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and on behalf of all others similarly situated.

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

ROSEMARIE BLANQUET, individually
and on behalf of all others similarly
situated,

Plaintiff,

vs.

ASFC, LLC; ASPEN SKILLED
HEALTHCARE, INC.; and DOES 1
through 20, inclusive,

Defendants.

Case No. 30-2021-01191653-CU-OE-CXC

*Assigned for All Purposes to:
Judge Randall J. Sherman
Dept. CX-105*

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

1 Plaintiff Rosemarie Blanquet, individually, and on behalf of others similarly situated,
2 alleges as follows:

3 **NATURE OF ACTION AND INTRODUCTORY STATEMENT**

4 1. Plaintiff Rosemarie Blanquet (“Plaintiff”) brings this representative action
5 against defendants ASFC, LLC, and Aspen Skilled Healthcare, Inc., and DOES 1 through 20,
6 inclusive (collectively, “Defendants”), on behalf of herself individually and all other aggrieved
7 employees who are and were employed by Defendants as non-exempt employees throughout
8 California.

9 2. Defendants are in the healthcare industry.

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, commissions, and
17 overtime wages) at the proper rate;

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 pay all wages due upon separation of employment.

23 5. Plaintiff brings this representative action against Defendants on behalf of
24 himself and other aggrieved employees to recover, among other things, civil penalties,
25 attorney’s fees and costs and expenses pursuant to the Private Attorneys General Act of 2004,
26 Labor Code §§ 2698, *et seq.* (“PAGA”).

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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. Defendant 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 at the correct rate due to
9 failing to pay reporting time pay, failing to pay for required off-the-clock work, and failing to
10 properly include incentive pay such as shift differentials in the overtime rate, among other
11 issues.

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

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

27 25. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
28 should have known that Plaintiff and aggrieved employees were entitled to receive itemized

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

12 26. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
13 should have known that Plaintiff and aggrieved employees were entitled to timely payment of
14 wages due upon separation of employment. In violation of the Labor Code, Plaintiff and
15 aggrieved employees did not receive payment of all wages within permissible time periods.

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

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

25 **FIRST CAUSE OF ACTION**

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

27 29. Plaintiff hereby re-alleges and incorporate by reference the previous paragraphs as
28 though fully set forth herein.

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

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

12 32. Defendants’ conduct violates numerous Wage Order and Labor Code sections,
13 including, but not limited to, the following:

- 14 a. violation of Labor Code §§ 201-204, 210, 510, and 1198 for failure to
15 timely pay all earned wages owed to Plaintiff and other aggrieved
16 employees during employment and upon separation of employment as
17 herein alleged;
- 18 b. violation of Labor Code §§ 226.7 and 512 for failure to provide meal
19 periods to Plaintiff and other aggrieved employees and failure to pay
20 premium wages for missed meal periods as herein alleged;
- 21 c. violation of Labor Code § 226.7 for failure to permit rest breaks to
22 Plaintiff and other aggrieved employees and failure to pay premium wages
23 for missed rest periods as herein alleged;
- 24 d. violation of Labor Code § 226 for failure to provide accurate itemized
25 wage statements to Plaintiff and other aggrieved employees as herein
26 alleged; and

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

4 33. Plaintiff is an “aggrieved employee” because he was employed by the alleged
5 violator and had one or more of the violations committed against him, and therefore is properly
6 suited to represent the interests of all other aggrieved employees.

7 34. Plaintiff has exhausted the procedural requirements under Labor Code § 2699.3 as
8 to Defendants and is therefore able to pursue a claim for penalties on behalf of himself and all
9 other aggrieved employees under PAGA.

10 35. Pursuant to Labor Code §§ 2699(a), 2699.3 and 2699.5, Plaintiff is entitled to
11 recover civil penalties, in addition to other remedies, for violations of the Labor Code sections
12 cited above.

13 36. For bringing this action, Plaintiff is entitled to attorney’s fees and costs incurred
14 herein.

15 **PRAYER FOR RELIEF**

16 Plaintiff, on her own behalf and on behalf of all others similarly situated, prays for relief
17 and judgment against Defendants, jointly and severally, as follows:

18 1. For civil penalties against Defendants on behalf of all aggrieved employees and
19 the LWDA pursuant to Labor Code § 2698, *et seq.*;

20 2. For reasonable attorneys’ fees, costs of suit, and interest to the extent permitted
21 by law, including, but not limited to, Code of Civil Procedure § 1021.5 and Labor Code §§
22 2698 *et seq.*; and

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

24 Dated: June 4, 2021

AEGIS LAW FIRM, PC

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26 By: _____

Chelsea D. Hollins

Attorneys for Plaintiff Rosemarie Blanquet