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and on behalf of all others similarly situated.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ORANGE

BELLA MEDRANO, individually and on
behalf of all others similarly situated,

Plaintiff,

vs.

WINDSOR GARDENS HEALTHCARE
CENTER OF FULLERTON, LLC;
MODERN HERO, INC.; CPE HR, INC.;
and DOES 1 through 20, inclusive,

Defendants.

Case No. 30-2021-01179331-CU-OE-CXC

Assigned for all purposes to:

Hon. William D. Claster, Dept. CX104

**FIRST AMENDED COMPLAINT FOR
VIOLATION OF THE CALIFORNIA
LABOR CODE PRIVATE ATTORNEYS
GENERAL ACT OF 2004 (CAL. LAB. CODE
§§ 2698, *ET SEQ.*)**

1 Plaintiff Bella Medrano, on behalf of aggrieved employees, alleges as follows:

2 **NATURE OF ACTION AND INTRODUCTORY STATEMENT**

3 1. Pursuant to the Private Attorneys General Act of 2004, Labor Code §§2698, *et*
4 *seq.* (“PAGA”), Plaintiff Bella Medrano (“Plaintiff”) brings this representative action against
5 defendants Windsor Gardens Healthcare Center Of Fullerton, LLC, Modern Hero, Inc., and
6 CPE HR, Inc., and DOES 1 through 20, inclusive (collectively, “Defendants”), on behalf of
7 herself and all other aggrieved employees employed by Defendants throughout California.

8 2. Defendants are in the business of operating nursing homes and providing human
9 resources service in California.

10 3. Through this action, Plaintiff alleges that Defendants have engaged in a
11 systematic pattern of wage and hour violations under the California Labor Code and Industrial
12 Welfare Commission (“IWC”) Wage Orders, all of which contribute to Defendants’ deliberate
13 unfair competition.

14 4. Plaintiff is informed and believes, and thereon alleges, that Defendants have
15 increased their profits by violating state wage and hour laws by, among other things:

- 16 (a) failing to pay all wages (including minimum wages and overtime
17 wages);
18 (b) failing to provide lawful meal periods or compensation in lieu thereof;
19 (c) failing to authorize or permit lawful rest breaks or provide compensation
20 in lieu thereof;
21 (d) failing to provide accurate itemized wage statements;
22 (e) failing to reimburse necessary business expenses; and
23 (f) failing to pay all wages due upon separation of employment.

24 5. Plaintiff seeks monetary relief against Defendants on behalf of aggrieved
25 employees statewide to recover, among other things, attorneys’ fees, costs and expenses, and
26 penalties pursuant to Labor Code §§ 201-203, 204, 210, 226, 226.3, 226.7, 510, 512, 558, 1174,
27 1174.5, 1182.12, 1194, 1194.2, 1197, 1198, 2800, 2802, and Code of California Civil
28 Procedure § 1021.5.

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7. This Court has jurisdiction over this action pursuant to the California Constitution, Article VI, § 10, which grants the Superior Court original jurisdiction in all causes, except those given by statutes to other courts. The statutes under which this action is brought do not specify any other basis for jurisdiction.

9. Venue is proper in this Court because, upon information and belief, Defendants reside, transact business, or have offices in this county, and the acts and omissions alleged herein took place in this county.

10. Plaintiff is a resident of California and worked for Defendants in California during the relevant time periods as alleged herein.

12. Plaintiff is unaware of the true names or capacities of the defendants sued herein under the fictitious names DOES 1 through 20, but will seek leave of this Court to amend this Complaint and serve such fictitiously named defendants once their names and capacities become known.

13. Plaintiff is informed and believes, and thereon alleges, that DOES 1 through 20 are or were the partners, agents, owners, shareholders, managers, or employees of Defendants at all relevant times.

14. Plaintiff is informed and believes, and thereon alleges, that each defendant acted in all respects pertinent to this action as the agent of the other defendant, carried out a joint scheme, business plan, or policy in all respects pertinent hereto, and the acts of each defendant are legally attributable to the other defendant. Furthermore, defendants in all respects acted as the employer and/or joint employer of Plaintiff and the aggrieved employees.

15. Plaintiff is informed and believes, and thereon alleges, that each and all of the acts and omissions alleged herein were performed by, or are attributable to, Defendants and/or DOES 1 through 20, acting as the agent or alter ego for the other, with legal authority to act on the other's behalf. The acts of any and all Defendants were in accordance with, and represent, the official policy of Defendants.

16. At all relevant times, Defendants, and each of them, acted within the scope of such agency or employment, or ratified each and every act or omission complained of herein. At all relevant times, Defendants, and each of them, aided and abetted the acts and omissions of each and all the other Defendants in proximately causing the damages herein alleged.

17. Plaintiff is informed and believes, and thereon alleges, that each of said Defendants is in some manner intentionally, negligently, or otherwise responsible for the acts, omissions, occurrences, and transactions alleged herein.

GENERAL ALLEGATIONS

18. At all relevant times mentioned herein, Defendants employed Plaintiff and other California residents as non-exempt employees at Defendants' California business location(s).

19. Defendants employed Plaintiff as a non-exempt employee at Defendants' California business location.

20. Defendants continue to employ non-exempt employees within California.

21. Plaintiff is informed and believes, and thereon alleges, that at all times herein mentioned, Defendants were advised by skilled lawyers, employees, and other professionals

1 who were knowledgeable about California's wage and hour laws, employment and personnel
2 practices, and the requirements of California law.

3 22. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
4 should have known that Plaintiff and aggrieved employees were entitled to receive wages for
5 all time worked (including minimum wages and overtime wages) and that they were not
6 receiving all wages earned for work that was required to be performed. In violation of the
7 Labor Code and IWC Wage Orders, Plaintiff and aggrieved employees were not paid all wages
8 (including minimum wages and overtime wages) for all hours worked.

9 23. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
10 should have known that Plaintiff and aggrieved employees were entitled to receive all required
11 meal periods or payment of one (1) additional hour of pay at Plaintiff's and aggrieved
12 employees' regular rate of pay when they did not receive a timely, uninterrupted meal period.
13 In violation of the Labor Code and IWC Wage Orders, Plaintiff and aggrieved employees did
14 not receive all meal periods or payment of one (1) additional hour of pay at Plaintiff's and
15 aggrieved employees' regular rate of pay when they did not receive a timely, uninterrupted
16 meal period.

17 24. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
18 should have known that Plaintiff and aggrieved employees were entitled to receive all rest
19 breaks or payment of one (1) additional hour of pay at Plaintiff's and aggrieved employees'
20 regular rate of pay when a rest break was missed. In violation of the Labor Code and IWC
21 Wage Orders, Plaintiff and aggrieved employees did not receive all rest breaks or payment of
22 one (1) additional hour of pay at Plaintiff's and aggrieved employees' regular rate of pay when
23 a rest break was missed.

24 25. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
25 should have known that Plaintiff and aggrieved employees were entitled to receive itemized
26 wage statements that accurately showed the following information pursuant to the Labor Code:
27 (1) gross wages earned; (2) total hours worked by the employee; (3) the number of piece-rate
28 units earned and any applicable piece rate if the employee is paid on a piece-rate basis; (4) all

1 deductions, provided that all deductions made on written orders of the employee may be
2 aggregated and shown as one item; (5) net wages earned; (6) the inclusive dates of the period
3 for which the employee is paid; (7) the name of the employee and only the last four digits of his
4 or her social security number or an employee identification number other than a social security
5 number; (8) the name and address of the legal entity that is the employer; and (9) all applicable
6 hourly rates in effect during the pay period and the corresponding number of hours worked at
7 each hourly rate by the employee. In violation of the Labor Code, Plaintiff and aggrieved
8 employees were not provided with accurate itemized wage statements.

9 26. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
10 should have known that the Waiting Time Subclass was entitled to timely payment of wages
11 due upon separation of employment. In violation of the Labor Code, the Waiting Time Subclass
12 did not receive payment of all wages within permissible time periods.

13 27. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
14 should have known that Plaintiff and aggrieved employees were entitled to reimbursement for
15 necessary expenditures incurred in connection with the performance and execution of their job
16 duties. In violation of the California Labor Code, Plaintiff and aggrieved employees did not
17 receive adequate reimbursement for necessary business expenses, including but not limited to
18 reimbursement for use of their personal cell phones.

19 28. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
20 should have known they had a duty to compensate Plaintiff and aggrieved employees, and
21 Defendants had the financial ability to pay such compensation but willfully, knowingly, and
22 intentionally failed to do so in order to increase Defendants' profits.

23 29. Therefore, Plaintiff brings this lawsuit seeking monetary and injunctive relief
24 against Defendants on behalf of herself and all aggrieved employees to recover, among other
25 things, unpaid wages (including minimum wages and overtime wages), unpaid meal period
26 premium payments, unpaid rest period premium payments, interest, attorneys' fees, penalties,
27 costs, and expenses.

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1 **FIRST CAUSE OF ACTION**

2 **ENFORCEMENT OF LABOR CODE §§ 2698 ET SEQ. ("PAGA")**

3 30. Plaintiff hereby re-alleges and incorporates by reference the previous paragraphs
4 as though fully set forth herein.

5 31. Pursuant to Labor Code § 2699(a), any provision of the Labor Code that provides
6 for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency
7 ("LWDA") or any of its departments, divisions, commissions, boards, agencies, or employees for
8 violation of the Labor Code may, as an alternative, be recovered through a civil action brought by
9 an aggrieved employee on behalf of himself or herself and other current or former employees
10 pursuant to the procedures specified in Labor Code § 2699.3.

11 32. For all provisions of the Labor Code except those for which a civil penalty is
12 specifically provided, Labor Code § 2699(f) imposes upon Defendants a penalty of one hundred
13 dollars (\$100.00) for each aggrieved employee per pay period for the initial violation and two
14 hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent pay
15 period in which Defendants violated these provisions of the Labor Code.

16 33. Defendants' conduct violates numerous Wage Order and Labor Code sections,
17 including, but not limited to, the following:

- 18 a. violation of Labor Code §§ 201-203, 204, 210, 510, 1182.12, 1194, 1197,
19 and 1198 for failure to timely pay all earned wages (including minimum
20 wage and overtime wages) owed to Plaintiff and other aggrieved
21 employees during employment and upon separation of employment as
22 herein alleged;
- 23 b. violation of Labor Code §§ 226.7 and 512 for failure to provide meal
24 periods to Plaintiff and other aggrieved employees and failure to pay
25 premium wages for missed meal periods as herein alleged;
- 26 c. violation of Labor Code § 226.7 for failure to permit rest breaks to
27 Plaintiff and other aggrieved employees and failure to pay premium wages
28 for missed rest periods as herein alleged;

1 d. violation of Labor Code § 226 for failure to provide accurate itemized
2 wage statements to Plaintiff and other aggrieved employees as herein
3 alleged; and

4 e. violation of Labor Code §§ 1174 and 1174.5 for failure to maintain
5 accurate and complete records showing, among other things, the hours
6 worked daily by and the wages paid to aggrieved employees.

7 34. Plaintiff is an “aggrieved employee” because she was employed by the alleged
8 violator and had one or more of the violations committed against her, and therefore is properly
9 suited to represent the interests of all other aggrieved employees.

10 35. Plaintiff has exhausted the procedural requirements under Labor Code § 2699.3 as
11 to Defendants and are therefore able to pursue a claim for penalties on behalf of herself and all
12 other aggrieved employees under PAGA.

13 36. Pursuant to Labor Code §§ 2699(a), 2699.3 and 2699.5, Plaintiff is entitled to
14 recover civil penalties, in addition to other remedies, for violations of the Labor Code sections
15 cited above.

16 37. For bringing this action, Plaintiff is entitled to attorney’s fees and costs incurred
17 herein.

18 **PRAYER FOR RELIEF**

19 Plaintiff, on her own behalf and on behalf of all other aggrieved employees, prays for
20 relief and judgment against Defendants, jointly and severally, as follows:

21 1. For civil penalties against Defendants on behalf of all aggrieved employees
22 pursuant to Labor Code §§ 2698, *et seq.*;

23 2. For reasonable attorneys’ fees and costs of suit to the extent permitted by law,
24 including pursuant to Code of Civil Procedure § 1021.5 and Labor Code §§ 2698, *et seq.*; and

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For such other relief as the Court deems just and proper.

Dated: May 21, 2021

AEGIS LAW FIRM, PC

By:  _____
Fawn F. Bekam
Attorneys for Plaintiff Bella Medrano

1 **CERTIFICATE OF SERVICE**

2 I, the undersigned, am employed in the County of Orange, State of California. I am over
3 the age of 18 and not a party to the within action; am employed with Aegis Law Firm PC and
my business address is 9811 Irvine Center Drive, Suite 100, Irvine, California 92618.

4 On June 21, 2021, I served the foregoing document entitled:

- 5 • **FIRST AMENDED COMPLAINT FOR VIOLATION OF THE**
6 **CALIFORNIA LABOR CODE PRIVATE ATTORNEYS GENERAL ACT**
OF 2004 (CAL. LAB. CODE §§ 2698, ET SEQ.)

7 on all the appearing and/or interested parties in this action by delivering ☐ the original ☒ a true
8 copy thereof on the party(ies) addressed below as follows:

9 Jose-Manuel A. de Castro
10 David G. Larmore
11 Lori V. Minassian
12 DE CASTRO LAW GROUP, APC
13 7590 N. Glenoaks Blvd., Suite 201
14 Los Angeles, CA 91504
15 Telephone: 310.270.9877
16 Facsimile: 310.341.2330
17 jmdecastro@decastrolawgroup.com
18 dlarmore@decastrolawgroup.com
19 lminassian@decastrolawgroup.com

20 *Attorneys for Defendants:*

21 WINDSOR GARDENS HEALTHCARE CENTER OF FULLERTON, LLC; MODERN HERO,
22 INC.; CPE HR, INC.

23 ☐ **(BY MAIL)** I am readily familiar with the firm's practice of collection and processing
24 correspondence for mailing. Under that practice it would be deposited with the U.S.
25 Postal Service on that same day with postage thereon fully prepaid at Irvine, California
26 in the ordinary course of business. I am aware that on motion of the party served, service
27 is presumed invalid if postage cancellation date or postage meter date is more than one
28 day after date of deposit for mailing this affidavit. (*Cal Code Civ. Proc.* § 1013(a); *Fed.*
R. Civ. Proc. 5(a); *Fed. R. Civ. Proc.* 5(c).)

☐ **(BY OVERNIGHT MAIL)** I am personally and readily familiar with the business
practice of Aegis Law Firm PC for collection and processing correspondence for
overnight delivery, and I caused such document(s) described herein to be deposited for
delivery to a facility regularly maintained Federal Express for overnight delivery. (*Cal*
Code Civ. Proc. § 1013(c); *Fed. R. Civ. Proc.* 5(c).)

☒ **(BY ELECTRONIC TRANSMISSION)** I caused said document(s) to be served via
electronic transmission via the above listed email addresses on the date below. (*Cal.*
Code Civ. Proc. § 1010.6(6); *Fed. R. Civ. Proc.* 5(b)(2)(E); *Fed. R. Civ. Proc.* 5(b)(3).)

☐ **(BY PERSONAL SERVICE)** I delivered the foregoing document by hand delivery to
the addressed named above. (*Cal Code Civ. Proc.* § 1011; *Fed. R. Civ. Proc.*
5(b)(2)(A).)

1 I declare under penalty of perjury under the laws of the State of California that the
2 foregoing is true and correct.

3 Executed on June 21, 2021, at Irvine, California.

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5 Andrea Drocco
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