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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF KINGS

MARY GALLEGOS, as an individual and
on behalf of all others similarly situated,

Plaintiffs,

vs.

HANFORD COMMUNITY HOSPITAL,
a California corporation; ADVENTIST
HEALTH SYSTEM/WEST, a California
corporation; and DOES 1 through 50,
inclusive,

Defendants.

Case No.: 20C-0064

**FIRST AMENDED REPRESENTATIVE
ACTION COMPLAINT FOR:**

**(1) VIOLATION OF CAL. LABOR CODE §§
2698, ET SEQ.**

DEMAND OVER \$25,000.00

1 Plaintiff Mary Gallegos (“Plaintiff”) hereby submits this First Amended Representative
2 Action Complaint (“Complaint”) against Defendants Hanford Community Hospital, Adventist
3 Health System/West, and Does 1 through 50 (hereinafter collectively referred to as
4 “Defendants”) on behalf of herself and the aggrieved current and former employees of
5 Defendants for penalties under the Private Attorneys General Act of 2004 (the “PAGA”),
6 codified at California Labor Code section 2698, *et seq.* for violations of Labor Code section
7 226(a), as follows:

8 **INTRODUCTION**

9 1. This representative action is within the Court’s jurisdiction under California
10 Labor Code sections 226 and 2698.

11 2. This Complaint challenges systemic illegal employment practices resulting in
12 violations of the California Labor Code against individuals who worked for Defendants.

13 3. Plaintiff is informed and believes, and based thereon alleges, that Defendants,
14 jointly and severally, have acted intentionally and with deliberate indifference and conscious
15 disregard to the rights of all employees in Defendants’ failure to provide accurate payroll
16 records.

17 4. Plaintiff is informed and believes, and based thereon alleges, that Defendants
18 have engaged in, among other things a system of willful violations of the California Labor Code,
19 by creating and maintaining policies, practices and customs that knowingly deny employees the
20 above stated rights and benefits.

21 **JURISDICTION AND VENUE**

22 5. The Court has jurisdiction over the violations of California Labor Code section
23 226, and California’s Private Attorney General Act (the “PAGA”), California Labor Code
24 section 2698, *et seq.*

25 6. Venue is proper in Kings County because Defendants operate a hospital in Kings
26 County, and Plaintiff was employed by Defendants in Kings County.

27 **PARTIES**

28 7. Plaintiff was employed by Defendants from approximately November 2017,

1 through May 15, 2019, as an hourly, non-exempt employee.

2 8. Plaintiff was and is the victim of the policies, practices, and customs of
3 Defendants complained of in this action in ways that have deprived her of the rights guaranteed
4 by California Labor Code section 226, and the PAGA.

5 9. Plaintiff is informed and believes that Hanford Community Hospital is a
6 California non-profit corporation that maintains operations in the State of California, including
7 locations in Hanford, California.

8 10. Plaintiff is informed and believes that Adventist Health System/West is a
9 California non-profit corporation that maintains operations in the State of California, including
10 locations in Hanford, California.

11 11. Plaintiff is informed and believes, and based thereon alleges, that at all times
12 herein mentioned Defendants are and were business entities, individuals, and partnerships,
13 licensed to do business and actually doing business in the State of California. As such, and based
14 upon all the facts and circumstances incident to Defendants' business, Defendants are subject to
15 California Labor Code section 226 and the PAGA.

16 12. Plaintiff does not know the true names or capacities, whether individual, partner
17 or corporate, of the defendants sued herein as Does 1 through 50, inclusive, and for that reason,
18 said defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this
19 complaint when the true names and capacities are known. Plaintiff is informed and believes and
20 based thereon alleges that each of said fictitious defendants was responsible in some way for the
21 matters alleged herein and proximately caused Plaintiff, aggrieved employees and members of
22 the general public to be subject to the illegal employment practices, wrongs and injuries
23 complained of herein.

24 13. At all times herein mentioned, each of said Defendants participated in the doing
25 of the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the
26 Defendants, and each of them, were the agents, servants and employees of each of the other
27 Defendants, as well as the agents of all Defendants, and at all times herein mentioned, were
28 acting within the course and scope of said agency and employment.

14. Plaintiff is informed and believes, and based thereon alleges, that at all times material hereto, each of the Defendants named herein was the agent, employee, alter ego and/or joint venturer of, or working in concert with each of the other co-Defendants and was acting within the course and scope of such agency, employment, joint venture, or concerted activity. To the extent said acts, conduct, and omissions were perpetrated by certain Defendants, each of the remaining Defendants confirmed and ratified said acts, conduct, and omissions of the acting Defendants.

15. At all times herein mentioned, Defendants, and each of them, were members of, and engaged in, a joint venture, partnership and common enterprise, and acting within the course and scope of, and in pursuance of, said joint venture, partnership and common enterprise.

16. At all times herein mentioned, the acts and omissions of various Defendants, and each of them, concurred and contributed to the various acts and omissions of each and all of the other Defendants in proximately causing the injuries and damages as herein alleged. At all times herein mentioned, Defendants, and each of them, ratified each and every act or omission complained of herein. At all times herein mentioned, Defendants, and each of them, aided and abetted the acts and omissions of each and all of the other Defendants in proximately causing the damages as herein alleged.

FIRST CAUSE OF ACTION

VIOLATION OF LABOR CODE § 2698, *ET. SEQ.*

(BY PLAINTIFF AND AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS)

17. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 16 as though fully set forth herein.

18. Plaintiff brings this cause of action as a proxy for the State of California and in this capacity, seeks penalties on behalf of all Aggrieved Employees for Defendants' violation of Labor Code section 226(a) from February 20, 2019, through the present, arising from Defendants' failure to provide proper and accurate itemized wage statements.

19. More specifically, when shift premium wages—including night shift, evening shift and weekend shift differentials—are paid, the wage statements fail to identify the total

1 hours worked. Additionally, whenever overtime wages are paid the wage statements do not
2 identify the correct overtime rate of 1.5 times the regular rate of pay. Instead, the wage
3 statements incorrectly identify the overtime rate as the base hourly rate of pay. As a result,
4 whenever shift premium wages and/or overtime are paid, when the hours shown on the wage
5 statements are added up, they do not equal the actual total hours worked during the pay period.
6 Therefore, Defendants violated Labor Code section 226(a) by not providing the requisite
7 itemized wage statement to Plaintiff and Aggrieved Employees.

8 20. On or about February 20, 2020, Plaintiff sent written notice to the California
9 Labor & Workforce Development Agency (“LWDA”) of Defendants’ violation of Labor Code
10 section 226(a) pursuant to Labor Code section 2698, *et. seq.*

11 21. As of the date of this filing, the LWDA has not provided written notice regarding
12 whether it intends to investigate the Labor Code violations set forth in Plaintiff’s written notice
13 and thus allowing Plaintiff to proceed under PAGA against Defendants for said violations.
14 Therefore, Plaintiff may seek any and all applicable penalties under PAGA.

15 22. As such, pursuant to Labor Code section 2699(a), Plaintiff seeks recovery of any
16 and all applicable civil penalties for Defendants’ violation of Labor Code section 226 for the
17 time periods described above, as a proxy for the State of California and on behalf of other
18 Aggrieved Employees.

19 **PRAYER FOR RELIEF**

20 WHEREFORE, Plaintiff prays for judgment for herself and all others on whose behalf
21 this suit is brought against Defendants, jointly and severally, as follows:

- 22 1. Upon the First Cause of Action, for all applicable penalties under Labor Code
23 section 2698, *et seq.*, and for attorney’s fees and costs;
 - 24 2. For attorneys’ fees and costs as provided by California Labor Code section 2698
25 *et seq.*, and Code of Civil Procedure section 1021.5; and
 - 26 3. For such other and further relief the Court may deem just and proper.
- 27
28

1 DATED: April 17, 2020

DIVERSITY LAW GROUP, P.C.

2
3 By: _____

Larry W. Lee

Kristen M. Agnew

Nicholas Rosenthal

4 Attorneys for Plaintiff and the Aggrieved
5 Employees
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STATE OF CALIFORNIA]
]ss.
COUNTY OF LOS ANGELES]

On April 17, 2020, I served the following document(s) described as: **FIRST AMENDED REPRESENTATIVE ACTION COMPLAINT** on the interested parties in this action as follows:

 X BY ELECTRONIC SERVICE: Based on a court order I caused the above-entitled document(s) to be served through the Odyssey eFileCA E-Filing System at the website www.california.tylerhost.net, addressed to all parties appearing on the electronic service list for the above-entitled case. The service transmission was reported as complete and a copy of the filing receipt/confirmation will be filed, deposited, or maintained with the original document(s) in this office.


Olympia Pena