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September 24, 2024

Sender's e-mail:
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VIA Online Submission

LABOR WORKFORCE DEVELOPMENT AGENCY
Attn. PAGA Administrator
1515 Clay Street, Ste. 901
Oakland, CA 94612

VIA Email

David D. Bibiyan
Jeffrey D. Klein
Faik Yetgin
BIBIYAN LAW GROUP, P.C.
1460 Westwood Boulevard
Los Angeles, CA 90024

Re: California Caregivers' Response to Amended Notice Letter of [sic] on Behalf
of Crystal A. Alva Herself and Aggrieved Employees Under California Labor
section 2699.3

Dear PAGA Administrator:

For the following reasons, California Caregivers Home Healthcare, LLC dba California Caregivers ("California Caregivers", the "Company" or "Respondent") respectfully requests that the LWDA issue a determination that Claimant has provided insufficient notice of the allegations asserted in Crystal Alva's ("Claimant") Amended PAGA Notice Letter dated August 26, 2024:

1. Claimant alleges countless Labor Code violations, which fail to provide sufficient factual basis for the Company to investigate said claims;
2. Numerous allegations are not and cannot be applicable to Claimant's employment; and
3. Claimant's amended notice is harassing and creates an undue burden on Respondent.

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I. FACTUAL BACKGROUND

Crystal Alva was employed by California Caregivers as an in-home caregiver from February 2023 until her separation in August 2023. As a caregiver, Ms. Alva provided home caregiving services to individuals of all ages in need of assistance with their day to day living. At all times throughout her employment, Ms. Alva's job duties qualified her as a personal attendant subject to Wage Order 15.

Specifically, Wage Order 15 applies to activities in households such as those where the clients of California Caregivers reside. (Wage Order 15, Sec. 1, p. 1.) Section 2(J), p. 3 of Wage Order 15 defines a personal attendant (i.e. the Company's caregivers) as "any person employed by a private householder or by any third party employer recognized in the health care industry to work in a private household, to supervise, feed, or dress a child or person who by reason of advanced age, physical disability, or mental deficiency needs supervision." This section describes exactly the care that California Caregivers' personal attendants provide to elderly and disabled clients in their private homes.

Additionally, throughout her employment, Ms. Alva's employment was governed by California Caregivers' lawful employment policies, practices, and procedures. A copy of the Company's policies is provided to employees upon hire and was provided to Ms. Alva when she first started working for the Company.

II. PROCEDURAL BACKGROUND

Claimant's original 9-page PAGA notice, dated June 20, 2024, alleged that the Company engaged in a variety of alleged Labor Code violations. In response to Ms. Alva's letter, the Company promptly conducted a complete and thorough audit of its policies, practices, and procedures to assess the merits of Ms. Alva's allegations. The Company ultimately concluded that no evidence existed supporting Ms. Alva's alleged claims. On August 26, 2024, Claimant submitted a 16-page Amended PAGA Notice, which California Caregivers received via certified mail on August 30, 2024. This amended notice asserted additional Labor Code sections, the majority of which were inapplicable to Claimant's employment as an in-home caregiver.

At all relevant times, California Caregivers has complied with its obligations under the Labor Code and applicable Wage Order. Moreover, the Company has taken all reasonable steps to investigate and correct the Company's practices, policies, and procedures, despite failing to find any violative practice during the Company's investigation. To the extent Claimant, or any other employee suffered an alleged violation of the Labor Code, which the Company denies, it was an isolated, nonrecurring event for which no penalty is applicable or must be significantly reduced.

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**CLAIMANT’S AMENDED LWDA NOTICE LETTER FAILS TO ALLEGE
FACTS SUFFICIENT TO ALLOW CALIFORNIA CAREGIVERS TO INVESTIGATE
HER CLAIMS.**

Labor Code Section 2699.3 subd. (c)(1)(A) explicitly requires an aggrieved employee to provide notice to the LWDA and employer “of the specific provisions of the code alleged to have been violated, *including the facts and theories to support the alleged violation.*”

The vague nature of Ms. Alva’s claims prevents California Caregivers from responding appropriately to the amended PAGA notice letter and from evaluating whether any alleged Labor Code violations occurred, thereby invoking PAGA’s cure or correction provisions. Specifically, the notice fails to articulate actions, conduct, or policies providing the basis for Claimant’s assertions, instead relying on broad blanket statements and legal conclusions that the Company violated a myriad of Labor Code sections. The letter also fails to provide any detail concerning the alleged claims, including without limitation, general timeframes, locations, or witnesses present when such alleged violations occurred. Without this information, Respondent cannot conduct a fair and comprehensive review of the allegations and determine whether such Labor Code violations exist. Claimant’s failure also robs Respondent of the ability to review the allegations and take all reasonable steps to ensure compliance pursuant to Labor Code Section 2699 (h)(1).

Moreover, Wage Order 15, which governed Claimant’s employment, exempts personal attendants from nearly all of its provisions, including meal and rest period requirements: “Except as provided in Sections 1, 2, 4, 10, and 15, the provisions of this order shall not apply to personal attendants.” (Wage Order 15, Sec. 1(B), p. 3.) The meal and rest period requirements are in Sections 11 and 12 of Wage Order 15, respectively; therefore, these requirements do not apply to personal attendants. (*Id.*, Secs. 11 and 12; *Liday v. Sim*, 40 Cal.App.5th 359, 371 (2019) [“Thus, the provisions restricting domestic workers’ number of hours and days of work, providing meal and rest periods, and requiring employers to keep certain records, among others, did not apply” to a caregiver working as a personal attendant]; DLSE Opinion Letter, Nov. 23, 2005, p. 2 [“A determination that an individual is a personal attendant has the effect of exempting that person from the protections of the IWC Order, except for minimum wage”].)

Despite the application of Wage Order 15 to Claimant’s employment and the Company’s related obligations under the Labor Code, Claimant amended her PAGA Notice alleging more Labor Code violations, but without providing any additional support for those claims, and again relying on legal conclusions that a violation of the alleged Labor Code section occurred.

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III. NUMEROUS ALLEGATIONS ARE INAPPLICABLE TO CLAIMANT'S EMPLOYMENT.

Effective July 1, 2024, AB 2288 amended Section 2699 subd. (a) of the California Labor Code to allow an aggrieved employee to represent the state in an Action to collect civil penalties “on behalf of the employee and other current or former employees against whom a *violation of the same provision was committed...*” As such, a plaintiff in a PAGA Action can only recover civil penalties for him/herself and others who have suffered the same Labor Code violations.

Disregarding this provision, Ms. Alva's Amended LWDA Notice makes abundantly clear that she is asserting claims without regard to whether *she* suffered said violations. In fact, numerous sections for which she seeks civil penalties are inapplicable to her employment and/or are impossible for her to have suffered. For example, and without limitation to the numerous falsities in her PAGA notice letter, Claimant improperly asserts:

- The Company improperly implemented an Alternative Workweek Schedule (“AWS”); however, the Company never implemented an AWS and Ms. Alva was not subject to an AWS;
- The Company violated Labor Code sections related to a governing collective bargaining agreement (“CBA”); however, neither Ms. Alva, nor any other California Caregivers employee was subject to a CBA during their employment;
- The Company failed to pay prevailing wage for public works; but California Caregivers never performed any public works, let alone work that would give rise to prevailing wage issues;
- The Company did not comply with the Heat Illness Prevention in Outdoor Places of Employment provisions; however, Ms. Alva and other California Caregivers employee caregivers worked indoors in client homes;
- The Company failed to provide all temporary workers, including claimant, with owed wages weekly; neither Ms. Alva nor her counterparts were temporary workers;
- The Company failed to provide suitable seating to employees; however, Ms. Alva and other caregivers worked in clients' homes, and those clients had ample seating available to Claimant and other employees;
- The Company employed minors under the age of 16 in connection with manufacturing establishment or other place of employment in adjusting belts to machinery, sewing or

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lacing machine belts in a workshop or factory, and/or oiling, wiping, cleaning machinery, etc.; Claimant was born in 1983 and is well above the age of 16, and further, the Company is not engaged in any of the aforementioned or similar types of work.

Ms. Alva knows these various Labor Code sections did not apply to her or her employment, yet she asserts them within her amended PAGA notice regardless. Accordingly, it remains unclear to Respondent whether Claimant is alleging only violations that she suffered, or if she is merely asserting blanket allegations, disregarding any factual basis for said claims. Whatever the case, the allegations set forth in her Amended PAGA notice letter are moot because these Labor Code sections did not apply to Ms. Alva.

IV. CLAIMANT’S AMENDED NOTICE IS HARASSING AND CREATES AN UNDUE BURDEN ON RESPONDENT.

In response to Ms. Alva’s initial PAGA notice letter, the Company promptly conducted a complete and thorough audit of its policies, practices, and procedures, and concluded no evidence supported any of Ms. Alva’s alleged claims. (Attached hereto as Exhibit A is the Company’s conclusion to its initial LWDA PAGA notice investigation.) As noted above, Ms. Alva’s subsequent 16-page Amended PAGA notice provided little to no additional factual assertions, and certainly none that justify a need for Respondent to conduct a further investigation into Claimant’s allegations. Plaintiff’s Amended PAGA letter is extremely burdensome to the extent it requires Respondent to duplicate its investigative efforts.

Additionally, it is readily apparent from Claimant’s amended PAGA notice letter that Ms. Alva has either been untruthful with her counsel, or alternatively, that her attorneys have failed and/or refused to engage in a reasonable investigation regarding Ms. Alva’s claims, which would eliminate the numerous boilerplate allegations lacking any factual basis or relation to Claimant’s employment. Without having conducted an investigation or presenting any information that would allow the Company to more thoroughly examine the numerous allegations, Claimant intends to proceed with filing a civil action concerning the myriad of Labor Code claims that are inapplicable to Ms. Alva’s employment. That cannot stand.

The purpose of the PAGA notice requirement is to give the LWDA “the initial opportunity to investigate and cite employers for Labor Code violations.” (*Caliber Bodyworks, Inc. v. Superior Court*, 134 Cal.App.4th 365, 375 (2005).) Claimant has no right to mislead and discourage the LWDA in that respect or prevent Respondent from curing any alleged violations or checking compliance pursuant to Labor Code Section 2699(h)(1). Claimant’s longwinded notice alleging numerous inapplicable code sections should provoke the LWDA to analyze Ms. Alva’s claims in detail, review the information provided herein, and issue a determination before

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Claimant brings her unmeritorious claims in court on behalf of the LWDA and the State of California.

V. CONCLUSION

In conclusion (and without waiving California Caregivers' denial and defenses to all other claims asserted by Ms. Alva), California Caregivers denies all the claims made by Ms. Alva. Respondent requests that the LWDA review Ms. Alva's PAGA notice, conclude that it fails to provide adequate notice to California Caregivers, and instruct Claimant amend the notice letter to set forth sufficient factual detail concerning the violations she actually suffered so that the LWDA can evaluate whether or not it intends to investigate the alleged violations.

Should the Department have any questions or require additional information in response to this letter, California Caregivers requests an opportunity to supplement its response and/or cure upon notice of the Department's determination, as provided for in Labor Code section 2699.3(c)(2)(B).

Very truly yours,

A handwritten signature in black ink, appearing to read "Ryan Larocca", written in a cursive style.

Ryan Larocca
CDF Labor Law LLP

EXHIBIT A

TO: California Caregivers - Internal DATE: August 19, 2024

FILE NO.:

FROM: Barb Fukui COPIES TO:

Director of Operations

California Caregivers Home Healthcare, LLC

SUBJECT: Crystal Alva – LWDA PAGA Notice Audit Re Alleged Labor Code Violations



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. In addition, 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.

- Section 1197 prohibits employers from paying a lower wage than the state or local law's fixed minimum wage.
- Section 1182.12 sets forth California's minimum wage laws for employers from July 1, 2014 until December 31, 2023.

Upon review of California Caregivers' policies, practices, wage statements and time records, the Company concludes that Plaintiff's allegations are without merit. Employees' time and pay was accurately tracked and paid to employees in accordance with all minutes actually worked. Consistent with Wage Order 15, Company policy is to pay overtime for caregiver employees after 9 hours in a day or 40 hours in a week. The Company reviewed all of plaintiff's time records and overtime allegations and came to the conclusion there was no error on her pay. Plaintiff never worked over 9 hours (Wage Order 15) in a day or 40 hours in a week.

B. Unpaid Wages Due to Off the Clock Work

Plaintiff alleges that employees engaged in uncompensated off the clock work in violation of Sections 221, 223, 510, 1197, and 1182.12 (above) because the Company required employees to come early to work, leave late from work, stand in long lines to clock-in, complete pre-shift tasks before clocking in, complete post-shift tasks after clocking out, clock out for meal and rest periods while continuing to work, don/doff uniforms/safety equipment off the clock, attend company meetings off the clock, make phone calls or drive off the clock, engage in daily security screenings/temperature checks.

Upon review of California Caregivers' policies, practices, wage statements and time records, the Company has determined that employees were not required to, nor did they perform off the clock work. At all relevant times, the Company has adhered to the requirements set forth by these sections and has paid employees at least minimum wage for all time actually worked. The Company policy is for caregivers to clock in before working and clock out after all work tasks have been completed. They should arrive at their scheduled shift on time, use their phone, text the office or use the client's phone to clock in as they arrive. The caregiver should clock out using their preferred method, AFTER all tasks are completed with the client and they are leaving their shift. The employee is not allowed to stay on the premises after clocking out.

C. Additional Remuneration Not Factored into Regular Rate of Pay

Plaintiff alleges that employees were underpaid because the Company failed to include non-discretionary bonuses, incentive pay, meal allowances, mask allowances, gift cards and other forms of remuneration into employees' regular rate of pay for periods where overtime was worked and the additional compensation was earned in violation of Sections 221, 223, 510, 1197, and 1182.12 (above).



Upon review of California Caregivers' policies and sample wage statements and time records, we have determined that the Company generally adheres to the requirements set forth under Section 221, 223, 510, 1197, and 1182.12 and accurately calculated employees' regular rate of pay for purposes of paying employee's overtime. In this instance, the plaintiff had no overtime scheduled or worked and had no additional remuneration. For employees who are scheduled overtime our platform recognizes the overtime and it is paid in accordance with California law, 9 hours in a day, 40 in a workweek. And Plaintiff was not eligible for bonus incentive pay, meal period premiums or other types of additional remuneration

D. Detrimental Rounding or Revision of Time Records

Plaintiff alleges that employees were underpaid because the Company engaged in a rounding practice detrimental to employees, or alternatively, edited and/or manipulated time entries to show less hours than employees actually worked, in violation of Sections 221, 223, 510, 1197, and 1182.12 (above).

Although rounding is not per se unlawful, a rounding policy that is either unfair to or unfavorable to an employee either on its face or as applied, which results in underpayment for all time actually worked, is not permissible.

Upon review of California Caregivers' policies, wage statements and time records, we have determined that the Company adheres to the requirements set forth under Section 510 and accurately paid employees for all time worked. Specifically, the Company's time keeping platform rounds employee time punches to the nearest 5 minute mark only if that rounding change would give the employee more time worked. In other words, the rounding policy and practice is set to give the employee more time worked and thus overpay them. Ultimately, all employees including Plaintiff were consistently overpaid, not underpaid, as a result of the Company's payroll practices.

E. Implementation of Alternative Workweek Schedules

Plaintiff alleges that employees were underpaid in violation of Section 510 and 511 because the Company attempted but failed to properly implement an alternative workweek schedule ("AWS").

- Section 511 sets forth the procedural rules for implementing an AWS and corresponding wage and hour requirements relating to such work schedules.

Upon review of California Caregivers' policies, wage statements and time records, we have determined that the Company does not, nor has it ever implemented and/or maintained an AWS. The Company has at all times adhered to Wage Order 15 and California law on this issue.

F. Failure to Pay Reporting Time Pay



Plaintiff's PAGA Notice letter alleges that employees were underpaid in violation of Sections 221, 223, 510, 1197, and 1182.12 (above) because the Company failed to properly pay all reporting time pay when employees were required to report to work, did report, and were not put to work.

Upon review of California Caregivers' policies, wage statements and time records, we have determined that the Company does pay employees reporting time pay if they are scheduled to work, appear for work, and are subsequently not put to work.. The Company reviews payroll weekly, all employees are contacted for clarification if their shifts are not completed by them signing in and out with our platform section. Additionally, Plaintiff's wage statements exemplify that reporting time was paid to Plaintiff.

G. Meal/rest periods not provided or short or interrupted

Plaintiff's PAGA Notice letter alleges that California Caregivers did not authorize and permit employees to take uninterrupted, timely, and complete ten-minute rest periods in violation of Sections 226.7 and/or 512 because (a) the Company failed to provide rest periods all together, provided late rest periods, (b) required rest periods and/or meal periods be taken together, (c) interrupted employees' meal and rest periods, (d) required employees to carry cellphones or walkie-talkies during rest periods, (e) prohibited employees from leaving the premises during their breaks, and (f) relied on on-duty/on-call rest periods. Plaintiff further alleges that the Company did not pay employees a premium payment as required under Section 226.7 or alternatively, failed to pay employees at the regular rate of pay.

- Section 226.7 states that if an employer fails to provide an employee a meal or rest or recovery period in accordance with a state law, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided.
- Section 512 requires employers to provide employees with a meal period of not less than 30 minutes when the employee works a period of more than five (5) hours, and a second meal period of no less than 30 minutes when the employee works a period of more than 10 hours.
- Industrial Welfare Commission Wage Order governs the rules regarding rest periods. An employer must provide employees with a ten (10)-minute uninterrupted break every four hours of work, or major fraction thereof. Such rest periods constitute time worked and therefore, must be paid to the employee as time worked.

Pursuant to Wage Order 15, personal attendants are exempt from the rules requiring employers to provide meal and rest periods. 'Personal attendants' are defined as individuals who provide in-home caregiving services to a private household, engaging in supervising, feeding, and dressing a person who needs assistance due to advanced age, physical disability, or mental deficiency. Personal attendants may not spend more than 20 percent of their time performing work other than supervising, feeding, bathing, and dressing the patient at risk of losing the classification of "personal attendant." are not entitled to meal periods or rest breaks.



Upon review of California Caregivers' policies, practices, wage statements and time records, the Company has determined that it was not bound by California's meal and rest period laws because Plaintiff, and all the employees with the same job, are personal attendants as described in Wage Order 15, and are thus exempt from such requirements.

H. Employees Prevented from Taking "Outdoor Cooldown Rest Periods"

Plaintiff also alleges that California Caregivers did not authorize cooldown rest periods in violation of California Code of Regulations, Title 8, Section 3395.

- California Code of Regulations Section 3395 requires employers in the industries of agriculture, construction, landscaping, oil and gas extraction, and transportation or delivery of agricultural or construction materials to provide shade access and additional rest breaks to employees, and follow various procedural requirements to ensure the safety of employees in high heat weather.

Upon review of California Caregivers' policies, practices, wage statements and time records, the Company has determined that it is not subject to the outdoor cooldown rest period requirements, and to the extent the Company may be subject to those provisions, it has complied with the regulation's requirements. California Caregiver employees do not work outdoors with the exception of transporting themselves to client locations.

I. Failure to keep adequate/accurate time records/wage statements/personnel records

Plaintiff alleges that the Company failed to keep adequate or accurate wage statements and similar payroll and personnel documents in violation of Sections 226, 432, and 1198.5.

- Section 226 requires that wage statements include all of the following components: (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) name of the employee and only the last four digits of their social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer, (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.
- Section 432 requires that all records signed by the employee to hold or maintain employment be produced to an employee upon request.
- Section 1198.5 permits employees, or their representatives to inspect and receive a copy of the personnel records the employer maintains regarding the employee's performance or to any grievance concerning the employee.



Upon review of California Caregivers' policies, practices, wage statements and time records, the Company has determined that it maintains accurate and complete personnel records and wage statements that contain the necessary information as required by law.

J. Failure to timely pay compensation at time of termination

Plaintiff alleges that the Company failed and refused to timely pay compensation to employees at the time of their termination or resignation based on the Company's failure to pay all overtime wages, minimum wages, paid sick leave, vacation pay, paid time off, and premium pay during the employees' employment in violation of Sections 201 and 202.

- Section 201 requires employers who discharge or terminate an employee to provide the employee with all wages earned and unpaid immediately (at the time of termination).
- Section 202 requires an employer to provide an employee who resigns his or her employment no later than 72 hours after their resignation, unless the employee has provided the employer with 72 hours previous notice, in which case the wages are owed to the employee at the time of quitting.

Upon review of California Caregivers' policies, practices, wage statements and time records, the Company has determined that it has consistently paid employees in a timely manner following their separation of employment.

K. Unlawful deduction of wages or advances on wages earned acknowledging indebtedness

Plaintiff also claims that the Company had a policy or practice of unlawfully deducting wages by issuing orders, checks, drafts, notes, memos, gift cards or other acknowledgments of indebtedness, in place of the employees' wages in violation of Sections 212.

- Section 212 prohibits issuing any of the aforementioned acknowledgments of indebtedness in lieu of payment of wages due.

Upon review of California Caregivers' policies, practices, wage statements and time records, the Company has determined that it does not issue any acknowledgment of indebtedness in lieu of wages due. Nor does the Company deduct any charges from employee wages, except those authorized by law.

L. Failure to comply with Labor Code 2810.5 Wage Theft Protection Act

Plaintiff alleges that the Company failed and refused to comply with the notice requirements of Section 2180.5 and has paid employees rates that were not agreed upon and which violate minimum wage and overtime laws.



Section 2810.5 requires employers to provide employees with a written notice containing (1) the rate or rates of pay including overtime rates, (2) allowances, if any, which are included as part of the minimum wage, (3) the regular payday designated by the employer, (4) the name of the employer, including any “doing business as” names used by the employer, (5) the physical address of the employer’s main office or principal place of business, and a mailing address if different, (6) the telephone number of the employer, (7) the name, address, and telephone number of the employer’s worker’s compensation insurance carrier, (8) that an employee may accrue and use sick leave, has a right to request and use accrued paid sick leave, and may not be terminated or retaliated against for using or requesting the use of accrued paid sick leave Wage Theft Notice in Employee file, and may file a complaint against an employer who does retaliate, (9) any federal or state emergency declaration that was issued within 30 days before the employee’s first day of employment that may affect their health and safety during employment, and (10) any other information the Labor Commissioner deems material and necessary.

Upon review of California Caregivers’ policies, practices, wage statements and time records, the Company has determined that employees do receive Notices to Employees in compliance with Section 2810.5. More specifically, Plaintiff received and acknowledged a copy of the Section 2810.5 Notice to Employee with the required information.

M. Failure to Pay Reimbursements

Plaintiff also claims that the Company failed and refused to reimburse employees in violation of Section 2802. Plaintiff alleges that the Company failed and refused to reimburse for driving personal vehicles (mileage and gas), purchasing uniforms, providing uniform and other deposits, laundering mandatory uniforms, purchase of tools and safety equipment, and for the purchase and maintenance of cell phones. Regarding uniforms, Plaintiff also claims that the Company did not reimburse deposits for uniforms with interest in violation of Section 404.

- Section 2802 requires employers to indemnify employees for all necessary expenditures or losses made by an employee in direct consequence of the discharge of his or duties, or in obedience to the directions of the employer, even though unlawful.
- Section 404 requires employers to return money or property with accrued interest to an employee or applicant when the employee or applicant puts that money or property up as a bond and the fulfillment of the agreement is met.

Upon review of California Caregivers’ policies, practices, wage statements and time records, the Company has determined that it has accurately reimbursed employees in a manner that is consistent with California law. The Company practices/policies with regard to reimbursement on mileage, follow the Federal Standard Mileage rates. In 2023, it was 65.5 per mile. If employee has two shifts in one 24-hour period, our platform will calculate the mileage and travel time between the two clients and pay accordingly. If the employee drives the client on errands the employee is to report the mileage when clocking out of their shift and they are paid the following week. There is no reimbursement for gas, it is included in the 65.5 cent mileage reimbursement. Notably, Plaintiff



received a \$5.00 phone reimbursement each week—identified within her wage statements. Plaintiff was not required to purchase any other tools, equipment, or a uniform.

N. Failure to comply with California Paid Sick Leave requirements

Plaintiff also alleges that the Company has a practice of failing to provide employees with paid sick leave in violation of Section 245 et seq. and that the amount of paid sick leave was not provided at the proper regular rate of pay. Plaintiff further claims that the Company failed to provide notice of the amount of paid sick leave available in violation of Section 245 and 246's mandatory payroll/workplace injury reporting.

- Section 245 et seq. requires employers to do various things to comply with California's Healthy Workplace Healthy Families Act, including (1) displaying posters on paid sick leave where employees can easily read it, (2) provide written notice to employees of their sick leaves rights at the time of hire, (3) provide accrual of one hour for every 30 hours worked and allow use of at least 40 hours or five days (up from 24 hours or three [3] days as of January 1, 2024) of paid sick leave at the beginning of each 12 month period, (4) allow eligible employees to use accrued sick leave upon reasonable request, (5) show how many hours/days of sick leave an employee has available on a paystub or similar document, and (6) keep records showing how many hours have been earned and used for three years.

Upon review of California Caregivers' policies, practices, wage statements and time records, the Company has determined that it has complied with California's Healthy Workplace Healthy Families Act. The Company provides sick time after 90 days of employment. We initially provided Plaintiff, and other employees, with 24 hours of paid sick leave up front. Each July 1, the policy resets for another 24 hours (at that time) and you can carry over 24 from the previous year. Now the Company provides 40 hours of paid sick leave up front each year and allows employees to carry over 40 hours as well. We ask that our employees tell us to apply sick leave when they want to use it and we apply it manually to their paychecks. The amount of paid sick leave available to employees is shown on their paystubs.

O. Failure to Pay Vacation Pay

Plaintiff also alleges that the Company failed to pay employees paid time off and vacation upon the separation of employment in violation of Section 227.3.

- Section 227.3 requires an employer who provides paid vacation time to pay all vested vacation to the employee as wages at the employee's final rate of pay.

Upon review of California Caregivers' policies, practices, wage statements and time records, the Company has determined that there is no violation here. Personal Attendants, including Plaintiff, are not eligible for vacation pay.

P. Pay schedule – Semi-monthly/Bi-weekly/Weekly



Plaintiff claims that the Company failed to timely pay employees' wages in violation of Section 204.

- Section 204 requires that wages be paid on days designated in advance as regular paydays. Wages for work performed between the 1st and 15th of the month be paid between the 16th and 26th day of the month, and between the 1st and 10th for work performed between the 16th and last day of the calendar month. be paid on days designated in advance as regular paydays. An employer satisfies these requirements by paying wages on a weekly, biweekly, or semimonthly payroll if the wages are paid no more than seven calendar days following the close of the payroll period.

Upon review of California Caregivers' policies, practices, wage statements and time records, the Company has determined that is has complied with this Section because pay periods are weekly. The Company paydays are weekly (for the prior week) on Fridays. Our weeks start on Sunday at 12:01 am to Saturday at 11:59pm and are paid the following Friday.

Q. Employment of temporary workers and improper pay of the same

Plaintiff also claims that the Company failed to provide temporary workers with weekly wages no later than the regular payday of the following week in violation of Section 201.3.

- Section 201.3 requires employers employing temporary employees to make payment to said employees on no less than a weekly basis on the regular payday of the following week.

Upon review of California Caregivers' policies, practices, wage statements and time records, the Company has determined that this section is not applicable to the Company because the Company did not employ temporary employees. Regardless, the Company pays employees on a weekly basis as required by this Section. The Company paydays are weekly (for the prior week) on Fridays. Our weeks start on Sunday at 12:01 am to Saturday at 11:59pm and are paid the following Friday. work.

R. Suitable seating in proximity to work area

Plaintiff further alleges that the Company failed to provide suitable seating to employees in violation of the IWC Wage Orders because the Company failed to place an adequate number of seats in reasonable proximity to employees' work area and/or refused to permit employees to use such seats when it does not interfere with the employees' performance of job duties and they are not engaged in the active duties of their employment.

- Section 14(A) of the IWC Wage Orders requires employers to provide all working employees with suitable seats when the nature of the work reasonably permits the use of seats.

Upon review of California Caregivers' policies, practices, wage statements and time records, the Company has determined that seating was available to employees. The Company assesses each



client home before an employee is scheduled. It makes sure the environment is safe for both the client and our employee. Each client is in a home environment. The employee can sit wherever and whenever they want.

S. Prevention of disclosure of wages

Plaintiff further alleges that the Company prevented employees from using or disclosing the skills, knowledge, and experience they obtained for purposes of competing with California Caregivers, including preventing employees from disclosing their wages when negotiating new jobs with prospective employers or from identifying names of employees employed by the Company in violation of Sections 232, 232.5 and 1197.5, as well as Business and Professions Code Sections 17200, 16600, and 16700.

- Section 232 prohibits employers from requiring employees refrain from disclosing the amount of their wages or discharging an employee for disclosing their wages
- Section 232.5 prohibits employers from requiring employees refrain from disclosing information about their working conditions or discharging an employee for disclosing information about their working conditions
- Section 1197.5 sets forth California's Equal Pay Act which prohibits employers from paying employees less than employees of the opposite sex or differing races

Upon review of California Caregivers' policies and practices The Company does NOT prevent employees from any such disclosures. A number of employees are employed by other employers in the healthcare industry, unrelated to California Caregivers. Employees merely inform the Company of the hours that they prefer to work and are provided schedules within the confines of those hours worked. If the employee has skills that relate to the healthcare industry, they are encouraged to include them on their resume. If an employee does obtain certain skills or knowledge during their employment, they are encouraged to tell HR. We have increased hourly wages for certification that apply to this field. The Company has determined that it has not violated these Sections of the Labor Code.

T. Prevention of disclosure of violations of state or federal law

Plaintiff also alleges that the Company prevents employees from disclosing violations of state and federal law in violation of Sections 232 and 232.5 (above) and 1102.5, as well as Business and Professions Code Sections 17200.

- Section 1102.5 prohibits employers from retaliating against an employee for disclosing information reasonably believed to be a violation of state or federal law to a government agency or to a person with authority over the employee, or to another employee who has authority to investigate those claims.

Upon review of California Caregivers' policies and practices has determined that it has not violated these Sections of the Labor Code. The Company has a variety of people an employee can



go to if they feel we are violating the law in any way, shape or form. An employee can tell the scheduling team, Quality Assurance, Care Manager, HR, the Director of Operations, or the Owners. I inquired with all the above and no one heard of any such disclosure from Plaintiff.

U. Prevention of engaging in lawful conduct during working hours

Plaintiff asserts that the Company prevented employees from engaging in lawful conduct during non-working hours in violation of Sections 98.6, 232, 232.5, and 1197.5 (above).

- Section 98.6 prohibits employers from discharging, discriminating or retaliating against, or taking any adverse action against an employee or applicant because the individual has engaged in lawful conduct occurring during nonworking hours, away from the employer's premises, or because the employee has filed a bona fide complaint or claim against the Company for unpaid wages.

The Company's policy is that it will not discharge, discriminate, retaliate, or take any adverse action against an employee or applicant that has engaged in lawful conduct during nonworking hours away from the employer's premises, or because the employee has complained. The Company has determined that it has not violated these Sections of the Labor Code because there is no indication that employees have ever been prevented from engaging in lawful conduct during nonworking hours.

V. Failure to provide accessible sanitation facilities

Plaintiff claims that the Company failed to provide adequate and readily accessible sanitation facilities in violation of Sections 1527, 3366, 3457, and 8397.4 because the Company did not conduct regular servicing, cleaning, and supplying of each facility to ensure it is maintained in a clean, sanitary and serviceable condition. Plaintiff incorrectly identifies the relevant code sections as provisions of the Labor Code. They are not. California Code of Regulations Section 1527 governs rules concerning washing facilities, food handling, and temporary sleeping quarters.

- California Code of Regulations Sections 1527, 3366, 3457, and 8397.4 require that employers provide clean, sanitary, and stocked washing facilities, reasonably accessible to all employees. Companies must maintain a lavatory for every twenty employees or fraction thereof.

Upon review of California Caregivers' policies and practices, observing the Company's sanitation facilities, the Company has determined that this claim is also without merit. Services for our clients are provided in their home. Homes are inspected and assessed before we provide care and we require that employees have access to working washing facilities.

W. Unlawful background checks

Plaintiff alleges that the Company conducted unlawful background checks on prospective and current employees and required employees to disclose their conviction history before making a conditional offer of employment in violation Section 432.7 and Government Code 12952.



- Section 432.7 prohibits employers from asking applicants for employment to disclose information concerning an arrest or detention that did not result in conviction, or information concerning a referral to, and participation in, any pretrial or posttrial diversion program, or concerning a conviction that has been judicially dismissed or ordered sealed, and further prohibits employers from utilizing such information as a factor in determining any condition of employment.
- Government Code Section 12952 prohibits any employer with five or more employees from including any question on an application for employment that seeks disclosure of an applicant's conviction history, or inquiring about or considering the conviction history of an applicant until after the employer has made a conditional offer of employment to the applicant.

Upon review of California Caregivers' policies and practices Background checks are required from the State of California, Department of Social Services to qualify to provide services as a caregiver. The Lic. 508 form clearly states it is the law that the potential employee be fingerprinted. The Company provides applicants with the necessary pre-check paperwork and follows the required process for any results that are returned by the background check.

X. Reliance on salary history as factor in determining whether to offer employment

Plaintiff alleges that the Company relied on applicants' salary history information as a factor in determining whether to offer employment or determining the salary offer to the applicant in violation of Section 432.3.

- Section 432.3 prohibits employers from relying on applicant's salary history information as a factor in determining whether to offer employment to an applicant or what salary to offer an applicant.

Upon review of California Caregivers' policies and practices the Company has determined that it has not violated this Section of the Labor Code. The Company does not ask applicants about their wage history.

Y. Requiring employees to agree to confidentiality policies, unlawfully restraining trade

Lastly, Plaintiff alleges that the Company requires employees to agree to confidentiality policies that unlawfully restrain trade by prohibiting employees from speaking with prospective employers about their work with California Caregivers in violation of Section 432.5 (above).

Upon review of California Caregivers' policies and practices the Company determined there is no basis for this allegation. The Company does not have any confidentiality policy that prevents employees from working at other similar companies. As stated before, we welcome employees who have other employment. If an employee wants to go work for another company, California Caregivers takes no issue with that decision.



Barb Fukui

Barb Fukui
Director of Operations