

FILED/ENDORSED

NOV 17 2020

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO**

KEVIN LEWIS, an individual and on behalf
of all others similarly situated,

Plaintiff,

vs.

VISION SERVICE PLAN, a California
corporation; and DOES 1 through 50,
inclusive,

Defendants.

Case No. **34-2020-00289208**

COMPLAINT FOR DAMAGES FOR:

(1) **VIOLATION OF LABOR CODE §
2698 ET SEQ (PRIVATE
ATTORNEY GENERAL ACT)**

Filed by fax

Plaintiff KEVIN LEWIS ("Lewis" or "Plaintiff") hereby submits this Complaint
against Defendants VISION SERVICE PLAN, and DOES 1-50 (hereinafter collectively
referred to as "Defendants"), on behalf of the State of California for penalties and/or damages
for violations of the California Labor Code, including without limitation, failure to pay all
employees their earned wages in a timely manner as follows:



INTRODUCTION

1. This action is within the Court’s jurisdiction under California Labor Code section 2698 *et seq.*, the Private Attorneys General Act (“PAGA”).

2. This complaint challenges systemic illegal employment practices resulting in violations of the California Labor Code against employees of Defendants.

3. Plaintiff is informed and believes, and based thereon alleges, Defendants, jointly and severally, have acted intentionally and with deliberate indifference and conscious disregard to the rights of all employees by failing to pay all employees their earned wages in a timely manner.

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

JURISDICTION AND VENUE

5. The Court has jurisdiction over the violations of the PAGA.

6. Venue is proper because the Defendants do business in Sacramento County, and Plaintiff performed his work in Rancho Cordova, California.

PARTIES

7. Plaintiff began employment with Defendants in or about February 2019, as a provider administrator.

8. Plaintiff was and is the victim of the policies, practices, and customs of Defendants complained of in this action in ways that have deprived him of the rights guaranteed to him by California Labor Code section 204 and PAGA.

9. Plaintiff is informed and believes, and based thereon alleges, that at all times herein mentioned Defendant Vision Service Plan was and is a corporation under the laws of the State of California, and doing business in the State of California.

10. As such, and based upon all the facts and circumstances incident to Defendants' business, Defendants are subject to California Labor Code section 204.

1 11. Plaintiff does not know the true names or capacities, whether individual, partner
2 or corporate, of the defendants sued herein as Does 1 through 50, inclusive, and for that reason,
3 said defendants are sued under such fictitious names. If and when they are ascertained,
4 Plaintiff prays for leave to amend this Complaint. Plaintiff is informed and believes and, based
5 thereon alleges, that each of said fictitious Defendants was responsible in some way for the
6 matters alleged herein and proximately caused Plaintiff and members of the class to be subject
7 to the illegal employment practices, wrongs, and injuries complained of herein.

8 12. At all times herein mentioned, each of said Defendants participated in the doing
9 of the acts hereinafter alleged to have been done by the named Defendants; and furthermore,
10 the Defendants, and each of them, were the agents, servants and employees of each of the other
11 Defendants, as well as the agents of all Defendants, and at all times herein mentioned, were
12 acting within the course and scope of said agency and employment.

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

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

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

1 and abetted the acts and omissions of each and all of the other Defendants in proximately
2 causing the damages as herein alleged.

3 **PAGA ALLEGATIONS**

4 16. **Definition:** The named individual Plaintiff seeks penalties pursuant to PAGA on
5 behalf of the following aggrieved employees (which shall be collectively referred to as the
6 “Aggrieved Employees”):

- 7 a. All current and former employees of Defendants in the State of California
8 who were paid wages by Defendants at any time from May 16, 2019, to
9 the present.

10 17. Defendants uniformly administered a corporate policy, practice of failing to
11 timely pay wages to its employees in violation of Labor Code § 204.

12 **FIRST CAUSE OF ACTION**

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

14 18. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as
15 though fully set forth herein.

16 19. Defendants failed in their affirmative obligation to timely pay wages to their
17 employees. Defendants, as a matter of policy and practice, paid their employees on a semi-
18 monthly basis and thus are subject to the timing requirements of Labor Code § 204(d).

19 20. Pursuant to Labor Code section 204(d), all earned wages by such employees
20 must be paid out by the seventh (7th) calendar day following the closing of the pay period. As
21 a pattern and practice, Defendants had an inconsistent policy of paying the wages of its
22 employees more than seven calendar days beyond the close of the respective pay period, and
23 thus, beyond the time periods as allowed pursuant to Labor Code section 204. For example,
24 for the pay period of March 8, 2020 through March 22, 2020, the wages earned during such
25 pay period were not paid until March 31, 2020, and for the pay period of March 23, 2020
26 through April 7, 2020, the wages earned during such pay period were not paid until April 15,
27 2020.

28 21. Plaintiff provided written notice to the California Labor & Workforce

1 Development Agency ("LWDA") of Defendants' violation of California Labor Code section
2 204 pursuant to PAGA on November 10, 2020. To date, the LWDA has not provided written
3 notice as to whether the LWDA intends to investigate Plaintiff's allegations. As such, Plaintiff
4 has therefore complied with all notice and exhaustion requirements pursuant to PAGA.

5 22. Pursuant to Labor Code section 2699(a), the Plaintiff seeks recovery of all
6 applicable civil penalties, for himself and on behalf of all Aggrieved Employees, for
7 Defendants' violation of Labor Code section 204.

8 **PRAYER FOR RELIEF**

9 WHEREFORE, Plaintiff prays for judgment for herself and all others on whose behalf
10 this suit is brought against DEFENDANTS, jointly and severally, as follows:

11 1. Upon the First Cause of Action, for civil penalties according to proof pursuant to
12 Labor Code section 2698 *et seq.*, and any applicable penalty provisions provided by the
13 PAGA;

14 2. On all causes of action, for attorney's fees and costs as provided by California
15 Labor Code section 2698 *et seq.*, and any applicable penalty provisions provided by the
16 PAGA, and Code of Civil Procedure section 1021.5; and

17 3. For such other and further relief as the Court may deem just and proper.
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19 DATED: November 17, 2020

DIVERSITY LAW GROUP, P.C.

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21 By: 

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Attorneys for Plaintiff Kevin Lewis
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