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(Via Online Submission)

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2710 Gateway Oaks Drive, Suite 150N
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(Via Certified Mail, Return Receipt Requested)

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Sunbridge Brittany Rehabilitation Center, LLC
2710 Gateway Oaks Drive, Suite 150N
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Re: ***Wasia Nahshal v. Sunbridge Brittany Rehabilitation Center, LLC dba American River Center et al.***
Notice of Labor Code Violations and PAGA Penalties

To Whom It May Concern:

Please be advised that my office has been retained by Wasia Nahshal (“Ms. Nahshal” or “Employee”) to pursue a Labor Code Private Attorneys General Act of 2004 (“PAGA”) representative action (Cal. Lab. Code §§ 2699, et seq.) against Employee’s former employers, Sunbridge Brittany Rehabilitation Center, LLC dba American River Center, Sunbridge Shandin Hills Rehabilitation Center, LLC, Sunbridge Meadowbrook Rehabilitation Center, LLC, Sunbridge Harbor View Rehabilitation Center, LLC, Sunbridge Stockton Rehabilitation Center, LLC, American River Care Solution, LLC, American River Home Care. (“Employers”). Employers jointly employed Employee.

The purpose of this letter is to comply with PAGA and set forth the facts and theories of California Labor Code violations, which we allege Employers engaged in with respect to Employee and potentially all of Employers’ Aggrieved Employees.

Employee wishes to pursue this action as an Aggrieved Employee, on behalf of the State of California, as well as on behalf of potentially all other persons who worked for Employers in California as a non-exempt or hourly-paid Employee at any time within the applicable statutory period (hereafter, the “Aggrieved Employees”).

Employee and the Aggrieved Employees, or some of them, suffered the Labor Code violations described below.

Employers own and operate an industry, business, and establishment within the State of California and is, therefore, subject to the California Labor Code, Wage Orders issued by the Industrial Welfare Commission (“IWC”), and the California Business & Professions Code.

Throughout Employee’s tenure, Employers compensated her with an hourly wage and classified her as non-exempt from overtime. Employers generally scheduled Employee for at least four days a week and at least eight hours each day. However, Employee often worked more than eight hours per day and exceeded forty hours in a workweek due to the unstable schedule that was hard to predict.

Throughout Employee’s tenure, Employers failed to compensate her for all hours worked, including minimum wage, straight time, and overtime wages. Employers also did not provide legally compliant meal periods, and failed to reimburse business expenses. Additionally, Employers did not furnish accurate wage statements. Furthermore, Employers failed to provide paid sick leave. Finally, Employers’ managers systematically altered time records to conceal violations of the Labor Code. As detailed below, Employee’s experiences while working for Employers were typical and illustrative of these issues.

Ms. Nahshal’s Employment with Employers

Employers are California companies that offers care service for patients at various locations across the state, including Sacramento County, where Employee was employed. Employee was an hourly, non-exempt worker. Ms. Nahshal worked for Employers as a certified nursing assistant from approximately November 2023 until present time, with primary responsibilities in patient care, vital signs monitoring, hygiene assistance and related tasks.

In carrying out her duties, Employee was frequently required to work off-the-clock, including overtime, without compensation. This included performing job responsibilities during unpaid meal periods, some of which should have been compensated at the overtime rate.

Due to understaffing and heavy workloads, Employee was often unable to take timely and

compliant meal breaks. Additionally, Employers failed to provide Employee and other Aggrieved Employees with the required meal break premiums mandated by the Labor Code for every noncompliant break. For example, Employee's meal breaks were often shortened due to the necessity of charting patient information into a computer, which could not be completed at any other time. As a result, the Employee and the Aggrieved Employees were forced to perform this task during their meal breaks. Employers also did not provide employees with the opportunity to correct noncompliant meal break hours.

Employee and the Aggrieved Employees also incurred unreimbursed business expenses, which included, but were not limited to, using her personal cell phone for work-related communications, paying for a background check, a physical exam, and a tuberculosis test, and purchasing a uniform to perform her job duties, all without reimbursement.

Employee's pay stubs did not include all the necessary information, such as the correct legal entity's name, address, the meal break premiums, the total wages for all hours worked, and the paid sick leave balance.

Further, by not paying all meal break penalties due and not paying all hours worked, Employers failed to pay all full and owed final wages in a timely manner.

These are just non-exhaustive examples of the facts and theories Employee asserts, which are described in more detail below.

Failure to Pay for All Hours Worked, Including Minimum, Straight Time, and Overtime Wages

Under California law, employers must pay for all hours worked by an employee. "Hours worked" is the time during which an employee is subject to the control of an employer and includes all the time the employee is suffered or was permitted to work, whether or not required to do so.

In addition, Labor Code § 510 provides that employees in California shall not be employed more than eight hours in any workday or forty (40) hours in a workweek unless they receive additional compensation beyond their regular wages in amounts specified by law.

Labor Code §§ 1194 and 1198 also provide that employees in California shall not be employed more than eight hours in any workday unless they receive additional compensation beyond their regular wages in amounts specified by law. Additionally, Labor Code § 1198 states that the employment of an employee for longer hours than those fixed by the IWC is unlawful.

During the statutory period, Employers failed to compensate Employee and some of the Aggrieved Employees for all hours worked, including minimum wage, straight time, and overtime wages. At times, Employers required Employee and some Aggrieved Employees to work "off-the-clock" without pay. For instance, Employers required Employee and the Aggrieved Employees to work during unpaid meal periods, some of which should have been compensated at the overtime rate.

California Labor Code § 510 requires that employer compensate an employee 1.5 times their regular rate of pay when the employee work over eight hours per day, 40 hours per week, or when the employee work up to eight hours on any seventh day of a workweek. Employers failed to properly calculate Employee's regular rate of pay when paying overtime, by failing to include all compensation in Employee's overtime calculations. In failing to pay for all hours worked, Employers also failed to maintain accurate records of the hours Employee and the Aggrieved Employees, or some of them.

As a result, Employers are liable to Employee and the Aggrieved Employees, or some of them, for the civil penalties provided for in Labor Code §§ 210, 1197.1, and 2699(f)(2) for failing to pay for all hours worked, including minimum, straight time, and overtime wages.

Failure to Provide Meal Periods

Under California law, employers have an affirmative obligation to relieve employees of all duty in order to take their first 30-minute, duty-free meal periods no later than the end of the employee's fifth hour of work in a workday, and to allow the employee to take their second 30-minute, duty-free meal period no later than the start of the eleventh hour of work in the workday. Further, employees are entitled to be paid one hour of additional wages for each workday they were not provided with all required meal period(s).

Despite these legal requirements, Employers occasionally failed to provide Employee and some of the Aggrieved Employees with their legally mandated 30-minute uninterrupted and duty-free meal periods. Employers maintained control over Employee and the Aggrieved Employees by requiring, pressuring, or encouraging them to complete work tasks that could not be done without skipping mandatory meal breaks. Additionally, Employers denied Employee and some Aggrieved Employees permission to take meal periods as required by law, without properly compensating them for missed meal breaks. For example, Employee's meal breaks were often shortened due to the necessity of charting patient information into a computer, which could not be completed at any other time. As a result, the Employee and the Aggrieved Employees were forced to perform this task during their meal breaks. Employers also did not provide employees with the opportunity to correct noncompliant meal break hours. As a result, Employers failed to provide meal periods to Employee and some Aggrieved Employees in accordance with California law.

Employee and the Aggrieved Employees, or some of them, are thus entitled to be paid one hour of additional wages for each workday they were not provided with all required meal period(s). Employers, however, at times, failed to pay Employee and the Aggrieved Employees, or some of them, the additional wages to which they were entitled for meal periods that were not provided.

As a result, Employers are liable to Employee and the Aggrieved Employees, or some of them, for the civil penalties provided for in Labor Code §§ 210 and 2699(f)(2) for failing to provide meal periods and pay meal period premium wages.

Failure to Indemnify for Necessary Expenditures

Labor Code § 2802(a) states that employers must indemnify their employees for all necessary business expenditures or losses incurred while directly discharging their duties.

Throughout the statutory period relevant to this cause of action, Employers have, at times, wrongfully required Employee and some of the Aggrieved Employees to cover expenses they incurred in the direct performance of their duties for Employers. Employee and the Aggrieved Employees, at times, paid out-of-pocket for essential employment-related expenses. These employees incurred significant expenses as a direct result of their job duties for Employers, yet Employers failed to indemnify them for these costs. For example, Employee used her personal cell phone for work-related communications, paid for a background check, a physical exam, and a tuberculosis test, and purchased a uniform to perform her job duties, all without reimbursement. As a result, Employers are liable to Employee and the Aggrieved Employees for the civil penalties outlined in Labor Code §§ 2802 and 2699(f)(2) for failing to indemnify them for necessary business expenditures.

Failure to Furnish Accurate Itemized Wage Statements

Labor Code § 226(a) provides that every employer shall, semimonthly or at the time of each payment of wages, furnish their employees an accurate itemized wage statement in writing showing nine pieces of information, including: (1) gross wages earned, (2) total hours worked by an employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (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) the name of the employee and 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 an employer, and (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. An employee is presumed to suffer an injury if this information is missing. (Lab. Code § 226(e)(2)(B)(iii).)

The statute further provides: “An employee suffering injury as a result of a knowing and intentional failure by employers to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney’s fees.” (Lab. Code § 226(e)(1).)

In addition, California Labor Code § 246(i) required employers to provide an employee with written notice that sets forth the amount of paid sick leave available, or paid time off leave an employer provides in lieu of sick leave, for use on either employee’s itemized wage statement described in § 226 or in a separate writing provided on the designated pay date with employee’s payment of wages. If an employer provides unlimited paid sick leave or unlimited paid time off to an employee, the employer may satisfy this section by indicating on the notice or employee’s itemized wage statement “unlimited.”

During the statutory period, Employers have occasionally failed, and continues to fail, to provide Employee and some of the Aggrieved Employees with timely, accurate, itemized wage statements that meet all legal requirements. For instance, Employee’s pay stubs do not accurately reflect the legal entity’s name, address, the meal break premiums, the total wages for all hours worked, and the paid sick leave balance, among other things.

Accordingly, Employee and similarly the Aggrieved Employees, or some of them, are entitled to recover from Employers the greater of their actual damages caused by Employers’ failure to comply with Labor Code § 226(a) and § 246(i), or an aggregate penalty not exceeding four thousand dollars (\$4,000) per employee. Moreover, Employers are liable to Employee and the Aggrieved Employees, or some of them, for the civil penalties provided for in Labor Code § 226(e)(2)(B)(iii) for failing to timely furnish accurate itemized wage statements.

Failure to Provide Paid Sick Leave

California Senate Bill (SB) 616 went into effect on January 1, 2024, and amended California Labor Code §§ 245.5, 246, and 246.5, increasing the minimum required amount of paid sick leave for California employers to 40 hours or five days, whichever is greater. SB 616 also details the way in which an employee accrue paid sick leave. Employers can select any of the following methods by which employees can accrue paid sick leave: (1) One hour of PSL for every 30 hours worked; (2) Front loading of paid sick leave to give employees an up-front accrual of 40 hours (or five days) of PSL at the start of their employment and each 12 months thereafter; or (3) At a rate other than one hour for every 30 hours worked provided that the accrual is regular and results in at least 24 hours (or three days) of PSL by the 120th day of employment and 40 hours (or five days) of

paid sick leave by the 200th day of employment. (Amending Lab. Code. § 246)

Employee alleges, that Employers have or had a policy or practice of failing to provide Employee and other aggrieved employees with the amount of paid sick leave required to be provided pursuant to California and local laws (including, without limitation, Labor Code § 246, *et seq.*).

Employee is further informed and believe that the sick pay was not provided at the proper regular rate of pay as required under California law due to failure to properly calculate the regular rate. Employee is further informed and believes that Employers also did not permit its use upon request by Employee and other Aggrieved Employees as required under Labor Code § 246.5.

As such, Employers would be liable for civil penalties for violation of the paid sick leave regulations under Labor Code §§ 245.5-248.5, 558, 2699, as well as equitable, injunctive, or restitutionary relief, and reasonable attorneys' fees and costs.

Failure to Maintain Accurate Records of Hours Worked and Meal Periods

Employee seeks penalties under California Labor Code § 1174(d). Pursuant to California Labor Code § 1174.5, any person, including any entity, employing labor, who willfully fails to maintain accurate and complete records required by California Labor Code § 1174 is subject to a penalty under § 1174.5. Pursuant to the applicable IWC Order § 7(A)(3), every employer shall keep time records showing when an employee begins and ends each work period. Meal periods and total hours worked daily shall also be recorded.

However, Employers occasionally failed to keep accurate records of the hours worked and all meal periods taken or missed by Employee and some of the Aggrieved Employees. Employers also altered, falsified, and/or manipulated these records. For instance, Employee was prohibited from logging overtime into the timekeeping system without special approval. At the same time, she was required to complete charting, which was impossible to accomplish without violating meal breaks.

Moreover, during the relevant time period, Employers engaged in company-wide practices and/or policies of failing to record actual hours worked (including falsifying time records by recording that compliant meal periods were taken regardless of if or when meal periods were actually taken), and thereby failed to keep accurate records of work period and meal period start and end times for Employee and the Aggrieved Employees, in violation of § 1198.

Employers' failure to provide and maintain records required by the California Labor Code and the applicable IWC Wage Orders deprived Employee and the Aggrieved Employees, or some of them, the ability to know, understand and question the accuracy and frequency of meal periods, and the accuracy of their hours worked stated in Employers' records. Therefore, Employee and the Aggrieved Employees, or some of them, had no way to dispute the resulting failure to pay wages, all of which resulted in an unjustified economic enrichment to Employers. As a direct result, Employee and the Aggrieved Employees, or some of them, have suffered and continue to suffer, substantial losses related to the use and enjoyment of such wages, lost interest on such wages and expenses and attorneys' fees in seeking to compel Employers to fully perform their obligation under state law, all to their respective damage in amounts according to proof at trial.

As a result of Employers' knowing failure, at times, to comply with the California Labor Code and applicable IWC Wage Orders, Employee and the Aggrieved Employees, or some of them, have also suffered an injury in that they were prevented from knowing, understanding, and disputing the wage payments paid to them.

Failure to Pay All Earned Wages Twice Per Month

Based on Employers' failure, at times, to pay Employee and the Aggrieved Employees, or some of them, for all wages as discussed above, Employers also violated Labor Code § 204.

Labor Code § 204 requires employers to pay employees all earned wages two times per month. Throughout the statute of limitations period applicable to this cause of action, Employee and the Aggrieved Employees were entitled to be paid twice a month at their regular rates, including all meal period premium wages owed, and wages owed for overtime hours worked. However, at times, Employers failed and refused to pay Employee and the Aggrieved Employees all wages due, and failed to pay those wages twice a month, in that Employee was not paid all wages for all missed meal periods and all wages for all hours worked.

As a result, Employers owed Employee the legally required wages for unpaid wages, and Employee and the Aggrieved Employees, or some of them, suffered damages in those amounts. Moreover, Employers are liable to Employee and the Aggrieved Employees, or some of them, for the civil penalties provided for in Labor Code § 210 for failing to pay all earned wages twice per month.

Refusal to Make Payment

Labor Code § 216 declares unlawful employer's refusal to pay wages due and payable and/or denial of the validity of any claim to wages due.

Employers, at times, violated and continue, at times, to violate Labor Code § 216 by failing to pay Employee and Aggrieved Employees, or some of them, for all hours worked at the proper wage rate and/or by failing to pay Employee and Aggrieved Employees, or some of them, an additional hour of pay for each meal period not provided or that was invalid. (*Gould v. Maryland Sound Industries, Inc.* (1995) 31 Cal.App.4th 1137, 1154-1155.)

These violations subject Employers to civil penalties under Labor Code § 225.5. Each violation results in a separate civil penalty, for each Aggrieved Employee (or some of them) so affected, for each pay period (or some of them) during which the statute's provisions were violated.¹

Statutory Wage Violations

Labor Code § 223 makes it unlawful for employers to secretly pay wages lower than required by statute while purporting to pay legal wages.

As described above, Employers, at times, willfully and systematically denied Employee and other Aggrieved Employees, or some of them, of minimum and overtime wage compensation for all hours worked which resulted in the payment of less than statutorily required wages owed to them. Employers, at times, acted with the intent to deprive some or all of them of statutory wages, including, but not limited to, overtime wages and minimum wages, to which they were entitled to under California law.

Thus, Employers, at times, paid Employee and other Aggrieved Employees, or some of them,

¹ Labor Code § 225.5 (establishing that “[i]n addition to, and entirely independent and apart from, any other penalty provided in this article, every person who unlawfully withholds wages due any employee in violation of sections 212, 216, 221, 222, or 223 shall be subject to a civil penalty...for each failure to pay each employee”) (emphasis added).

lower wages than those to which they were entitled, while purporting that Employee and all Aggrieved Employees were properly paid. As such, Employee and Aggrieved Employees, or some of them, are entitled to recover penalties, attorneys' fees, costs, and interest thereon, pursuant to Labor Code § 2699(f)-(g).

Action for Civil Penalties Under PAGA

Pursuant to Labor Code Sections 2699(a) and (f), Employee and the Aggrieved Employees are entitled to civil penalties for Employers' violations of Labor Code sections 203, 204, 210, 213, 216, 221, 223, 225.6, 226, 226.7, 245.5, 246, 246.5, 247, 247.5, 248.5, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1197.1, 1198, 1198.5, 2699, 2802, and the applicable IWC Wage Order.

Employee has placed Employers on notice by mailing a certified copy of this correspondence, as indicated on the first page. Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me.

WILSHIRE LAW FIRM

A handwritten signature in black ink, reading "m. desario" in a cursive, lowercase style.

Molly DeSario, Esq.