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August 7, 2024

VIA ONLINE SUBMISSION

California Labor & Workforce Development Agency
ATTN: PAGA Administrator
(https://dir.govfa.net/308)

Subject: *Janette Padilla v. Special Service for Groups, Inc.*

Dear PAGA Administrator:

This office represents Janette Padilla in connection with her claims under the California Labor Code. Ms. Padilla was an employee of SPECIAL SERVICE FOR GROUPS, INC. ("SSG").

The employer may be contacted directly at the address below:

SPECIAL SERVICE FOR GROUPS, INC.
905 E. 8TH ST.
LOS ANGELES, CA 90021

Ms. Padilla 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.*, the Labor Code Private Attorneys General Act of 2004 ("PAGA"). Ms. Padilla seeks relief on behalf of herself, the State of California, and other persons who are or were employed by SSG in California as a non-exempt, hourly paid employee and who received at least one wage statement ("aggrieved employees"). This letter is sent in compliance with the notice and reporting requirements of California Labor Code section 2699.3.

SSG employed Ms. Padilla as a non-exempt, hourly paid Bilingual Case Manager from approximately October 2021 to February 2024. Ms. Padilla worked at three of SSG's locations in Los Angeles, California. During her employment, Ms. Padilla typically worked ten (10) to fourteen (14) hours per day and five (5) days per week. Ms. Padilla's job duties included, without limitation, assessing treatment needs, creating and evaluating treatment plans, communicating with clinicians and patients, monitoring rehabilitation, and assisting other case managers.

SSG has committed each of the following Labor Code violations against Ms. Padilla, the facts and theories of which follow, making her an "aggrieved employee" pursuant to California Labor Code section 2699(c)(1):[1]

<u>SSG's Company-Wide and Uniform Payroll and HR Practices</u>

SPECIAL SERVICE FOR GROUPS, INC. is a California corporation providing a variety of social and psychological services, including, but not limited to, mental and behavioral health treatment, homeless services, HIV treatment and prevention, and occupational therapy throughout California. Upon information and belief, SSG maintains a single, centralized Human Resources (HR) department at its corporate headquarters in Los Angeles, California, for all non-exempt, hourly paid employees working for SSG in California, including Ms. Padilla and other aggrieved employees. At all relevant times, SSG issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Ms. Padilla and other aggrieved employees, regardless of their location or position.

Upon information and belief, SSG maintains a centralized Payroll department at its corporate headquarters in Los Angeles, California, which processes payroll for all non-exempt, hourly paid employees working for SSG in California, including Ms. Padilla and other aggrieved employees. Further, SSG issues the same formatted wage statements in the same manner for all non-exempt, hourly paid employees working in California, including Ms. Padilla and other aggrieved employees, irrespective of their location, position, or manner in which each employee's employment ended. In other words, SSG utilized the same methods and formulas when calculating wages due to Ms. Padilla and other aggrieved employees in California.

<u>Violation of California Labor Code §§ 510 and 1198 – Unpaid Overtime</u>

California Labor Code sections 510 and 1198 and the applicable Industrial Welfare Commission ("IWC") Wage Order require employers to pay employees working more than eight (8) hours in a day or more than forty (40) hours in a workweek at the rate of time-and-one-half (1 ½) times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek. The applicable IWC Wage Order further provides that employers are required to pay employees working more than twelve (12) hours in a day overtime compensation at a rate of two (2) times their regular rate of pay. An employee's regular rate of pay includes all remuneration for employment paid to, or on behalf of, the employee, including nondiscretionary bonuses and incentive pay.

SSG willfully failed to pay all overtime wages owed to Ms. Padilla and other aggrieved employees. During the relevant time period, Ms. Padilla and other aggrieved employees were not paid overtime premiums for all of the hours they worked in excess of eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40) hours in a week, because all hours that they worked were not recorded.

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[1] These facts, theories, and claims are based on Ms. Padilla's experience and counsel's review of those records currently available relating to Ms. Padilla's employment. Discovery conducted in litigation of wage and hour claims such as these often reveals additional claims that the aggrieved employee was not initially aware of (because the aggrieved employee was not aware of the law's requirements, the employer misinformed its employee of the law's requirements, or because the employer effectively hid the violations). Thus, Ms. Padilla reserves the right to supplement this letter with additional facts, theories, and claims if she becomes aware of them subsequent to the submission of this letter.

First, during the relevant time period, SSG had a policy and/or practice of discouraging and impeding Ms. Padilla and other aggrieved employees from recording hours worked that were outside of their scheduled shifts, in order to limit the amount of overtime employees could accrue. As stated in SSG's "Overtime Policy," "[a]ll overtime must be authorized by [non-exempt employees'] Supervisor in advance. Any employee working unauthorized overtime will be subject to discipline." SSG's policy and/or practice was to require other aggrieved employees to complete timesheets online and/or fill out handwritten timesheets at the end of each pay period, and to submit them to management for review and approval. SSG's management further required Ms. Padilla and other aggrieved employees to record only the scheduled shift start-times and shift end-times instead of their actual hours worked to limit overtime hours employees were eligible to be compensated for. To the extent SSG's timekeeping policies have taken away time worked that was eligible for overtime, Ms. Padilla and other aggrieved employees have been denied overtime pay for all hours worked.

Alternatively, SSG had, and continues to have, a company-wide policy and/or practice of failing to record hours worked by their employees. Instead, on information and belief, SSG's policy and/or practice is to simply pay employees, including Ms. Padilla and other aggrieved employees, for the hours they are scheduled to work. Because SSG failed to accurately record their actual hours worked, Ms. Padilla and other aggrieved employees were not paid for all hours worked before or after their scheduled shifts.

Moreover, during the relevant time period, because SSG discouraged overtime accrual, Ms. Padilla and other aggrieved employees were required to complete certain tasks outside of their scheduled shifts without being compensated for the time they worked. For example, for approximately 1-2 hours per week, Ms. Padilla assisted her clients with daily tasks before her scheduled shift start-time, such as taking them to doctor's appointments and the grocery store. Additionally, in order to meet SSG's expectations of completing daily tasks within their scheduled hours, approximately twice per week, other aggrieved employees would report to work about 2-2.5 hours before their scheduled shift start-times in order to finish their assigned duties, such as typing up session notes, returning calls, following up with and discharging clients, and checking in with managers. As a further example, Ms. Padilla spent 2-3 hours per week on days off and after her scheduled shift end-time finishing her assigned duties, such as typing up case notes and assessments. However, Ms. Padilla and other aggrieved employees were not allowed to record this time spent working.

Second, during the relevant period, SSG implemented, on a company-wide basis, an employer-imposed requirement that employees undergo mandatory COVID-19 health screenings, testing, and/or temperature checks outside of their scheduled shifts and/or before clocking in for their scheduled shifts. SSG required employees to undergo weekly COVID-19 testing, which led to employees having to complete this testing before or after their shifts, or on off-days, but SSG did not compensate them for this time. For example, other aggrieved employees would spend about 30 minutes traveling to and from the COVID-19 testing site and undergoing weekly, mandatory COVID-19 testing before their scheduled shifts, but were not paid by SSG for this time. Even though SSG required these health screenings, testing, and/or temperature checks, SSG did not provide other aggrieved employees a mechanism to record this time worked so they could be compensated for the time spent undergoing mandatory health screenings, testing, and/or temperature checks.

Third, SSG maintained and implemented a company-wide policy of requiring all employees to travel to a Live Scan provider on their own time and using their own personal vehicles to undergo a mandatory fingerprint-based background check. At all times, SSG was in control of scheduling the time period for the fingerprinting and selecting the Live Scan provider or operator where the fingerprinting was to take place. For example, SSG gave other aggrieved employees strict instructions to obtain fingerprinting, and other aggrieved employees underwent the fingerprinting for the sole benefit of SSG. Other aggrieved employees followed SSG's instructions, spent time traveling to and from SSG's designated Live Scan provider and spent additional time waiting at the facility and undergoing the requisite fingerprinting. However, SSG did not compensate other aggrieved employees for the time they spent traveling to and from the Live Scan providers or operators and undergoing the fingerprinting.

Fourth, during the relevant period, on information and belief, SSG had a policy and/or practice of improperly rounding employees' clock-in and/or clock-out times in its timekeeping system to the nearest half (0.5) of an hour, rather than their actual hours worked. SSG's rounding policy resulted in the failure to compensate Ms. Padilla and other aggrieved employees fully for all hours worked, causing Ms. Padilla and other aggrieved employees to not be paid overtime wages for all of the overtime hours they actually worked. SSG's policy of rounding is unfair and has, over time, resulted in the underpayment of wages to Ms. Padilla and other aggrieved employees. To the extent SSG's rounding policy has taken away time worked that was eligible for overtime, Ms. Padilla and other aggrieved employees were denied overtime pay for all hours worked.

Fifth, SSG had, and continues to have, company-wide policies and/or practices of understaffing and assigning heavy workloads, including pressuring employees to meet deadlines and adopting a single-staffing model for certain positions, which resulted in a lack of meal period coverage and prevented Ms. Padilla and other aggrieved employees from taking all uninterrupted meal periods to which they were entitled. Moreover, SSG has a practice of failing to adhere to a schedule for meal periods, which further caused Ms. Padilla and other aggrieved employees to not be relieved of their duties for compliant meal periods. As a result of SSG's policy of understaffing and/or single-staffing, Ms. Padilla and other aggrieved employees were not always afforded uninterrupted 30-minute meal periods during shifts when they were entitled to receive a meal period. For example, Ms. Padilla worked through nearly all of her meal periods to meet the demands of her workload and to meet SSG's deadlines, such as recording and turning in case notes within 48 hours of meeting with a client for a caseload of 15-24 clients. For example, other aggrieved employees worked through their entire meal periods to meet the demands of their workload and to meet SSG's deadlines, such as recording and turning in therapy session notes within three (3) days of when the session occurred for a caseload of 20-27 clients, or would have many of their meal periods cut short for the same reasons. Consequently, Ms. Padilla and other aggrieved employees were required to work through their meal periods and/or had their unpaid meal periods interrupted or cut short in order to complete their assigned duties, time for which they were not paid.

Sixth, SSG had, and continues to have, a policy and/or practice of requiring that employees carry their personal mobile devices and respond to requests and questions from supervisors at all times. As a result, SSG's management contacted other aggrieved employees during unpaid meal periods to discuss work-related matters. For example, during many meal periods, other aggrieved employees' supervisors would call to ask them to meet and discuss work-related matters. SSG knew or should have known that other aggrieved employees were performing work while off-the-clock in order to meet SSG's expectations, but failed to compensate them for this time.

Seventh, because SSG frowned upon employees accruing meal period penalties, SSG's management pressured employees to record compliant meal periods on their timesheets, upon threat of discipline, regardless of whether they had received a compliant meal period or not. In addition, SSG's company-wide timekeeping system prevented Ms. Padilla and/or other aggrieved employees from recording all hours worked when their meal periods were shortened or interrupted, because the system locked out Ms. Padilla and/or other aggrieved employees once they clocked out for a meal period, and would not permit them to clock back in from a meal period until 30 minutes had elapsed. Thus, SSG's timekeeping system further prevented Ms. Padilla and/or other aggrieved employees from recording all hours worked when their meal periods were shortened or interrupted.

SSG knew or should have known that, as a result of these company-wide practices and/or policies, Ms. Padilla and other aggrieved employees were performing their assigned duties off-the-clock outside of their shifts and during meal periods, and were suffered or permitted to perform work for which they were not paid. Because Ms. Padilla and other aggrieved employees sometimes worked shifts of eight (8) hours a day or more, or forty (40) hours a week or more, some of this off-the-clock work qualified for overtime premium pay.

Furthermore, SSG did not pay Ms. Padilla and other aggrieved employees the correct overtime rates for the recorded overtime hours that they generated. In addition to an hourly wage, SSG paid Ms. Padilla and other aggrieved employees differential pay, incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, SSG failed to incorporate all remunerations, including differential pay, incentive pay and/or nondiscretionary bonuses, into the calculation of the regular rate of pay for purposes of calculating the overtime wage rates. Therefore, during times when Ms. Padilla and other aggrieved employees worked overtime and received these other forms of pay, SSG failed to pay all overtime wages by paying a lower overtime rate than required.

For example, SSG paid Ms. Padilla and other aggrieved employees differential pay, which was listed on Ms. Padilla's and other aggrieved employees' wage statements as "Bilingual Diff." During pay periods that Ms. Padilla and other aggrieved employees were paid overtime wages, SSG did not incorporate the differential pay into Ms. Padilla's and other aggrieved employees' regular rate of pay and, as a result, paid them at incorrect and lower rates of pay for overtime hours worked. Specifically, SSG paid Ms. Padilla and other aggrieved employees 1.5 times their hourly rate of pay instead of 1.5 times their regular rate of pay. SSG's failure to properly calculate the overtime rates of pay based on all remuneration paid has resulted in an underpayment of overtime wages to Ms. Padilla and other aggrieved employees on a company-wide basis.

SSG's failure to pay Ms. Padilla and other aggrieved employees the balance of overtime compensation, as required by California law, violates the provisions of California Labor Code sections 510 and 1198. Ms. Padilla and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f), and (k).

Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 – Unpaid Minimum Wages

California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 require employers to pay employees the minimum wage fixed by the IWC. The payment of a lesser wage than the minimum so fixed is unlawful. Compensable work time is defined in IWC Wage Order No. 4-2001 as "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so." Cal. Code Regs. tit. 8, § 11040(2)(K) (defining "Hours Worked").

As set forth above, during the relevant time period, SSG maintained a company-wide policy and/or practice of limiting overtime accrual and pressuring employees to record only their scheduled hours on online and/or handwritten timesheets rather than hours actually worked, thereby shorting Ms. Padilla and/or other aggrieved employees for work performed outside their scheduled shifts. As set forth above, pursuant to this policy, Ms. Padilla and other aggrieved employees performed work while off-the-clock outside of their scheduled shifts, including assisting clients with daily tasks, typing up notes, returning calls, communicating with clients and supervisors regarding work-related matters, and/or traveling to/from and undergoing fingerprinting and COVID-19 testing. Alternatively, SSG had a company-wide policy and/or practice of only paying Ms. Padilla and other aggrieved employees for their scheduled shifts, rather than their actual hours worked, because SSG failed to track hours worked outside of their scheduled shifts. Furthermore, as stated, SSG had a policy and/or practice of rounding Ms. Padilla's and other aggrieved employees' hourly clock-in and/or clock-out times in its timekeeping system to the nearest half (0.5) of an hour, resulting in the failure to compensate them for all hours worked.

Additionally, as set forth above, due to SSG's company-wide practices of understaffing and/or single-staffing certain positions, assigning heavy workloads and pressuring employees to meet deadlines, failing to adhere to a schedule for meal periods, and subsequent lack of meal period coverage, Ms. Padilla and other aggrieved employees were impeded from taking all uninterrupted meal periods to which they were entitled and were required to work off-the-clock during meal periods. Further, as stated, in order to prevent employees from accruing meal period penalties, SSG pressured Ms. Padilla and other aggrieved employees record on their timesheets that they took compliant meal periods, even when meal periods were missed, short, and/or interrupted., in order to strictly limit penalties that would need to be paid by SSG. In addition, as stated, SSG's company-wide timekeeping system prevented Ms. Padilla and/or other aggrieved employees from entering time worked during meal periods because the system locked out Ms. Padilla and/or other aggrieved employees for a full 30 minutes. Thus, SSG systematically failed to pay Ms. Padilla and/or other aggrieved employees for actual hours worked during meal periods, because these hours were not correctly recorded.

Accordingly, SSG regularly failed to pay at least minimum wages to Ms. Padilla and other aggrieved employees for all of the hours they worked in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Ms. Padilla and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, pursuant to Labor Code sections 1197.1 and/or 2699(a), (f), and (k).

Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 – Failure to Provide Meal Periods

California Labor Code sections 226.7, 512(a), 516, and 1198, and the applicable IWC Wage Order require employers to provide meal periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. Pursuant to Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order, an employer may not require, cause or permit an employee to work for a period of more than five (5) hours per day without providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee. Under California law, first meal periods must start after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (2012). Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order also require employers to provide a second meal period of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1) additional hour of pay at the employee's regular rate, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

First, during the relevant time period, as stated, SSG had, and continues to have, a company-wide policy and/or practice of understaffing, including adopting a single-staffing model for certain positions, which, combined with the assignment of heavy workloads, pressure to meet deadlines, and failure to adhere to a schedule for meal periods, resulted in a lack of meal period coverage and prevented Ms. Padilla and other aggrieved employees from taking all timely, uninterrupted meal periods to which they were entitled. For example, Ms. Padilla worked through nearly all of her meal periods to meet the demands of her workload and to meet SSG's deadlines, such as recording and turning in case notes within 48 hours of meeting with a client for a caseload of 15-24 clients. As a further example, other aggrieved employees missed meal periods to meet the demands of their workload and meet SSG's deadlines, such as recording and turning in therapy session notes within three (3) days of when the session occurred for a caseload of 20-27 clients, or had their meal periods late and/or cut short for the same reasons. Thus, Ms. Padilla and other aggrieved employees had to work through all or part of their meal periods, had their meal periods interrupted, and/or had to wait extended periods of time before taking meal periods. Moreover, as stated, SSG had, and continues to have, a company-wide policy and/or practice of requiring that employees respond to their personal mobile devices at all times, including during meal periods. As a result, SSG's management contacted other aggrieved employees on their personal phones during meal periods to discuss work-related matters.

Second, because SSG frowned upon employees accruing meal period penalties, SSG's management pressured employees to record compliant meal periods on their timesheets, upon threat of discipline, even when they did not receive a compliant meal period. Moreover, as stated, SSG's company-wide timekeeping system prevented Ms. Padilla and/or other aggrieved employees from recording all hours worked when their meal periods were shortened or interrupted, because the system locked out Ms. Padilla and/or other aggrieved employees once they clocked out for a meal period, and would not permit them to clock back in from a meal period before 30 minutes had elapsed.

Third, SSG did not provide Ms. Padilla and other aggrieved employees with second 30-minute meal periods on days that they worked in excess of ten (10) hours in one day. For example, during the relevant time period, Ms. Padilla often worked shifts in excess of 10 hours in one day and never took a second meal period. Ms. Padilla and other aggrieved employees did not sign valid meal period waivers on days that they were entitled to meal periods and were not relieved of all duties.

Moreover, SSG had a company-wide policy of requiring all newly hired employees to sign blanket meal period waivers at or near their time of hire. SSG took the position that non-exempt, hourly paid employees had waived their rights to first and/or second meal periods for the entirety of their employment and, on that basis, did not provide them with all meal periods to which they were entitled. Furthermore, SSG's "Meal Break Waiver (5.01-6.00 Hour Shift)" and "Meal Period Waiver (8-12 Hour Shift)" forms require employees to provide written notice should they wish to revoke the waiver. SSG's presumption that meal periods would not be provided for shifts in excess of five (5) hours but less than six (6) hours and for shifts in excess of ten (10) hours but less than twelve (12) hours, due to blanket meal period waivers signed at or near the time of hire, and imposition on employees to revoke the waivers in writing, discouraged and impeded Ms. Padilla and other aggrieved employees from taking all meal periods to which they were entitled.

Furthermore, an employer's obligation to provide a meal period is only "triggered" when the employer "employs an employee for a work period of more than five hours per day." *Brinker*, 53

Cal. 4th at 1039 ("If an employer engages, suffers, or permits anyone to work for a full five hours, its meal break obligation is triggered.").

> [A]fter the meal break obligation is triggered . . . an employer is put to a choice: it must (1) afford an off-duty meal period; (2) consent to a mutually agreed-upon waiver if one hour or less will end the shift; or (3) obtain written agreement to an on-duty meal period if circumstances permit. Failure to do one of these will render the employer liable for premium pay.

Id. (citing Cal. Labor Code § 226.7; Wage Order No. 5, subd. 11(A), (B)). That SSG requires Ms. Padilla and other aggrieved employees to sign meal period waivers simultaneously at or near their time of hire (as opposed to on a specific work day) renders them invalid and unenforceable, because SSG's obligation to provide Ms. Padilla and other aggrieved employees with meal periods did not arise until they had employed them for a full five (5) hours.

Additionally, the meal period waiver forms state that "the meal period [and the second meal period] may be waived by **mutual consent of both the employer and employee**." (Emphasis added.) However, some of the blanket meal period waiver forms for other aggrieved employees were only signed by the employee.

At all times mentioned herein, SSG knew or should have known that, as a result of its policies, Ms. Padilla and other aggrieved employees were prevented from being relieved of all duties and required to perform some of their assigned duties during meal periods. SSG further knew or should have known that it did not pay Ms. Padilla and other aggrieved employees meal period premiums when meal periods were late, interrupted, shortened, and/or missed. Further, to the extent that SSG's rounding policy reported that Ms. Padilla and other aggrieved employees were provided with timely, full 30-minute meal periods when, in fact, the meal periods were taken after the fifth hour of work or were less than 30 minutes, Ms. Padilla and other aggrieved employees did not receive meal period premiums for these improperly rounded meal periods.

Furthermore, SSG engaged in a company-wide practice and/or policy of not paying all meal period premiums owed when compliant meal periods are not provided. Because of this practice and/or policy, Ms. Padilla and other aggrieved employees have not received premium pay for all missed, late, and interrupted meal periods. Alternatively, to the extent that SSG did pay Ms. Padilla and other aggrieved employees premium pay for missed, late, and interrupted meal periods, SSG did not pay Ms. Padilla and other aggrieved employees at the correct rate of pay for premiums because SSG systematically failed to include all forms of compensation, such as differential pay, incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

Accordingly, SSG failed to provide all meal periods in violation of California Labor Code sections 226.7, 512(a), 516, and 1198. Ms. Padilla and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f), and (k).

<u>Violation of California Labor Code §§ 226.7, 516, and 1198 – Failure to Authorize and Permit Rest Periods</u>

California Labor Code sections 226.7, 516, and 1198, and the applicable IWC Wage Order require employers to provide rest periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. California

Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC. The applicable IWC Wage Order provides that "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period" and that the "rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof" unless the total daily work time is less than three and one-half (3 ½) hours.

To comply with its obligation to authorize and permit rest periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer must "relinquish any control over how employees spend their break time, and relieve their employees of all duties—including the obligation that an employee remain on call. A rest period, in short, must be a period of rest." *Augustus, et al. v. ABM Security Services, Inc*., 2 Cal. 5th 257, 273 (2016).

During the relevant time period, SSG regularly failed to authorize and permit Ms. Padilla and other aggrieved employees to take a ten (10) minute rest period per each four (4) hour period worked or major fraction thereof. As with meal periods, SSG's company-wide policies and/or practices of understaffing, including adopting a single-staffing model for certain positions, assignment of heavy workloads, and pressure to meet deadlines prevented Ms. Padilla and other aggrieved employees from being relieved of all duty in order to take compliant rest periods. SSG also failed to schedule rest periods, which, coupled with SSG's failure to provide adequate rest period coverage, further led to Ms. Padilla and other aggrieved employees not being authorized and permitted to take rest periods.

Furthermore, on information and belief, SSG maintained a company-wide on-premises rest period policy, which effectively required that Ms. Padilla and other aggrieved employees remain on SSG's premises during their rest periods. Because Ms. Padilla and other aggrieved employees were restricted from leaving the premises during rest periods, they were denied the ability to use their rest periods freely for their own purposes, such as running personal errands. Thus, SSG effectively maintained control over Ms. Padilla and other aggrieved employees during rest periods.

As a result of SSG's practices and policies, Ms. Padilla and other aggrieved employees worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without receiving all uninterrupted 10-minute rest periods to which they were entitled. For example, Ms. Padilla had to forgo most of her rest periods due to her heavy workload and a lack of rest period coverage.

SSG also has engaged in a company-wide practice and/or policy of not paying all rest period premiums owed when compliant rest periods are not authorized or permitted. Because of this practice and/or policy, Ms. Padilla and other aggrieved employees have not received premium pay for all missed rest periods. Alternatively, to the extent that SSG did pay Ms. Padilla and other aggrieved employees one (1) additional hour of premium pay for missed rest periods, SSG did not pay Ms. Padilla and other aggrieved employees at the correct rate of pay for premiums because SSG failed to include all forms of compensation, such as differential pay, incentive pay, nondiscretionary bonuses, and/or other forms of remuneration in the regular rate of pay.

Accordingly, SSG failed to authorize and permit all rest periods in violation of California Labor Code sections 226.7, 516, and 1198. Ms. Padilla and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f), and (k).

Violation of California Labor Code §§ 226(a), 1174(d), and 1198 – Non-Compliant Wage Statements and Failure to Maintain Accurate Payroll Records

California Labor Code section 226(a) requires employers to make, keep and provide true, accurate, and complete employment records. SSG has not provided Ms. Padilla and other aggrieved employees with properly itemized wage statements. Labor Code section 226(e) provides that if an employer fails to comply with providing an employee with properly itemized wage statements as set forth in 226(a), then the employee is entitled to recover the greater of all actual damages or $50 for the initial pay period in which a violation occurs and $100 per employee for each violation in a subsequent pay period, not to exceed $4,000. Further, Labor Code section 226.3 provides that any employer who violates section 226(a) shall be subject to a civil penalty in the amount of $250 per employee per violation in an initial citation and $1,000 per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage statement or fails to keep the required records pursuant to Section 226(a).

During the relevant time period, SSG has knowingly and intentionally provided Ms. Padilla and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. For example, SSG issued uniform wage statements to Ms. Padilla and other aggrieved employees that fail to correctly list: gross wages earned; total hours worked; net wages earned; and all applicable hourly rates in effect during the pay period, including rates of pay for overtime wages, meal and rest period premiums, and/or paid sick leave, and the corresponding number of hours worked at each hourly rate. Specifically, SSG violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

Because SSG did not record the time Ms. Padilla and other aggrieved employees spent working off-the-clock, improperly rounded Ms. Padilla's and other aggrieved employees' total hours worked, and deducted time from their records for meal periods that were interrupted and/or missed (and therefore time for which they should have been paid), SSG did not list the correct amount of gross wages and net wages earned by Ms. Padilla and other aggrieved employees, in compliance with section 226(a)(1) and section 226(a)(5), respectively. For the same reason, SSG failed to accurately list the total number of the hours worked by Ms. Padilla and other 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 the corresponding accurate number of hours worked at each hourly rate, in violation of section 226(a)(9).

Also, because SSG did not calculate Ms. Padilla's and other aggrieved employees' regular rate of pay correctly for purposes of paying overtime wages, meal and rest period premiums, and/or paid sick leave, SSG did not list the correct amount of gross wages in compliance with section 226(a)(1) and did not list the correct amount of net wages in violation of section 226(a)(5). SSG also failed to correctly list all applicable hourly rates in effect during the pay period, namely, correct rates of pay for overtime wages, meal and rest period premiums, and/or paid sick leave, in violation of section 226(a)(9).

The wage statement deficiencies also include, without limitation, failing to list the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; failing to list all deductions; failing to list the inclusive dates of the period for which aggrieved employees were paid; failing to list the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number; failing to list the name and address of the legal entity that is the employer; and/or failing to state all hours worked as a result of not recording or stating hours worked off-the-clock.

California Labor Code section 1174(d) provides that "[e]very person employing labor in this state shall . . . [k]eep a record showing the names and addresses of all employees employed and the ages of all minors" and "[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments . . . ." Labor Code section 1174.5 provides that employers are subject to a $500 civil penalty if they fail to maintain accurate and complete records as required by section 1174(d). During the relevant time period, and in violation of Labor Code section 1174(d), SSG willfully failed to maintain accurate payroll records for Ms. Padilla and other aggrieved employees showing the daily hours they worked and the wages paid thereto as a result of failing to record the off-the-clock hours that they worked and improperly rounding Ms. Padilla's and other aggrieved employees' total hours worked.

California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Order. Section 1198 further provides that "[t]he employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful." Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period. During the relevant time period, SSG engaged in company-wide practices and/or policies of failing to record actual hours worked, and thereby failed to keep accurate records of work period and meal period start and end times for Ms. Padilla and other aggrieved employees in violation of section 1198. Furthermore, in light of SSG's failure to provide Ms. Padilla and other aggrieved employees with second 30-minute meal periods to which they were entitled, SSG kept no records of meal start and end times for second meal periods.

Ms. Padilla and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f), and (k).

Violation of California Labor Code § 204 – Failure to Timely Pay Wages During Employment

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 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 1st and the 10th day of the following month. California Labor Code section 204 also requires 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, California Labor Code section 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.

During the relevant time period, SSG failed to pay Ms. Padilla and other aggrieved employees all wages due to them, including, but not limited to, overtime wages, minimum wages, meal and rest period premiums, and/or sick leave pay, within any time period specified by California Labor Code section 204.

Ms. Padilla and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, pursuant to Labor Code sections 210 and/or 2699(a), (f), and (k).

Violation of California Labor Code §§ 201 and 202 – Failure to Timely Pay Final Wages Upon Termination

California Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

SSG willfully failed to pay Ms. Padilla and other aggrieved employees who are no longer employed by SSG all their earned wages, including, but not limited to, overtime wages, minimum wages, meal and rest period premiums, and/or sick leave pay, either at the time of discharge, or within seventy-two (72) hours of their leaving SSG's employ.

Ms. Padilla and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, pursuant to Labor Code sections 256 and/or 2699(a), (f), and (k).

Violation of California Labor Code § 222.5 – Failure to Pay for Costs of Mandatory Medical and/or Physical Examinations

At all times herein set forth, California Labor Code section 222.5 requires employers to pay for the costs an employee incurs for obtaining any required medical or physical examination.

During the relevant period, SSG implemented, on a company-wide basis, an employer-imposed requirement that employees undergo mandatory weekly COVID-19 testing, but required them to do so at their own expense. As stated, SSG had a company-wide policy requiring that other aggrieved employees travel to medical facilities on their own time and use their own means of transportation to undergo COVID-19 testing. At all times, SSG was in control of determining the scope of the testing.

However, SSG did not compensate other aggrieved employees for the time they spent traveling to and from the testing locations, for the time they spent undergoing the COVID-19 testing, or reimburse them for the travel expenses they incurred driving to and from the testing locations. SSG's policy and/or practice of not paying for all costs other aggrieved employees incurred obtaining mandatory COVID-19 testing is in violation of California Labor Code section 222.5.

Ms. Padilla and/or other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f), and (k).

Violation of California Labor Code § 246 – Failure to Properly Calculate Paid Sick Leave

At all relevant times herein, California Labor Code sections 245.5, 246, 246.5, 247, 247.5, 248.5, and 249 provide employees who have worked in California for 30 or more days from the commencement of employment with paid sick days, to be accrued at least one hour for every 30 hours worked. Effective January 1, 2024, California Labor Code section 246(b)(4) requires employers to provide no less than 40 hours or five (5) days of paid sick leave (or equivalent paid leave or paid time off) in each year of the employee's employment. Pursuant to California Labor Code section 246(b)(4), employers must provide no less than 24 hours or three (3) days of paid sick leave (or equivalent paid leave or paid time off) in each year of the employee's employment. Further, Labor Code section 246(l) provides that an employer shall calculate paid sick leave by using one of two calculations: 1) "[p]aid sick time for nonexempt employees shall be calculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek[;]" or 2) "[p]aid sick time for nonexempt employees shall be calculated by dividing the employee's total wages, not including overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of employment."

During the relevant time period, on information and belief, SSG did not pay Ms. Padilla and other aggrieved employees the correct sick leave rates of pay. As stated, in addition to an hourly wage, SSG paid Ms. Padilla and other aggrieved employees differential pay, incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, SSG failed to incorporate all remunerations, including differential pay, incentive pay and/or nondiscretionary bonuses into the calculation of the regular rate of pay for purposes of calculating the sick leave pay rate. Therefore, during times when Ms. Padilla and other aggrieved employees took sick leave and received these other forms of pay, SSG failed to pay all sick leave benefits by paying a lower sick leave pay rate than required. Specifically, SSG paid Ms. Padilla and other aggrieved employees sick leave based on their hourly rate of pay instead of their regular rate of pay.

SSG's failure to properly calculate the sick leave rates of pay based on all remuneration paid has resulted in an underpayment of sick leave benefits to Ms. Padilla and other aggrieved employees on a company-wide basis in violation of Labor Code sections 246(l).

Ms. Padilla and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, pursuant to Labor Code sections 248.5 and/or 2699(a), (f), and (k).

Violation of California Labor Code § 2802 – Unreimbursed Business Expenses

California Labor Code section 2802 requires employers to pay for all necessary expenditures and losses incurred by the employee in the performance of his or her job. 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). The applicable wage order, IWC Wage Order No. 4-2001, provides that: "[w]hen tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft."

First, during the relevant time period, SSG had a company-wide policy of requiring Ms. Padilla and other aggrieved employees to utilize their own personal mobile devices, including, but not limited to, cellular phones, and/or mobile data to carry out their job duties, but SSG failed to fully reimburse them for the costs of their work-related mobile device expenses. For example, Ms. Padilla and other aggrieved employees were required to use their personal cellular phones to communicate with coworkers, supervisors, clients, and to download certain applications to assist clients. Although SSG required Ms. Padilla and other aggrieved employees to utilize their personal mobile devices and/or mobile data to carry out their work-related duties, SSG failed to reimburse them for all of these costs.

Second, during the relevant time period, SSG had a company-wide policy of requiring Ms. Padilla and other aggrieved employees to purchase supplies, tools, and/or equipment necessary for the performance of their duties, but failed to reimburse them for their out-of-pocket costs. For example, Ms. Padilla was required to purchase at least two (2) replacement chargers for her company cellular phone and company laptop because SSG failed to replace broken, stolen, or lost chargers in a timely manner, and thus failed to provide her with the necessary supplies, tools, and/or equipment needed to complete her assigned duties. Although SSG required Ms. Padilla and other aggrieved employees to purchase supplies, tools, and/or equipment to carry out their work-related responsibilities, SSG failed to reimburse them for their out-of-pocket costs.

Third, during the relevant time period, SSG had a company-wide policy of requiring Ms. Padilla and/or other aggrieved employees to utilize their own personal vehicles to carry out company business, but failed to reimburse them for all costs of travel, including mileage. For example, other aggrieved employees were required to drive to Bethune Middle School approximately five (5) miles away in Los Angeles, California (155 W. 69th Street, Los Angeles, California 90003) to undergo COVID-19 testing. As a further example, other aggrieved employees were required to drive to Edison School approximately 6.5 miles away in Los Angeles, California (6500 Hooper Avenue, Los Angeles, California 90001) to conduct therapy sessions. Although SSG required Ms. Padilla and/or other aggrieved employees to utilize their personal vehicles to carry out their work-related responsibilities, SSG failed to reimburse them for their mileage or travel expenses.

SSG could have provided Ms. Padilla and other aggrieved employees with the actual equipment for use on the job, such as company mobile devices; supplies, tools, and/or equipment; and company vehicles. Or, SSG could have reimbursed employees for their mobile device usage; supplies, tools, and/or equipment expenses; mileage; and travel expenses. Instead, SSG passed these operating costs off onto Ms. Padilla and other aggrieved employees. At all relevant times, Ms. Padilla did not earn at least two (2) times the minimum wage.

Thus, SSG had, and continues to have, a company-wide policy and/or practice of not reimbursing employees for expenses necessarily incurred in violation of California Labor Code section 2802. Ms. Padilla and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f), and (k).

California Labor Code § 558(a)

California Labor Code section 558(a) provides "[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars ($50) for each underpaid employee for each pay period for which the employee was underpaid . . . . (2) For each subsequent violation, one hundred dollars ($100) for each underpaid employee for each pay period for which the employee was underpaid . . . ." Labor Code section 558(c) provides that "[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law." SSG, at all relevant times, was an employer or person acting on behalf of an employer(s) who violated Ms. Padilla's and other aggrieved employees' rights by violating various sections of the California Labor Code.

Accordingly, Ms. Padilla seeks the remedies set forth in Labor Code section 558 for herself, 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) and 2699.3(c), 2699.5, and 558, Ms. Padilla, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for herself, all other aggrieved employees, and the State of California against SSG for violations of California Labor Code sections 201, 202, 204, 222.5, 226(a), 226.7, 246, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, and 2802.

Therefore, on behalf of all aggrieved employees, Ms. Padilla seeks all applicable penalties related to these violations of the California Labor Code pursuant to PAGA.

Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

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Los Angeles, CA 90067
(310) 556-4811

Best Regards,

Sairah Budhwani

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