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FILED
Yolo Superior Court
09/18/2020
By: S. Lozano, Deputy

**SUPERIOR COURT OF CALIFORNIA
FOR THE COUNTY OF YOLO**

MAURICE HARPER, as an aggrieved
employee pursuant to the Private
Attorneys General Act (PAGA),

Plaintiff,

vs.

RIVER BEND HOLDINGS, LLC;
BVHC, LLC; CPE HR, INC.; and DOES
1 to 20, inclusive,

Defendants

Case No. CV2020-1233

COMPLAINT FOR DAMAGES:

**1. Civil Penalties Pursuant to Private
Attorney General Act, Labor Code §
2698 et seq.**

1 Plaintiff MAURICE HARPER (“Plaintiff”) hereby files this Complaint against
2 Defendants RIVER BEND HOLDINGS, LLC; BVHC, LLC; CPE HR, INC; and DOES 1 to 20,
3 inclusive, (hereinafter collectively referred to as “Defendants”). Plaintiff alleges the following:

4 **PARTIES AND JURISDICTION**

5 1. This is an enforcement action under the Labor Code Private Attorneys General Act of
6 2004 (“PAGA”), California Labor Code section 2698, *et seq.* to recover civil penalties and any
7 other available relief on behalf of Plaintiff, the State of California, and other current and former
8 employees who worked for Defendants in California and who suffered at least one violation of the
9 Labor Code as set forth in this complaint, at any time between June 22, 2019 and judgement.

10 2. Plaintiff MAURICE HARPER is an individual over the age of eighteen (18) and is now
11 and/or at all times mentioned in this Complaint was a resident of the State of California.

12 3. Plaintiff was a non-exempt employee of Defendants from approximately May 2019
13 through approximately April 2020.

14 4. Plaintiff is informed and believes, and thereon alleges, that Defendant RIVER BEND
15 HOLDINGS, LLC is a California Limited Liability Company doing business in California.

16 5. Plaintiff is informed and believes, and thereon alleges, that Defendant BVHC, LLC is a
17 California Limited Liability Company doing business in California.

18 6. Plaintiff is informed and believes, and based thereon alleges, that Defendants RIVER
19 BEND HOLDINGS, LLC, and BVHC, LLC are the owners and operators of several nursing
20 homes in California.

21 7. Plaintiff is informed and believes, and thereon alleges, that Defendant CPE HR, INC. is
22 a California Corporation doing business in California.

23 8. Plaintiff is informed and believes, and based thereon alleges, that Defendant CPE HR,
24 INC., is a Professional Employer Organization that was contracted to provide services at the
25 nursing homes owned by Defendants RIVER BEND HOLDINGS, LLC, and BVHC, LLC.

26 9. Plaintiff is further informed and believes, and thereon alleges, that each of the
27 Defendants herein was, at all times relevant to this action, the agent, employee, or joint employer
28 or joint venturer of the remaining defendants and was acting within the course and scope of that

1 relationship. Plaintiff is further informed and believes, and thereon alleges, that each of the
2 Defendants herein gave consent to, ratified and authorized the acts alleged herein to each of the
3 remaining defendants. The true names and capacities of the defendants named herein Does 1
4 through 20, inclusive, whether individual, corporate, associate, or otherwise are unknown to
5 Plaintiff, who therefore sues such defendants by fictitious names pursuant to California Code of
6 Civil Procedure section 474. Plaintiff will amend this complaint to show such true names and
7 capacities of Does 1 through 20, inclusive, when they have been determined.

8 10. The Yolo County Superior Court has jurisdiction in this matter under the California
9 Constitution, Article VI, section 10. The statute under which this action is brought does not
10 specify any other basis for jurisdiction.

11 11. Venue is proper pursuant to Civil Procedure Code §§ 395(a) and 395.5, in that some of
12 the wrongful acts and violations of law asserted herein occurred within Yolo County.

13 12. On June 22, 2020, Plaintiff filed his Labor Code § 2699.3 Private Attorney General Act
14 (“PAGA”) notice with the California Labor & Workforce Development Agency (“LWDA”). On
15 August 25, 2020, Plaintiff filed his Amended PAGA Notice. The LWDA did not respond to
16 Plaintiff’s PAGA notice within 65 days, thus deputizing Plaintiff to represent himself, other
17 aggrieved employees, and the California Labor Commissioner for the purpose of collecting civil
18 penalties for violations of the California Labor Code committed by Defendants.

19 **FACTS COMMON TO ALL CAUSES OF ACTION**

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21 13. Plaintiff worked for Defendants from approximately May 2019 through approximately
22 April 2020. During his employment, Plaintiff, and other aggrieved employees, have been made to
23 suffer numerous violations of the California Labor Code.

24 14. Defendants did not allow Plaintiff and similarly situated employees to take their
25 statutorily required meal and rest periods. Defendants failed to provide Plaintiff and other similarly
26 situated employees a 30-minute, duty-free meal period before the end of the fifth hour of work as
27 required under the law.

1 15. Frequently, on the occasions when Plaintiff and similarly situated employees were able to
2 take their meal break, they were interrupted with questions or were required to begin work again
3 before 30 minutes had elapsed due to work requirements. Additionally, many employees punched
4 out on the time clock but continued to work through their meal period in order to avoid being
5 disciplined by Defendants.

6 16. Defendants also failed to provide rest periods to Plaintiff and similarly situated
7 employees for every 4 hours worked or major fraction thereof. Defendants also failed to pay the
8 missed meal and rest period penalties and did not provide a means for Plaintiff and similarly situated
9 employees to report a missed meal or rest period.

10 17. Additionally, Defendants did not maintain a facially compliant policy regarding the
11 provision of meal and rest periods, and meal and rest periods were not provided in compliance with
12 California law.

13 18. As a result of the violations listed above, Plaintiff and similarly situated employees did
14 not receive all minimum and overtime wages due, and Defendants had a practice of failing to pay
15 overtime wages to their employees when overtime hours were worked.

16 19. Defendants also did not provide Plaintiff and similarly aggrieved employees all wages
17 owed upon their termination or within seventy-two (72) hours of their separation from
18 employment.

19 20. Additionally, Defendants did not provide Plaintiff and similarly situated employees
20 legally compliant wage statements noting, among other things, total hours worked, gross wages
21 earned, the applicable hourly rates in effect during the pay period and the corresponding number of
22 hours worked at each hourly rate. Specifically, Defendants failed to provide wage statements
23 listing the overtime rate of pay, or the correct overtime rate of pay.

24 21. Plaintiff is informed and believes that Defendants committed numerous other violations
25 of the California Labor Code, including but not limited to those identified in this letter. Pursuant
26 to *Huff v. Securitas Sec. Servs. USA, Inc.*, 23 Cal. App. 5th 745, 761, 233 Cal. Rptr. 3d 502, 513
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1 (2018), Plaintiff intends to seek civil penalties for all violations of the California Labor Code,
2 whether he experienced them personally or not.

3 22. Upon information and belief, all transactions regarding hiring, terminations,
4 promotions, pay increases, pay rates, wages paid, etc. relating to Defendants' California employees
5 were submitted to and processed by Defendants' HR department in their corporate headquarters.
6 Additionally, on information and belief, Defendants' corporate records, in particular HR and pay
7 records pertaining to Defendants' California employees, are also maintained at Defendants'
8 corporate headquarters.

9 23. Upon information and belief, Defendants maintain a central Payroll department at their
10 corporate headquarters which processes payroll for all Defendants' employees, including Plaintiff
11 and similarly situated, aggrieved employees.

12 24. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should
13 have known that its aggrieved employees were entitled to timely payment of all wages earned upon
14 termination of employment. In violation of the California Labor Code, Defendants' aggrieved
15 employees did not receive payment of all wages due upon termination.

16 25. Plaintiff is further informed and believes, and based thereon alleges, that Defendants
17 knew or should have known that its California employees were entitled to wage statements that
18 were compliant with the requirements of Labor Code section 226, but purposefully failed to
19 provide compliant wage statements, causing injury to Plaintiff and Defendants' similarly aggrieved
20 employees.

21 26. At all times herein set forth, PAGA provides that any provision of law under the Labor
22 Code and applicable IWC Wage Order that provides for a civil penalty to be assessed and collected
23 by the LWDA for violations of the California Labor Code and applicable IWC Wage Order may,
24 as an alternative, be recovered by aggrieved employees in a civil action brought on behalf of
25 themselves and other current or former employees pursuant to procedures outlined in California
26 Labor Code section 2699.3.
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1 27. PAGA defines an aggrieved employee in labor Code section 2699(c) as “any person
2 who was employed by the alleged violator and against whom one or more of the alleged violations
3 was committed.”

4 28. Plaintiff and other current and former employees of Defendants are aggrieved
5 employees as defined by the Labor Code in that they are all Defendants’ current or former
6 employees and one or more of the alleged violations was committed against them.

7 **FIRST CAUSE OF ACTION**
8 **CIVIL PENALTIES PURSUANT TO PAGA § 2698 ET SEQ.**
9 **(As to All Defendants)**

10 29. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 28 as though
11 fully set forth herein.

12 30. Plaintiff brings this cause of action as a proxy for the State of California and in this
13 capacity, seeks penalties on behalf of all Aggrieved Employees for Defendants’ violations of the
14 California Labor Code, including but not necessarily limited to, those Labor Code and Wage Order
15 violations identified above.

16 31. On or about June 22, 2020, Plaintiff, through counsel, sent written notice to the LWDA
17 regarding Defendant’s violations of the California Labor Code, pursuant to Labor Code section
18 2698, *et seq.*, PAGA. Plaintiff filed an Amended PAGA Notice on August 25, 2020. As of the
19 date of the filing of this Complaint, the LWDA has not informed Plaintiff whether the LWDA
20 intends to investigate Plaintiff’s PAGA claims. As such, Plaintiff has exhausted his administrative
21 remedies under PAGA and may proceed in this Court.

22 32. Plaintiff is thus entitled to recover civil penalties on behalf of the State of California
23 and all aggrieved employees for all violations of the Labor Code from June 22, 2019, through trial
24 on this matter.

25 33. Defendants’ conduct, as alleged herein, violated various sections of the California labor
26 Code, including but not limited to, the following:

27 34. Labor Code sections 201–203 require that all wages, including minimum wages and
28 meal and rest period premiums, be paid to employees upon separation and/or termination of

1 employment. Here, for the reasons stated above, Defendants' employees did not receive all final
2 wages due and owing to them at the time of termination or seventy-two (72) hours thereafter as
3 required by Labor Code sections 201–203. This is in violation of the Labor Code.

4 35. Labor Code section 1174(d) requires employers to keep “payroll records showing the
5 hours worked daily by and the wages paid to . . . employees . . . These records shall be kept in
6 accordance with rules established for this purpose by the commission, but in any case shall be kept
7 on file for not less than three years.” Defendants did not keep accurate information regarding all
8 hours worked by Plaintiff and similarly situated employees, largely by failing to accurately record
9 all time worked on their time records. This is in violation of the Labor Code.

10 36. Labor Code section 226 requires employers to furnish to employees with “an accurate
11 itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the
12 employee, . . . (3) the number of piece-rate units earned and any applicable piece rate if the
13 employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on
14 written orders of the employee may be aggregated and shown as one item, (5) net wages earned,
15 (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee
16 and only the last four digits of his or her social security number or an employee identification
17 number other than a social security number, (8) the name and address of the legal entity that is the
18 employer . . . and (9) all applicable hourly rates in effect during the pay period and the
19 corresponding number of hours worked at each hourly rate by the employee” For the reasons
20 stated above, Defendants failed to comply with these requirements with respect to Plaintiff and
21 similarly situated employees in violation of the Labor Code.

22 37. Labor Code sections 510 and 1194 require employers to pay employees overtime for
23 any work in excess of eight (8) hours in one workday and any work in excess of forty (40) hours in
24 any one workweek. Employers must also pay overtime for the first eight (8) hours worked on the
25 seventh day of work in any one workweek. Finally, employers must pay double time for all hours
26 worked in excess of twelve (12) hours in any workday and for all hours worked in excess of eight
27 (8) hours on the seventh day of work in any one workweek. As stated above, Plaintiff and
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1 similarly situated employees worked over eight (8) hours per day and forty (40) hours per week
2 and were not paid overtime wages. This is in violation of the Labor Code.

3 38. During the period Plaintiff and similarly situated employees were employed by
4 Defendants they were entitled to be paid at least the State's minimum wage rate for each hour that
5 they worked. *See, e.g.*, IWC Wage Order MW-2014, MW-2017; IWC Wage Order No. 5-2001,
6 section (4); Cal. Lab. Code §§ 1194, 1197.1. For the reasons stated above, Defendants did not pay
7 Plaintiff and similarly situated employees at least minimum wage for all hours worked. Thus,
8 Plaintiff and similarly situated employees were not paid at least the applicable state minimum
9 wage for all hours worked in violation of the Labor Code. This is in violation of the Labor Code.

10 39. Labor Code section 226.7 and IWC Wage Order No. 4-2001, section 11(A) require
11 employers to provide employees meal periods of thirty (30) minutes per five (5) hours worked. For
12 the reasons stated above, Plaintiff and similarly situated employees were not authorized and
13 permitted to take legally compliant meal periods pursuant to California law. Defendants also
14 failed to pay any meal period premiums for its failure to provide meal periods. This is in violation
15 of the Labor Code.

16 40. Labor Code section 226.7 and IWC Wage Order No. 5-2001, section 12(A) require
17 employers to provide employees paid off-duty rest periods of ten (10) minutes per four (4) hours or
18 major fraction thereof worked. For the reasons stated above, Plaintiff and similarly situated
19 employees were not authorized and permitted to take legally compliant rest periods pursuant to
20 California law in violation of the Labor Code. Defendants also failed to pay any rest period
21 premiums for their failure to provide rest periods. This is in violation of the Labor Code.

22 41. Pursuant to *Huff v. Securitas Sec. Servs. USA, Inc.*, 23 Cal. App. 5th 745, 761, 233 Cal.
23 Rptr. 3d 502, 513 (2018), Plaintiff seeks civil penalties on behalf of the State of California and all
24 aggrieved employees for all violations of the California Labor Code, whether he experienced them
25 personally or not.
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DAMAGES

WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

1. For civil penalties under the California Labor Code according to proof allowed by law;
2. For an award to Plaintiff of costs of suit incurred herein and reasonable attorney's fees;
3. For injunctive relief;
4. For an award of prejudgment and post-judgment interest; and
5. For an award to Plaintiff of such other and further relief as the Court deems just and proper.

Dated: September 16, 2020

Castle Law: California Employment Counsel

By: 
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