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Attorneys for Plaintiff Kathleen Lemanski and Alfred Girgis,
individually, and on behalf of all others similarly situated.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

KATHLEEN LEMANSKI and ALFRED
GIRGIS, individually and on behalf of all
others similarly situated,

Plaintiffs,

v.

TARZANA TREATMENT CENTERS,
INC.; and DOES 1 through 20, inclusive,

Defendants.

Case No. 21STCV12881

Assigned for all purposes to:
Hon. Yvette M. Palazuelos, Dept. 9

FIRST AMENDED COMPLAINT FOR:

1. Enforcement of Labor Code §§ 2698, *et*
seq. (“PAGA”)

FILED
Superior Court of California
County of Los Angeles
01/13/2022

Sherri R. Carter, Executive Officer / Clerk of Court
By: M. Tavakoli Deputy

1 Plaintiffs Kathleen Lemanski and Alfred Girgis, on behalf of aggrieved employees,
2 alleges as follows:

3 **NATURE OF ACTION AND INTRODUCTORY STATEMENT**

4 1. Plaintiffs Kathleen Lemanski and Alfred Girgis (“Plaintiffs”) bring this
5 representative action against defendant Tarzana Treatment Centers, Inc., and DOES 1 through
6 20, inclusive (collectively, “Defendants”), on Plaintiffs’ own behalf and on behalf of other
7 aggrieved employees who are and were employed by Defendants as non-exempt employees
8 throughout California.

9 2. Defendants are in the healthcare industry.

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

14 4. Plaintiffs are informed and believe, and thereon allege, 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 wages);
- 17 (b) failing to reimburse necessary business-related costs;
- 18 (c) failing to provide accurate itemized wage statements; and
- 19 (d) failing to pay all wages due upon separation of employment.

20 5. Plaintiffs seek monetary relief against Defendants on behalf of themselves and all
21 others similarly situated in California to recover, among other things, attorneys’ fees, costs and
22 expenses, and penalties pursuant to Labor Code §§ 201, 202, 203, 204, 210, 223, 226, 226.3,
23 226.7, 510, 512, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 2698, *et seq.*,
24 2800, and 2802, and Code of California Civil Procedure § 1021.5.

25 **JURISDICTION AND VENUE**

26 6. This is a representative action under the California Private Attorneys’ General Act
27 of 2004 (“PAGA”). The monetary damages and restitution sought by Plaintiffs exceed the
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1 minimal jurisdictional limits of the Superior Court and will be established according to proof at
2 trial.

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

7 8. This Court has jurisdiction over all Defendants because, upon information and
8 belief, they are citizens of California, have sufficient minimum contacts in California, or
9 otherwise intentionally avail themselves of the California market so as to render the exercise of
10 jurisdiction over them by the California courts consistent with traditional notions of fair play and
11 substantial justice.

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

15 **THE PARTIES**

16 10. Plaintiffs are residents of California and worked for Defendants during the
17 relevant time periods as alleged herein.

18 11. Plaintiffs are informed and believe, and thereon allege, that at all times hereinafter
19 mentioned, Defendants were and are subject to the Labor Code and IWC Wage Orders as
20 employers, whose employees were and are engaged throughout this county and the State of
21 California.

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

26 13. Plaintiffs are informed and believe, and thereon allege, that DOES 1 through 20
27 are or were the partners, agents, owners, shareholders, managers, or employees of Defendants at
28 all relevant times.

1 14. Plaintiffs are informed and believe, and thereon allege, that each defendant acted
2 in all respects pertinent to this action as the agent of the other defendant, carried out a joint
3 scheme, business plan, or policy in all respects pertinent hereto, and the acts of each defendant
4 are legally attributable to the other defendant. Furthermore, defendants in all respects acted as the
5 employer and/or joint employer of Plaintiff and the aggrieved employees.

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

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

15 17. Plaintiffs are informed and believe, and thereon allege, that each of said
16 Defendants is in some manner intentionally, negligently, or otherwise responsible for the acts,
17 omissions, occurrences, and transactions alleged herein.

18 **GENERAL ALLEGATIONS**

19 18. At all relevant times mentioned herein, Defendants employed Plaintiffs and other
20 California residents as non-exempt employees or employees throughout California at
21 Defendants' California business location(s).

22 19. Defendants continue to employ non-exempt employees or employees within
23 California.

24 20. Plaintiffs are informed and believe, and thereon allege, that at all times herein
25 mentioned, Defendants were advised by skilled lawyers, employees, and other professionals who
26 were knowledgeable about California's wage and hour laws, employment and personnel
27 practices, and the requirements of California law.

1 21. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
2 should have known that Plaintiffs and Aggrieved employees were entitled to receive wages for
3 all time worked (including minimum wages and overtime wages) and that they were not
4 receiving all wages earned for work that was required to be performed. In violation of the Labor
5 Code and IWC Wage Orders, Plaintiffs and Aggrieved employees were not paid all wages
6 (including minimum wages and overtime wages) for all hours worked, including, but not limited
7 to requiring Plaintiff and Aggrieved employees to work off-the-clock, and failing to compensate
8 Plaintiffs and Aggrieved employees for these hours.

9 22. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
10 should have known that Plaintiffs and Aggrieved employees were entitled to reimbursement
11 and/or indemnification for all necessary business expenditures or losses as a direct consequence
12 of the discharge of their duties, or of their obedience to the directions of Defendants. In violation
13 of the Labor Code and IWC Wage Orders, Plaintiffs and Aggrieved employees incurred
14 necessary business expenses or losses, such as cell phones, and internet, but were not reimbursed
15 nor indemnified of such expenses or losses that were incurred as a direct consequence of the
16 discharge of their duties, or of their obedience to the directions of Defendants.

17 23. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
18 should have known that Plaintiffs and Aggrieved employees were entitled to receive itemized
19 wage statements that accurately showed the following information pursuant to the Labor Code:
20 (1) gross wages earned; (2) total hours worked by the employee; (3) the number of piece-rate
21 units earned and any applicable piece rate if the employee is paid on a piece-rate basis; (4) all
22 deductions, provided that all deductions made on written orders of the employee may be
23 aggregated and shown as one item; (5) net wages earned; (6) the inclusive dates of the period for
24 which the employee is paid; (7) the name of the employee and only the last four digits of his or
25 her social security number or an employee identification number other than a social security
26 number; (8) the name and address of the legal entity that is the employer; and (9) all applicable
27 hourly rates in effect during the pay period and the corresponding number of hours worked at
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1 each hourly rate by the employee. In violation of the Labor Code, Plaintiffs and Aggrieved
2 employees were not provided with accurate itemized wage statements.

3 24. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
4 should have known that the Waiting Time Subclass was entitled to timely payment of wages due
5 upon separation of employment. In violation of the Labor Code, the Waiting Time Subclass did
6 not receive payment of all wages within the permissible time periods.

7 25. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
8 should have known they had a duty to compensate Plaintiffs and Aggrieved employees, and
9 Defendants had the financial ability to pay such compensation but willfully, knowingly, and
10 intentionally failed to do so in order to increase Defendants' profits.

11 26. Therefore, Plaintiffs bring this lawsuit seeking injunctive relief against
12 Defendants on Plaintiffs' own behalf and on behalf of all Aggrieved employees to recover,
13 among other things, injunctive relief, attorneys' fees, penalties, costs, and expenses.

14 **FIRST CAUSE OF ACTION**

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

16 27. Plaintiffs hereby re-allege and incorporate by reference all paragraphs above as
17 though fully set forth herein.

18 28. Pursuant to Labor Code § 2699(a), any provision of the Labor Code that
19 provides for a civil penalty to be assessed and collected by the Labor and Workforce
20 Development Agency ("LWDA") or any of its departments, divisions, commissions, boards,
21 agencies or employees for violation of the code may, as an alternative, be recovered through a
22 civil action brought by an aggrieved employee on behalf of himself and other current or former
23 employees pursuant to the procedures specified in Labor Code § 2699.3.

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

1 30. Defendants' conduct violates numerous Labor Code sections including, but not
2 limited to, the following:

3 (a) Violation of Labor Code §§ 201, 202, 203, 204, 223, 510, 558, 1182.12, 1194,
4 1194.2, 1197, 1197.1, and 1198 for failure to timely pay all earned wages (including minimum
5 wages and overtime wages) owed to Plaintiffs and other aggrieved employees during
6 employment and upon separation of employment as herein alleged;

7 (b) Violation of Labor Code §§ 226.7 and 512 for failure to provide meal periods to
8 Plaintiffs and other aggrieved employees and failure to pay premium wages for missed meal
9 periods as herein alleged;

10 (c) Violation of Labor Code § 226.7 for failure to permit rest breaks to Plaintiffs
11 and other aggrieved employees and failure to pay premium wages for missed rest periods as
12 herein alleged;

13 (d) Violation of Labor Code §§ 226 and 226.3 for failure to provide accurate
14 itemized wage statements to Plaintiffs and other aggrieved employees as herein alleged; and

15 (e) Violation of Labor Code §§ 1174 and 1174.5 for failure to maintain accurate
16 records.

17 31. As set forth above, Defendants have violated numerous provisions of the Labor
18 Code regulating hours and days of work as well as the IWC Wage Orders. Accordingly,
19 Plaintiffs seek the remedies set forth in Labor Code § 558 for themselves, the underpaid
20 employees, and the State of California.

21 32. Plaintiffs are "aggrieved employees" because they were employed by the alleged
22 violator and had one or more of the alleged violations committed against them, and therefore
23 are properly suited to represent the interests of all other aggrieved employees.

24 33. Plaintiffs have exhausted the procedural requirements under Labor Code §
25 2699.3 as to Defendants and is therefore able to pursue a claim for penalties on behalf of
26 themselves and all other aggrieved employees under PAGA.

34. Pursuant to Labor Code §§ 2699(a), 2699.3 and 2699.5, Plaintiffs are entitled to recover civil penalties, in addition to other remedies, for violations of the Labor Code sections cited above.

35. For bringing this action, Plaintiffs are entitled to attorney's fees and costs incurred herein.

PRAYER FOR RELIEF

On Plaintiffs' own behalf and on behalf of all other aggrieved employees, Plaintiffs pray for relief and judgment against Defendants, jointly and severally, as follows:

1. For penalties pursuant to PAGA;

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

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

Dated: January 13, 2022

AEGIS LAW FIRM, PC

By:

Fawn F. Bekam

Attorneys for Plaintiffs Kathleen Lemanski and
Alfred Girgis