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ELECTRONICALLY FILED
Superior Court of California
County of Santa Barbara
Darrel E. Parker, Executive Officer
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By: Isabel Navarro, Deputy

THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SANTA BARBARA
COOK DIVISION

LEISSA SARR,

Plaintiff,

vs.

LE-NA' RESIDENTIAL CARE, INC.; DOES
1-25,

Defendant(s)

Case No.: 19CV05171

COMPLAINT FOR DAMAGES

COMES NOW Plaintiff, LEISSA SARR, who asserts claim against LE' NA
RESIDENTIAL, INC. as follows:

PARTIES

1. For all times relevant herein, LEISSA SARR was an adult individual working for Le-
Na' Residential Care, Inc. located at 151 Patterson Avenue, Orcutt, CA 93455 from
October 1, 2016 to present in Santa Barbara County, California.
2. For all times relevant herein, Plaintiff is informed and believes, and on that basis

alleges, the Defendant LE'NA RESIDENTIAL, INC. was and is a California corporation domiciled in Altadena County and Santa Barbara County, California.

3. Whenever in this Complaint reference is made to any act, deed, or conduct of Defendant(s), the allegation means that Defendant(s) engaged in the act, deed, or conduct by or through one or more of its agents, employees, or representatives, who was actively engaged in the management, direction, control, or transaction of the business and affairs of Defendant(s).
4. Plaintiff is ignorant of the true names and capacities, whether individual, corporate, associate, or otherwise, of the Defendant(s) sued herein as Does 1 through 25, inclusive, and therefore sues said Defendant(s) (the "Doe Defendants") by such fictitious names. Plaintiff will amend this Complaint to insert the true names and capacities of the Doe Defendants at such time as the identities of the Doe Defendants are ascertained.
5. Plaintiff is informed and believes, and based thereon alleges, that the Doe Defendants are the partners, agents, or principals and co-conspirators of Defendant(s), and of each other; that Defendant(s) and Doe Defendants performed the acts and conduct herein alleged directly, aided and abetted the performance thereof, or knowingly acquiesced in, ratified, and accepted the benefits of such acts and conduct, and therefore each of the Doe Defendants is liable to the extent of the liability of the Defendant(s) as alleged herein.
6. Whenever and wherever reference is made in this Complaint to any conduct by Defendant(s), such allegations and references shall also be deemed to mean the conduct of the Defendant(s), acting individually, jointly, and severally. Whenever and

1 wherever reference is made to individuals who are not named as defendants in this
2 Complaint, but were employees and/or agents of Defendant(s), such individuals at all
3 relevant times acted on behalf of Defendant(s) named in this Complaint within the
4 scope of their respective employment or agency with Defendant(s).
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6 **JURISDICTION AND VENUE**

- 7 7. This Court has jurisdiction over this action pursuant to the California Constitution,
8 Article VI, §10.
9
10 8. Venue is proper in this Court because Defendant transact business in Santa Barbara
11 County, and acts, omissions and injuries alleged herein occurred in this County.
12 Defendant committed violations against Plaintiff employed in Santa Barbara County.

13 **INTRODUCTION**

- 14 9. Plaintiff brings this action under Labor Code §2699 permits aggrieved employees to
15 seek civil penalties from their employer for violations of the Labor Code. In addition,
16 Labor Code §2699(f) establishes civil penalties for violations of the Labor Code
17 provisions that do not contain their own civil penalties. Plaintiff intends to bring a
18 civil action to recover civil penalties identified below, including civil penalties
19 pursuant to Labor Code §2699(f) as well as those civil penalties specifically set forth
20 within the text of the California Labor Code. Those civil penalties are sought for
21 violations committed by Defendant toward Plaintiff.
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23
24 10. Where permitted pursuant to Labor Code §2699.3(c)(1), Defendant failed to cure the
25 foregoing violations within the time periods allowed by law. Plaintiff is therefore,
26 entitled to all civil penalties pursuant to Labor Code §2699(a), and pursuant to Labor
27 Code § 2699(f), in addition to Plaintiff's costs and attorneys' fees.
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1 11. Plaintiff is a non-exempt employee pursuant to §515 of the California Labor Code.
2 Defendant unlawfully attempted to pay Plaintiff as an exempt employee.

3 **FIRST CAUSE OF ACTION**

4 **(Failure to Pay Minimum Wages Owed)**

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6 12. Plaintiff incorporates by reference and realleges each and every allegation contained
7 above, as though fully set forth herein.

8 13. Labor Code §1197 makes it unlawful to pay an employee less than the minimum
9 wage, as established by the Industrial Welfare Commission, for each hour worked.

10 14. Labor Code §1194 entitles an employee receiving less than the minimum wage to
11 recover, in a civil action, the unpaid balance of minimum wages owing, plus interest
12 thereon, reasonable attorneys' fees, and costs of suit.

13 15. Labor Code §1194.2 entitles an employee receiving less than the minimum wage to
14 recover liquidated damages in an amount equal to the unpaid minimum wages and
15 interest thereon.

16 17
18 16. Pursuant to the applicable Industrial Welfare Commission Wage Order, Employees
19 shall not be employed more than eight (8) hours in any workday or more than forty
20 (40) hours in any workweek unless the employee receives one and one-half (1 ½)
21 times such employee's regular rate of pay for all hours worked over 40 hours in the
22 workweek. Eight (8) hours of labor constitutes a day's work. Employment beyond
23 eight (8) hours in any workday or more than six (6) days in any workweek is
24 permissible provided the employee is compensated for such overtime at not less than:
25 (a) one and one-half (1 ½) times the employee's regular rate of pay for all hours
26 worked in excess of eight (8) hours up to and including twelve (12) hours in any
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1 workday, and for the first eight (8) hours worked on the seventh (7th) consecutive day
2 of work in a workweek; and (b) double the employee's regular rate of pay for all
3 hours worked in excess of twelve (12) hours in any workday and for all hours worked
4 in excess of eight (8) hours on the seventh (7th) consecutive day of work in a
5 workweek.
6

7 17. Any employer or other person acting on behalf of an employee who violates, or
8 causes to be violated, a section of Labor Code §558 or any provision regulating hours
9 and days of work in any order of the Industrial Welfare Commission shall be subject
10 to a civil penalty as follows: (1) for any initial violation, fifty dollars (\$50.00) for
11 each underpaid employee for each pay period for which the employee was underpaid
12 in addition to an amount sufficient to recover underpaid wages; (2) for each
13 subsequent violation, one hundred dollars (\$100.00) for each underpaid employee for
14 each pay period for which the employee was underpaid in addition to an amount
15 sufficient to recover underpaid wages.
16

17
18 18. Throughout Plaintiff's employment, Defendant(s) failed to pay Plaintiff at least
19 minimum wage for all time worked, including payment for Plaintiff's full 24-hour
20 shifts (as promised by Defendant(s)) and travel time to and from facilities at which
21 Plaintiff performed services (as promised by Defendant(s)).
22

23 19. Plaintiff is informed and believes and based thereon alleges that Defendant failed to
24 pay the minimum wage for each hour worked and travel time, as described herein,
25 was done willfully.

26 20. As a result, Defendant(s) violated Cal. Lab. Code §1197, §1194, and §1194.2
27 entitling Plaintiff to all remedies available by law.
28

(Failure to Pay Overtime Wages Owed)

25. Pursuant to the applicable Industrial Welfare Commission Wage Order, Employees shall not be employed more than eight (8) hours in any workday or more than forty (40) hours in any workweek unless the employee receives on and one-half (1 ½) times such employee's regular rate of pay for all hours worked over 40 hours in the workweek. Eight (8) hours of labor constitutes a day's work. Employment beyond eight (8) hours in any workday or more than six (6) days in any workweek is permissible provided the employee is compensated for such overtime at not less than:

(a) one and one-half (1 ½) times the employee's regular rate of pay for all hours worked in excess of eight (8) hours up to and including twelve (12) hours in any workday, and for the first eight (8) hours worked on the seventh (7th) consecutive day of work in a workweek; and (b) double the employee's regular rate of pay for all

1 hours worked in excess of twelve (12) hours in any workday and for all hours worked
2 in excess of eight (8) hours on the seventh (7th) consecutive day of work in a
3 workweek.
4

5 26. Any employer or other person acting on behalf of an employee who violates, or
6 causes to be violated, a section of Labor Code §558 or any provision regulating hours
7 and days of work in any order of the Industrial Welfare Commission shall be subject
8 to a civil penalty as follows: (1) for any initial violation, fifty dollars (\$50.00) for
9 each underpaid employee for each pay period for which the employee was underpaid
10 in addition to an amount sufficient to recover underpaid wages; (2) for each
11 subsequent violation, one hundred dollars (\$100.00) for each underpaid employee for
12 each pay period for which the employee was underpaid in addition to an amount
13 sufficient to recover underpaid wages.
14

15 27. Throughout Plaintiff's employment, Defendant(s) failed to pay Plaintiff at least
16 minimum wage for all time worked, including payment for Plaintiff's full 24-hour
17 shifts (as promised by Defendant(s)) and travel time to and from facilities at which
18 Plaintiff performed services (as promised by Defendant(s)).
19

20 28. Plaintiff is informed and believes and based thereon alleges that Defendant failed to
21 pay the minimum wage for each hour worked and travel time, as described herein,
22 was done willfully.
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24 29. As a result, Defendant(s) violated Cal. Lab. Code §1197, §1194, and §1194.2
25 entitling Plaintiff to all remedies available by law.
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1 **FOURT CAUSE OF ACTION**

2 **(Inaccurate Wage Statements)**

3 34. Plaintiff incorporates by reference and realleges each and every allegation contained
4 above, as though fully set forth herein.

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6 35. "Every employer shall, semimonthly or at the time of each payment of wages, shall
7 furnish to his or her employee, either as a detachable part of the check, draft, or
8 voucher paying the employee's wages, or separately if wages are paid by personal
9 check or cash, an accurate itemized statement in writing showing (1) gross wages
10 earned, (2) total hours worked by the employee, except as provided in subdivision (j),
11 (3) the number of piece-rate units earned and any applicable piece rate if the
12 employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions
13 made on written orders of the employee may be aggregated and shown as one item,
14 (5) net wages earned, ... (7) the name of the employee and only the last four digits of
15 his or her social security number or an employee identification number other than a
16 social security number, ..., and (9) all applicable hourly rates in effect during the pay
17 period and the corresponding number of hours worked at each hourly rate by the
18 employee and, beginning July 1, 2013, if the employer is a temporary services
19 employer as defined in Section 201.3, the rate of pay and the total hours worked for
20 each temporary services assignment." Cal. Lab. Code §226, subd. (a).

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24 36. "Any employer who violates subdivision (a) of Section 226 shall be subject to a civil
25 penalty in the amount of two hundred fifty dollars (\$250) per employee per violation
26 in an initial citation and one thousand dollars (\$1,000) per employee for each
27 violation in a subsequent citation, for which the employer fails to provide the
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1 employee a wage deduction statement or fails to keep the records required in
2 subdivision (a) of Section 226.” Cal. Lab. Code §226.3.

- 3 37. Throughout Plaintiff’s employment, Defendant(s) failed to furnish Plaintiff with
4 accurate itemized statements at the time of each payment of wages showing the
5 correct gross wages earned, correct total hours worked, correct net wages earned, and
6 the corresponding correct number of hours worked at each applicable hourly rate.
7 Rather than providing statements of actual time worked and a correct payment of
8 wages based thereon, Defendant(s) failed to capture and pay Plaintiff for time worked
9 during travel and 24-hour shifts, as discussed above. Consequently, Defendant(s)
10 failed to provide Plaintiff accurate itemized wage statements as required by §226.
11
12 38. As a result, the Defendant(s) violated §226 and §226.3 entitling Plaintiff to all
13 penalties available under the law.
14

15 **FIFTH CAUSE OF ACTION**

16 **(Failure to Cure Inaccurate Wage Statements)**

- 17 39. Plaintiff incorporates by reference and realleges each and every allegation contained
18 above, as though fully set forth herein.
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20 40. Every employer shall, semimonthly or at the time of each payment of wages, shall
21 furnish to his or her employee, either as a detachable part of the check, draft, or
22 voucher paying the employee’s wages, or separately if wages are paid by personal
23 check or cash, an accurate itemized statement in writing showing... (6) the inclusive
24 dates of the period for which the employee is paid, ... (8) the name and address of the
25 legal entity that is the employer...” Cal. Lab. §226, subd. (a).
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27 41. “An employer that is required by thus code or any regulation adopted pursuant to this
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1 code to keep the information required by subd. (a) shall afford current and former
2 employees the right to inspect or copy records pertaining to their employment, upon
3 reasonable request to the employer." Cal. Lab. §226, subd. (a). "An employer who
4 receives a written or oral request to inspect or copy records pursuant to subd. (b)
5 pertaining to a current or former employee shall comply with the request as soon as
6 practicable, but no later than 21 calendar days from the date of the request." Cal. Lab.
7 Code §226, subd. (c).

9 42. "Any employer who violates subd. (a) of §226 shall be subject to a civil penalty in the
10 amount of two hundred fifty dollars (\$250.00) per employee per violation in an initial
11 citation and one thousand dollars (\$1,000.00) per employee for each violation in a
12 subsequent citation, for which the employer fails to provide the employee a wage
13 deduction statement or fails to keep the records required in subd. (a) of §226." Cal.
14 Lab. Code §226.3. An employer who violates subd. (b) or (c) of §226 is subject to
15 civil penalties.

16 43. Throughout Plaintiff's employment, Defendant(s) violated subd. (a), (b), and (c) of
17 §226 by failing to timely issue to Plaintiff and maintain an itemized statement or
18 record that accurately shows all of the required information. Defendant(s)' itemized
19 statements fails to specify the correct "(8) the name address of the legal entity that is
20 the employer..." Cal. Lab. Code §226, subd. (a)(8).

21 44. Pursuant to §2699.3, subd. (c)(1), Plaintiff gave notice of the foregoing violations to
22 Defendant(s), who failed to cure the violations within the time provided by law.

23 45. Plaintiff is entitled to all civil penalties available.

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1 PRAYER

2 WHEREFORE, Plaintiff prays for judgment against Defendant(s), as follows:

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- 4 1. Unpaid wages and compensation, and statutory penalties, according to proof;
- 5 2. For civil penalties pursuant to Labor Code §2698, *et seq.*;
- 6 3. For reasonable costs and attorneys' fees; and
- 7 4. For such other and further relief as the Court deems proper.
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10 Dated: 9/24/2019

PAUL GRECO LAW

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13 Paul T. Greco, Esq.
14 Attorney for Plaintiff, Leissa Sarr

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