Code section 2751 by failing to provide written commission plans to Plaintiff and the aggrieved employees. When an employer pays commissions as part of employee compensation, section 2751(a) requires that the employer provide a written contract that sets “forth the method by which the commissions” are “computed and paid.” Section 2751(b) requires an employer to provide a copy of the commission agreement that is signed by both the employer and the employee.

Defendants informed Plaintiff and the aggrieved employees that they would receive a 3% commission on every sale they made. However, Defendants failed to provide a written commission plan to Plaintiff and the aggrieved employees that explained how commissions

were earned, computed, and paid. This caused confusion to Plaintiff and the aggrieved employees, who were unable to determine whether they were paid properly.

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

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

Labor Code section 1174 requires that employers maintain accurate “payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments.” Section 7(A) of the IWC Wage Orders, which may be enforced through Labor Code section 1198, mandates similar recordkeeping obligations.

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

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

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

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

Labor Code section 2802 requires an employer to “indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful.” *See, e.g., Espinoza v. West Coast Tomato Growers, LLC*, 2016 WL 4468175 at *4, n.2 (S.D. Cal. Aug. 24, 2016, No. 14-CV-2984 W (KSC)).

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

Defendants required Plaintiff and the aggrieved employees to incur costs for work-related purposes without full reimbursement. In direct consequence of their job duties, Plaintiff and the aggrieved employees unavoidably and necessarily incurred these losses, expenditures, costs, and as a matter of policy and practice. Plaintiff and the aggrieved employees worked from home and incurred necessary internet and electricity expenses to complete their job duties. Defendant paid employees a nominal credit of \$8.08 for “Work from Home Expenses,” however, that amount is insufficient to adequately compensate Plaintiff and aggrieved employees for internet and electricity expenses incurred to fulfill job-related duties.

Thus, in direct consequence of their job duties, Plaintiff and the aggrieved employees unavoidably and necessarily incurred losses, expenditures, costs and expenses that Defendants did not fully and compliantly reimburse as a matter of policy and practice.

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

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

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

- LITIGATION HOLD NOTICE -

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

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

- CONCLUSION -

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

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

Sincerely,

A handwritten signature in black ink, appearing to read "Mariela Romo". The signature is fluid and cursive, with a large initial "M" and a distinct "R" at the end.

Mariela Romo

Cc Nicholas J. Ferraro
 Lauren N. Vega

Plaintiff, Ghazi Sankari

Will Rooks, Senior Associate General Counsel, will.rooks@insightglobal.com