

CIV-200901-CIV-DS2017661-CASEEN-125802



Scanned Document Coversheet

System Code: CIV
Case Number: DS2017661
Case Type: CIV
Action Code: CASEEN
Action Date: 09/01/20
Action Time: 12:58
Action Seq: 0002
Printed by: ALGAR

THIS COVERSHEET IS FOR COURT
PURPOSES ONLY, AND THIS IS NOT
A PART OF THE OFFICIAL RECORD.
YOU WILL NOT BE CHARGED FOR
THIS PAGE

Complaint and Party information entered



NEW FILE

LAW OFFICES OF SCOTT ERNEST WHEELER

Scott Ernest Wheeler (SBN 187998)

250 West First Street, Suite 216

Claremont, California 91711

Telephone: (909) 621-4988

Facsimile: (909) 621-4622

Email: sew@scottwheelerlawoffice.com

THE WAND LAW FIRM, P.C.

Aubry Wand (SBN 281207)

400 Corporate Pointe, Suite 300

Culver City, California 90230

Telephone: (310) 590-4503

Facsimile: (310) 590-4596

Email: awand@wandlawfirm.com

Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO

SAN BERNARDINO JUSTICE CENTER

CIV DS 2017661

ANETRA APPLEWHITE, individually, and
on behalf of all other aggrieved employees,

PLAINTIFF,

v.

STARS BEHAVIORAL HEALTH GROUP,
INC., a California corporation, STAR VIEW
CHILDREN AND FAMILY SERVICES,
INC., a California corporation; and DOES 1
through 50, inclusive,

DEFENDANTS.

CASE NO.

**COMPLAINT FOR VIOLATION OF THE
PRIVATE ATTORNEYS GENERAL ACT
OF 2004**

[California Labor Code § 2698 *et seq.*]

BY FAX

\$1435.00

#200915-0319

-0324

-arg

1 Plaintiff Anetra Applewhite, individually and on behalf of all other aggrieved employees,
2 demanding a jury trial, hereby alleges as follows:

3 INTRODUCTION

4 1. Plaintiff brings this action on behalf of herself and all other aggrieved employees of
5 Stars Behavioral Health Group, Inc., Star View Children and Family Services, Inc., and DOES 1
6 through 50, inclusive, (collectively, "Defendants") to recover penalties arising from unpaid wages
7 earned and due, including but not limited to, unpaid and illegally calculated overtime compensation,
8 unpaid off-the-clock work, illegal meal and rest period policies, failure to pay all wages due to
9 discharged or quitting employees, failure to maintain required records, failure to provide accurate
10 itemized wage statements, failure to timely pay wages during employment, and failure to indemnify
11 employees for necessary expenditures and/or losses incurred in discharging their duties.

12 JURISDICTION AND VENUE

13 2. The Superior Court of the State of California has jurisdiction in this matter because
14 Plaintiff is a resident and citizen of the State of California. Defendants are California corporations and
15 regularly conduct business in the State of California. Further, no federal question is at issue because
16 Plaintiff's claims are based solely on California law.

17 3. Venue is proper in this judicial district and the County of San Bernardino because
18 Plaintiff resides in the County of San Bernardino, other persons similarly situated performed work for
19 Defendants in the County of San Bernardino, and Defendants maintain an office in the County of San
20 Bernardino.

21 THE PARTIES

22 4. Plaintiff is a resident and citizen of the State of California and a former employee of
23 Defendants. At all relevant times herein, Plaintiff's job title was Peer and Family Advocate, and her
24 primary job duties involved providing advocacy, supportive and educational services to families with
25 youth who have emotional or behavioral challenges.

26 5. Plaintiff is informed and believes, and thereon alleges, that Defendant, Stars Behavioral
27 Health Group, Inc. is a corporation organized and existing under the laws of the State of California.
28 On information and belief, Defendant, Stars Behavioral Health Group, Inc. is authorized to conduct

1 business in the State of California, and does conduct business in the State of California. Specifically,
2 Defendant, Stars Behavioral Health Group, Inc. maintains offices and facilities in San Bernardino
3 County and conducts business as a community based mental health services organization.

4 6. Plaintiff is informed and believes, and thereon alleges, that Defendant, Star View
5 Children and Family Services, Inc. is a corporation organized and existing under the laws of the State
6 of California. On information and belief, Defendant, Star View Children and Family Services, Inc. is
7 authorized to conduct business in the State of California, and does conduct business in the State of
8 California. Specifically, Defendant, Star View Children and Family Services, Inc. maintains offices
9 and facilities in San Bernardino County and conducts business as a community based mental health
10 services organization.

11 7. The true names and capacities of DOES 1 through 50, inclusive, are unknown to
12 Plaintiff at this time, and Plaintiff therefore sues such defendants under fictitious names. Plaintiff is
13 informed and believes, and thereon alleges, that each defendant designated as a DOE is in some manner
14 highly responsible for the occurrences alleged herein, and that Plaintiff and other aggrieved employees'
15 injuries and damages, as alleged herein, were proximately caused by the conduct of such DOE
16 defendants. Plaintiff will seek leave of the Court to amend this Complaint to allege the true names and
17 capacities of such DOE defendants when ascertained.

18 8. At all relevant times herein, Plaintiff and other aggrieved employees were employed by
19 Defendants under employment agreements that were partly written, partly oral, and partly implied. In
20 perpetrating the acts and omissions alleged herein, Defendants acted pursuant to, and in furtherance of,
21 its common policies and practices of failing to pay Plaintiff and other aggrieved employees all wages
22 earned and due, through methods and schemes which include, but are not limited to: failing to pay and
23 properly calculate overtime; requiring, suffering, and/or permitting off-the-clock work; failing to
24 provide meal and rest breaks; failing to properly maintain required records; failing to provide accurate
25 itemized statements for each pay period; failing to timely pay wages during employment; and failing
26 to properly compensate Plaintiff and other aggrieved employees for necessary expenditures incurred in
27 the discharge of their job duties.

PAGA REPRESENTATIVE ACTION ALLEGATIONS

9. Pursuant to the California Private Attorneys General Act of 2004 ("PAGA"), California Labor Code §§ 2698-2699.5, Plaintiff brings this action on behalf of herself and all other current and former non-exempt employees of Defendants in the State of California at any time within the period beginning one (1) year and 65 days prior to the filing of the Complaint in this action through the present.

10. On June 5, 2020, Plaintiff gave written notice by certified mail pursuant to California Labor Code § 2699.3, to the California Labor and Workforce Development Agency ("LWDA") and Defendants of the specific provisions of the California Labor Code and IWC Wage Order alleged to have been violated, including the facts and theories to support the alleged violations. Plaintiff has not received any response from the LWDA. As Plaintiff has waited more than sixty-five (65) days from the June 5, 2020 postmark date of her written notice before filing this action, Plaintiff has complied with all of the requirements set forth in California Labor Code § 2699.3 to commence a representative action under PAGA.

FACTUAL ALLEGATIONS

Failure to Provide Required Meal Periods

11. During the statute of limitations period, as part of Defendants' illegal policies and practices to deprive their current and former non-exempt employees of all wages earned and due, Defendants regularly did not allow their non-exempt employees, including Plaintiff, to take a full thirty-minute meal period, and meal periods were short (less than thirty minutes), late (taken after 5 hours), and interrupted (work was performed during the meal period).

12. Defendants failed to implement adequate policies or procedures to provide meal periods to their non-exempt employees. Among other things, Defendants did not properly notify Plaintiff and other aggrieved employees of their rights under California law to take timely, uninterrupted meal periods. In addition, on information and belief, Defendants did not post the required wage and hour posters, including but not limited to the appropriate IWC Wage Order poster, at the workplace, did not provide adequate training regarding Defendants' legal obligations with respect to the provision of meal periods, and did not implement a schedule regarding meal periods for non-exempt employees. These common policies and practices have caused systematic violations of California Labor Code §§ 226.7

1 and 512, IWC Order No. 4-2001, § 11, and all related IWC Wage Orders.

2 13. Defendants violated California Labor Code §§ 226.7 and 512, IWC Wage Order No. 4-
3 2001, § 11, and all applicable IWC Wage Orders, by systematically failing to compensate Plaintiff and
4 other aggrieved employees who were not provided with an uninterrupted meal period, in accordance
5 with the applicable IWC Wage Order, one additional hour of compensation at each employee's regular
6 rate of pay for each workday that a meal period was not provided.

7 **Failure to Provide Required Rest Breaks**

8 14. During the statute of limitations period, Defendants have failed to authorize and permit
9 Plaintiff and other aggrieved employees to take rest breaks as required under California Labor Code §§
10 226.7 and 512, IWC Wage Order No. 4-2001, § 12 and all applicable IWC Wage Orders.

11 15. As with meal periods, Defendants' policies and practices caused Plaintiff and other
12 aggrieved employees to miss or otherwise take non-compliant rest periods by, among other things,
13 giving them unreasonable amounts of work that had to be completed within their shift, and relatedly,
14 engaging in gross understaffing and setting unrealistic project goals, such that rest periods as a practical
15 matter could not be taken. For example, Plaintiff would be so busy attending meetings, keeping up with
16 paperwork and assisting clients, that it was virtually impossible for Plaintiff to perform her duties
17 without skipping her rest breaks.

18 16. Defendants further violated California Labor Code § 226.7, IWC Wage Order No. 4-
19 2001, § 11 and all other applicable IWC wage orders, by failing to pay Plaintiff and other aggrieved
20 employees who were not provided with a rest break, in accordance with the applicable wage order, one
21 additional hour of compensation at the proper regular rate of pay for each workday that a rest break
22 was not provided.

23 **Failure to Pay Overtime Wages**

24 17. Pursuant to California Labor Code §§ 510, 1194, IWC Wage Order No. 4-2001, § 3 and
25 all applicable IWC Wage Orders, Defendants are required to compensate Plaintiff and aggrieved
26 employees for all overtime, which is calculated at one and one-half (1 ½) times the regular rate of pay
27 for all hours worked in excess of eight (8) hours per day and/or forty (40) hours per week, and for the
28 first eight (8) hours on the seventh consecutive workday, with double time for all hours worked in

1 excess of twelve (12) hours in any workday and for all hours worked in excess of eight (8) hours on
2 the seventh consecutive day of work in any workweek.

3 18. Plaintiff and aggrieved employees are current and former non-exempt employees
4 entitled to the protections of California Labor Code §§ 510, 1194, IWC Wage Order No. 4-2001 and
5 all applicable IWC Wage Orders. During the statute of limitations period, Defendants failed to
6 compensate Plaintiff and aggrieved employees for all overtime hours worked as required under the
7 foregoing provisions of the California Labor Code and IWC Wage Order by, among other methods:
8 failing to pay overtime at one and one-half (1 ½) or double the regular rate of pay as provided by
9 California Labor Code §§ 510, 1194, IWC Wage Order No. 4-2001, § 3 and all applicable IWC Wage
10 Orders, requiring, permitting or suffering Plaintiff and aggrieved employees to work off-the-clock, and
11 to work through meal and rest breaks, but not compensating them for this time, illegally rounding the
12 time worked by Plaintiff and aggrieved employees, and other methods to be discovered.

13 **Failure to Pay Minimum Wages**

14 19. Pursuant to California Labor Code §§ 1194, 1197, and IWC Wage Order No. 4-2001,
15 §4, payment to an employee of less than the applicable minimum wage for all hours worked in a payroll
16 period is unlawful.

17 20. During the statute of limitations period, Defendants failed to pay Plaintiff's minimum
18 wages for all hours worked by, among other things: requiring, permitting or suffering Plaintiff and the
19 other aggrieved employees to work off-the-clock; requiring, permitting or suffering Plaintiff and the
20 other aggrieved employees to work through meal periods and rest breaks; failing to pay overtime wages
21 and failing to properly calculate overtime based on the regular rate of pay; illegally and inaccurately
22 recording time in which Plaintiff and the other aggrieved employees worked; failing to properly
23 maintain Plaintiff and the other aggrieved employees records; failing to provide accurate itemized wage
24 statements to Plaintiff and the other aggrieved employees for each pay period and other methods yet to
25 be discovered.

26 **Failure to Pay All Wages Due to Discharged and Quitting Employees**

27 21. Pursuant to California Labor Code §§ 201, 202, and 203, Defendants are required to pay
28 all earned and unpaid wages to an employee who is discharged. California Labor Code § 201 mandates

1 that if an employer discharges an employee, the employee's wages accrued and unpaid at the time of
2 discharge are due and payable immediately.

3 22. Furthermore, pursuant to California Labor Code § 202, Defendants are required to pay
4 all accrued wages due to an employee no later than seventy-two (72) hours after the employee quits his
5 or her employment, unless the employee provided seventy-two (72) hours previous notice of his or her
6 intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

7 23. California Labor Code § 203 provides that if an employer willfully fails to pay, in
8 accordance with California Labor Code §§ 201 and 202, any wages of an employee who is discharged
9 or who quits, the employer is liable for waiting time penalties in the form of continued compensation
10 to the employee at the same rate for up to thirty (30) workdays.

11 24. During the statute of limitations period, Defendants have willfully failed to pay accrued
12 wages and other compensation to Plaintiff and aggrieved employees in accordance with California
13 Labor Code §§ 201 and 202. Defendants have inadequate policies to provide Plaintiff and aggrieved
14 employees with their final paychecks within the timeframes required under California law. In addition,
15 because Defendants have failed and continue to fail to properly compensate Plaintiff and aggrieved
16 employees for all hours worked when due, overtime wages, and compensation for non-compliant meal
17 and rest breaks, Defendants have also willfully failed and continue to fail to pay accrued wages and
18 other compensation to Plaintiff and aggrieved employees in accordance with California Labor Code §§
19 201 and 202.

20 25. As a result, Plaintiff and aggrieved employees are entitled to all available statutory
21 penalties, including the waiting time penalties provided in California Labor Code § 203, together with
22 interest thereon, as well as other available remedies.

23 **Failure to Pay Timely Wages**

24 26. California Labor Code § 204 provides that all wages earned by any person in any
25 employment between the 1st and 15th days, inclusive, of any calendar month, other than those wages
26 due upon termination of an employee, are due and payable between the 16th and 26th day of the month
27 during which the labor was performed. California Labor Code § 204 further provides that all wages
28 earned by any person in any employment between the 16th and the last day, inclusive, of any calendar

1 month, other than those wages due upon termination of an employee, are due and payable between the
2 1st and the 10th day of the following month. California Labor Code § 204 further provides that all
3 wages earned for labor in excess of the normal work period shall be paid no later than the payday for
4 the next regular payroll period.

5 27. During the statute of limitations period, Defendants, among other things, willfully failed
6 to pay Plaintiff and aggrieved employees all wages earned and due to them, including but not limited
7 to, meal and rest break premiums, and overtime wages, within the time period permissible under Labor
8 Code § 204.

9 **Failure to Maintain Required Records**

10 28. During the statute of limitations period, as part of Defendants' illegal payroll policies
11 and practices to deprive Plaintiff and other aggrieved employees of all wages earned and due,
12 Defendants knowingly and intentionally failed to maintain records as required under California Labor
13 Code §§ 226(a) and 1174(d) and IWC Wage Order No. 4-2001, § 7, and all other applicable IWC wage
14 orders, including but not limited to the following records: total daily hours worked by each employee;
15 applicable rates of pay; all deductions; meal periods; time records showing when each employee begins
16 and ends each work period; overtime wages, and accurate itemized wage statements.

17 29. Among other things, Defendants have systematically failed to maintain records of when
18 Plaintiff and aggrieved employees take meal periods (when they are able to take them). In addition,
19 Defendants had knowledge that they were not providing their non-exempt employees with proper meal
20 and rest periods, but knowingly failed to include in the wage statements one (1) extra hour of
21 compensation for each missed meal and rest period. Defendants also illegally and inaccurately recorded
22 the time in which Plaintiff and other aggrieved employees worked.

23 **Failure to Furnish Accurate Itemized Wage Statements**

24 30. During the statute of limitations period, Defendants have routinely failed to provide
25 Plaintiff and other aggrieved employees with timely and accurate itemized wage statements.
26 Defendants pay stubs violate California Labor Code § 226 on their face by, among other things, because
27 they list the incorrect legal name and address of the employer. In particular, the legal name of the
28 employer of Plaintiff and the other aggrieved employees is and has been "Stars Behavioral Health

1 Group, Inc." The legal address of Plaintiff and the other aggrieved employees is and has been "1585
2 South D Street, Suite 101, San Bernardino, California 92408, but the wage statement for Plaintiff and
3 the other aggrieved employees incorrectly list "Valley Star Behavioral Health, Inc." as the legal
4 employer and "1501 Hughes Way, Suite 100, Long Beach, California 90810" as the address of their
5 legal employer. Further, Defendants pay stubs fail to provide Plaintiff and other aggrieved employees
6 with proper meal periods and rest breaks but intentionally fails to include in their wage statements one
7 (1) additional hour of compensation at their regular rates of pay for each non-compliant meal period or
8 rest break and by not including all of the hours worked by Plaintiff and the other aggrieved employees,
9 including but not limited to, overtime hours.

10 31. In order to conceal its wage theft, Defendants knowingly and intentionally failed to
11 provide Plaintiff and other aggrieved employees with timely and accurate itemized wage statements in
12 accordance with Labor Code § 226(a) IWC Wage Order No. 5-2001 § 7, and all other applicable wage
13 orders.

14 **Failure to Indemnify Employees for Necessary Expenditures Incurred in Discharge of Duties**

15 32. California Labor Code § 2802(a) requires an employer to indemnify an employee for all
16 necessary expenditures or losses incurred by the employee in direct consequence of the discharge of
17 their duties, or their obedience to the directions of the employer.

18 33. During the statute of limitations period, Defendants knowingly and willfully failed to
19 indemnify Plaintiff and aggrieved employees for all business expenses and/or losses incurred in direct
20 consequence of the discharge of their duties while working under the direction of Defendants, including
21 but not limited to, cellular phone usage, maintenance and insurance coverage relating to Plaintiff and
22 the other aggrieved employees automobile usage and other employment-related expenses, in violation
23 of California Labor Code § 2802.

24 **FIRST CAUSE OF ACTION**

25 **VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT**

26 **[Cal. Lab. Code § 2698 *et seq.*]**

27 **(On Behalf of Plaintiff against Defendants)**

28 34. Plaintiff incorporates herein by specific reference, as though fully set forth, the

allegations in paragraphs 1 through 33.

35. Plaintiff is an "aggrieved employee" within the meaning of California Labor Code § 2699(c), and a proper representative to bring a civil action on behalf of herself and other current and former non-exempt employees of Defendants pursuant to the procedures specified in Labor Code § 2699.3, because Plaintiff was employed by Defendants and one or more of the alleged California Labor Code violations was committed against Plaintiff during the statute of limitations period.

36. Plaintiff seeks to recover civil penalties through a representative action permitted by PAGA and the California Supreme Court in *Arias v. Superior Court* (2009) 46 Cal.4th 969. Thus, class certification is not required.

37. Pursuant to California Labor Code §§ 2698-2699.5, Plaintiff seeks to recover civil penalties from Defendants in a representative action for the violations set forth above.

38. Plaintiff additionally seeks reasonable attorneys' fees and costs pursuant to California Labor Code § 2699(g)(1) and California Code of Civil Procedure § 1021.5.

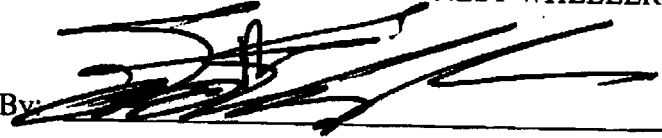
PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually and on behalf of all other aggrieved employees, prays for relief against Defendants as follows:

1. For civil penalties according to proof pursuant to California Labor Code § 2699;
2. For reasonable attorneys' fees and costs pursuant to California Labor Code § 2699(g), California Code of Civil Procedure § 1021.5, and/or any other applicable provisions providing for attorneys' fees and costs; and
3. For such further relief that the Court may deem just and proper.

DATED: August 25, 2020

LAW OFFICES OF SCOTT ERNEST WHEELER

By: 

SCOTT E. WHEELER

AUBRY WAND
The Wand Law Firm, P.C.

Attorneys for Plaintiff