

December 5, 2024

BY ONLINE SUBMISSION

PAGA Administrator
California Labor and Workforce Development Agency
1515 Clay Street, Suite 801
Oakland, California 94612

BY CERTIFIED MAIL

Signify Health LLC,
1 CVS Drive
Woonsocket, RI 02895

Signify Medical Associates of California, P.C.
4055 Valley View Lane
Suite 700
Dallas, TX 75244

c/o Agent for Service
Amanda Garcia
330 N. Brand Blvd,
Glendale, CA

Re: *Richard Pratt v. Signify Health LLC, et al.*
PAGA NOTICE

To Whom It May Concern:

Pursuant to the Labor Code Private Attorneys General Act of 2004 (Lab. Code §§ 2698, *et seq.*), Richard Pratt (“Pratt”) hereby provides notice on behalf of himself and all similarly situated current and former employees in California (the “aggrieved employees”) who were employed by Signify Health LLC, and Signify Health Medical Associates of California, P.C. (collectively, “Signify” or “Defendants”) who were classified as independent contractors and who performed field-based services for Signify for alleged violations of Labor Code §§ 201-203, 204, 210, 216, 221-224, 225.5, 226, 226.2, 226.3, 226.7, 226.8, 450, 512, 558, 1174, 1194, 1194.2, 1197, 1197.1, 1199, and 2802.

Statement Of Facts

Pratt is an individual who was hired by Signify as an independent contractor in or about June 2015 through September 5, 2024. Signify is a global healthcare company specializing in home-based services and care management for Medicare and Medicaid beneficiaries. The company works alongside certified field-service employees to perform home visits, assess health risks, and identify chronic conditions. Throughout his employment, Pratt and the aggrieved employees reported directly to [REDACTED], Recruiter. Their job responsibilities included traveling to perform patient evaluations and medical screenings, contacting patients to confirm appointments, driving to assigned locations, evaluating patients, reviewing diagnoses, completing evaluation forms, summarizing and submitting reports for review, and managing patient cancellations, incorrect addresses, and rejections of evaluations.

On a day-to-day basis, Pratt and the aggrieved employees were required to follow a fixed schedule from 8:00 AM to 5:00 PM, often working past 6:30 PM to complete paperwork and submit their evaluations. They had little to no flexibility in determining their own work hours or tasks, as Signify assigned them specific lists of patients to evaluate, dictated when and where they should conduct these evaluations, and closely monitored their evaluation paperwork. In performing these duties, Pratt and the aggrieved employees had no discretion to alter the protocols or procedures they were required to follow. They were provided iPads by Signify and were paid \$100 per evaluation. Over the nine years they worked for Signify, Pratt and the aggrieved employees were never given salaries, bonuses, or raises, and they lacked control over their earnings with no authority to independently price or negotiate their services.

Each evening, after flying to cities designated by Signify, Pratt and the aggrieved employees arrived at their hotels late at night and received lists of seven evaluations to perform the next day. They immediately began preparing for the evaluations by reaching out to the patients on their lists to confirm appointments. However, more often than not, several patients would cancel, hang up, or claim they had no knowledge of the appointment, causing their original quota of seven evaluations to shrink to just four or five before the next day even began. In the morning, they set out on long drives to visit the remaining patients, sometimes covering up to 100 miles per day. On occasion, they arrived at addresses only to discover they were businesses or the street addresses didn't exist at all. Each patient evaluation took an hour and a half, and after spending the entire day driving and evaluating, they returned to their hotels in the evening to summarize their notes and submit the reports to [REDACTED], Clinical Documentation Improvement Specialist, for review. [REDACTED] would approve or reject the evaluations, often finding them inadequate for formatting or lack of details. Between patients canceling, false addresses, and [REDACTED]'s rejections, Pratt and the aggrieved employees were typically left with only two or three viable evaluations per day—far below the required quota of seven.

Although Signify covered hotel stays and plane tickets when necessary, Pratt and the aggrieved employees were responsible for covering significant out-of-pocket costs for other travel-related expenses like rental cars and gas. On multiple occasions, they incurred large expenses due to delayed reimbursements from Signify, such as a \$3,000 charge for a hotel room. Throughout their tenure with Signify, Pratt and the aggrieved employees worked exclusively for Signify. They did not operate independent businesses, advertise their services to other clients, or work for any other entities. Moreover, they were not permitted to hire employees or subcontractors to assist with their work. Pratt and the aggrieved employees depended on Signify for assignments, resources, and compensation.

The work performed by Pratt and the aggrieved employees was essential to Signify's core business, which relied heavily on evaluations conducted by field-service employees. While hundreds of field-service employees performed similar tasks, their contributions were essential to the company's operations. Despite their key role in driving Defendant's success, Pratt and the aggrieved employees did not receive traditional employee benefits such as health insurance, retirement plans, or paid vacation time.

On or about September 5, 2024, while conducting evaluations in Fresno, CA, Pratt's employment was abruptly terminated. Despite Signify's characterization of Pratt and the aggrieved employees as independent contractors, the facts demonstrate that they were misclassified and should have been treated as employees entitled to all protections under the California Labor Code and applicable Wage Orders. The level of control exercised by Defendant, the integration of their work into the core business operations, their economic dependence on Signify, and their lack of entrepreneurial opportunity all indicate employee status.

Mr. Pratt and aggrieved employees are "employees" within the meaning of Section 2 of the applicable Industrial Welfare Commission Wage Order (the "Wage Order") and "aggrieved employees" within the

meaning of Labor Code section 2699(c). At all relevant times, Mr. Pratt and aggrieved employees have been non-exempt employees entitled to the full protections of both the Labor Code and the Wage Order.

As set forth below, Defendants failed to comply with the Labor Code sections as described herein below. Accordingly, Mr. Pratt now seeks civil penalties for Defendants' alleged violations of the Labor Code.

Overview of Labor Law Violations

The intended civil action will assert representative claims pursuant to PAGA based on these facts and Signify's willful misclassification of its field-service workforce in California. Specifically, the action will allege with respect to these aggrieved employees the following violations and penalties:

- Willful misclassification and related penalties (Cal. Labor Code § 226.8);
- Failure to comply with the requirements for piece-rate basis compensation, including failure to compensate for non-productive time and rest and recovery periods separate from any piece-rate compensation, and failure to comply with the wage statement requirements for piece-rate compensation (Cal. Labor Code § 226.2);
- Failure to pay all wages and minimum wages and minimum wage violations (Cal. Lab. Code §§ 1194, 1194.2, 1197, 1197.1; California Minimum Wage Order MW-2019, Wage Order 4-2001, 9-2001);
- Failure to pay overtime wages (Cal. Lab. Code § 1194; MW-2019, Wage Order 4-2001, 9-2001);
- Improper deductions and paying less than the agreed-upon wage scale (Cal. Lab. Code §§ 221-224);
- Failure to provide meal and rest periods (Cal. Lab. Code § 226.7 and 512)
- Failure to reimburse expenses or losses incurred as a result of performing work duties (Cal. Lab. Code §§ 450, 2802);
- Waiting time penalties (Cal. Lab. Code § 203);
- Inaccurate wage statements (Cal. Lab. Code § 226(a), 226.3);
- Failure to maintain accurate pay records (Cal. Labor Code § 1174);
- Failure to pay all wages by the appropriate pay period (Cal. Lab. Code § 204);
- PAGA penalties (Cal. Lab. Code §§ 2699 *et seq.*, 210, 216, 225.5, 226(a), 226.7, 226.8, 450, 558, 1174, 1197, 1197.1, 1199).

The facts regarding each of these violations are set forth in detail below.

Signify's Willful Misclassification As Independent Contractors

Labor Code § 226.8 states:

It is unlawful for any person or employer to engage in any of the following activities:

- (1) Willful misclassification of any individual as an independent contractor

Although Mr. Pratt and the aggrieved employees were classified as "independent contractors", Mr. Pratt and the aggrieved employees were actually joint employees of Signify.

Despite Amazon's characterization to the contrary, at all relevant times, Mr. Pratt and the aggrieved employees have been employees of Signify and, as such, have been entitled to the protections of the California Labor Code and Wage Order.

By willfully misclassifying Mr. Pratt and the other aggrieved employees as independent contractors, Signify's criminal conduct violated Labor Code § 226.8

1. For all violations of California Labor Code § 226.8, \$25,000.00 for each of Signify's violations in addition to any other penalties or fines permitted by law (penalties set by Labor Code § 226.8)

In order to circumvent California wage and hour laws, Signify misclassifies its medical evaluator workforce as independent contractors. As noted by the California Supreme Court, there are substantial economic incentives for a business to mischaracterize workers as independent contractors rather than employees. See *Dynamex Operations v. Superior Court*, 4 Cal. 5th 903 (2018); Labor Code § 2750.3. These include the unfair competitive advantage the business may obtain over competitors that properly classify similar workers as employees and that thereby assume the fiscal and other responsibilities and burdens that an employer owes to its employees. If a worker should properly be classified as an employee, the hiring business bears the responsibility of paying federal Social Security and payroll taxes, unemployment insurance taxes and state employment taxes, providing worker's compensation insurance, and, most relevant here, complying with numerous statutes and regulations governing the wages, hours, and working conditions of employees. On the other hand, if a worker should properly be classified as an independent contractor, the business does not bear any of those costs or responsibilities, the worker obtains none of the numerous labor law benefits, and the public may be required under applicable laws to assume additional financial burdens with respect to such workers and their families. *Id.* In *Dynamex*, the Supreme Court adopted what has become known as the "ABC" test in determining whether a worker may properly be categorized as an independent contractor. It is clear under that standard that Signify has misclassified its workforce of field-based services employees.

The Supreme Court held in *Dynamex* that a hiring entity must establish all of the following to support the classification of a worker as an independent contractor:

- A) that the worker is free from the control and direction of the hiring entity in connection with the performance of the work, both under the contract for the performance of the work and in fact;
- B) that the worker performs work that is outside the usual course of the hiring entity's business; and
- C) that the worker is customarily engaged in an independently established trade, occupation, or business.

Dynamex, 4 Cal. 4th at 964. The California legislature has codified the *Dynamex* test in Labor Code § 2750.3 and later § 2775. Signify cannot satisfy any of these requirements with respect to its field-based service employees, let alone all of them as required.

Perhaps most glaringly, field-based services employees are not performing work that is outside the usual course of Signify's business. To the contrary, field-based services employees are performing work that is central to Signify's business of providing health risk assessments and medical screenings for Medicare and Medicaid beneficiaries. Absent field-based services employees' work of conducting patient evaluations, completing assessment forms, and submitting reports, Signify's core business would altogether cease.

In addition, field-based services employees are not free from the control and direction of Signify when conducting evaluations. Rather, as referenced above, Signify:

- Dictates a fixed schedule from 8:00 AM to 5:00 PM Assigns specific lists of patients to evaluate

- Determines when and where evaluations should be conducted
- Provides company iPads for conducting evaluations
- Closely monitors evaluation paperwork through review specialist [REDACTED]
- Requires evaluators to follow strict protocols and procedures without discretion to alter them
- Sets non-negotiable compensation rates of \$100 per evaluation

Finally, field-based services employees like Mr. Pratt are not customarily engaged in an independently established trade, occupation, or business. Mr. Pratt worked exclusively for Signify for nine years, was not permitted to hire employees or subcontractors, did not operate an independent business, and did not advertise his services to other clients. He depended entirely on Signify for assignments, resources, and compensation.

Like other field-based services employees working for Signify in California, our client, Mr. Richard Pratt, was hired as a medical evaluator in June 2015 and improperly classified as an independent contractor when he should have been classified as an employee. Mr. Pratt performed medical evaluations for Signify across various locations, traveling extensively to conduct in-home patient assessments. Signify controlled each step of his work process. The company assigned him specific patient lists, required him to contact patients to confirm appointments, dictated evaluation protocols, and mandated submission of detailed reports for review. Signify did not pay him for all time worked, including extensive travel time and administrative work. Rather, Signify paid him a flat fee of \$100 for each completed evaluation.

In many instances, completing evaluations turned out to be impossible or took excessive time due to factors beyond Mr. Pratt's control, including:

- Patient cancellations
- Incorrect addresses
- Patients claiming no knowledge of appointments
- Rejections of evaluations by documentation specialists
- Long travel distances between appointments (up to 100 miles per day)

He therefore spent significant time working for Signify attempting to complete evaluations, only to sometimes achieve far below the required quota of seven evaluations per day, earning little money for all his time worked. Even without significant problems, the process of preparing for visits, traveling to locations, conducting evaluations, and completing required documentation would take many hours, often extending beyond the scheduled workday, with him earning potentially only \$200-300 for a full day's work while incurring significant unreimbursed expenses for travel.

Failure To Comply With Piece-Rate Compensation Requirements

Labor Code § 226.2, numerous California Supreme Court and Court of Appeal decisions, and numerous Opinion Letters from the DLSE make clear that any piece-rate compensation scheme must adequately compensate workers for, among other things, nonproductive time, rest and recovery periods, travel time, and other de minimis tasks.

The legislature has codified California law regarding piece-rate compensation in Labor Code § 226.2. The statute requires that employees "shall be compensated for . . . nonproductive time *separate from any piece-rate compensation.*" Labor Code § 226.2(a)(1) (emphasis added). Section 226.2 defines "other nonproductive time" as time under the employer's control, exclusive of rest and recovery periods, that is not directly related to the activity being compensated on a piece-rate basis." Labor Code § 226.2. The statute also makes clear that employees "shall be compensated for rest and recovery periods . . . *separate from any piece-rate compensation.*" Labor Code § 226.2(a)(1) (emphasis added). Section 222.6 further

requires that itemized wage statements separately state “[t]he total hours of compensable rest and recovery periods, the rate of compensation, and the gross wages paid for those periods during the pay period.” Labor Code § 226.2(a)(2)(A). The wage statements must also state “the total hours of other nonproductive time, . . . the rate of compensation, and the gross wages paid for that time during the pay period.” Labor Code § 226.2(a)(2)(B). Further, the statute requires that the pay rate for rest periods must be “***no less than the higher***” of either the applicable minimum wage or “[a]n hourly rate determined by dividing the total compensation for the workweek [excluding rest period pay and overtime] by the total hours worked during the workweek.” Labor Code § 226.2(a)(3)(A). Section 226.2(a)(4) further states that nonproductive time must be compensated at an hourly rate not less than the minimum wage. The amount of nonproductive time may be determined either through actual records or the employer’s reasonable estimates. *Id.* § 226.2(a)(5)

Although Labor Code Section 226.2 was recently enacted, it codified existing California case law regarding piece-rate compensation schemes and their failure to compensate employees for all hours worked. *See Gonzalez v. Downtown LA Motors, LP*, 215 Cal. App. 4th 36 (2013); *see also Vaquero v. Stoneledge Furniture*, 9 Cal. App. 4th 98 (2017); *Bluford v. Safeway Stores, Inc.*, 216 Cal. App. 4th 864, 871-72 (2013); *Armenta v. Osmose, Inc.*, 135 Cal. App. 4th 314 (2005); *Quezada v. Con-Way Freight, Inc.*, 2012 WL 2847609 (N.D. Cal. July 11, 2012); *Ridgeway v. Wal-Mart Stores*, 2015 WL 3451966 (N.D. Cal. May 28, 2015).

California law also makes clear that an employer must compensate its workers for any travel commuting time that is either undertaken at the employer’s direction or control, or that is excessive, or which involves the transportation of any goods, equipment, or materials for the company. *See Morillion v. Royal Packing*, 22 Cal. 4th 575 (2000); *Rutti v. Lojack Corp.*, 596 F.3d 1046 (9th Cir. 2010); *Slavkov v. Fast Water Heater Partners I, LP*, Case No. 14-CV-04324-JST, 2015 WL 8482141, at *3 (N.D. Cal. Dec. 10, 2015); *Armenta v. Osmose, Inc.*, 135 Cal. App. 4th 314, 322–24 (2005); *see also* DLSE 4/22/2003 Opinion Letter; DLSE 2/21/02 Opinion Letter.

In addition to these long-established requirements that piece-rate compensation schemes separately compensate workers for rest periods, nonproductive time, and travel, the California Supreme Court’s decision in *Troester v. Starbucks Corporation*, 421 P.3d 1114 (2018) makes clear that an employer cannot rely on the federal *de minimis* doctrine as any sort of defense.

Here, Signify’s compensation of its field-service workforce violates all of these provisions regarding piece-rate compensation. Signify does not compensate field-based services employees for nonproductive time or for rest and recovery periods separate from any piece rate compensation, or even track that time. As referenced above, field-based services employees inevitably incur significant nonproductive time working for Signify that goes entirely uncompensated. Signify only pays field-based services employees a flat fee of \$100 for each evaluation they successfully complete. In many instances, however, completing evaluations becomes impossible or takes an excessive amount of time due to:

- Patient cancellations before or during scheduled appointment times
- Incorrect addresses provided for patient locations
- Patients claiming no knowledge of appointments
- Extensive travel time between appointments (up to 100 miles per day)
- Evening documentation work and report submissions
- Rejections of evaluations by Clinical Documentation Improvement Specialist [REDACTED] requiring additional work
- Time spent contacting patients to confirm appointments
- Preparation time for next day’s evaluations

Field-based services employees may therefore spend significant time working for Signify in attempting to complete evaluations, only to be unsuccessful and therefore uncompensated. Or to spend an excessive amount of time pursuing many evaluations, only to complete two or three evaluations due to factors outside their control, earning no compensation for their time spent working for Signify that did not directly result in the completion of a particular evaluation.

Signify also does not specifically compensate field-based services employees for:

- Time spent traveling between evaluation locations while transporting company equipment (iPad)
- Time spent reviewing and preparing patient documentation
- Time spent submitting and revising evaluation reports
- Time spent coordinating with Signify staff regarding scheduling and documentation
- Rest periods or meal periods separate from the piece-rate compensation

Furthermore, the wage statements issued to field-based services employees do not separately state the total hours of compensable rest and recovery periods, or total hours of nonproductive time, or any rate of compensation for either, as required by Labor Code § 226.2(a)(2)(A) and (B).

Accordingly, Signify's payment practices violate Labor Code Section 226.2.

Failure to Pay All Wages/Minimum Wage Violations and All Overtime Wages Earned

For similar reasons, Signify's payment practices also fail to pay aggrieved employees the applicable state minimum wage for all hours worked. Signify only compensates aggrieved employees on a piece-rate basis for their work, generally only \$100 dollars per examination, regardless of how long that process takes, regardless of whether this compensation results in the aggrieved employees being paid less than the hourly minimum wage, and without any compensation at all for nonproductive time, as described above. aggrieved employees' compensation is not at all derivative of how many hours the field-service positions works. As set forth above, aggrieved employees spend significant amounts of nonproductive time working for Signify, benefitting Signify, and under the control of Signify, all of which goes entirely uncompensated. Even in instances where an aggrieved employee is partially compensated for their time, the piece-rate compensation may end up with the aggrieved employee being paid less than the minimum wage.

California law prescribes that it is an automatic minimum wage violation when an employee works but is not compensated for each and every hour worked. *See Gonzalez v. Downtown L.A. Motors*, 215 Cal. App. 4th 36, 49-50 (2014); Labor Code § 226.2(a)(4); *Armenta v. Osmose, Inc.* (2005) 215 Cal. App. 4th 314, 323-324 (2005); *see also* Labor Code §§ 221-23. Notably, averaging wages over the workweek to meet minimum wage obligations is not permitted under the California Labor Code.

Labor Code section 204 provides that all wages (except as provided for under Labor Code sections 201 and 202) earned by any person in any employment become due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays, except that 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.

Labor Code section 223 states:

Where any statute or contract requires an employer to maintain the designated wage scale,

it shall be unlawful to secretly pay a lower wage while purporting to pay the wage designated by statute or by contract.

Section 2 of the applicable Wage Order states:

“Hours worked” means the time during which an employee is subject to the control of the employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.

Labor Code section 1194 states, in relevant part:

- (a) Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney’s fees, and costs of suit.

Labor Code section 1197 states, in relevant part:

The minimum wage for employees fixed by the commission or by any applicable state or local law, is the minimum wage to be paid to employees, and the payment of a lower wage than the minimum so fixed is unlawful. This section does not change the applicability of local minimum wage laws to any entity.

Labor Code section 1198 states, in relevant part:

The maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.

Section 3 of the applicable Wage Order states, in relevant part:

(A) Daily Overtime – General Provisions

- (1) The following overtime provisions are applicable to employees 18 years of age or over and to employees 16 or 17 years of age who are not required by law to attend school and are not otherwise prohibited by law from engaging in the subject work. Such employees shall not be employed more than eight (8) hours in any workday or more than 40 hours in any workweek unless the employee receives one and one-half (1 ½) times such employee’s regular rate of pay for all hours worked over 40 in the workweek. Eight (8) hours of labor constitutes a day’s work. Employment beyond eight (8) hours in any workday or more than six (6) days in any workweek is permissible provided the employee is compensated for such overtime at not less than:
 - (a) One and one-half (1 ½) times the employee’s regular rate of pay for all hours worked in excess of eight (8) hours up to and including 12 hours in any workday, and for the first eight (8) hours worked on the seventh (7th) consecutive day of work in a workweek; and

- (b) Double the employee's regular rate of pay for all hours worked in excess of 12 hours in any workday and for all hours worked in excess of eight (8) hours on the seventh (7th) consecutive day of work in a workweek.
- (c) The overtime rate of compensation required to be paid to a nonexempt full-time salaried employee shall be computed by using the employee's regular hourly salary as one-fortieth (1/40) of the employee's weekly salary."

In conjunction, these provisions of the Labor Code require employers to pay non-exempt employees no less than their agreed-upon or statutorily mandated wage rates for all hours worked, including hours spent working "off-the-clock" (before punching in or after punching out on a time clock) when the employer knows or reasonably should know that employees are working during those hours. *Morillion v. Royal Packing Co.*, 22 Cal. 4th 575, 585 (2000).

Signify also fails to pay aggrieved employees all the overtime pay for which they are entitled, or indeed any overtime pay at all. Because Signify does not track or pay aggrieved employees for the non-piece rate hours they work, Signify fails to accurately assess how much is due in overtime wages to the Aggrieved employees and, thus, fails to pay aggrieved employees accurate overtime wages.

Meal and Rest Period Violations

Labor Code section 204 provides that all wages (except as provided under Labor Code sections 201, 201.3, 202, 204.1 and 204.2) earned by any person in any employment become due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays, except that 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.

Labor Code section 223 states:

Where any statute or contract requires an employer to maintain the designated wage scale, it shall be unlawful to secretly pay a lower wage while purporting to pay the wage designated by statute or by contract.

Section 2 of the Wage Order states:

"Hours worked" means 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.

Labor Code section 1198 states:

The maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and that standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.

Labor Code section 512 states:

An employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes, except that if the total work period per day of the employee is no more than six hours, the meal period may be waived by mutual consent of both the employer and employee. An employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 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.

Section 11 of the Wage Order states:

- (A) No employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, except that when a work period of not more than six (6) hours will complete the day's work the meal period may be waived by mutual consent of the employer and the employee. Unless the employee is relieved of all duty during a 30 minute meal period, the meal period shall be considered an "on duty" meal period and counted as time worked. An "on duty" meal period shall be permitted only when the nature of the work prevents an employee from being relieved of all duty and when by written agreement between the parties an on-the-job paid meal period is agreed to. The written agreement shall state that the employee may, in writing, revoke the agreement at any time.
- (B) If an employer fails to provide an employee a meal period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided.

Section 12 of the applicable Wage Order states:

- (A) Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized 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. However, a rest period need not be authorized for employees whose total daily work time is less than three and one-half (3 ½) hours. Authorized rest period time shall be counted as hours worked for which there shall be no deduction from wages.
- (B) If an employer fails to provide an employee a rest period in accordance with the applicable provision of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the rest period is not provided."

In addition, Labor Code section 226.7 states:

- (b) An employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health.

(c) If an employer fails to provide an employee a meal or rest or recovery period in accordance with a state law, including, but not limited to, an applicable statute or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided.

Signify also does not provide meal and rest periods in accordance with California law. Employees paid on a piece-rate system must also be separately compensated for rest periods, which Signify fails to do. *See* Labor Code § 226.2(a)(1); 226.2(a)(3)(A); *Bluford v. Safeway Stores, Inc.*, 216 Cal.App.4th 864 (2013); *Cardenas v. McLane FoodServices, Inc.*, 796 F.Supp.2d 1246, 1252 (C.D. Cal. 2011) (piece-rate pay system that did not separately pay truck drivers for non-driving duties and rest periods violates California law requiring compensation for each hour worked); *Reinhardt v. Gemini Motor Transport*, 869 F.Supp.2d 1158, 1168 (E.D. Cal. 2012) (piece-rate pay system that did not separately pay truck drivers for non-driving duties violates California law requiring compensation for each hour worked).

Due to Signify's willful misclassification of Pratt and the aggrieved employees as independent contractors, Signify failed to implement any meal or rest period policies or procedures whatsoever. By misclassifying Pratt and the aggrieved employees, Signify completely disregarded its legal obligations to provide meal periods, treating them as if they were not entitled to the basic protections afforded to employees under California law. As a result, Pratt and the aggrieved employees were not even allotted meal breaks, let alone provided with legally compliant meal periods as required by California law.

This complete failure to provide meal periods was exacerbated by the nature of their work schedules and Signify's policies and practices. Signify maintained a policy and practice that effectively prevented Pratt and the aggrieved employees from taking compliant meal periods by requiring them to complete seven patient evaluations per day, each lasting approximately one and a half hours, while traveling up to 100 miles between appointments. The scheduling of these evaluations and the requirement to contact and coordinate with patients throughout the day made it impossible to take timely, uninterrupted meal periods.

On a typical day, Pratt and the aggrieved employees would receive their list of seven evaluations the night before, requiring them to immediately begin contacting patients to confirm appointments. In the morning, they would drive to their first evaluation, which could be a significant distance away. Between the lengthy duration of each evaluation (1.5 hours), the extensive travel time between appointments (up to 100 miles per day), and the constant need to manage patient cancellations and scheduling issues, Pratt and the aggrieved employees were unable to take their first meal period before the end of the fifth hour of work as required by law.

Even when Pratt and the aggrieved employees attempted to take meal periods, these breaks were routinely interrupted by the need to contact patients, manage cancellations, handle incorrect addresses, and coordinate next appointments. The strict requirement to complete documentation and submit reports to [REDACTED] for review by the end of each day further compressed their schedules and interfered with their ability to take compliant meal periods.

Moreover, Signify failed to maintain a policy or system for tracking meal periods or ensuring their timely provision. Signify also failed to pay the required premium wages when compliant meal periods were not provided. The lack of proper meal period policies, combined with the demanding schedule and quota requirements, demonstrates that Signify's failure to provide compliant meal periods was systematic and widespread.

Additionally, Pratt and the aggrieved employees did not execute valid on-duty meal period agreements

that complied with California law. Given the nature of their work, they were not subject to valid on-duty meal period waivers with Signify. California law requires that meal period waivers be documented in a written agreement that is voluntarily signed by both the employee and employer, and must state that the employee may, in writing, revoke the agreement at any time (8 Cal. Code Regs. § 11040). No such agreements existed.

Regular Rate of Pay

The regular rate of pay under California law includes "all remuneration for employment paid to, or on behalf of, the employee." DLSE Opinion Letter 2002.06.14 (quoting 29 U.S.C. § 207(e)). This requirement includes, but is not limited to, commissions and non-discretionary bonuses. *See, e.g., Huntington Memorial Hospital v. Superior Court*, 131 Cal. App. 4th 893, 904 (2005).

At all relevant times, Defendants violated the above-referenced Labor Code sections by failing to pay Mr. Pratt and the aggrieved employees for all hours worked, including, but not limited to, overtime hours. While employed by Defendants, Mr. Pratt and the aggrieved employees received piece-rate wages of \$100 per completed evaluation. However, Defendants consistently failed to include all hours worked when calculating their regular rates of pay. As a result, any overtime wages owed to Mr. Pratt and the aggrieved employees were not paid at all, let alone at the correct regular rate of pay.

Mr. Pratt regularly worked well beyond 8 hours per day and 40 hours per week. On a typical day, he would work from 8:00 AM to at least 6:30 PM, resulting in 2.5 hours of overtime each day. He was required to arrive at his hotel late at night to prepare for the next day's evaluations by contacting patients to confirm appointments. In the morning, he would drive up to 100 miles per day between patient locations, spend 1.5 hours per evaluation, and then return to his hotel in the evening to complete and submit documentation for review. Despite these long hours, Signify Health paid him solely on a piece-rate basis of \$100 per completed evaluation, with no consideration for overtime hours worked or the proper calculation of regular rate of pay.

Failure to Reimburse for Business Expenses

California Labor Code § 2802 requires employers to reimburse employees for all necessary expenditures incurred in the discharge of their duties. Signify fails to adequately reimburse its field-based services employees for substantial business expenses required to perform their work.

While Signify provides iPads for conducting evaluations and covers basic travel expenses such as hotel stays and plane tickets, the company systematically fails to reimburse or delays reimbursement for numerous necessary business expenses, including:

Transportation Expenses:

- Rental car costs for local transportation between evaluation sites
- Fuel expenses for driving up to 100 miles per day between patient locations
- Parking fees incurred during patient visits
- Vehicle wear and tear from extensive daily driving

Travel-Related Expenses:

- Out-of-pocket costs for hotels when reimbursements are delayed
- Documentation shows Mr. Pratt incurred a \$3,000 charge for a hotel room due to delayed reimbursement

- Meals and incidental expenses during required business travel
- Ground transportation to and from airports
- Reimbursement for cell phone usage

The impact of these unreimbursed expenses is particularly severe given the piece-rate compensation structure, where field-based services employees are paid only \$100 per completed evaluation. When factoring in the substantial unreimbursed business expenses, field-based services employees often earn far below minimum wage for their time. For example, on days where evaluators complete only 2-3 evaluations due to cancellations or other factors beyond their control, they may earn just \$200-300 while incurring hundreds of dollars in unreimbursed expenses.

Moreover, Signify's delayed reimbursement practices force field-based services employees to float significant business expenses on their personal credit cards for extended periods. This practice effectively requires field-based services employees to provide interest-free loans to the company while bearing personal liability for substantial business expenses, as evidenced by the \$3,000 hotel charge Mr. Pratt was forced to cover.

This systematic failure to promptly and fully reimburse necessary business expenses violates California Labor Code § 2802 and improperly shifts the company's operating costs onto its workforce.

Failure To Provide Accurate Written Wage Statements and Late or Partial Payment of Final Wages Following Separation

The other alleged violations, including inaccurate wage statements and waiting time penalties, are largely derivative of the failure to pay minimum wage and overtime claims as well as the failure to provide meal and rest periods claim.

Labor Code section 226(a) states, in pertinent part:

- (a) An employer, semimonthly or at the time of each payment of wages, shall furnish to his or her employee either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately if wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except as provided in subdivision (j), (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 only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the 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 and, beginning July 1, 2013, if the employer is a temporary services employer as defined in Section 201.3, the rate of pay and the total hours worked for each temporary services assignment. The deductions made from payment of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement and the record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California. For purposes of this subdivision,

“copy” includes a duplicate of the itemized statement provided to an employee or a computer-generated record that accurately shows all of the information required by this subdivision.

At all relevant times during the applicable limitations period, Defendants failed to provide accurate itemized wage statements that shows:

- (1) gross wages earned;
- (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission;
- (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 only the last four digits of his or her social security number or an employee identification number other than a social security number;
- (8) the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer;
- (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee and, beginning July 1, 2013, if the employer is a temporary services employer as defined in Section 201.3, the rate of pay and the total hours worked for each temporary services assignment.

By failing to accurately record all hours worked, including “off-the-clock” work described above, by failing to pay employees meal and rest period premiums in accordance with California law, by subjecting vested vacation pay to unlawful forfeiture, and by failing to reimburse employees for all necessary business expenses, Defendants have failed to provide [REDACTED] and the aggrieved employees with written wage statements that comply with the requirements of Labor Code section 226(a). The wage statements of Mr. Pratt and the aggrieved employees have not accurately reflected their applicable rates of pay, hours worked, and the amounts of their gross and net wages.

Accordingly, Mr. Pratt now seeks civil penalties for Defendants’ violations of the Labor Code as follows:

- (1) For all violations of Labor Code section 226(a) if a civil action filed in accordance with the procedures set forth in Labor Code section 2699.3 results in an initial citation or its equivalent, \$250 for each aggrieved employee per pay period for each violation (penalties set by Labor Code section 226.3);
- (2) For all violations of Labor Code section 226(a) if a civil action filed in accordance with

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the procedures set forth in Labor Code section 2699.3 results in a subsequent citation or its equivalent, \$1000 for each aggrieved employee per pay period for each violation (penalties set by Labor Code section 226.3).

Labor Code section 201 requires an employer to pay all earned and unpaid wages to a discharged employee immediately at the time of discharge.

Labor Code section 202 requires an employer to pay all earned and unpaid wages to an employee who quits after giving at least seventy-two hours' notice at the time of quitting.

Labor Code section 203 provides that an employee's wages shall continue as a penalty from when they first became due at the same rate until paid for up to thirty days when an employer willfully fails to timely pay all earned and unpaid wages in accordance with Labor Code sections 201 or 202.

By failing to timely furnish Mr. Pratt and the aggrieved employees with any final paycheck and/or with final paychecks that include all earned and unpaid wages, including, but not limited to, all earned and unpaid hourly, overtime, vacation and/or premium wages, Defendants have violated Labor Code sections 201 and/or 202.

Accordingly, Mr. Pratt now seeks civil penalties for Defendants' violations of the Labor Code as follows:

- (1) For all initial violations of Labor Code sections 201, 202 and 203, \$100 for each aggrieved employee per pay period for each violation (penalties set by Labor Code section 2699(f)(2));
- (2) For all subsequent violations of Labor Code sections 201, 202 and 203, \$200 for each aggrieved employee per pay period for each violation (penalties set by Labor Code section 2699(f)(2)).

Scope of Anticipated Action

We intend to seek all penalties that are available for the violations described above on behalf of all field service providers of Signify in California throughout the limitations period, including any tolling as may be appropriate. These penalties include, but are not limited to, those available under California Labor Code § 2699 *et seq.* as well as §§ 201-203, 204, 210, 216, 221-224, 225.5, 226, 226.2, 226.3, 226.7, 226.8, 450, 512, 558, 1174, 1194, 1194.2, 1197, 1197.1, 1199, and 2802.

Please inform us if you intend to investigate this matter. Should you require any additional information, do not hesitate to contact me at (310) 363-0975 or rotem@bluestone.law.

Sincerely,

Bluestone Law

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A handwritten signature in blue ink, appearing to read "Rotem Tamir". The signature is fluid and cursive, with the first name "Rotem" written in a larger, more prominent script than the last name "Tamir".

Rotem Tamir, Esq.