

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: Randolph Hammock

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

VICKI GHALBOURJIAN,

Plaintiff,

vs.

HIGHLAND HEALTHCARE CAMELLIA
GARDENS, LLC; ARPOM, INC.; and
DOES 1 to 25, inclusive,

Defendants.

CASE NO.: 20STCV23521

COMPLAINT FOR DAMAGES FOR:

**1) PRIVATE ATTORNEYS GENERAL
ACT ("PAGA")**

COMES NOW Plaintiff, VICKI GHALBOURJIAN (hereinafter "Plaintiff"), and
alleges as follows:

PARTIES, JURISDICTION, VENUE

1. Jurisdiction and Venue are proper in this Court and this action is properly filed in the County of Los Angeles in this judicial district because Defendants HIGHLAND HEALTHCARE CAMELLIA GARDENS, LLC; ARPOM, INC.; and DOES 1 to 25, inclusive, do business in the County of Los Angeles, and because Defendants' obligations and liabilities arise therein, and because the work that was performed by Plaintiff in the County of Los Angeles is the subject of this action. Moreover, Plaintiff's damages sought herein exceed \$25,000.

2. Plaintiff is a female resident of the County of Los Angeles, State of California.

3. Plaintiff is informed and believes that at all times herein mentioned, Defendant HIGHLAND HEALTHCARE CAMELLIA GARDENS, LLC is a California Corporation, doing business in Los Angeles County, California, and which employed Plaintiff.

4. Plaintiff is informed and believes that at all times herein mentioned, Defendant ARPOM, INC. is a California Corporation, doing business in Los Angeles County, California, and which jointly employed Plaintiff. It is Plaintiff's position that HIGHLAND HEALTHCARE CAMELLIA GARDENS, LLC and ARPOM, INC. were joint employers as they both controlled the wages, hours, and working conditions of Plaintiff and other similarly situated aggrieved employees. HIGHLAND HEALTHCARE CAMELLIA GARDENS, LLC and ARPOM, INC. are collectively referred to as "CAMELLIA GARDENS" or "Defendants".

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1 5. Plaintiff is ignorant of the true names and capacities, whether individual, corporate, or
2 associate of those defendants fictitiously sued as DOES 1 to 25, inclusive, and so Plaintiff sues
3 them by these fictitious names. Plaintiff is informed and believes that each of the DOE
4 defendants, numbers 1 to 25, reside in the State of California and are in some manner
5 responsible for the conduct alleged herein. Upon discovering the true names and capacities of
6 these fictitiously named defendants, Plaintiff will amend this complaint to show the true names
7 and capacities of these fictitiously named defendants.
8

9 6. Unless otherwise alleged in this complaint, Plaintiff is informed, and on the basis of
10 that information and belief, alleges that at all times herein mentioned, each of the remaining
11 codefendants, in doing the things hereinafter alleged, were acting within the course, scope, and
12 under the authority of their agency, employment, or representative capacity, with the consent
13 of his/her codefendants.
14

15 **GENERAL ALLEGATIONS**

16 7. Plaintiff started working at CAMELLIA GARDENS as a Registered Nurse on or around
17 February 2020. Plaintiff's employment with CAMELLIA GARDENS ended on or around
18 March 1, 2020. Plaintiff was an hourly, non-exempt employee.

19 8. It is Plaintiff's position that CAMELLIA GARDENS has committed numerous labor
20 code violations against Plaintiff and other similarly situated aggrieved employees, which would
21 include all non-exempt hourly employees during the applicable PAGA period.

22 9. CAMELLIA GARDENS did not provide Plaintiff and other similarly situated
23 aggrieved employees with the minimum wages to which they were entitled for work performed
24 and as such did not compensate Plaintiff and others for all hours worked at the minimum
25 wage rate pursuant to California Labor Code sections 1194, 1197 and 1197.1. This is so
26 because the hourly, non-exempt employees would often times do the charting for all the
27 patients after clocking out for their shift. It was the common practice and culture at
28 CAMELLIA GARDENS for the hourly, non-exempt employees to tend to the patients first and

1 provide them physical care and to do the charting at the end of their shift. The reason the
2 hourly, non-exempt employees could not do the charting first or while caring for the patients is
3 because they were understaffed and were responsible for way too many patients (sometimes up
4 to 26 patients). As such, the common practice was for the hourly, non-exempt employees to do
5 the charting at the very end and AFTER clocking out because they would get in trouble for
6 excessive overtime. Additionally, Plaintiff and other similarly situated employees would have
7 to "clock out" for a meal period on paper even though they were not relieved of all duty and
8 did not in fact receive an uninterrupted, thirty-minute meal period. Management was
9 unequivocally aware of the latter and the fact that Plaintiff was not being paid for all hours
10 worked. Plaintiff and others were also not paid for all hours worked in violation of Labor
11 Code Section 1194 and the applicable Industrial Welfare Commission Wage Order due to
12 rounding of the actual hours worked by CAMELLIA GARDENS as a part of their business
13 practice, which disproportionately affected the employees and resulted in less working hours
14 and less pay.

15 10. Due to the "off the clock" work as alleged above, CAMELLIA GARDENS violated
16 Labor Code §510 because it failed to pay Plaintiff and other similarly situated aggrieved
17 employees overtime, even though they worked more than 8 hours per day and/or 40 hours per
18 week throughout their employment. Plaintiff and others' actual work hours entitled them to
19 overtime compensation, especially due to the "off the clock" as described above, however, they
20 were not paid accurately and fully for their overtime hours worked.

21 11. CAMELLIA GARDENS also violated Labor Code § 226.7 and the applicable Industrial
22 Welfare Commission Wage Order no. 5 because it failed to provide Plaintiff and others with 10-
23 minute rest periods for every four hours of work, or majority portion thereof, throughout their
24 employment. CAMELLIA GARDENS did not completely relieve Plaintiff and others of all
25 duty during said rest periods. CAMELLIA GARDENS did not pay to Plaintiff and others one
26 additional hour of pay at Plaintiff's regular rate of compensation for each workday that one or
27 more statutory rest periods was not provided. It was not company policy and not part of the
28 company culture for employees such as Plaintiff and others to take rest breaks. They were

1 understaffed and were responsible for taking care of too many patients as alluded to above.
2 Moreover, Plaintiff and others are not able to walk away from patients in the middle of their
3 care as they can't leave patients alone. As such, the culture at CAMELLIA GARDENS did not
4 lend itself to the employees receiving statutory breaks wherein they were relieved of all work
5 duties. It was the normal practice and custom of CAMELLIA GARDENS not to authorize,
6 permit, and enforce statutory rest periods. As such, the work environment and culture at
7 CAMELLIA GARDENS was not conducive to receiving statutory rest breaks under California
8 law.

9 12. CAMELLIA GARDENS violated Labor Code §§ 512 and 226.7 and the applicable
10 Industrial Welfare Commission Wage Order no. 5 because it failed to provide Plaintiff and
11 others the requisite 30-minute, uninterrupted meal periods for every five (5) hours of work
12 throughout their employment. CAMELLIA GARDENS did not completely relieve Plaintiff and
13 others of all duty during said meal periods. CAMELLIA GARDENS did not pay to Plaintiff
14 and others one additional hour of pay at Plaintiff's regular rate of compensation for each
15 workday that one or more statutory meal periods was not provided. Furthermore, as alluded to
16 above, and due to the understaffing and the enormous amount of work to be performed, it was
17 common practice and standard for the hourly, non-exempt employees, including Plaintiff and
18 other similarly situated aggrieved employees to "clock out" for their meal periods and to resume
19 working while "off the clock". The employees would set alarms to remind themselves to clock
20 back in after the thirty-minutes had expired and would eat on the job and while working.
21 Management unequivocally knew that Plaintiff and others were working "off the clock" and
22 through their meal breaks and were not receiving timely statutory meal periods. If by chance
23 Plaintiff and others were able to actually take an uninterrupted, thirty-minute meal break, it
24 would often be after the 5th hour worked due to being too busy and understaffed.

25 13. Furthermore, during the relevant time period, CAMELLIA GARDENS failed to pay
26 Plaintiff and others all wages due to them within any time period specified by California Labor
27 Code section 204. CAMELLIA GARDENS was also in violation of California Labor Code
28 section 226(a), by failing to include pertinent information on the wage statements, including but

1 not limited to, all hours worked (minimum wages and overtime due to the "off the clock" work),
2 gross wages earned, net wages earned, the correct legal name and address of the employing
3 entity, the correct start and end of the pay period, and premium pay for the missed meal and rest
4 breaks, among others. As such, CAMELLIA GARDENS did not provide Plaintiff and other
5 similarly situated aggrieved employees with complete, accurate itemized wage statements.

6 14. During the relevant time period, CAMELLIA GARDENS also failed to keep accurate
7 and complete payroll records showing the actual hours worked per day and the wages paid to
8 Plaintiff and others pursuant to California Labor Code sections 1174(d). CAMELLIA
9 GARDENS also violated Labor Code § 203 because it willfully failed to pay other similarly
10 situated aggrieved employees earned and due wages upon separation of employment, either
11 immediately upon involuntary termination, or within 72 hours of resignation. After Plaintiff's
12 employment with CAMELLIA GARDENS ended, CAMELLIA GARDENS failed and refused
13 to pay all wages earned and due upon separation. These earned but unpaid wages include
14 minimum wages, overtime compensation, and premium pay for missed meal and rest breaks.

15 15. Additionally, during the relevant time period, Plaintiff and others incurred necessary,
16 business-related expenses and costs that were not reimbursed by CAMELLIA GARDENS.
17 These costs include, but are not limited to, use of personal equipment for work-related purposes,
18 including blood pressure cuffs and thermometers, among others. The hourly, non-exempt
19 employees also used their personal cell phones for work purposes. Accordingly, CAMELLIA
20 GARDENS was in violation of California Labor Code sections 2800 and 2802. Moreover,
21 CAMELLIA GARDENS failed to provide sick pay pursuant to Labor Code section 246.

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1 **FIRST CAUSE OF ACTION**

2 **PRIVATE ATTORNEYS GENERAL ACT**

3 **Individual and Representative Claim for PAGA penalties under California Labor Code**
4 **sections 201, 202, 203, 204 and/or 204b, 210, 226, 226.3, 226.7, 233, 246, 510, 512, 558,**
5 **1174, 1174.5, 1194, 1197, 1198, 2802)**

6 **(Against All Named Defendants and all DOE Defendants)**

7 16. Plaintiff re-alleges and incorporates by reference each and every allegation in
8 paragraphs 1 through 15, inclusive, of this Complaint as though fully set forth herein.

9 17. Pursuant to law, Plaintiff provided the required written notice to the LWDA and
10 Defendants of the specific violations of the California Labor Code that Defendants
11 and DOE defendants have violated and continue to violate.

12 18. Pursuant to California Labor code section 2699.3, no response was received from the
13 LWDA within 65 days of the postmark date of the above-alleged letter.

14 19. Plaintiff therefore has exhausted all administrative remedies required of her under
15 California Labor Code sections 2698, 2699, and 2699.3, and, as a result, may prosecute this
16 cause of action and pursue penalties in a representative action for Defendants' violations of the
17 Labor Code.

18 20. Pursuant to California Labor Code section 2699, any provisions of the Labor Code
19 that provides for a civil penalty to be assessed and collected by the LWDA or any of its
20 departments, divisions, commissions, boards, agencies, or employees for violation of the code
21 may, as an alternative, be recovered through a civil action brought by an aggrieved employee
22 on behalf of himself or herself and other current or former employees pursuant to the
23 procedures specified in California Labor Code section 2699.3.

24 21. Plaintiff is an "aggrieved employee" because Plaintiff was employed by the alleged
25 violator and had one or more of the alleged violations committed against her, and therefore is
26 properly suited to represent the interests of other current and former hourly, non-exempt
27 employees.
28

1 22. Based on the acts alleged above, Plaintiff, on behalf of herself and others, seeks
2 penalties under California Labor Code sections 2698 and 2699 because of Defendants'
3 violations of numerous provisions of the California Labor Code as alleged in this Complaint.

4 23. Plaintiff therefore has exhausted all administrative remedies required of her under
5 California Labor Code sections 2698, 2699, and 2699.3, and, as a result, may prosecute this
6 cause of action and pursue penalties in a representative action for Defendants' violations of the
7 Labor Code.

8 24. California Labor Code section 2699 et seq. imposes penalties upon culpable
9 Defendants for violating the Labor Code.

10 25. California Labor Code section 558 establishes a civil penalty as follows: Any
11 employer or other person action on behalf of an employer who violates, or causes to be
12 violated, a section of this chapter or any provision regulating hours and days of work in any
13 order of the Industrial Welfare Commission (including the "Hours and Days of Work" section
14 of the Wage Order) shall be subject to a civil penalty of (1) for any initial violation, fifty
15 dollars (\$50) for each underpaid employee for each pay period for which the employee was
16 underpaid... (2) for each subsequent violation, one hundred dollars (\$100) for each underpaid
17 employee for each pay period for which the employee was underpaid...

18 26. Plaintiff seeks penalties for Defendants' misconduct as alleged herein as permitted by
19 law, but only those penalties that are required to be shared with the LWDA as Plaintiff is not
20 seeking individual/victim specific relief or underpaid wages for Plaintiff or other aggrieved
21 employees in this specific cause of action under the Private Attorneys General Act.

22 27. Specifically, Plaintiff seeks penalties under California Labor Code section 2699, for
23 the following:

24 Violations of California Labor Code sections 201, 202, 203, 204 and/or 204b, 210, 226,
25 226.3, 226.7, 233, 246, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1198, 2802 via 2698 and
26 2699 and any other Labor Codes and Industrial Welfare Commission Wage Order no. 5
27 provisions violated based on the facts alleged in this Complaint.

28 28. Pursuant to Labor Code section 2698 et seq., Plaintiff seeks to recover attorney's fees,

1 costs, and civil penalties on behalf of Plaintiff and other current and former aggrieved
2 employees as alleged herein in an amount to be shown according to proof at trial and within the
3 jurisdictional limits of this Court.

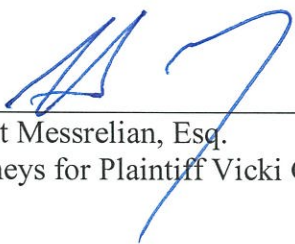
4 **PRAYER FOR RELIEF**

5 WHEREFORE, Plaintiff prays for Judgment against Defendants and each of them, as
6 follows:

- 7 1. For the imposition of civil penalties and/or statutory penalties;
8 2. For maximum civil penalties available under Labor Code Section 2699
9 against Defendants in a manner and amount authorized by that statute, as described
10 more particularly in the Complaint and representative PAGA claims;
11 3. For all interest as allowed by law;
12 4. For all costs and disbursements incurred in this suit;
13 5. Reasonable attorney's fees where available by law, including but not limited to,
14 pursuant to Labor Code section 2698 et seq., and/or other applicable laws; and
15 6. For such other and further relief as this Court may deem proper.
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18 DATED: June 22, 2020

MESSRELIAN LAW INC.

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20 By 
21 Harout Messrelian, Esq.
22 Attorneys for Plaintiff Vicki Ghalbourjian
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