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

SAMIHA ZAGHLOUL, as an individual
and on behalf of all others similarly
situated,

Plaintiffs,

vs.

KPC GLOBAL MEDICAL CENTERS,
INC., a California corporation; and DOES
1 through 50, inclusive,

Defendants.

Case No.: **CVRI2100715**

**CLASS AND REPRESENTATIVE ACTION
COMPLAINT FOR DAMAGES FOR:**

**(1) VIOLATION OF CAL. LABOR CODE §
226(a);**

**(2) VIOLATION OF CAL. LABOR CODE §§
2698, ET SEQ.;**

DEMAND OVER \$25,000.00

FILED
Superior Court of California
County of Riverside
2/5/2021
J. Hendrickson
Electronically Filed

1 Plaintiff Samiha Zaghoul (“Plaintiff”) hereby submits this Class and Representative
2 Action Complaint (“Complaint”) against Defendant KPC Global Medical Centers, Inc.
3 (“Defendant”) and Does 1 through 50 (hereinafter collectively referred to as “Defendants”), on
4 behalf of herself and a class of all other similarly situated current and former employees of
5 Defendants for civil and statutory penalties under the California Labor Code as follows:

6 **INTRODUCTION**

7 1. This class and representative action is within the Court’s jurisdiction under
8 California Labor Code sections 226 and 2698 *et seq.*

9 2. This Complaint challenges systemic illegal employment practices resulting in
10 violations of the California Labor Code against individuals who worked for Defendants.

11 3. Plaintiff is informed and believes, and based thereon alleges, that Defendants,
12 jointly and severally, have acted intentionally and with deliberate indifference and conscious
13 disregard to the rights of all employees in Defendants’ failure to provide accurate itemized wage
14 statements to Plaintiff and Class Members.

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

19 **JURISDICTION AND VENUE**

20 5. This Court has jurisdiction over the violations of California Labor Code sections
21 226 and 2698 *et seq.*

22 6. Venue is proper in Riverside County because Defendant provides services in
23 Riverside County, and Plaintiff is currently employed by Defendant in Riverside County.

24 **PARTIES**

25 7. Plaintiff began working for Defendant on or about April 2007. Throughout her
26 employment with Defendant, Plaintiff has been a non-exempt, hourly employee.

27 8. Plaintiff was and is the victim of the policies, practices, and customs of Defendant
28 complained of in this action in ways that have deprived her of the rights guaranteed by California

1 Labor Code sections 226 and 2698 *et seq.*

2 9. Plaintiff is informed and believes, and based thereon alleges, that KPC Global
3 Medical Centers, Inc. is a California corporation that operates throughout California, including in
4 Riverside, California.

5 10. Plaintiff is informed and believes, and based thereon alleges, that at all times
6 herein mentioned Defendants are and were business entities, individuals, and partnerships,
7 licensed to do business and actually doing business in the State of California. As such, and based
8 upon all the facts and circumstances incident to Defendants' business, Defendants are subject to
9 the California Labor Code.

10 11. Plaintiff does not know the true names or capacities, whether individual, partner
11 or corporate, of the defendants sued herein as Does 1 through 50, inclusive, and for that reason,
12 said defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this
13 complaint when the true names and capacities are known. Plaintiff is informed and believes and
14 based thereon alleges that each of said fictitious defendants was responsible in some way for the
15 matters alleged herein and proximately caused Plaintiff and members of the general public and
16 class to be subject to the illegal employment practices, wrongs and injuries complained of herein.

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

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

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

4 15. At all times herein mentioned, the acts and omissions of various Defendants, and
5 each of them, concurred and contributed to the various acts and omissions of each and all of the
6 other Defendants in proximately causing the injuries and damages as herein alleged. At all times
7 herein mentioned, Defendants, and each of them, ratified each and every act or omission
8 complained of herein. At all times herein mentioned, Defendants, and each of them, aided and
9 abetted the acts and omissions of each and all of the other Defendants in proximately causing the
10 damages as herein alleged.

11 **CLASS ACTION ALLEGATIONS**

12 16. **Definition:** The named individual Plaintiff seeks class certification, pursuant to
13 California Code of Civil Procedure section 382. Plaintiff proposes the following class: all current
14 and former non-exempt employees of Defendant in the State of California who were paid shift
15 differential wages at any time between August 10, 2019, through the present (the “Class”).

16 17. **Numerosity:** The members of the Class are so numerous that joinder of all
17 members would be impractical, if not impossible. The identity of the members of the Class is
18 readily ascertainable by review of Defendant’s records, including payroll records. Plaintiff is
19 informed and believes, and based thereon alleges, that Defendant failed to provide accurate
20 itemized wage statements to employees in violation of Labor Code section 226.

21 18. **Adequacy of Representation:** The named Plaintiff is fully prepared to take all
22 necessary steps to represent fairly and adequately the interests of the Class defined above.
23 Plaintiff’s attorneys are ready, willing, and able to fully and adequately represent the Class and
24 Plaintiff. Plaintiff’s attorneys have prosecuted and settled wage-and-hour class actions in the past
25 and currently have a number of wage-and-hour class actions pending in California state and
26 federal courts.

27 19. Defendant uniformly administered a corporate policy, practice of failing to
28 provide accurate itemized wage statements to Plaintiff and the Class in violation of Labor Code

1 section 226.

2 20. **Common Question of Law and Fact:** There are predominant common questions
3 of law and fact and a community of interest amongst Plaintiff and the claims of the Class
4 concerning Defendant's policy and practice of failing to provide proper wage statements to
5 Plaintiff and the Class in violation of Labor Code section 226.

6 21. **Typicality:** The claims of Plaintiff are typical of the claims of all members of the
7 Class in that Plaintiff suffered the harm alleged in this Complaint in a similar and typical manner
8 as the Class Members. As with other California non-exempt employees, Plaintiff was not
9 provided proper and accurate itemized wage statements, in violation of Labor Code section
10 226(a). Specifically, whenever shift differential wages were paid, the corresponding wage
11 statements did not identify an applicable rate of pay or hours worked for the shift differential.
12 Instead, the wage statements showed only the total shift differential wages. Accordingly,
13 Plaintiff is a victim of Defendant's violation of California Labor Code section 226.

14 22. The California Labor Code section upon which Plaintiff bases these claims is
15 broadly remedial in nature. These laws and labor standards serve an important public interest in
16 establishing minimum working conditions and standards in California. These laws and labor
17 standards protect the average working employee from exploitation by employers who may seek
18 to take advantage of superior economic and bargaining power in setting onerous terms and
19 conditions of employment.

20 23. The nature of this action and the format of laws available to Plaintiff and
21 members of the Class identified herein make the class action format a particularly efficient and
22 appropriate procedure to redress the wrongs alleged herein. If each employee were required to
23 file an individual lawsuit, the corporate defendants would necessarily gain an unconscionable
24 advantage since it would be able to exploit and overwhelm the limited resources of each
25 individual plaintiff with their vastly superior financial and legal resources. Requiring each Class
26 Member to pursue an individual remedy would also discourage the assertion of lawful claims by
27 employees who would be disinclined to file an action against their former and/or current
28 employer for real and justifiable fear of retaliation and permanent damage to their careers at

subsequent employment.

24. The prosecution of separate actions by the individual Class Members, even if possible, would create a substantial risk of (a) inconsistent or varying adjudications with respect to individual Class Members against Defendants and which would establish potentially incompatible standards of conduct for Defendants, and/or (b) adjudications with respect to individual Class Members which would, as a practical matter, be dispositive of the interest of the other Class Members not parties to the adjudications or which would substantially impair or impede the ability of the Class Members to protect their interests. Further, the claims of the individual members of the Class are not sufficiently large to warrant vigorous individual prosecution considering all of the concomitant costs and expenses.

25. Such a pattern, practice and uniform administration of corporate policy regarding illegal payroll practices described herein is unlawful and creates an entitlement to recovery by Plaintiff and the Class identified herein, in a civil action, for applicable penalties, reasonable attorneys' fees, and costs of suit according to the mandate of California Labor Code section 226 and Code of Civil Procedure section 1021.5.

26. Proof of a common business practice or factual pattern, which the named Plaintiff experienced and is representative of, will establish the right of each of the members of the Plaintiff Class to recovery on the causes of action alleged herein.

FIRST CAUSE OF ACTION

VIOLATION OF LABOR CODE § 226

(BY PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS)

27. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 26 as though fully set forth herein.

28. Defendant failed in its affirmative obligation to provide accurate itemized wage statements. Defendant, as a matter of policy and practice, did not provide accurate records in violation of Labor Code section 226(a).

29. Plaintiff and Class Members were paid on an hourly basis. As such, the wage statements provided to them should have reflected all applicable hourly rates in effect during the

1 pay period. The wage statements provided to Plaintiff and the Class failed to accurately identify
2 such information. More specifically, whenever shift differentials were paid to Class Members,
3 the corresponding wage statement showed only the total shift differential wages paid and did not
4 indicate either the shift differential rate of pay or the total hours for which the shift differential was
5 paid.

6 30. Such a pattern, practice and uniform administration of corporate policy as
7 described herein is unlawful and creates an entitlement to recovery by the Plaintiff and the Class
8 identified herein in a civil action, for all penalties pursuant to Labor Code section 226, including
9 interest thereon, attorneys' fees, and costs of suit according to the mandate of California Labor
10 Code section 226.

11 **SECOND CAUSE OF ACTION**

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

13 **(BY PLAINTIFF, ON BEHALF OF THE STATE AND AGGRIEVED EMPLOYEES,**
14 **AGAINST ALL DEFENDANTS)**

15 31. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 30 as
16 though fully set forth herein.

17 32. Plaintiff brings this cause of action as a proxy for the State of California and in
18 this capacity, seeks penalties on behalf of all Aggrieved Employees from August 10, 2019,
19 through the present, for Defendant's policy and practice of failing to provide proper wage
20 statements in violation of Labor Code section 226(a).

21 33. On or about January 21, 2021, Plaintiff sent written notice to the California Labor
22 & Workforce Development Agency ("LWDA") of Defendant's violations of Labor Code section
23 226(a), pursuant to Labor Code section 2698, *et seq.*, the Private Attorney General Act
24 ("PAGA"). To date, the LWDA has not responded to Plaintiff's written notice.

25 34. As such, pursuant to Labor Code section 2699(a), Plaintiff seeks recovery of any
26 and all applicable civil penalties for Defendant's violation of Labor Code section 226(a) for the
27 time period described above, on behalf of herself and other Aggrieved Employees.

28 //

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff prays for judgment for herself and all others on whose behalf
3 this suit is brought against Defendants, jointly and severally, as follows:

- 4 1. For an order certifying the proposed Class;
- 5 2. For an order appointing Plaintiff as the representative of the Class;
- 6 3. For an order appointing counsel for Plaintiff as Class Counsel;
- 7 4. Upon the First Cause of Action, for penalties pursuant to California Labor Code
8 section 226, and for costs and attorneys' fees;
- 9 5. Upon the Second Cause of Action, for civil penalties according to proof pursuant
10 to Labor Code section 2698, *et seq.*, and for costs and attorneys' fees;
- 11 6. On all causes of action for attorneys' fees and costs as provided by California
12 Labor Code sections 226 and 2699, and Code of Civil Procedure section 1021.5; and
- 13 7. For such other and further relief the Court may deem just and proper.
- 14

15 DATED: February 5, 2021

DIVERSITY LAW GROUP, P.C.

16
17 By: 

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Attorneys for Plaintiff and the Class

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