

December 20, 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

Movement Holdings, LLC
Attn: Legal Department
750 W. Hampden Ave., Ste. 280
Englewood, CO 80110

Movement Management CA Payroll, LLC
Attn: Legal Department
750 W. Hampden Ave., Ste. 280
Englewood, CO 80110

Movement Holdings, LLC
Movement Management CA Payroll, LLC
Attn: Legal Department
801 Martin Ave.
Santa Clara, CA 95050

Planet Granite, LLC
Attn: Legal Department
750 W. Hampden Ave., Ste. 280
Englewood, CO 80110

Movement Holdings, LLC
Movement Management CA Payroll, LLC
Attn: Legal Department
815 Stewart Dr.
Sunnyvale, CA 94085

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

To: The California Labor and Workforce Development Agency; Movement Holdings, LLC; Movement Management CA Payroll, LLC; and Planet Granite, LLC

From: Mr. Ryan Bettencourt, on behalf of himself 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 Mr. Ryan Bettencourt (“Mr. Bettencourt”) to seek compensation and all other available relief, including civil penalties on his behalf and on the behalf of all those similarly aggrieved (collectively with Mr. Bettencourt, “Claimants”) who have been injured by Movement Holdings, LLC; Movement Management CA Payroll, LLC; and Planet Granite, LLC’s (collectively, “Movement”) violations of the California Labor Code. This First Amended Notice serves to amend Mr. Bettencourt’s original PAGA Notice dated October 29, 2024 and assigned case number 1059009-24. Mr. Bettencourt, on behalf of himself and all other similarly aggrieved current and former hourly nonexempt employees of Movement, 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:

Movement operates several recreational facilities in California that offer options such as rock walls, bouldering, and group fitness classes, including yoga.

Claimant Mr. Bettencourt worked for Movement at its Sunnyvale and Santa Clara locations as an hourly, nonexempt employee in the position of Yoga Instructor, earning \$54.06 per hour from approximately February 2020 through approximately August 9, 2024. Mr. Bettencourt, on behalf of himself and all other similarly aggrieved current and former employees in California in various positions, are or were engaged in providing group fitness instruction and recreational spaces like bouldering and rock climbing facilities at Movement’s recreational facilities. 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, teaching group fitness classes including yoga classes, preparing music and readings for group fitness classes at Movement’s facilities and also at special events off site.

Claimant Mr. Bettencourt regularly taught one class per day, two (2) days per week. During the entire course of his employment, Movement failed to provide Mr. Bettencourt and continues to fail to pay all minimum wages to Mr. Bettencourt and other hourly, nonexempt employees in violation of Labor Code sections 1194, 1197, and 1182.12, and section 4 of Industrial Welfare Commission (“IWC”) Wage Order No. 10-2001.

Movement has also failed and continues to fail to pay all wages owed every pay period in violation of Labor Code section 204. Likewise, Movement has failed and continues to fail to provide timely, accurate wage statements to Mr. Bettencourt and other aggrieved persons in violation of Labor Code section 226(a). With regard to those no longer employed by Movement, including Mr. Bettencourt, Movement has violated Labor Code section 203 by failing to pay all wages due upon separation. Additionally, Movement 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 (1) cell phone expenses and (2) music subscription expenses, in violation of Labor Code section 2802. Mr. Bettencourt is informed and believes that such violations are ongoing, systematic, and continuous. Mr. Bettencourt intends to

bring an action against Movement under the Private Attorneys General Act (“PAGA”) to recover wages and penalties as provided by California law.¹

Theories of Labor Code Violations and Remedies:

Claimant Mr. Bettencourt was employed by Movement from approximately February 2020 through approximately August 9, 2024 as a Yoga Instructor. For a period of at least four (4) years prior to October 2024, but for our purposes here, one (1) year prior, Movement 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**. Movement has failed and continues to fail to pay Claimants minimum wages for all hours worked as required by Labor Code sections 1182.12, 1194, and 1194.2 and section 4 of IWC Wage Order No. 10-2001. First, Claimants worked a substantial amount of time while off-the-clock each shift—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 were required to abide by Movement’s policy of not being on the clock more than a total of 15 minutes in excess of their scheduled shift times. That is, Movement maintained a policy that nonexempt employees shall not report time worked—not be on the clock—in excess of 15 minutes beyond their scheduled shift times. So for instance, when Mr. Bettencourt was scheduled for a 45-minute class, the policy was that he may not report working hours in excess of 60 minutes. Before class, Mr. Bettencourt worked compensable time off the clock preparing music playlists or mixes and readings. After classes, Mr. Bettencourt regularly spent more than the extra 15 minutes allotted by Movement’s policy cleaning the studio, turning in the sign-in sheet to the front desk, and packing up props used in class, among other tasks. As a result of this policy, Claimants’ off-the-clock time was never subsequently added and, therefore, remains uncompensated. In effect, these policies and practices constitute a failure on Movement’s part to pay Claimants all minimum wages earned. 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. 10-2001.

Pursuant to Labor Code sections 201–203, Claimants who have since separated from Movement, including Mr. Bettencourt, were entitled to be paid all **wages owed upon separation**

¹ Without limitation, Mr. Bettencourt, 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, 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.

within the statutorily allotted time—immediately (resignation with notice and termination) or within seventy-two (72) hours (resignation without notice). Claimants, including Mr. Bettencourt, did not receive his final pay of all wages within the requisite time based on the circumstances of his separation nor did he receive the wages Movement did pay based on Movement’s prior failings to pay all wages owed every pay period, including but not limited to minimum wages for all hours worked, as explained above. Movement paid Mr. Bettencourt his final wages several days after his termination, not immediately upon termination as required by law.

Claimants were at all times entitled to be provided timely and accurate **wage statements** from Movement pursuant to Labor Code section 226. First, the wage statements issued to Claimants, including Mr. Bettencourt, did not provide the correct legal entity name of the employer. Second, Because Movement failed to pay Claimants all of their minimum wages for all hours worked before and after their shifts, Claimants’ wage statements were inaccurate in total hours worked every pay period and minimum wages earned. 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 Movement for all necessary, **business-related expenses** they incurred in executing their duties for Movement. California Labor Code section 2802 provides that “An employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful.” Movement, however, has failed to fully reimburse Mr. Bettencourt 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 (1) the use of their personal cell phones, which were required to clock in and out for their shifts and (2) music subscriptions, e.g. Spotify, to provide music during group fitness classes. Accordingly, Claimants are entitled to recover their unreimbursed expenditures and losses pursuant to Labor Code section 2802.

Movement’s uniform failure to pay minimum wages, failure to keep accurate time records, failure to furnish timely and accurate wage statements, failure to reimburse all necessary, business-related expenses, and failure to pay all wages owed upon separation all violate Labor Code sections 201, 202, 203, 204, 226(a), 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, Mr. Bettencourt, 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 Movement for violations of California Labor Code sections 201, 202, 203, 204, 226(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

A handwritten signature in black ink that reads "Cheryl Kenner". The script is fluid and cursive, with the first name "Cheryl" and last name "Kenner" clearly distinguishable.

Cheryl A. Kenner