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Superior Court of California,
County of San Diego
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By Taylor Crandall, Deputy Clerk

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **FOR THE COUNTY OF SAN DIEGO**

11 JENELLE OLEA, individually and on behalf of
12 all others similarly situated,

13 Plaintiff,

14 v.

15 THE STEPPING STONES GROUP LLC; EBS
16 HEALTHCARE STAFFING SERVICES, INC.;
and DOES 1 through 50, inclusive,

17 Defendants.

Case No. 37-2022-00040884-CU-OE-CTL

Assigned to the Hon. Kenneth J. Medel
Department: 66

CLASS ACTION

**First Amended Class and Representative
Action Complaint**

1. Failure to Pay All Minimum Wages
2. Failure to Pay All Overtime Wages
3. Meal Period Violations
4. Rest Period Violations
5. Untimely Payment of Wages
6. Wage Statement Violations
7. Waiting Time Penalties
8. Failure to Reimburse Business Expenses
9. Unfair Competition
10. Civil Penalties Under the Private Attorneys
General Act

1 Plaintiff JENELLE OLEA (“Plaintiff”) brings this First Amended Class and Representative
2 Action Complaint against Defendants THE STEPPING STONES GROUP LLC; EBS
3 HEALTHCARE STAFFING SERVICES, INC. and DOES 1 through 50, inclusive, (collectively
4 “Defendants”), alleging as follows:

5 **INTRODUCTION**

6 1. This is a class action brought under California Code of Civil Procedure § 382 for
7 Defendants’ violations of the California Labor Code and Business and Professions Code.

8 2. Plaintiff further seeks civil penalties under the Private Attorneys General Act on behalf
9 of herself and all other similarly situated aggrieved employees.

10 **JURISDICTION & VENUE**

11 3. Jurisdiction of this action is proper in this Court under Article VI, Section 10 of the
12 California Constitution as the causes of action are premised upon violations of California law.

13 4. The monetary damages and restitution sought by Plaintiff exceed the minimal
14 jurisdiction limits of the Superior Court.

15 5. This Court has jurisdiction over Defendants because, upon information and belief,
16 Defendants are citizens of California, have sufficient minimum contacts in California, or otherwise
17 intentionally avail themselves to the California economy so as to render the exercise of jurisdiction
18 over them by the California courts consistent with traditional notions of fair play and substantial justice.

19 6. Venue is proper in this Court under Code of Civil Procedure section 395 because
20 Defendants conduct business and committed some of the alleged violations in this county.

21 **PARTIES**

22 **A. Plaintiff Jenelle Olea**

23 7. Plaintiff JENELLE OLEA is an individual over 18 years of age who worked for
24 Defendants in California as a non-exempt employee from about September 2021 to August 2022.
25 Plaintiff worked as a Registered Behavioral Technician.

26 8. The State of California, via the Labor and Workforce Development Agency (“LWDA”),
27 is the real party in interest in this action in this action. (*Kim v. Reins Int’l California, Inc.* (2020) 9
28

1 Cal. 5th 73, 81 [The “government entity on whose behalf the plaintiff files suit is always the real party
2 in interest.”]).

3 **B. Defendants**

4 9. Defendant THE STEPPING STONES GROUP LLC is a Delaware limited liability
5 company that maintains operations and conducts business throughout the State of California, including
6 in this county.

7 10. Defendant EBS HEALTHCARE STAFFING SERVICES, INC. is a Pennsylvania
8 corporation that maintains operations and conducts business throughout the State of California,
9 including in this county.

10 11. The true names and capacities, whether individual, corporate, or otherwise, of the parties
11 sued as DOES 1 through 50, are presently unknown, unascertainable, or uncertain to Plaintiff, who
12 sues them by such fictitious names under Code of Civil Procedure section 474. Plaintiff is informed,
13 believes, and alleges that each of DOES 1 through 50 employed Plaintiff and is responsible in some
14 manner for the acts and omissions alleged herein. Plaintiff may seek leave to amend this Complaint to
15 reflect their true names and capacities once ascertained.

16 12. Plaintiff is informed, believes, and alleges that all Defendants in this action are
17 employers, co-employers, joint employers, and/or part of an integrated employer enterprise, as each of
18 the Defendants exercised control over the wages, hours, and working conditions of Plaintiff and other
19 aggrieved employees, suffered and permitted them to work, and otherwise engaged them as employees
20 under California law.

21 13. During the relevant period, THE STEPPING STONES GROUP LLC acquired EBS
22 HEALTHCARE STAFFING SERVICES, INC., including all of its employees. The two entities
23 currently share a combined leadership and management team, among other operations.

24 14. Plaintiff is informed, believes, and alleges that at least some of the Defendants have
25 common ownership, common management, interrelationship of operations, and centralized control
26 over labor relations and are therefore part of an integrated enterprise and thus jointly and severally
27 responsible for the acts and omissions alleged herein, including pursuant to Labor Code sections 558,
28 558.1, and 1197.1

1 defending, resolving, and litigating wage and hour class, collective, and
2 representative actions in California state and federal courts.

3 d. Superiority: A class action is superior to other means for adjudicating this
4 dispute. Individual joinder is impractical. Class treatment will allow for
5 common issues to be resolved in a single forum, simultaneously, and without
6 duplication of effort and expense.

7 e. Public Policy Considerations: Certification of this lawsuit as a class action
8 advances the State of California's strong public interest in ensuring its
9 approximately millions of employed residents are properly paid the wages they
10 earned for the hours they worked. Class actions provide a mechanism for
11 enforcement of labor laws and allow for vindication of employee rights by
12 unnamed class members.

13 19. Common questions of law and fact as to the class members predominate over questions
14 affecting only individual members. The common questions of law and fact exist as to whether the
15 employment policies and practices formulated by Defendants and applied to the class members
16 constitute violate California law.

17 **GENERAL ALLEGATIONS**

18 20. Defendants failed to compensate Plaintiff and Class Members for all hours suffered or
19 permitted to work in violation of Labor Code section 1197 and the applicable IWC Wage Order.

20 21. Plaintiff frequently had to complete paperwork, notes, and summaries and perform
21 various administrative tasks off the clock. Plaintiff would perform this work after she was done seeing
22 clients for the day as she was unable to complete these tasks during her scheduled hours. Defendants
23 paid Plaintiff based on her scheduled hours not her actual hours worked, resulting in unpaid wages.
24 Plaintiff and certain Class Members lacked the ability to record her actual hours worked. On
25 information and belief, other Class Members were also forced to perform work-related tasks off the
26 clock.

1 22. Plaintiff and Class Members provided virtual and in-home services to clients as assigned
2 by Defendant. Plaintiff was required to drive to clients' homes after she completed her virtual session.
3 Defendants failed to compensate Plaintiff and, on information and belief, the Class Members, for the
4 time it took to drive between to clients' homes, resulting in unpaid minimum wage violations.

5 23. Defendants entered meal periods into Plaintiff's time records without her knowledge or
6 authorization. On information and belief, Defendants engaged in the same practice with Class
7 Members. When Defendants recorded a false meal period on Plaintiff's behalf, the meal period time
8 coincided with the time that Plaintiff needed to drive to see a client, making the travel time
9 uncompensated.

10 24. Though Plaintiff never clocked out for a meal period during her employment,
11 Defendants nonetheless recorded meal periods on her behalf and on behalf of others.

12 25. Plaintiff was required to work during meal periods, resulting in further unpaid wages.
13 For example, Plaintiff was required to provide virtual services to the client via Zoom in blocks of
14 6 hours. She was not allowed to sign out of the virtual session or leave her home for a duty-free,
15 uninterrupted meal period and was required to continue working during what was essentially an on-
16 duty meal period. On other occasions, Plaintiff would log out of her virtual session and would
17 immediately drive to her in-person session, without any time to take a meal period. On information
18 and belief, other Class Members were also required to perform work-related tasks during their unpaid
19 meal periods.

20 26. When Plaintiff and the Class Members worked overtime, Defendants failed to pay the
21 overtime at the "regular rate of pay" in violation of Labor Code section 510 and the IWC Wage Orders.

22 27. Defendants' failure to pay overtime for all hours worked stems from the allegations in
23 the preceding paragraphs with regard to off the clock work.

24 28. Additionally, Defendants failed to provide compliant first and second meal periods to
25 Plaintiff and the Class Members in violation of Labor Code sections 226.7, 512 and section 11 of the
26 applicable IWC Wage Orders.

1 29. Plaintiff's and the Class Members' time records establish meal period liability on their
2 face. Claimant's time records show that he often experienced missed, short, and late meal periods
3 without a corresponding meal period premium for every non-compliant meal period.

4 30. "[T]ime records showing noncompliant meal periods raise a rebuttable presumption of
5 meal period violations, including at the summary judgment stage." *Donohue v. AMN Services, LLC*
6 (2021) 11 Cal. 5th 58, 61.

7 31. As discussed above, Defendants created meal period entries in Plaintiff's time records
8 without Plaintiff's knowledge or authorization, although she was unable to take her meal periods. On
9 information and belief, Defendants engaged in the same practice with other Class Members.

10 32. When Defendants did not provide fully compliant meal periods, Defendants failed to
11 pay Plaintiff and Class Members a meal period premium at the regular rate of compensation, in
12 violation of Labor Code section 226.7. *See Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal. 5th
13 858, 863 ("We hold that the terms are synonymous: "regular rate of compensation" under section
14 226.7(c), like "regular rate of pay" under section 510(a), encompasses all nondiscretionary payments,
15 not just hourly wages").

16 33. Defendants failed to authorize or permit Plaintiff and the Class Members take ten-
17 minute rest periods for every four hours of work or major fraction thereof as required by Labor Code
18 section 226.7 and 516 and section 12 of the applicable IWC Wage Order.

19 34. Defendants required Plaintiff and other Class Members to effectively waive or
20 otherwise forego their rest periods contrary to the law due to their workload.

21 35. To the extent that Plaintiff and Class Members was able to take a break in between
22 clients, these rest periods were not duty-free; therefore, non-compliant because Plaintiff and Class
23 Members were required to complete various work-related tasks, including, remaining with clients,
24 driving, staying logged in to their computers until it was time for the next client session, etc.

25 36. Due to the employees' job responsibilities, heavy caseload, and pressures from the
26 Defendants, Plaintiff and the Class Members were not always authorized or permitted to take all their
27 rest periods.

1 37. To the extent Defendants ever paid a rest period premium, Defendants violated Labor
2 Code section 226.7 because such premiums were not paid at the regular rate of compensation to
3 Plaintiff and Class Members, which would have factored in employees' additional compensation that
4 they received each pay period.

5 38. Defendants also required Plaintiff and Class Members to incur costs for work-related
6 purposes without full reimbursement, including expenses associated with the use of their personal cars,
7 home internet, and personal cell phones.

8 39. Defendants had a policy and practice of requiring Plaintiff and the Class Members to
9 use their personal cell phone for business purposes without any reimbursement. Plaintiff and the Class
10 Members received calls, messages, and emails from clients' family members. Plaintiff and the Class
11 Members were required to use their personal cell phones to communicate with their supervisor while
12 in the field. Plaintiff, and on information and belief, other Class Members, were required to send and
13 receive work-related emails from their personal cell phones.

14 40. While working from home, Plaintiff and the Class Members were also required to use
15 their home internet without any reimbursement from Defendants.

16 41. Plaintiff drove her personal car to, from, and in between clients' homes during her
17 scheduled shift. Defendants issued reimbursements to Plaintiff for gas mileage based on their own
18 internal calculation that was never disclosed to Plaintiff. However, Plaintiff never had the opportunity
19 to provide input or documentation on the actual gas mileage she incurred.

20 42. Plaintiff is informed and believes that Defendants undercompensated her and the other
21 Class Members for gas mileage under the same common practice.

22 43. In direct consequence of their job duties, Plaintiff and Class Members unavoidably and
23 necessarily incurred losses, expenditures, costs and expenses that Defendants did not fully and
24 compliantly reimburse as a matter of policy and practice.

25 44. To the extent Defendants reimbursed Plaintiff and Class Members, those amounts were
26 underpaid. At all relevant times, Defendants were required to comply with the reimbursement mandate
27 of Labor Code sections 2800 and 2802.

1 45. With respect to the unpaid minimum and regular wages, overtime wages, sick leave,
2 and meal and rest period premiums owed to Plaintiff and Class Members, Defendants failed to pay
3 those wages on time each pay period or upon separation of employment. See *Naranjo v. Spectrum*
4 *Security Services, Inc.* (2022) 13 Cal. 5th 93.

5 46. Because Defendants did not pay Plaintiff and the Class for all wages/premiums and sick
6 leave wages owed each pay period of their employment, Defendants failed to timely pay all wages
7 owed each pay day or upon separation of employment (or within 72 hours thereof), in violation of
8 Labor Code sections 201 through 203 (waiting time) and 204 and 204b (paydays).

9 47. Defendants equally failed in their affirmative obligation to provide accurate itemized
10 wage statements each pay period to Plaintiff and Class Members.

11 48. Defendants issued wage statements to Plaintiff and, on information and belief, other
12 Class Members, which contain several types of violations.

13 49. First, on each wage statement furnished, Defendants failed to accurately state the “gross
14 wages earned” and “net wages earned” in violation of Labor Code § 226(a)(1) and (5), as Plaintiff and
15 Class Members were underpaid for regular and overtime wages, meal and rest period premiums, and
16 paid sick leave, resulting in an inaccurate and depreciated itemization of gross and net wages earned
17 on those wage statements.

18 50. Second, Defendants violated Labor Code section 226(a)(2) by failing to list employees’
19 “total hours worked,” as Class Members worked off-the-clock to perform the various work-related
20 tasks described above, rendering the total hours listed as an inaccurate reflection of hours worked.

21 51. Third, in violation of Labor Code section 226(a)(9), the hourly rates and corresponding
22 hours worked at those rates are incorrectly listed on Plaintiff’s and Class Members’ wage statements.
23 The hourly rates on the wage statement are inaccurate with respect to overtime hours that were not paid
24 at the “regular rate of pay” with respect to overtime, meal and rest period premiums, and paid sick
25 leave hours, if any, as those hours were unpaid and/or paid at the improper base rate and reflected as
26 such on the wage statements of the Class Members.

1 52. Defendants' wage statement issues described above rendered the wage statements
2 inaccurate and confusing to Plaintiff and Class Members, concealing the underpayments and presenting
3 a false portrayal of accuracy on the wage statements relied upon by Plaintiff and Class Members as the
4 sole documentary evidence of their respective earnings.

5 53. Plaintiff and Class Members suffered injury in the form of confusion regarding amounts
6 paid for hours worked, and in the form of concealment of the common payroll practices causing the
7 violations and underpayment of wages and wage statement deficiencies as addressed in this Complaint.

8 54. Indeed, Plaintiff and, on information and belief, Class Members were misinformed and
9 misled by the wage statements wages, hours, rates, and earnings. As a result of the inaccuracies on the
10 wage statements, Plaintiff and, on information and belief, Class Members were led to believe that the
11 hourly rates and net and gross wages reflected were a complete and accurate reflection of the wages
12 actually earned under California law.

13 55. Defendants' wage statement violations were knowing and intentional as a matter of law
14 with respect to Plaintiff and California Class Members given that the legal obligation was not disputed,
15 the wage statement and wage laws are clear and unambiguous as written, and because Defendants
16 nevertheless failed to comply despite the means and ability to do so.

17 56. Because of the violations set forth in this Complaint, including Defendants' failure to
18 accurately maintain records of pay for all hours worked at the appropriate lawful rates of pay (i.e.,
19 unrecorded off-the-clock hours), Defendants violated Labor Code section 1174 and the IWC Wage
20 Orders by failing to maintain records showing accurate daily hours worked at the corresponding wage
21 rate, and the wages paid to each employee.

22 57. Plaintiff is informed, believes, and alleges that Defendants' acts and omissions have
23 knowingly and intentionally caused harm to Plaintiff and the Class. Plaintiff is informed, believes, and
24 alleges that Defendants have engaged in systemic violations of the Labor Code and IWC Wage Orders
25 by maintaining practices, policies, and customs that are inconsistent with their obligations under
26 California law.

1 **FIRST CAUSE OF ACTION**

2 **MINIMUM WAGE VIOLATIONS**

3 **(All Claims Alleged by Plaintiff and the Class Against All Defendants)**

4 58. Plaintiff incorporates all outside paragraphs of this Complaint as if set forth herein.

5 59. This cause of action is brought by the Unpaid Minimum or Regular Wage Subclass.

6 60. Defendants willfully failed in their affirmative obligation to pay Plaintiff and Class
7 Members at least the lawful minimum wage for each hour worked in violation of Labor Code sections
8 1182.12, 1194, 1197, 1197.1 and 1198 and the IWC Wage Orders (the “Hours and Days of Work” and
9 “Minimum Wages” sections of the applicable orders), including payment at the lawful local and county
10 minimum wage ordinances in effect.

11 61. Defendants’ unlawful acts and omissions deprived Plaintiff and the Class of minimum,
12 regular and overtime wages in amounts to be determined at trial. Plaintiff and the Class are entitled to
13 recover to the full amount of the unpaid wages, plus liquidated damages in an amount equal to the
14 wages unlawfully unpaid (and interest thereon), in addition to interest, attorneys’ fees, and costs to the
15 extent permitted by law, including under Labor Code sections 1194 and 1194.2.

16 **SECOND CAUSE OF ACTION**

17 **FAILURE TO PAY ALL OVERTIME WAGES**

18 62. Plaintiff incorporates all outside paragraphs of this Complaint as if set forth herein.

19 63. This cause of action is brought pursuant to the IWC Wage Orders and Labor Code
20 §§ 204, 510, 558, 1194, and 1198, which require non-exempt employees be timely paid overtime wages
21 all overtime hours worked, and which further provide a private right of action for an employer’s failure
22 to pay all overtime compensation for overtime hours worked.

23 64. Defendants failed in their affirmative obligation to pay Plaintiff and Class Members no
24 less than one and one-half times their respective “regular rate of pay” for all hours worked in excess of
25 eight hours in one day, 40 hours in one week, or the first eight hours worked on the seventh day of
26 work in any one workweek, and no less than twice their respective “regular rate of pay” for all hours
27 over 12 hours in one day and any work in excess of eight hours on any seventh day of a workweek for
28

1 such hours worked, in violation of Labor Code sections 204, 510, 558, 1194, and 1198 and the IWC
2 Wage Orders (the “Hours and Days of Work” sections of the applicable orders).

3 65. Plaintiff and the Class are entitled to recover to the full amount of the unpaid overtime,
4 in addition to interest, statutory and civil penalties, and attorneys’ fees, and costs to the extent permitted
5 by law.

6 **THIRD CAUSE OF ACTION**

7 **MEAL PERIOD VIOLATIONS**

8 66. Plaintiff incorporates all outside paragraphs of this Complaint as if set forth herein.

9 67. This cause of action is brought by the Meal Period Subclass pursuant to the IWC Wage
10 Orders and Labor Code §§ 226.7, 558 and 512, which require non-exempt employees be provided
11 complaint meal periods (or meal period premiums in lieu thereof), and which further provide a private
12 right of action for an employer’s failure to lawfully provide all meal periods and/or pay meal period
13 premiums at the lawful regular rate of compensation.

14 68. Defendants willfully failed in their affirmative obligation to consistently provide
15 Plaintiff and Class Members compliant, duty-free meal periods of not less than 30 minutes beginning
16 before the fifth hour of hour for each work period of more than five hours per day and a second duty-
17 free meal period of not less than 30 minutes beginning before the tenth hour of hour of work in violation
18 of Labor Code sections 226.7, 512, 558, 1198 and the IWC Wage Orders (the “Meal Periods” sections
19 of the applicable orders).

20 69. Further, Defendants willfully failed in their affirmative obligation to consistently pay
21 Plaintiff and the Class one additional hour of pay at the respective regular rate of compensation for
22 each workday that a fully compliant meal period was not provided, in violation of Labor Code sections
23 226.7, 512, 558, and 1198 and the IWC Wage Orders (the “Meal Periods” sections of the applicable
24 orders).

25 70. Plaintiff and the Class are entitled to recover to the full amount of the meal period
26 premiums owed, in addition to interest, statutory and civil penalties, and attorneys’ fees, and costs to
27 the extent permitted by law.

1 **FOURTH CAUSE OF ACTION**

2 **REST PERIOD VIOLATIONS**

3 71. Plaintiff incorporates all outside paragraphs of this Complaint as if set forth herein.

4 72. This cause of action is brought by the Rest Period Subclass pursuant to the IWC Wage
5 Orders and Labor Code §§ 226.7 and 516, which require non-exempt employees be authorized to take
6 complaint rest periods (or rest period premiums in lieu thereof), and which further provide a private
7 right of action for an employer’s failure to lawfully provide all rest periods and/or pay rest period
8 premiums at the lawful regular rate of compensation.

9 73. Defendants willfully failed in their affirmative obligation to consistently authorize and
10 permit Plaintiff and Class Members to receive compliant, duty-free rest periods of not less than ten
11 (10) minutes for every four hours worked (or major fraction thereof) in violation of Labor Code
12 sections 226.7, 516, 558, and 1198 and the IWC Wage Orders (the “Rest Periods” sections of the
13 applicable orders).

14 74. Further, Defendants willfully failed in their affirmative obligation to consistently pay
15 Plaintiff and the Class one additional hour of pay at the respective regular rate of compensation for
16 each workday that a fully compliant rest period was not provided, in violation of Labor Code sections
17 226.7, 516, 558, and 1198 and the IWC Wage Orders.

18 **FIFTH CAUSE OF ACTION**

19 **UNTIMELY PAYMENT OF WAGES**

20 75. Plaintiff incorporates all outside paragraphs of this Complaint as if set forth herein.

21 76. This cause of action is brought by the Untimely Payment of Wages Subclass pursuant
22 to the IWC Wage Orders and Labor Code §§ 204, 204b, and 210 which require non-exempt employees
23 be timely paid all wages owed each pay period, and which further provide a private right of action for
24 an employer’s failure to comply with this obligation.

25 77. Defendants willfully failed in their affirmative obligation to timely pay all wages,
26 including paid sick leave and meal and rest premiums, earned by Plaintiff and Class Members twice
27 during each calendar month on days designated in advance by the employer as regular paydays (for
28 employees paid on a non-weekly basis) and on the regularly-scheduled weekly payday weekly

1 employees, if any, in violation of Labor Code sections 204 and 204b and the IWC Wage Orders (the
2 “Minimum Wages” sections of the applicable orders).

3 78. Plaintiff and the Class are entitled to recover the full amount of the unpaid wages, in
4 addition to a statutory penalty in the amount of \$100 for the initial violation for each failure to pay each
5 employee and \$200 for all subsequent violations and for all willful or intentional violations for each
6 failure to pay each employee, plus 25 percent of the amount unlawfully withheld under provided in
7 Labor Code § 210, in addition to interest, attorneys’ fees, and costs to the extent permitted by law.

8 **SIXTH CAUSE OF ACTION**

9 **WAGE STATEMENT VIOLATIONS**

10 79. Plaintiff incorporates all outside paragraphs of this Complaint as if set forth herein.

11 80. This cause of action is brought by the Wage Statement Subclass pursuant to Labor Code
12 § 226(a) which requires non-exempt employees be provided accurate itemized wage statements each
13 pay period, and which further provide a private right of action for an employer’s failure to comply with
14 this obligation.

15 81. Defendants knowingly and intentionally failed in their affirmative obligation provide
16 accurate itemized wage statements to Plaintiff and Class Members resulting in injury to Plaintiff and
17 Class Members. Specifically, the wage statements issued to Plaintiff and Class Members did not
18 accurately state each pay period all of the information required by Labor Code § 226(a)(1)-(9).

19 82. Defendants’ unlawful acts and omissions deprived Plaintiff and the Class of accurate
20 itemized wage statements, causing confusion and concealing wage and premium underpayments.

21 83. As a result, Plaintiff and the Class are entitled to recover the statutory penalty of \$50
22 per employee for the initial pay period in which a violation occurred and \$100 per employee for each
23 violation in a subsequent pay period, up to an aggregate penalty of \$4,000 per employee, in addition to
24 interest, attorneys’ fees, and costs to the extent permitted by law, including under Labor Code section
25 226(e).

26 **SEVENTH CAUSE OF ACTION**

27 **WAITING TIME PENALTIES**

28 84. Plaintiff incorporates all outside paragraphs of this Complaint as if set forth herein.

1 93. Defendants have engaged and continue to engage in unfair and/or unlawful business
2 practices in the State of California in violation of California Business and Professions Code § 17200
3 by failing committing the foregoing wage and hour violations alleged throughout this Complaint.

4 94. Defendants' dependance on these unfair and/or unlawful business practices deprived
5 Plaintiff and continue to deprive other Class Members of compensation to which they are legally
6 entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage to
7 Defendants over competitors who have been and/or are currently employing workers in compliance
8 with California's wage and hour laws. These failures constitute unlawful, deceptive, and unfair
9 business acts and practices in violation of Business and Professions Code section 17200, et seq.

10 95. Plaintiff is a victim of Defendants' unfair and/or unlawful conduct alleged in this
11 Complaint, and Plaintiff, as an individual and on behalf of others similarly situated, seeks full
12 restitution of the moneys as necessary and according to proof to restore all monies withheld, acquired,
13 and/or converted by Defendants pursuant to Business and Professions Code §§ 17203 and 17208.

14 96. Plaintiff and the Class are entitled to injunctive relief against Defendants, restitution,
15 and other equitable relief to return all funds over which Plaintiff and the Class have an ownership
16 interest and to prevent future damage and the public interest under Business and Professions Code
17 § 17200, et seq. Plaintiff and the Class are further entitled to recover interest, attorneys' fees, and costs
18 to the extent permitted by law, including under Code of Civil Procedure § 1021.5.

19 **TENTH CAUSE OF ACTION**

20 **CIVIL PENALTIES UNDER THE PRIVATE ATTORNEYS GENERAL ACT**

21 **Violation of Labor Code §§ 2698 et seq.**

22 **(By Plaintiff on Behalf of the State and the Aggrieved Employees Against All Defendants)**

23 97. Plaintiff incorporates all outside paragraphs of this Complaint as if set forth herein.

24 98. Plaintiff brings this cause of action as a proxy for the State of California on behalf of
25 the following "aggrieved employees" pursuant to the Private Attorneys General Act ("PAGA"),
26 codified as Labor Code section 2698 et seq.:

1 a. All current and former non-exempt employees who worked for Defendants in
2 California at any time from one year prior to the postmark date of the initial
3 PAGA notice through date of trial.

4 99. Plaintiff reserves the right to amend, supplement, or add to this description of the
5 aggrieved employees according to proof.

6 100. The State of California, via the Labor and Workforce Development Agency
7 (“LWDA”), is the real party in interest in this action with respect to this cause of action. (*Kim v. Reins*
8 *Int’l California, Inc.* (2020) 9 Cal. 5th 73, 81 [The “government entity on whose behalf the plaintiff
9 files suit is always the real party in interest.”])

10 101. Labor Code section 2699(a) provides: “Notwithstanding any other provision of law,,
11 any provision of this code that provides for a civil penalty to be assessed and collected by the Labor
12 and Workforce Development Agency or any of its departments, divisions, commissions, boards,
13 agencies, or employees, for a violation of this code, may, as an alternative, be recovered through a civil
14 action brought by an aggrieved employee on behalf of himself or herself and other current or former
15 employees pursuant to the procedures specified in Section 2699.3. “

16 102. Labor Code section 2699(f) provides: “For all provisions of this code except those for
17 which a civil penalty is specifically provided, there is established a civil penalty for a violation of these
18 provisions, as follows: ... (2) If, at the time of the alleged violation, the person employs one or more
19 employees, the civil penalty is one hundred dollars (\$100) for each aggrieved employee per pay period
20 for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for
21 each subsequent violation.”

22 103. Any allegations regarding violations of the IWC Wage Orders are enforceable as
23 violations of Labor Code section 1198, which states: “[t]he employment of any employee for longer
24 hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.”

25 104. Labor Code section 2699.3 sets forth the procedure for commencing an action for civil
26 penalties under the PAGA.

27 105. On or about **September 30, 2022**, Plaintiff paid the requisite PAGA filing fee and
28 provided written notice (by online electronic filing with the LWDA and by certified mail to

1 Defendants) of Defendants’ alleged Labor Code violations, including the facts and theories to support
2 the alleged violations.

3 106. A true and correct copy of Plaintiff’s written PAGA notice, entitled “Notice of Labor
4 Code Violations” is attached hereto as Exhibit 1 and incorporated by reference as though fully set
5 forth herein (the “PAGA notice”). Plaintiff’s December 2, 2022 amended PAGA notice is also
6 incorporated herein by reference and included as part of Exhibit 1.

7 107. To date, neither Plaintiff nor Plaintiff’s counsel has received a response to Plaintiff’s
8 written PAGA notice from the LWDA.

9 108. Within 33 calendar days of the postmark date of the notice sent by Plaintiff, neither
10 Plaintiff nor Plaintiff’s counsel has received written notice by certified mail from any defendant
11 providing a description of any actions taken to cure the alleged violations.

12 109. Now that at least 65 days have passed from Plaintiff notifying Defendants of these
13 violations, without notice of cure from Defendants or notice from the LWDA of its intent to investigate
14 the alleged allegations and issue the appropriate citations to Defendants, Plaintiff exhausted all
15 prerequisites and commenced this civil action under Labor Code section 2699 *et seq.*

16 110. As set forth in the PAGA notice attached as Exhibit 1 and incorporated into this
17 Complaint, Defendants committed the following violations and are liable for all corresponding civil
18 penalties:

- 19 a. ***Unpaid Hours Worked/Minimum Wage.*** Violation of Labor Code §§ 1194,
20 1197, 1198; IWC Wage Orders.
- 21 b. ***Unpaid Overtime.*** Violation of Labor Code §§ 510, 1194, 1198; IWC Wage
22 Orders.
- 23 c. ***Unpaid Paid Sick Leave.*** Violation of Labor Code §§ 246 through 248.5.
- 24 d. ***Unpaid Meal Period Premium Wages.*** Violation of Labor Code §§ 226.7, 512,
25 1198; IWC Wage Orders.
- 26 e. ***Unpaid Rest Period Premium Wages.*** Violation of Labor Code §§ 226.7, 516,
27 1198; IWC Wage Orders.

- f. ***Untimely Payment of Wages During Employment.*** Violation of Labor Code §§ 204, 204b, 210.
- g. ***Untimely Payment of Wages Upon Separation of Employment.*** Violation of Labor Code §§ 201, 202, 203, 256.
- h. ***Non-Compliant Wage Statements.*** Violation of Labor Code §§ 226, 226.3.
- i. ***Unreimbursed Employee Expenses.*** Violation of Labor Code §§ 2802, 2804.
- j. ***Failure to Maintain Accurate Records.*** Violation of Labor Code § 1174; IWC Wage Orders.

111. Plaintiff seeks to collect all recoverable civil penalties for the Labor Code violations alleged in this Complaint and the PAGA notice (including amendments thereto) against Defendants pursuant to Labor Code section 2699(a) and (f), in addition to attorneys' fees, costs, and interest to the extent permitted by law, including under Labor Code section 2699(g).

PRAYER

Plaintiff prays for judgment as follows:

- a. For certification of this action as a class action;
- b. For appointment of Plaintiff as the representative of the Class;
- c. For appointment of above-captioned counsel for Plaintiff as Class Counsel;
- d. For division of the Class into appropriate classes and/or subclasses according to proof;
- e. For recovery of damages in amount according to proof;
- f. For all recoverable pre- and post-judgment interest;
- g. For recovery of all civil and statutory penalties and liquidated damages;
- h. For disgorgement of all amounts wrongfully obtained;
- i. For this action to be maintained as a representative action under the PAGA;
- j. For Plaintiff and Plaintiff's counsel to be provided with all enforcement capability as if the action were brought by the State of California or the California Division of Labor Enforcement;
- k. For recovery of all civil penalties and other recoverable amounts under the PAGA;
- l. For restitution and injunctive relief;

- 1 m. For reasonable attorneys' fees and costs of suit, including expert fees, to the extent
2 permitted by law, including (without limitation) under Labor Code §§ 218.5, 226,
3 1194, 2802, and Code of Civil Procedure section 1021.5; and
4 n. For such other relief the Court deems just and proper.
5

6 Dated: December 6, 2022

Ferraro Vega Employment Lawyers, Inc.

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8 _____
Nicholas J. Ferraro

9 *Attorneys for Plaintiff*
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EXHIBIT 1

Notice of Labor Code Violations

FERRARO VEGA
SAN DIEGO EMPLOYMENT LAWYERS

Nicholas J. Ferraro
nick@ferrarovega.com
Lauren N. Vega
lauren@ferrarovega.com

ATTORNEYS AT LAW
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September 30, 2022

NOTICE OF LABOR CODE VIOLATIONS
CALIFORNIA LABOR CODE SECTIONS 2698 *et seq.*

VIA CERTIFIED U.S. MAIL
- *Electronic Return Receipt* -

The Stepping Stones Group LLC
184 High Street
Boston, MA 02114

EBS Healthcare Staffing Services, Inc.
200 Skiles Blvd
West Chester, PA 19382

- *PAGA Notice & Filing Fee* -
Submitted electronically to the Labor and
Workforce Development Agency

Dear LWDA Officer and Company Representatives:

This letter serves as written notice under Labor Code section 2699.3 on behalf of **Jenelle Olea** (“Plaintiff(s)”) and all other “aggrieved employees” of the following “Defendant(s)”:

THE STEPPING STONES GROUP LLC
EBS HEALTHCARE STAFFING SERVICES, INC.

Defendant(s) shall mean and include the foregoing in addition to any other related employer entities, individuals under Labor Code sections 558 and 558.1, and all others who may be later added upon further investigation and discovery as liable employers.

This office serves as legal counsel for Plaintiff. If the California Labor and Workforce Development Agency (“LWDA”) does not investigate the facts, allegations, and violations set forth in this notice within the statutorily prescribed 65-day period under Labor Code section 2699.3, Plaintiff intends to commence a civil action against Defendants as a proxy and agent of the State of California under the Private Attorneys General Act (“PAGA”). “PAGA allows an ‘aggrieved employee’—a person affected by at least one Labor Code violation committed by an employer—to pursue penalties for all the Labor Code violations committed by that employer.” *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal. App. 5th 745, 751; *Kim v. Reins International California, Inc.* (2020) 9 Cal. 73, 79.

Through this notice, Plaintiff requests that Defendants complete an internal investigation and audit of the wage and hour and employment practices at issue and make a good faith effort to correct any violations. Plaintiff attempts to identify the non-compliant policies and practices affecting the aggrieved employees so that the parties may resolve the underlying damages and penalties in a settlement approved by the Superior Court of California under Labor Code section 2699(k). Defendants are notified that any attempt to resolve this case be conducted in coordination with Plaintiff's counsel to protect the interests of Plaintiff, the aggrieved employees, and the State of California via the LWDA. This settlement attempt is in compliance with relevant California law. *Graham v. Daimler Chrysler Corp.* (2004) 24 Cal. 4th 553, 561.

- BACKGROUND -

Defendants employed Plaintiff during the PAGA Period in the position of Registered Behavioral Technician from about September 2021 to August 2022. Plaintiff provided services to clients both virtually and in person. For a portion of her employment, Plaintiff provided services virtually, then worked a hybrid schedule where she would work virtually for the first part of the day, and in person with clients during the remainder of the day. During their employment Plaintiff and the other aggrieved employees were subject to the wage and hour and employment protections set forth in the California Labor Code and IWC Wage Orders.

Through this notice, Plaintiff informs the LWDA of the Labor Code violations set forth herein. The “aggrieved employees” include Plaintiff and the following individuals:

All current and former non-exempt employees who worked for Defendants in the State of California during one-year period preceding the date of this notice through the current date and the date of trial in any pending action (the “aggrieved employees” and the “PAGA Period”).

Plaintiff reserves the right to expand or narrow the definition of the “aggrieved employees” in the forthcoming civil action. Furthermore, Plaintiff seeks all recoverable civil penalties for Defendants' violations and reserves the right to supplement this notice as further investigation is completed and further facts, witnesses, and violations are uncovered.

- PAGA CLAIMS -

Unpaid Hours Worked/Minimum Wage Violation of Labor Code §§ 1194, 1197, 1198; IWC Wage Orders

Defendants violated Labor Code sections 1194, 1197, and 1198, along with the California Minimum Wage Order, the applicable local minimum wage ordinances, and the “Hours and

Days of Work” and “Minimum Wages” sections of the applicable IWC Wage Orders with respect to the aggrieved employees.

Labor Code section 1194 renders it unlawful for an employee to receive less than the legal minimum wage for hours worked in California. Labor Code section 1197 further mandates that “[t]he minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a lower wage than the minimum so fixed is unlawful.” Labor Code section 1198 renders “employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]” unlawful. The California Minimum Wage Order and the applicable sections of the IWC Wage Orders further require payment of minimum wages for all hours worked. The “Minimum Wages” sections of the applicable IWC Wage Order provide that “[e]very employer shall pay to each employee, on the established payday for the period involved, not less than the applicable minimum wage for all hours worked in the payroll period, whether the remuneration is measured by time, piece, commission, or otherwise.” The foregoing California wage laws require payment of “not less than the applicable minimum wage *for all hours worked* in the payroll period” and California law does not allow averaging of pay over the hours worked in the pay period, even if the total pay results in an average above the minimum wage. *Armenta v. Osmose, Inc.* (2005) 135 Cal. App. 3d 314, 324.

Defendants failed to pay Plaintiff and the aggrieved employees at the lawful minimum wage rate for all hours worked, resulting in unpaid minimum wages.

Though Plaintiff never clocked out for a meal period, Defendants nonetheless recorded meal periods on her behalf and on behalf of others. Plaintiff was required to work during meal periods, resulting in further unpaid wages. For example, Plaintiff was required to provide virtual services to the client via Zoom in blocks of 6 hours. She was not allowed to sign out of the virtual session or leave her home for a duty-free, uninterrupted meal period and was required to continue working during what was essentially an on-duty meal period. On other occasions, Plaintiff would log out of her virtual session and would immediately drive to her in-person session, without any time to take a meal period. On information and belief, other aggrieved employees were also required to perform work-related tasks during their unpaid meal periods.

Additionally, Plaintiff provided virtual and in-home services to clients as assigned by Defendant and was required to drive to clients’ homes after she completed her virtual session. Defendants failed to compensate Plaintiff and, on information and belief, the aggrieved employees, for the time it took to drive between to clients’ homes, resulting in unpaid minimum wage violations. On the many occasions when Defendants entered into the time records a meal period on Plaintiff’s behalf, the meal period time coincided with the time that Plaintiff needed to drive to see a client, making the travel time uncompensated.

Furthermore, Plaintiff frequently had to complete paperwork, notes, and summaries and perform various administrative tasks off the clock. Plaintiff would perform this work after

she was done seeing clients for the day as she was unable to complete these tasks during her scheduled hours. Defendants paid Plaintiff based on her scheduled hours not her actual hours worked, resulting in unpaid wages. Plaintiff lacked the ability to record her actual hours worked. On information and belief, other aggrieved employees were forced to perform work-related tasks off the clock.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code sections 558 (\$50/\$100), 1197.1 (\$100/\$250), 1199 / “Penalties” section of the IWC Wage Orders (\$50/\$100), and 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unpaid Overtime **Violation of Labor Code §§ 510, 1194, 1198; IWC Wage Orders**

Defendants violated Labor Code sections 510, 1194, and 1198, along with the “Hours and Days of Work” sections of the applicable IWC Wage Orders with respect to the aggrieved employees.

Labor Code section 510 requires “[a]ny work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee;” and “any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee;” and “any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.” Labor Code section 1194 renders it unlawful for an employee to receive less than the legal overtime rate for overtime hours worked in California. Labor Code section 1198 renders “employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]” unlawful. The IWC Wage Orders further require payment of overtime wages for all overtime hours worked, including the “Hours and Days of Work” sections.

Defendants failed to pay Plaintiff and the aggrieved employees overtime wages and the lawful rate of pay for overtime hours worked, resulting in unpaid overtime wages. As discussed in the minimum wage section above, Defendants failed to pay Plaintiff, and on information and belief, other aggrieved employees for the time spent driving to client locations. Defendants also required Plaintiff and, on information and belief, other aggrieved employees to work during their unpaid meal periods, resulting in unpaid overtime on days when employees worked over 8 hours.

Furthermore, Plaintiff frequently had to complete paperwork, notes, and summaries and perform various administrative tasks off the clock. Plaintiff would perform this work after she was done seeing clients for the day as she was unable to complete these tasks during her

scheduled hours. Defendants paid Plaintiff based on her scheduled hours not her actual hours worked, resulting in unpaid overtime. Plaintiff lacked the ability to record her actual hours worked. On information and belief, other aggrieved employees were forced to perform work-related tasks off the clock.

When aggrieved employees worked overtime, Plaintiff is informed and believes that Defendants failed to pay aggrieved employees at their regular rate of pay, which would have included all forms of remuneration.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code sections 558 (\$50/\$100), 1199 / “Penalties” section of the IWC Wage Orders) (\$50/\$100), and 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unpaid Paid Sick Leave **Violation of Labor Code §§ 246 through 248.5**

Defendants violated Labor Code sections 246 through 248.5 with respect to the aggrieved employees.

Labor Code section 246 requires employers to provide paid sick leave to its workforce on the terms set forth in the statute. Employers must comply with the accrual, use, and notice provisions of Labor Code sections 246, 246.5, 247, and must further ensure that they maintain the paid sick leave records required by Labor Code section 247.5. Employers have the option of providing 24 hours of paid sick leave to employees or to allow employees to accrue paid sick leave each pay period. If an employer chooses the accrual method, employees must accrue sick leave at a rate of one hour for every thirty hours worked in a given pay period as set forth in Labor Code section 246(b)(1). Under the accrual method, employees must begin accruing paid sick leave at the commencement of employment.

Employers must pay sick leave in accordance with one of the three permissible methods provided in Labor Code section 246(l): (1) “the same manner as the regular rate of pay for the workweek;” (2) “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;” or (3) “for exempt employee ... in the same manner as the employer calculates wages for other forms of paid leave time.”

Under Labor Code section 246(i), employers must provide employees “with written notice of the amount of paid sick leave available ... for use on either the employee’s itemized wage statement ... or in a separate writing provided on the designated pay date with the employee’s payment of wages.”

Defendants failed to comply with California’s paid sick leave laws with respect to the aggrieved employees. On information and belief, Defendants failed to provide paid sick leave in accordance with California law, rendering Defendants liable for an associated civil penalty with respect to every employee and every pay period during the PAGA period. Moreover, Defendants failed to maintain the records required by Labor Code § 246 et seq. with respect to the paid sick leave. Defendants also failed to pay Plaintiff her sick leave that she was entitled to use for reasons stated under the statute.

To the extent that the Defendants paid any sick leave, on information and belief, Defendants failed to pay sick leave at the correct rate because they failed to factor in all forms of aggrieved employees’ remuneration, as required by section 246. Instead, Defendants paid sick leave to aggrieved employees at their base hourly rate, resulting in an underpayment of sick wages.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unpaid Meal Period Premium Wages
Violation of Labor Code §§ 226.7, 512, 1198; IWC Wage Orders

Defendants violated Labor Code sections 226.7, 512, and 1198, along with the related sections of the IWC Wage Orders with respect to the aggrieved employees.

Labor Code section 512 and the IWC Wage Orders require that employers provide an uninterrupted 30-minute meal period after no more than five hours of work and a second meal period after no more than 10 hours of work. *See Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal. 4th 1004, 1049. Labor Code section 226.7 requires that if a meal period is late, missed, short, or interrupted, the employer must pay one additional hour of pay at the employee’s “regular rate” of compensation. *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal. 5th 858, 862 (“We hold that the terms are synonymous: “regular rate of compensation” under section 226.7(c), like “regular rate of pay” under section 510(a), encompasses all nondiscretionary payments, not just hourly wages”). “[T]ime records showing noncompliant meal periods raise a rebuttable presumption of meal period violations, including at the summary judgment stage.” *Donohue v. AMN Services, LLC* (2021) 11 Cal. 5th 58, 61. Labor Code section 1198 renders “employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]” unlawful. The IWC Wage Orders, including Section 11 (Meal Periods), further require one uninterrupted 30-minute meal period after no more than five hours of work and a second meal period after no more than 10 hours of work and an additional hour of pay at the employee’s regular rate of compensation for each workday that a compliant meal period is not provided. Pursuant to Section 11(A) of the IWC Wage Orders, the California Supreme Court has held that the on-duty meal period exception is “exceedingly narrow” and applies only when (1) “the nature of the work prevents the employee from being relieved of all duty” and (2) *both* “the employer and employee have

agreed, in writing, to the on-duty meal period.” *Augustus v. AMB Security Services, Inc.* (2016) 2 Cal. 5th 257, 266-276 (emphasis added). If these two requirements are not met, then the employer owes the employee one hour of premium pay for each non-compliant meal period taken under the purported on-duty meal arrangement. *Naranjo v. Spectrum Security Services, Inc.* (2019) 40 Cal. 5th 444, 459.

Defendants failed to provide compliant first meal periods to Plaintiff and the aggrieved employees. Plaintiff and the aggrieved employees often experienced missed, short, and late meal periods in order to keep up with the demands of the job. Defendants created meal period entries in Plaintiff’s time records without Plaintiff’s knowledge or authorization, although she was unable to take her meal periods. On information and belief, Defendants had the same practice with other aggrieved employees. Plaintiff and the aggrieved employees were required to work during their uncompensated meal periods. When Defendants did not provide compliant meal periods, Defendants failed to pay Plaintiff and other aggrieved employees a meal period premium in violation of Labor Code section 226.7.

Defendants failed to pay any meal period premiums to Plaintiff and the aggrieved employees. On information and belief, to the extent Defendants did pay a meal period premium, the premiums were not paid at the “regular rate of compensation” because the premium did not factor in all forms of remuneration. Instead, Defendants, on information and belief paid such premiums at aggrieved employees’ base hourly rate, in violation of California law.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unpaid Rest Period Premium Wages
Violation of Labor Code §§ 226.7, 516, 1198; IWC Wage Orders

Defendants violated Labor Code sections 226.7, 516, and 1198, and the related sections of the IWC Wage Orders with respect to Plaintiff and the aggrieved employees.

Labor Code sections 226.7 and 516 and the IWC Wage Orders require that employers authorize and permit an uninterrupted 10-minute rest period for each four-hour period (or major fraction thereof) that an employee works. Labor Code section 226.7 requires that if a rest period is non-compliant, the employer must pay one additional hour of pay at the employee’s “regular rate” of compensation. *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal. 5th 858, 862 (“We hold that the terms are synonymous: “regular rate of compensation” under section 226.7(c), like “regular rate of pay” under section 510(a), encompasses all nondiscretionary payments, not just hourly wages”). Labor Code section 1198 renders “employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]” unlawful. The IWC Wage Orders, including Section 12 (Rest Periods), further require one uninterrupted 10-minute rest period

for each four-hour period (or major fraction thereof) worked and an additional hour of pay at the employee's regular rate of compensation for each workday that a compliant rest period is not authorized or permitted.

Defendants required Plaintiff and other aggrieved employees to effectively waive or otherwise forego their rest periods contrary to the law. To the extent that Plaintiff was able to take a break in between clients, these rest periods were not duty-free; therefore, non-compliant because Plaintiff was required to drive or stay logged in to her computer until it was time for the next client session. Due to the employees' job responsibilities, heavy caseload, and pressures from the Defendants, Plaintiff and the aggrieved employees were not always authorized or permitted to take all their rest periods.

Defendants had a policy and practice of not paying rest period premiums to employees who were unable to take rest periods. To the extent that Defendants ever paid a rest period premium to aggrieved employees, on information and belief, Defendants violated Labor Code section 226.7 because premiums were not paid at the regular rate of compensation which would have factored in all forms of remuneration.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Untimely Payment of Wages During Employment **Violation of Labor Code §§ 204, 204b, 210**

Defendants violated Labor Code sections 204 and/or 204b and 210, as applicable, with respect to Plaintiff and the aggrieved employees.

Labor Code section 204(a) requires payment of "all wages" for non-exempt employees at least twice each calendar month. Labor Code section 204(d) states all wages due must be paid "not more than seven calendar days following the close of the payroll period." Labor Code section 204b applies to employees paid on a weekly basis and also requires the payment for all labor within the required pay periods. Labor Code section 210 provides "every person who fails to pay the wages of an employee as provided in Section ... 204 ... shall be subject to a civil penalty" of \$100 for an initial violation and \$200 plus 25% of the amount unlawfully withheld for a subsequent violation.

Because Defendants failed to pay all wages and premiums in each pay period in which such wages were earned at the lawful rate, Defendants violated Labor Code section 204 and/or 204b (for weekly employees, as applicable). Defendants violated Labor Code sections 204 and 204b by failing to pay all wages and premiums owed on the regular pay days scheduled each pay period within seven calendar days of the close of the payroll period, as a result of the policies and practices set forth in this notice.

As explained above, Defendants underpaid Plaintiff and other aggrieved employees' minimum, regular, overtime wages, paid sick leave, and premium pay. Defendants are separately liable for not paying the full amount owed to Plaintiff and other aggrieved employees each payday violation of Labor Code sections 204 and/or 204b.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, and Labor Code section 210 (\$100/\$200) per violation per pay period, along with all other civil penalties permitted by law.

Untimely Payment of Wages Upon Separation of Employment
Violation of Labor Code §§ 201, 202, 203, 256

Defendants violated Labor Code sections 201, 202, and 203 with respect to the aggrieved employees by failing to pay all wages and premiums owed upon termination of employment.

Labor Code section 201 requires that if an employer fires an employee, the wages must be paid immediately. Labor Code section 202 requires that if an employee quits without providing 72 hours' notice, his or her wages must be paid no later than 72 hours thereafter. Labor Code section 202 states that if an employee provides 72 hours' notice, the final wages are payable upon his or her final day of employment. Labor Code section 203 requires an employer who fails to comply with Labor Code sections 201 or 202 to pay a waiting time penalty for each employee, up to a period of 30 days additional compensation.

Defendants failed to pay all wages and premiums owed to aggrieved employees during their employment as set forth in this notice, and also failed to timely pay those amounts to departing employees upon separation of employment. Defendants did not pay waiting time penalties for the late payments. As a result, Defendants violated Labor Code sections 201, 202, and 203.

Defendants additionally failed to pay paid sick leave owed to aggrieved employees during their employment as set forth in this notice and failed to pay those amounts to departing employees upon separation of employment. Defendants did not pay waiting time penalties for the late payments.

As a result, Plaintiff may recover civil penalties on behalf of aggrieved employees and the State of California as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unreimbursed Employee Expenses
Violation of Labor Code §§ 2802, 2804

Defendants violated Labor Code section 2802 with respect to the aggrieved employees by failing to reimburse the aggrieved employees for all necessary expenditures or losses incurred as part of their job duties.

Labor Code section 2802 requires an employer to “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.” *See, e.g., Espinoza v. West Coast Tomato Growers, LLC*, 2016 WL 4468175 at *4, n.2 (S.D. Cal. Aug. 24, 2016, No. 14-CV-2984 W (KSC)).

Labor Code section 2804 affirms that “[a]ny contract or agreement, express or implied, made by any employee to waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive any employee or his personal representative of any right or remedy to which he is entitled under the laws of this State.”

Defendants required Plaintiff and the aggrieved employees to incur costs for work-related purposes without full reimbursement. Defendants had a policy and practice of requiring Plaintiff and the aggrieved employees use their personal cell phone for business purposes. Plaintiff and the aggrieved employees received calls, messages, and emails from clients’ family members. Plaintiff and the aggrieved employees were required to use her personal cell phone to communicate with their supervisor while in the field. Plaintiff, and on information and belief, other aggrieved employees, were required to send and receive work-related emails from their personal cell phones. While working from home, Plaintiff and the aggrieved employees were also required to use their home internet without any reimbursement from Defendants.

As a Registered Behavioral Technician, Plaintiff provided in-home services to several clients assigned by Defendants. Plaintiff drove her personal car to, from, and in between clients’ homes during her scheduled shift. Defendants issued reimbursements to Plaintiff for gas mileage based on their own internal calculation that was never disclosed to Plaintiff. However, Plaintiff never had the opportunity to provide input or documentation on the actual gas mileage she incurred. Plaintiff is informed and believes that Defendants undercompensated her and the other aggrieved employees for gas mileage.

Thus, in direct consequence of their job duties, Plaintiff and the aggrieved employees unavoidably and necessarily incurred these losses, expenditures, costs, and as a matter of policy and practice. To the extent Defendants reimbursed aggrieved employees, those amounts were underpaid. At all times, Defendants were required to comply with the reimbursement mandate of Labor Code sections 2800 and 2802.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Failure to Maintain Accurate Records
Violation of Labor Code § 1174; IWC Wage Orders

Defendants violated Labor Code sections 1174 and the IWC Wage Orders by failing to maintain accurate employee payroll records with respect to Plaintiff and other aggrieved employees.

Labor Code section 1174 requires that employers maintain accurate “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.” Section 7(A) of the IWC Wage Orders, which may be enforced through Labor Code section 1198, mandates similar recordkeeping obligations.

Because of the policies and practices set forth in this notice, including the failure to accurately account for wages earned or hours worked, Defendants failed to accurately maintain records in accordance with Labor Code section 1174 and the IWC Wage Orders.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code section 1174.5 (\$500) and 2699 (\$100/\$200), along with all other civil penalties permitted by law.

Attorneys’ Fees and Costs
Labor Code § 2699(g)

Plaintiff has been compelled to retain the services of counsel to protect the interests of other aggrieved employees and the State of California. Plaintiff continues to incur attorneys’ fees and costs, which are recoverable under California law, including Labor Code section 2699(g).

- LITIGATION HOLD NOTICE -

This letter imposes a duty upon all Defendants and their respective employees, officers, directors, executives, attorneys, human resource and payroll personnel, accountants, and other agents to preserve all physical and electronic evidence, including electronically stored information and emails, which relate to the employment of Plaintiff and the aggrieved employees specified in this notice. Evidence includes, but is not limited to, Defendants’ written employment and payroll policies and handbooks; the aggrieved employees’ personnel files and payroll records, such as paystubs, time records, wage statements, compensation reports, as well as the underlying electronically data in Excel or similar format. Memoranda and internal and external correspondence relating to the subject matter of this notice shall also

be maintained. Failure to preserve and retain relevant evidence may constitute spoliation of evidence and result in an adverse inference or sanctions.

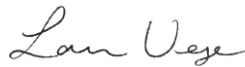
If you have any questions regarding the scope your obligations to preserve evidence, please consult your legal counsel and always err on the side of caution. Periodic or regularly scheduled purges or deletions of information covered by this hold must be suspended immediately.

- CONCLUSION -

If the LWDA does not pursue enforcement, Plaintiff intends to bring representative claims on behalf of the State of California and the aggrieved employees seeking civil penalties for violations of the Labor Code and the IWC Wage Orders, along with attorneys' fees, costs, interest, and other appropriate relief.

Please advise if the LWDA intends to investigate any of the factual or legal allegations Defendants may contact Plaintiff's counsel with any questions regarding this letter or the forthcoming lawsuit.

Sincerely,



Lauren N. Vega

Cc Plaintiff Jenelle Olea
Nicholas J. Ferraro, Esq.

Stepping Stones Group, LLC and
EBS Healthcare, Inc. Human Resources
hr.requests@ssg-healthcare.com

FERRARO VEGA
SAN DIEGO EMPLOYMENT LAWYERS

Nicholas J. Ferraro
nick@ferrarovega.com
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San Diego, California 92108

619-693-7727
619-350-6855 fax
ferrarovega.com

December 2, 2022

AMENDED NOTICE OF LABOR CODE VIOLATIONS
CALIFORNIA LABOR CODE SECTIONS 2698 *et seq.*

VIA EMAIL & CERTIFIED U.S. MAIL

- Electronic Return Receipt -

The Stepping Stones Group LLC
184 High Street
Boston, MA 02110

EBS Healthcare Staffing Services, Inc.
200 Skiles Blvd
West Chester, PA 19382

- PAGA Notice & Filing Fee -
Submitted electronically to the Labor and
Workforce Development Agency

Dear LWDA Officer and Company Representatives:

This letter, as amended, serves as written notice under Labor Code section 2699.3 on behalf of **Jenelle Olea** (“Plaintiff(s)”) and all other “aggrieved employees” of the following “Defendant(s)”:

THE STEPPING STONES GROUP LLC
EBS HEALTHCARE STAFFING SERVICES, INC.

Plaintiff incorporates by reference the facts and allegations identified in her September 30, 2022 LWDA Notice. Plaintiff hereby amends and supplements the September 30, 2022 LWDA Notice to include additional facts and allegations that have been identified through subsequent investigation.

Non-Compliant Wage Statements
Violation of Labor Code §§ 226, 226.3

Defendants violated Labor Code sections 226(a) and 226.3 with respect to the aggrieved employees by failing to furnish itemized wage statements each pay period that accurately list all information required by Labor Code section 226(a)(1) through (9).

Labor Code section 226(a) requires an employer to furnish wage statements to employees semimonthly or at the time of each payment of wages, “an accurate itemized statement in writing showing:” (1) gross wages earned, (2) total hours worked, (3) the number of piece rate units earned and applicable piece-rate in effect, (4) all deductions, (5) net wages earned, (6) the inclusive dates of the pay period, (7) the name of the employee and last four digits of SSN or an EIN, (8) the name and address of the legal name of the employer, and (9) all applicable hourly rates in effect during the pay period and the number of hours worked at each hourly rate by the employee.

Defendants failed to provide accurate itemized wage statements to the aggrieved employees each pay period as a result of the policies and practices set forth in this notice. Defendants violated Labor Code section 226(a)(1) and (5) by not listing the correct “gross wages earned” or “net wages earned,” as the employees earned wages, premiums, and sick leave wages that were not paid, resulting in an inaccurate reflection, and recording of “gross wages earned” on those wage statements. Likewise, in violation of Labor Code section 226(a)(9), Defendants failed to state on employee wage statements each pay period the applicable hourly rates in effect and the number of hours worked at that rate, as Defendants failed to pay all wages and premiums owed to employees. The amounts stated are instead depreciated and underpaid, resulting in an inaccurate reflection on the wage statement.

Defendants violated Labor Code section 226(a)(2) by failing to accurately list employees’ “total hours worked,” as the wage statements did not include the uncompensated time when Plaintiff and other aggrieved employees worked off the clock, including during their unpaid meal periods.

Plaintiff and other aggrieved employees cannot promptly and easily determine from the wage statement alone the wages paid or earned without reference to other documents or information. Indeed, these wage statement violations are significant because they sow confusion among Plaintiff and other aggrieved employees with respect to what amounts were owed and paid, at what rates, the number of hours worked, and how those amounts were or should be calculated. The wage statements reflect a false statement of earnings and concealed the underlying problems and underpayments of employee wages.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code sections 226.3 (\$250/\$1,000) and 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

- CONCLUSION -

If the LWDA does not pursue enforcement, Plaintiff intends to bring representative claims on behalf of the State of California and the aggrieved employees seeking civil penalties for violations of the Labor Code and the IWC Wage Orders, along with attorneys' fees, costs, interest, and other appropriate relief.

Please advise if the LWDA intends to investigate any of the factual or legal allegations Defendants may contact Plaintiff's counsel with any questions regarding this letter or the forthcoming lawsuit.

Sincerely,



Lauren N. Vega

Cc Plaintiff Jenelle Olea
Nicholas J. Ferraro, Esq.

Mark Payne, Esq.
Jeffrey M. Goldman, Esq.
Jessica X. Rothenberg, Esq.

Counsel for Stepping Stones Group, LLC and
EBS Healthcare, Inc.