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August 21, 2024

VIA ONLINE SUBMISSION

Stewart Knox, Secretary
California Labor & Workforce
Development Agency
800 Capitol Mall, Suite 5000 (MIC-55)
Sacramento, CA 95814

VIA CERTIFIED MAIL

Suncrest Hospice Sacramento, LLC
Suncrest Hospice San Jose, LLC
Attn: Legal Department
9800 S. Monroe St., Suite 809
Sandy, UT 94070

Suncrest Hospice, LLC
Attn: Legal Department
2140 S. Dupont Hwy.
Camden, DE 19934

Suncrest Hospice Sacramento, LLC
Attn: Legal Department
2210 Del Paso Rd., Ste. A
Sacramento, CA 95834

NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO CALIFORNIA LABOR CODE SECTION 2698, *ET SEQ.*

To: The California Labor and Workforce Development Agency; Suncrest Hospice, LLC; Suncrest Hospice Sacramento, LLC; Suncrest Hospice San Jose, LLC

From: Jamie Anderson, on behalf of herself and all other current and former hourly nonexempt employees for violations of the California Labor Code

To Whom It May Concern:

Abramson Labor Group has been retained by former employee Jamie Anderson ("Ms. Anderson") to seek compensation and all other available relief, including civil penalties on her behalf and on the behalf of all those similarly aggrieved (collectively with Ms. Anderson, "Claimants") who have been injured by Suncrest Hospice, LLC; Suncrest Hospice Sacramento, LLC; and Suncrest Hospice San Jose, LLC's (collectively, "Suncrest") violations of the California Labor Code. Ms. Anderson, on behalf of herself and all other similarly aggrieved current and former hourly nonexempt employees of Oak Cottage, intends to seek civil penalties, attorneys' fees, costs, and other available relief for violations of the California Labor Code, which are recoverable under sections 2698, *et seq.* of the Labor Code Private Attorneys General Act of 2004 ("PAGA").

Factual Statement:

Suncrest operates a business connecting persons with its trained staff and healthcare professionals to provide hospice, home health, and palliative care services, serving communities throughout California, including in Sacramento where Ms. Anderson worked as well as Daly City, Fremont, Riverside, San Diego, Stockton, and Walnut Creek.

Claimant Ms. Anderson worked for Suncrest as an hourly, nonexempt employee in the position of Intake Specialist, earning $23.00 per hour from approximately March 11, 2024 through approximately May 27, 2024. Ms. Anderson, on behalf of herself and all other similarly aggrieved current and former employees in California in various positions, are or were engaged in providing a variety of hospice, home health, and palliative care services at Suncrest's facilities and also at clients' homes. As part of their employment with Suncrest, Claimant and other hourly, nonexempt employees, collectively, "hourly nonexempt employees," are or were assigned to and required to suffer and permitted to work—some without pay—while performing tasks collectively including, but not limited to, answering phone calls; answering questions from patients and clients and their family members regarding Suncrest's services; processing intakes; submitting authorizations; tracking and processing referrals; unloading documents to Suncrest's EMR system; scheduling patients' start for care with nurses; working with sales to get their referrals; data entry; and emailing and corresponding with nurses and sales.

Claimant Ms. Anderson regularly worked five (5) days per week for 8 hours or more hours per day. During the entire course of her employment, Suncrest failed to provide Ms. Anderson and continues to fail to provide those similarly aggrieved with some overtime pay and compliant meal periods and rest breaks. Suncrest has also failed to pay minimum wages to Ms. Anderson and other hourly, nonexempt employees in violation of Labor Code sections 510, 1194, 1197, and 1182.12, and section 4 of IWC Wage Order No. 5-2001. As a consequence, Suncrest has failed to comply with Labor Code sections 226.7, 510, and 512, and sections 3, 11, and 12 of all applicable Industrial Welfare Commission ("IWC") Wage Orders, including but not limited to, IWC Wage Order No. 5-2001. In violation of Labor Code sections 510, 1194, 1197, and 1182.12, Suncrest has failed to compensate Claimants at a rate of one and one-half (1.5) times their regular rate for all hours worked over eight (8) hours per workday and the first eight (8) hours worked on the seventh day of a workweek and at two (2) times their regular rate for hours worked over twelve (12) hours per workday and eight (8) hours on the seventh day of a workweek.

Suncrest has also failed and continues to fail to pay all wages owed every pay period in violation of Labor Code section 204. Likewise, Suncrest has failed and continues to fail to provide timely, accurate wage statements to Ms. Anderson and other aggrieved persons in violation of Labor Code section 226(a). With regard to those no longer employed by Suncrest, including Ms. Anderson, Suncrest has violated Labor Code section 203 by failing to pay all wages due upon separation. Suncrest has failed and continues to fail to fully reimburse Claimants for all necessary, business-related expenses and losses they incurred, including, but not limited to, all costs incurred for cell phone expenses, in violation of Labor Code section 2802. Ms. Anderson is informed and believes that such violations are ongoing, systematic, and continuous. Ms. Anderson intends to bring an action against Suncrest under the Private Attorneys General Act ("PAGA") to recover wages and penalties as provided by California law.[1]

[1] Without limitation, Ms. Anderson, if permitted, will seek any and all penalties otherwise capable of being collected by the Commission. This includes each provision as set forth in Labor Code section 2699.5 as follows:

> The provisions of subdivision (a) of Section 2699.3 apply to any alleged violation of the following provisions: subdivision (k) of Section 96, Sections 98.6, 201, 201.3, 201.5, 201.7, 202, 203, 203.1, 203.5, 204, 204a,

Theories of Labor Code Violations and Remedies:

Claimant Ms. Anderson was employed by Suncrest from approximately March 11, 2024 through approximately May 27, 2024 as an Intake Specialist. For a period of at least four (4) years prior to August 2024, but for our purposes here, one (1) year prior, Suncrest has violated and continues to violate the California Labor Code sections as detailed below.

Claimants also were at all times entitled to payment of **minimum wages**. Suncrest has failed and continues to fail to pay Claimants minimum wages for all hours worked as required by Labor Code sections 510, 1194, and 1194.2 and section 4 of IWC Wage Order No. 5-2001. First, Defendant Claimants worked a substantial amount of time while off-the-clock—meaning they were not punched in for work—and therefore, those working hours were not recorded and then compensated. This off-the-clock time primarily occurred because Claimants had to monitor and respond to Halo messages before and after their shifts or else while entirely off-shift, all when they were clocked out or taking a rest break. Claimants' off-the-clock time was never subsequently added and, therefore, uncompensated. Accordingly, Claimants were not paid for that time spent working off the clock. Second, Defendant enforces practices that effectively require Claimants to perform work during their meal periods and rest breaks, the effects of which Defendant could have mitigated by increasing staff to at least provide coverage for other employees. However, Defendant instead chose to instruct Claimants to remain on call, and therefore on-duty, during their meal periods and rest breaks and to work through their rest breaks when staff were in demand. In effect, these policies and practices cause Claimants to remain on-duty during meal periods and rest breaks, and therefore, constitute a failure on Suncrest's part to provide compliant meal periods and rest breaks. With that, Suncrest's corresponding failure to provide premium pay at the correct regular rate, if any premiums were paid at all, in lieu of compliant meal periods and rest breaks constitutes Suncrest's failure to pay minimum wages and all hours worked every pay period and upon separation in violation of Labor Code sections 201, 202, 203, 204, 226(a), 510, 1182.12, 1194, and 1197. Suncrest's failure to pay Claimants their meal period and rest break premiums for noncompliant meal periods and rest breaks, as explained in further detail below, also constitutes a failure to pay minimum wages to Claimants. Therefore, Claimants are entitled to recover wages and/or penalties as provided by Labor Code section 1197.1 and section 20 of IWC Wage Order No. 5-2001.

Claimants were at all times entitled to unpaid off-duty, uninterrupted **meal periods**. As explained in the preceding paragraph, Suncrest failed to authorize and permit timely, full-length meal periods for Ms. Anderson and all other similarly aggrieved employees as required by Labor Code sections 226.7 and 512 and section 11 of IWC Wage Order No. 5-2001. Ms. Anderson and Claimants regularly took their meal periods late—after the end of the fifth hour, because work remained that needed attention and could not wait. Additionally, Ms. Anderson and Claimants were required to perform work during their meal periods in the form of monitoring and responding to messages on the Halo communication application on their cell phones and answering incoming calls while on their meal periods, which caused their meal periods to be

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

less than 30 minutes. As a result, Suncrest did not compensate Claimants with an extra hour of pay at the regular rate for noncompliant meal periods for each workday on which they occurred. Accordingly, since Suncrest required Ms. Anderson and others similarly situated to work during their meal periods in violation of Labor Code sections 226.7(a) and 512, Claimants seek all available penalties as set forth in Labor Code sections 558, section 20 of IWC Wage Order No. 5-2001, and 2699(f).

Claimants were at all times entitled to take paid, off duty 10-minute **rest breaks**. However, for the same reasons cited in the preceding paragraph regarding meal periods, Suncrest likewise failed to authorize and permit Ms. Anderson and all other similarly aggrieved employees to take full-length, off-duty rest breaks as required by Labor Code sections 226.7 and section 12 of IWC Wage Order No. 5-2001. Claimants were both not able to take their requisite number of 10-minutes rest breaks based on their shift duration; in these instances, Claimants regularly worked through their rest breaks. And for rest breaks actually taken, Claimants were not off duty because they were required to remain on call, and therefore on duty, by monitoring their cell phones' Halo application for incoming messages in case they were summoned to return to work to handle a task that required their attention. Many times these interruptions actually did require Claimants to return to work early. Suncrest did not compensate Claimants with an extra hour of pay at the regular rate for noncompliant rest breaks for each workday on which they occurred. Therefore, Claimants are entitled to recover wages and/or penalties as provided by Labor Code section 558 and section 20 of IWC Wage Order No. 5-2001. Furthermore, since Suncrest required their hourly nonexempt employees to perform work during rest periods in violation of Labor Code section 226.7(b), Claimants seek all available penalties set forth in Labor Code sections 558 and 2699.

At all times relevant herein, Claimants were entitled to the payment of **overtime**. That is, pursuant to Labor Code sections 510, 1194, 1197, and 1182.12, Suncrest was required to compensate Claimants at a rate of one-and-one-half (1.5) times their regular rate for all hours worked over eight (8) hours per workday and the first eight (8) hours worked on the seventh day of a workweek and at two (2) times their regular rate for hours worked over twelve (12) hours per workday and eight (8) hours on the seventh day of a workweek. Ms. Anderson and Claimants regularly worked overtime hours. Suncrest has failed to and continues to fail to pay Claimants overtime wages owed for off-the-clock time worked that should have been compensated as overtime, yet regularly required them to work these overtime hours without premium pay under Labor Code section 1194. In short, during the entire course of their employment, Suncrest failed to provide Ms. Anderson and continues to fail to provide all others similarly situated with all overtime pay in violation of 226.7, 510, and 512 and all applicable IWC Wage Orders, including but not limited to IWC Wage Order 5-2001, section 3.

Pursuant to Labor Code sections 201–203, Claimants who have since separated from Suncrest, including Ms. Anderson, were entitled to be paid all **wages owed upon separation** within the statutorily allotted time—immediately (resignation with notice and termination) or within seventy-two (72) hours (resignation without notice). Claimants, including Ms. Anderson, did not receive all wages owed upon separation based on Suncrest's prior failings to pay all wages owed every pay period, including but not limited to minimum wage, overtime, and meal and rest premiums owed and for all hours worked, as explained above.

Claimants were at all times entitled to be provided timely and accurate **wage statements** from Suncrest pursuant to Labor Code section 226. Because Suncrest failed to pay Claimants all of their meal period and rest break premiums for noncompliant meal periods and rest breaks and failed to pay Claimants minimum wages for all hours worked before, during, and after their shifts and for all overtime wages due, Claimants' wage statements were inaccurate in reflecting meal period and rest break premiums owed, overtime and minimum wages, and all hours worked every pay period. As a consequence, Claimants' wage statements also do not reflect the accurate amount of net and gross wages owed. Accordingly, Claimants seek all available penalties as set forth in Labor Code sections 226(e) and 2699.

Finally, Claimants were entitled to be reimbursed by Suncrest for all necessary, **business-related expenses** they incurred in executing their duties for Suncrest. California Labor Code section 2802 provides that "An 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, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful." Suncrest, however, has failed to fully reimburse Ms. Anderson and Claimants for all necessary, business-related expenses and losses they incurred, including, but not limited to, all costs incurred for the expenses associated with the use of their personal cell phones, which was required to clock in and out for their shifts, to communicate via phone call and also the Halo phone application. Accordingly, Claimants are entitled to recover their unreimbursed expenditures and losses pursuant to Labor Code section 2802.

Suncrest's uniform failure to pay minimum and overtime wages, failure to authorize and permit full-length, off-duty meal periods and rest breaks or pay Claimants adequate premium compensation in lieu thereof, failure to keep accurate time records, failure to furnish timely and accurate wage statements, failure to pay all wages owed upon separation all violate Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512, 1182.12, 1194, 1197, and 2802 and as such, penalties are recoverable as set forth in Labor Code sections 210, 1194, *et seq.*, and 2699.

Claimants are entitled to recover unpaid wages, with interest, and are entitled to an award of attorneys' fees as permitted by Labor Code section 1194, other penalties as permitted by Labor Code sections 210 and 2699, and waiting time penalties for former employees pursuant to Labor Code section 203.

Accordingly, Claimants seek the remedies set forth in the above-referenced Labor Code sections for themselves, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 2699(a), 2699.3(a), 2699.3(c), and 2699.5, Ms. Anderson, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for themselves, all other aggrieved employees, and the State of California against Suncrest for violations of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1182.12, 1194, 1197, 1197.1, and 2802.

Should you require any additional information, please feel free to contact me.

Sincerely,

ABRAMSON LABOR GROUP

Cheryl Kenner

Cheryl A. Kenner