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Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF RIVERSIDE

Noel Payan, individually and on behalf of all similarly situated individuals,

Plaintiff,

vs.

Evolve Growth Initiatives, LLC, a Delaware Limited Liability Company; **Michelle Gross**, an individual; and **Does 1-10**, inclusive;

Defendants.

CASE NO. CVRI2402352

REPRESENTATIVE COMPLAINT FOR:

1) **PAGA Penalties (Labor Code §§ 2698, *et seq*.)**

Plaintiff Noel Payan, in his representative capacity, hereby brings this action on behalf of himself and all other similarly situated current and former employees and alleges as follows, by and through his counsel of record:

THE PARTIES

1. Plaintiff **Noel Payan** ("Plaintiff") is a resident of the County of Riverside in the State of California. Mr. Payan was employed by Defendants as a Residential Counselor, a full-time nonexempt position, from approximately May 2022 through October 6, 2023.

2. Defendant **Evolve Growth Initiatives, LLC** (the "Evolve") is a Delaware corporation with its principal place of business at 300 N PCH, Suite 2060, El Segundo, CA 90245. Upon information and belief, the Evolve employs at least 100 employees.

3. Defendant **Michelle Gross** is an individual who, on information and belief, resides in the County of Los Angeles. Upon information and belief, Ms. Gross is the Chief Executive Officer for the Evolve. Per Labor Code § 558.1, since Ms. Gross is a managing agent, director, and/or officer of the Evolve and, upon information and belief, as she caused or directed the acts described herein, she is personally liable for the penalties sought under PAGA for predicate violations of the Labor Code.

4. The true names and capacities of the defendants named herein as Does 1 through 10, inclusive (together with the Evolve, "Defendants"), are unknown to Plaintiff at this time. Accordingly, Plaintiff brings this suit against them by fictitious names pursuant to California Code of Civil Procedure section 474. Plaintiff believes that each of the Doe Defendants is a California resident and/or does substantial business in the State of California. At all relevant times, Does 1 through 10 were acting within the course and scope of their employment and agency with Defendants. Plaintiff is informed and believes that each Doe Defendant is responsible for the injuries and damages alleged herein. Plaintiff will amend this complaint to reflect Does 1 through 10's true names and capacities when they have been determined.

5. Except as otherwise noted herein, Defendants participated in the acts alleged herein and/or were the agents, servants, employees, or representatives of the other Defendants. At all times relevant to this complaint, Defendants were acting within the course, scope, and

authority of their agency and employment such that the acts of one defendant are legally attributable to the other Defendants. Defendants, in all respects, acted as employers and/or joint employers of Plaintiff and Aggrieved Employees in that each of them exercised control over the wages, hours, and/or working conditions of Defendants' hourly non-exempt employees.

JURISDICTION AND VENUE

6. The court has jurisdiction over all causes of action in this complaint pursuant to Article VI, section 10 of the California Constitution. No federal question is at issue; Plaintiff relies solely on California statutes and law, including the Labor Code, IWC Wage Orders, Code of Civil Procedure, and the Business & Professions Code.

7. Venue as to Defendants is proper in this Superior Court pursuant to California Code of Civil Procedure section 395. The unlawful acts alleged have directly affected Plaintiff and similarly situated employees within Riverside County.

8. Finally, Business & Professions Code section 17204 provides that any person acting on her own behalf may bring an action in any court of competent jurisdiction. This court has jurisdiction as set forth above. This Court maintains appropriate jurisdiction over this dispute.

FIRST CAUSE OF ACTION

California Labor Code §2699, et seq.

Private Attorneys General Act ("PAGA") Penalties

(Plaintiff and Aggrieved Employees Against Defendants)

9. Plaintiff repeats, repleads, and incorporates by reference, as though fully set forth in this paragraph, all the allegations of this Complaint.

10. Failure to Pay Minimum Wage for All Hours Worked. California law requires employers to compensate employees for all time that an employee is "suffered or permitted to work," which includes all time "when any employer 'directs, commands or restrains' an employee." *See, e.g.*, *Morillion v. Royal Packing Co*., 22 Cal. 4th 575, 583 (2000).

11. Defendants failed to compensate Plaintiff and Aggrieved Employees for all hours worked because Defendants failed to count compensable drive time between multiple work locations in a given shift as hours worked.

12. Accordingly, Defendants failed to pay Plaintiff or Aggrieved Employees for all hours worked where they were under the control of Defendants.

13. Failure to Pay Required Overtime. California Labor Code §§ 510 and 1198 provide that it is unlawful to employ persons without compensating them at a rate of pay either time-and-one-half or two-times that person's regular rate of pay, depending on the number of hours worked by the person on a daily or weekly basis.

14. Plaintiff and Class Members who work more than eight hours in a day or more than forty hours in a workweek are to be paid at the rate of time and one-half (1½) for all hours worked in excess of eight hours in a day or more than forty hours in a workweek. An employee's regular rate of pay includes all remuneration for employment paid to, or on behalf of, the employee, including commissions, non-discretionary bonuses and incentive pay. *Alvarado v. Dart Container Corp*., 4 Cal. 5th 542, 573 (2018), as modified (Apr. 25, 2018).

15. Evolve Growth Initiatives, LLC failed to record and/or compensate Mr. Payan and similarly situated employees for his actual time worked as described above. Since Mr. Payan and similarly situated employees worked shifts equal to or in excess of 8 hours a day or 40 hours a week, some of this time should have been paid at overtime rates.

16. Accordingly, Defendants failed to pay Plaintiff or Aggrieved Employees for all hours at correct overtime rates.

17. Failure to Provide Compliant Meal Periods. Labor Code section 226.7, 512(a), and 1198 provide that no employer shall require an employee to work during any meal period mandated by an applicable order of the IWC. "An off-duty meal period, therefore, is one in which the employee is relieved of all duty during the 30-minute meal period . . .an employer's obligation is to provide an off-duty meal period: an uninterrupted 30–minute period during which the employee is relieved of all duty." *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1035 (2012).

18. Defendants' policies and practices served to deprive the Aggrieved Employees of complaint 30-minute breaks free of employer control and/or relieved of all duties.

19. Upon information and belief, Aggrieved Employees were required to interrupt

breaks, work through, or remain under Defendants' control due to Defendants' policies and practices by, among other things, being instructed to feed and administer medications to clients during employee meal periods and to remain on duty ready to forfeit to interrupt their 30-minute meal period to assist with or handle patient/clients.

20. Additionally, numerous Aggrieved Employees, were required to sign on-duty meal period waivers, as a condition of employment, indicating that they forfeited their right to meal periods even through on-duty meal periods were not required as a matter of necessity or the nature of the work and were instead imposed upon employees simply because Defendants do not adequately staff its facilities during certain hours.[1]

21. Accordingly, Aggrieved Employees were uniformly denied meal periods as a result of Defendants' formal policies and practices.

22. Failure to Provide Compliant Rest Periods. Labor Code § 226.7, 512(a), and 1198 provide that no employer shall require an employee to work during any rest or meal period mandated by an applicable order of the IWC.

23. Employers must authorize and permit employees to be relieved of all duty during their rest and meal periods: "A rest period, in short, must be a period of rest."[2] *Augustus v. ABM Sec. Servs.,* Inc., 2 Cal.5th 257, 273 (2016).

24. Employees must also be free to leave the employer's premises during their rest period. *See id.* at 270; *see also* Department of Industrial Relations, "Rest Periods," *available at https://www.dir.ca.gov/dlse/FAQ_RestPeriods.htm* ("Q. Can my employer require that I stay on

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[1] On-duty meal periods are only allowed when the "nature of the work" prevents the employee from being relieved from all duties. The "nature of the work" exception applies in very narrow situations (namely, where there is an external force requiring employee to be on duty at all times and where the employee is the sole employee). *See Augustus v. ABM Sec. Servs., Inc.*, 2 Cal. 5th 257, 266 (2016), *as modified on denial of reh'g* (Mar. 15, 2017) (on duty exception is "exceedingly narrow"); *Abdullah v. U.S. Sec. Assocs., Inc.*, 731 F.3d 952, 959 (9th Cir. 2013).

[2] Employees must also be free to leave the premises. *Augustus*, 2 Cal. 5th at 270; *see also* Department of Industrial Relations, "Rest Periods/Lactation Accommodations," *available at https://www.dir.ca.gov/dlse/FAQ_RestPeriods.htm* ("Q. Can my employer require that I stay on the work premises during my rest period? A. No, your employer cannot impose any restraints not inherent in the rest period requirement itself.")

the work premises during my rest period? A. No, your employer cannot impose any restraints not inherent in the rest period requirement itself.”).

25. Defendants expressly and unlawfully prohibited employees from leaving the premises during rest periods: “Employees…are *required to remain on company premises* unless otherwise indicated by a supervisor.” (Emphasis added.)

26. On information and belief, Defendants failed to authorize or permit all required compliant paid rest periods for shifts worked by Aggrieved Employees by requiring them to skip rest periods, interrupt rest periods, work through rest periods, or remain on the premises during rest periods. Defendants also failed to adequately staff its facilities.

27. Additionally, Defendants expressly failed to authorize and permit employee rest periods: “It is the employee’s responsibility to make sure rest breaks are taken“, functionally abnegating their legal obligation to authorize and permit that a timely “period of rest” be taken by employees. Making rest periods “the employee’s responsibility” further resulted in a failure to authorize any rest periods at all because Defendants’ policies and practices concurrently mandated that employees keep a constant line of sight of clients at all times—deterring or discouraging employees from taking lawful and off duty rest periods.

28. <u>Failure to Provide and Maintain Compliant Wage Statements</u>. Labor Code § 226 requires employers to furnish employees with an accurate, itemized statement in writing showing, among other things, (1) gross wages earned; (2) total hours worked by the employee (for hourly-paid, non-exempt employees); (3) all deductions; (4) net wages earned; (5) the inclusive dates of the period for which the employee is paid; (6) the name of the employee and the last four digits of his or her social security number; (7) the name and address of the legal entity that is the employer; and (8) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

29. Because Defendant did not record the time Plaintiff and Aggrieved Employees spent working during their meal periods, Defendant did not list the correct amount of gross wages and net wages earned by Plaintiff and Aggrieved Employees in compliance with section 226(a)(1) and 226(a)(5). For the same reason, Defendant failed to accurately list the total number of hours

worked by Plaintiff and Aggrieved Employees in violation of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay period and corresponding accurate number of work hours worked at each hourly rate in violation of section 226(a)(9). Defendants also failed to list all earned premium wages for missed meal and rest periods on Aggrieved Employees' wage stubs in violation of section 226(a)(1) and (a)(5). *Naranjo v. Spectrum Sec. Servs*., 13 Cal.5th 93, 121 (2022).

30. Defendant knowingly and intentionally failed to comply with Labor Code § 226, causing injury and damages to Plaintiffs and Aggrieved Employees. Plaintiffs and all those similarly situated were injured by these failures because, among other things, they were confused about whether they were paid properly and/or they were misinformed about how much compensation was owed. These damages include, but are not limited to, costs incurred calculating the correct net wages for each pay period and the amount of employment taxes that were not paid to state and federal tax authorities.

31. <u>Failure to Pay All Wages Due On Regular Pay Days And At Separation</u>. At all times relevant herein set forth, Labor Code § 204 provides that all wages earned by any person in any employment between the first (1st) and the fifteenth (15th) days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the sixteenth (16th) and the twenty-sixth (26th) day of the month during which the labor was performed.

32. At all times relevant herein, Labor Code § 204 provides that all wages earned by any person in any employment between the sixteenth (16th) and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the first (1st) and the tenth (10th) day of the following month.

33. At all times relevant herein, Labor Code § 204 provides that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. Alternatively, at all times relevant herein, Labor Code § 204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days

following the close of the payroll period.

34. During the relevant time period, Defendant willfully failed to pay Plaintiffs and Aggrieved Employees all wages due including, but not limited to, and meal and rest period premium wages within the time periods specified by California Labor Code § 204.

35. Defendant's failure to pay Plaintiffs and Aggrieved Employees all wages due violates Labor Code § 204. Plaintiffs and Aggrieved Employees are therefore entitled to recover from Defendant the statutory penalty wages pursuant to California Labor Code § 210.

36. Labor Code § 203 provides that "[i]f an employer willfully fails to pay, without abatement or reduction, in accordance with § 201, 201.5, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days."

37. Aggrieved Employees have left Defendants' employ during the Period. Defendants knowingly failed to pay Aggrieved Employees all earned wages upon termination by failing to pay all earned premium wages for non-compliant meal and rest periods at the applicable regular rate of pay in violation of Labor Code §§ 201 and 202. *Naranjo v. Spectrum Sec. Servs*., 13 Cal.5th 93, 117 (2022).

38. Defendants' failure to pay Aggrieved Employees who are no longer employed by Defendants their wages earned and unpaid at the time of discharge, or within seventy-two (72) hours of their leaving Defendants' employment, violates Labor Code §§ 201 and 202. Plaintiff and formerly employed Aggrieved Employees are therefore entitled to recover from Defendants the statutory penalty wages for each day they were not paid, at their regular rate of pay, up to a 30-day maximum penalty under Labor Code § 203.

39. Wage Order No. 5 governs employees in the public housekeeping industry, defined as ""any industry, business, or establishment which provides meals, housing, or maintenance services whether operated as a primary business or when incidental to other operations in an establishment not covered by an industry order of the Commission." 8 C.C.R. § 11050(2)(P). It expressly includes employers, such as Evolve. 8 C.C.R. § 11050(2)(P)(3).

40. The policies and practices set forth above violated Wage Order No. 5.

41. Failure to Reimburse Necessary Business Expenses. Labor Code § 2802 provides that "[a]n employer shall indemnify his or his employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or his duties, or of his or his obedience to the directions of the employer." Lab. Code § 2802. The purpose of Labor Code section 2802 is to prevent employers from passing off their cost of doing business and operating expenses on to their employees. *Cochran v. Schwan's Home Service, Inc*., 228 Cal. App. 4th 1137, 1144 (2014).

42. On information and belief, Defendants required Aggrieved Employees to use personal vehicle and/or their personal cellphones in the regular course of employment by driving between facilities to provide employee coverage as needed and/or answering texts and/or calls from their supervisors while at work or on a break, for purposes of scheduling and re-scheduling future work, being assigned tasks, and general administrative matters.

43. Defendants failed to reimburse a reasonable portion of the Class Members' cellphone and internet related expenses despite requiring the use of the device and/or applications that required a data plan. *See Cochran v. Schwan's Home Serv., Inc*., 228 Cal. App. 4th 1137, 1144 ("We hold that when employees must use their personal cell phones for work related calls, Labor Code section 2802 requires the employer to reimburse them. Whether the employees have cell phone plans with unlimited minutes or limited minutes, the reimbursement owed is a reasonable percentage of their cell phone bills.").

44. Entitlement to Penalties. Under the California Private Attorneys General Act ("PAGA"), Labor Code § 2698, *et seq.*, an aggrieved employee may bring a representative action as a private attorney general, on behalf of herself and other current or former employees as well as the general public, to recover penalties for an employer's violations of the Labor Code and IWC Wage Orders.

45. These penalties may be "stacked" separately for each of Defendants' violations of the Labor Code. *See, e.g., Hernandez v. Towne Park, Ltd.*, No. CV 12-02972, 2012 WL 2373372, at *17, n.77 (C.D.June 22, 2012) ("[F]ederal courts applying California law have concluded that

stacking is appropriate."); *see also O'Connor v. Uber Techs., Inc.*, No. 13-CV-03826-EMC, 2016 WL 3548370, at *7 (N.D. Cal. June 30, 2016) ("Finally, Plaintiff ignore[s] the potential for stacking of PAGA penalties related to wage-and-hour claims other than the gratuities and expense reimbursemint claim, i.e., meal and rest breaks, minimum wage and overtime, and workers' compensation.").

46. Plaintiff, by nature of her employment with Defendants, is an aggrieved employee for purposes of this Complaint with standing to bring an action under PAGA. Plaintiff, on behalf of himself, and all other Aggrieved Employees, brings this representative action pursuant to Labor Code § 2699, *et seq*., seeking civil penalties for Defendants' violation of Labor Code §§ 201-204, 210, 226, 226.7, and 1198 as described herein, plus attorneys' fees and costs.

47. Per Labor Code § 2699(f), and based on the foregoing, Plaintiff and Aggrieved Employees are entitled to civil penalties in an amount to be shown at trial subject to the following formula:

a. In an amount set forth as a civil penalty in the underlying statute; or

b. $100 per initial violation per employee per pay period, and $200 for each subsequent violation per employee per pay period.

48. These penalties shall be allocated seventy-five percent to the Labor and Workforce Development Agency and twenty-five percent to the affected employees. These penalties may be stacked separately for each of Defendants' violations of the Labor Code. *See, e.g.*, *Hernandez v. Towne Park, Ltd*., No. CV 12-02972, 2012 WL 2373372, at *17, n.77 (C.D. Cal. June 22, 2012) ("[F]ederal courts applying California law have concluded that stacking is appropriate."); *see also O'connor v. Uber Techs., Inc*., No. 13-CV-03826-EMC, 2016 WL 3548370, at *7 (N.D. Cal. June 30, 2016) ("Finally, Plaintiff ignore the potential for stacking of PAGA penalties related to wage-and-hour claims other than the gratuities and expense reimbursement claim, i.e., meal and rest breaks, minimum wage and overtime, and workers' compensation.").

49. <u>Procedural Requirements Met.</u> On April 29, 2024, Plaintiff electronically filed a

notice of claims with the LWDA and sent a copy to Defendants by certified mail. Plaintiff has not received notice from the LWDA that it was exercising jurisdiction over the allegations set forth in the notice. As of 65 days from date of electronic filing, all requirements for administrative exhaustion for bringing these PAGA claims will have been met. Labor Code § 2699.3(a)(2). Because the violations described herein are not subject to cure under Labor Code § 2699.3, Plaintiff—as a representative of the People of the State of California—is entitled to seek any and all penalties otherwise capable of being collected by the Labor Commissioner or Department of Labor Standards Enforcement ("DLSE"). A true and correct copy of Plaintiff's PAGA Notice is attached herein as **Exhibit A.**

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays for judgment as follows:

A. For statutory and civil penalties and special damages, according to proof at trial;

B. For pre- and post-judgment interest on monetary damages;

C. For preliminary and permanent injunctive relief;

D. For reasonable attorney's fees and costs and expert fees and costs; and

E. For such other relief as this Court deems just and proper.

Dated: April 29, 2024

Respectfully submitted,

KING & SIEGEL LLP

By: ______________________________
Elliot J. Siegel
Attorneys for Plaintiff

Dated: April 29, 2024

Respectfully submitted,

LAW OFFICE OF XAVIER VILLEGAS, APC

By: ______________________________
Xavier Villegas
Attorney for Plaintiff

EXHIBIT A

LAW OFFICE OF
XAVIER VILLEGAS, APC

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Tel.: (805) 250-7488 | Fax: (805) 250-7499

April 29, 2024

Electronically Filed Via LWDA's PAGA Claim Notice Online Form

Copy Sent Via Certified Mail to:

Evolve Growth Initiatives, LLC
c/o Brian T. Daly, Esq.
MULLEN & HENZELL, L.L.P.
112 E. Victoria Street
bdaly@mullenlaw.com

Re: ***Noel Payan v. Evolve Growth Initiatives, LLC and Michelle Gross; California Labor Code § 2699.3 Notice of Intent to File Suit***

To Whom It May Concern:

Please be advised that our office, along with co-counsel King & Siegel LLP, hereby provides notice to the Labor and Workforce Development Agency ("LWDA") on behalf of our client Noel Payan of his intent to seek civil penalties against Evolve Growth Initiatives, LLC and Michelle Gross (collectively "Defendants") pursuant to the Private Attorney General Act of 2004 ("PAGA"), California Labor Code § 2698, *et seq*.

Mr. Payan intends to file a civil action including claims for penalties under PAGA in Riverside County Superior Court on behalf of a group of current and former employees employed within the one-year period preceding the date of this letter (the "Aggrieved Employees") seeking civil penalties arising out of Defendants' violation of the following Labor Code sections[1]:

- **California Labor Code §§ 204 and 206 (Unpaid Earned Wages):** Evolve Growth Initiatives, LLC implemented a uniform policy and practice that resulted in Mr. Payan and similarly situated employees being consistently denied minimum wages compensation for all hours worked. Evolve Growth Initiatives, LLC failed to compensate Mr. Payan and similarly situated employees for all daily hours worked by failing to pay for compensable drive time from their first worksite to their second in a single shift.

[1] Mr. Payan expressly reserves the right to add and/or amend any and all additional labor law violations committed against him or other similarly aggrieved current and former employees.

- **California Labor Code §§ 510, 1194, and 1198 (Unpaid Overtime Wages):** Due to the above described policies resulting in underpayment of wages, Evolve Growth Initiatives, LLC consistently failed to pay all overtime wages compensation earned by Mr. Payan and similarly situated employees. Evolve Growth Initiatives, LLC failed to record and/or compensate Mr. Payan and similarly situated employees for his actual time worked as described above. Since Mr. Payan and similarly situated employees worked shifts equal to or in excess of 8 hours a day or 40 hours a week, some of this time should have been paid at overtime rates. Upon information and belief, Evolve Growth Initiatives, LLC also potentially failed to pay overtime at the correct rate to Mr. Payan and similarly situated employees.

- **California Labor Code § 512 (Meal Period Violations):** Evolve Growth Initiatives, LLC required Mr. Payan to comply with a systematic policy and practice that interfered with his ability to take compliant meal periods. Evolve Growth Initiatives, LLC required or pressured Mr. Payan and similarly situated employees to interrupt breaks, work through, or remain under Defendants' control due to Defendants' policies and practices by, among other things, being instructed to feed and administer medications to clients during employee meal periods and to remain on duty ready to forfeit to interrupt their 30-minute meal period to assist with or handle patient/clients. Evolve Growth Initiatives, LLC Inc. further failed to compensate Mr. Payan and Aggrieved Employees for premium wages owed when he was not allowed to take a compliant meal period.

- **California Labor Code § 226.7 (Rest Period Violations):** Evolve Growth Initiatives, LLC required Mr. Payan and similarly situated employees to comply with a policy and practice that interfered with their ability to take compliant rest periods. Evolve Growth Initiatives, LLC instituted a system that required Mr. Payan and similarly situated employees to work through all or part of rest periods without relieving them of all duties, and expressly prohibited employees from leaving the premises during breaks. Evolve Growth Initiatives, LLC Inc. further failed to compensate him and Aggrieved Employees for premium wages owed when he was not allowed to take a compliant meal period.

- **California Labor Code § 2802(a) (Failure to Reimburse Business Expenses):** Evolve Growth Initiatives, LLC required Mr. Payan and similarly situated employees to comply with a practice that denied him reimbursements for business expenses. On information and belief, Mr. Payan and similarly situated employees used personal vehicles and/or cellular phones to complete work-related tasks, including but not limited to driving between facilities during their shifts to provide employee coverage as needed and receiving orders from supervisors on past, current, and future assignments throughout shifts. Because Mr. Payan and similarly situated employees used their personal vehicles and/or cellular phones to discharge their duties, Evolve Growth Initiatives, LLC should have reimbursed them for these necessary expenditures.

- **California Labor Code §§ 226(a), and 1174(d) (Inaccurate Wage Statements):** Evolve Growth Initiatives, LLC failed to provide Mr. Payan and similarly situated employees compliant wage statements because they failed to accurately show all gross wages earned, including unpaid premium wages, total hours worked by the employee, net regular and overtime wages earned, or all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

- **California Labor Code § 204/210 (Failure To Timely Pay Wages Penalties):** Evolve Growth Initiatives, LLC failed to pay Mr. Payan and similarly situated employees all wages owed on regularly scheduled paydays, including unpaid regular and overtime wages and unpaid premium wages, because they failed to pay the foregoing wages and penalties

- **California Labor Code § 203 (Waiting Time Penalties):** Evolve Growth Initiatives, LLC failed to pay Mr. Payan and similarly situated employees all wages owed, including unpaid regular and overtime wages, and unpaid premium wages, at termination of employment because they failed to pay the foregoing wages and penalties.

This correspondence serves as notice pursuant to Labor Code § 2699.3 that we intend to prosecute representative claims for civil penalties under the Private Attorney's General Act ("PAGA") on behalf the Aggrieved Employees as set forth in greater detail in the Complaint attached as **Exhibit A**.

We intend to fully and vigorously prosecute the representative claims alleged in this Notice, including by obtaining civil penalties under PAGA, upon expiration of the applicable notice requirements under PAGA. *See* Cal. Lab. Code §§ 2699, *et seq.*

Thank you for your anticipated courtesy and assistance regarding this matter.

*   *   *   *   *

To Evolve Growth Initiatives, LLC and Michelle Gross:

The Aggrieved Employees have been seriously harmed by Defendants' actions and we intend to prosecute these claims to the fullest extent of the law. Nonetheless, it is the policy of Class Counsel to attempt to negotiate an early resolution of all matters. If you are interested in seeking an early resolution through mediation on a representative and class-wide basis, including pre-mediation discovery, please contact the undersigned no later than May 30, 2024.

Regards,

XAVIER VILLEGAS, ESQ.