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LOS ANGELES SUPERIOR COURT

AUG 09 2021

S. DREW

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

SSC-D-14

ALEXANDRIA CHAMBERS, as an
individual and on behalf of all others
similarly situated,

Plaintiff,

vs.

CALIFORNIA REHABILITATION
INSTITUTE, LLC, a Delaware limited
liability company; CRI ES, INC., a Delaware
corporation; and DOES 1 through 100,

Defendants.

Case No. 21STCV20399

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT:**

- (1) **WAGE STATEMENT VIOLATIONS
(LABOR CODE § 226 *et seq.*)**
- (2) **CIVIL PENALTIES UNDER THE
PRIVATE ATTORNEYS GENERAL
ACT (LABOR CODE § 2698 *et seq.*)**

**DEMAND FOR JURY TRIAL
UNLIMITED CIVIL CASE**

1 Plaintiff Alexandria Chambers (“Plaintiff”), on behalf of herself and all others similarly
2 situated, hereby bring this First Amended Class and Representative Action Complaint against
3 California Rehabilitation Institute, LLC, a Delaware limited liability company; CRI ES, INC., a
4 Delaware corporation; and Does 1 through 100 (collectively, “Defendants”), and on information
5 and belief allege as follows:

6 **JURISDICTION**

7 1. Plaintiff, on behalf of herself and all others similarly situated, hereby brings this
8 class action for recovery of penalties under Labor Code § 226 *et seq.*, 2698 *et. seq.*, and Industrial
9 Welfare Commission Wage Order 5 (“Wage Order 5”). This class action is brought pursuant to
10 Code of Civil Procedure § 382. This Court has jurisdiction over Defendants’ violations of the
11 California Labor Code because the amount in controversy exceeds this Court’s jurisdictional
12 minimum.

13 2. This Court has jurisdiction over Defendants because, upon information and belief,
14 Defendants are citizens of California, have sufficient minimum contacts in California, or
15 otherwise intentionally avail themselves to the California market so as to render the exercise of
16 jurisdiction over them by the California courts consistent with the traditional notions of fair play
17 and substantial justice.

18 **VENUE**

19 3. Venue as to each Defendant is proper in this judicial district pursuant to California
20 Code of Civil Procedure §§ 395(a) and 395.5, as at least some of the acts and omissions
21 complained of herein occurred in Los Angeles County. Defendants own, maintain offices,
22 transact business, have agent(s) within Los Angeles County, and/or otherwise are found within
23 Los Angeles County, and Defendants are within the jurisdiction of this Court for purposes of
24 service of process.

25 **PARTIES**

26 4. Plaintiff is an individual over the age of eighteen (18). At all relevant times herein,
27 Plaintiff was, and currently is, a California resident. Within the statute of limitations periods
28 applicable to each cause of action pled herein, Plaintiff was employed by Defendants as a non-

1 exempt employee. Plaintiff was, and is a victim of Defendants' policies and/or practices
2 complained herein, and has been deprived of the rights guaranteed under California Labor Code
3 § 226 and Industrial Welfare Commission Wage Order No. 5, which sets the employment
4 standards for the "Public Housekeeping Industry," including hospitals.

5 5. Plaintiff is informed and believes, and based thereon alleges, that during the statute
6 of limitations applicable to each cause of action herein, and continuing to the present, Defendants
7 did (and continue to do) business in Los Angeles County and other counties in California, and
8 employed Plaintiff and other, similarly-situated non-exempt employees within, among other
9 counties, Los Angeles and the State of California and, therefore, were (and are) doing business in
10 Los Angeles County and the State of California. At all relevant times, Defendants were the
11 "employer" of Plaintiff within the meaning of all applicable state laws, statutes, and wage orders.

12 6. Plaintiff does not know the true names or capacities, whether individual, partner,
13 or corporate, of the defendants sued herein as DOES 1 to 100, and for that reason, said defendants
14 are sued under such fictitious names. Plaintiff will seek leave from this Court to further amend
15 this Complaint when such true names and capacities are discovered. Plaintiff is informed,
16 believes, and thereon alleges, that each of said fictitious defendants, whether individual, partners,
17 or corporate, were responsible in some manner for the acts and omissions alleged herein, and
18 proximately caused Plaintiff and members of the Class (as defined in paragraph 12) to be subject
19 to the unlawful employment practices, wrongs, injuries and damages complained of herein.

20 7. Plaintiff is informed, and believes, and thereon alleges, that at all times mentioned
21 herein, Defendants were and are the employers of Plaintiff and the Class members.

22 8. At all times herein mentioned, each of said Defendants participated in the doing
23 of the acts hereinafter alleged to have been done by the named Defendants. Furthermore, the
24 Defendants, and each of them, were the agents, servants, and employees of each and every one of
25 the other Defendants, as well as the agents of all Defendants, and at all times herein mentioned
26 were acting within the course and scope of said agency and employment. Defendants, and each
27 of them, approved of, condoned, and/or otherwise ratified each and every one of the acts or
28 omissions complained of herein.

1 9. At all times mentioned herein, 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. Plaintiff
4 alleges all Defendants were joint employers for all purposes of Plaintiff and all Class members.

5 **REPRESENTATIVE ACTION ALLEGATIONS**

6 10. Defendants employed Plaintiff as a non-exempt Certified Nursing Assistant
7 (“CNA”) from approximately November 2019 until on or about July 18, 2020, at Defendants’
8 rehabilitation center in Los Angeles, California.

9 11. During Plaintiff’s employment with Defendants, Defendants issued facially
10 deficient wage statements to Plaintiff and other employees, in that the wage statements failed to
11 list the hourly rates of pay for shift differentials, double-time, and other hourly rates in effect
12 during the pay period, in violation of Labor Code § 226(a)(9).

13 **CLASS ACTION ALLEGATIONS**

14 12. **Class Definition:** Plaintiff brings this action on behalf of herself and the following
15 Class pursuant to Section 382 of the Code of Civil Procedure:

- 16 a. The Wage Statement Class consists of all Defendants’ current and former non-
17 exempt employees in California who received a wage statement that did not list all
18 applicable hourly rates in effect during the pay period, during the one year
19 preceding the filing of this action through the present.

20 13. **Numerosity/Ascertainability:** The members of the Class are so numerous that
21 joinder of all members would be unfeasible and not practicable. The membership of the class is
22 unknown to Plaintiff at this time; however, it is estimated that the Class numbers greater than fifty
23 (50) individuals. The identity of such membership is readily ascertainable via inspection of
24 Defendants’ employment records.

25 14. **Common Questions of Law and Fact Predominate/Well Defined Community**
26 **of Interest:** There are common questions of law and fact as to Plaintiff and all other similarly
27 situated employees, which predominate over questions affecting only individual members
28 including, without limitation to:

1 a. Whether Defendants furnished legally compliant wage statements to members
2 of the Wage Statement Class pursuant to Labor Code § 226.

3 15. **Predominance of Common Questions:** Common questions of law and fact
4 predominate over questions that affect only individual members of the Class. The common
5 questions of law set forth above are numerous and substantial and stem from Defendants' policies
6 and/or practices applicable to each individual class member, such as Defendants' uniform wage
7 statement policies/practices. As such, the common questions predominate over individual
8 questions concerning each individual class member's showing as to his or her eligibility for
9 recovery or as to the amount of his or her damages.

10 16. **Typicality:** The claims of Plaintiff are typical of the claims of the Class because
11 Plaintiff was employed by Defendants as a non-exempt employee in California during the
12 statute(s) of limitation applicable to each cause of action pled in the Complaint in this action. As
13 alleged herein, Plaintiff, like the members of the Class, was furnished with inaccurate and
14 incomplete wage statements.

15 17. **Adequacy of Representation:** Plaintiff is fully prepared to take all necessary steps
16 to represent fairly and adequately the interests of the members of the Class. Moreover, Plaintiff's
17 attorneys are ready, willing, and able to fully and adequately represent the members of the Class
18 and Plaintiff. Plaintiff's attorneys have prosecuted and defended numerous wage-and-hour class
19 actions in state and federal courts in the past and are committed to vigorously prosecuting this
20 action on behalf of the members of the Class.

21 18. **Superiority:** The California Labor Code is broadly remedial in nature and serves
22 an important public interest in establishing minimum working conditions and standards in
23 California. These laws and labor standards protect the average working employee from
24 exploitation by employers who have the responsibility to follow the laws and who may seek to
25 take advantage of superior economic and bargaining power in setting onerous terms and
26 conditions of employment. The nature of this action and the format of laws available to Plaintiff
27 and members of the Class make the class action format a particularly efficient and appropriate
28 procedure to redress the violations alleged herein. If each employee were required to file an

individual lawsuit, Defendants would necessarily gain an unconscionable advantage since they would be able to exploit and overwhelm the limited resources of each individual plaintiff with their vastly superior financial and legal resources. Moreover, requiring each member of the Class to pursue an individual remedy would also discourage the assertion of lawful claims by employees who would be disinclined to file an action against their former and/or current employer for real and justifiable fear of retaliation and permanent damages to their careers at subsequent employment. Further, the prosecution of separate actions by the individual class members, even if possible, would create a substantial risk of inconsistent or varying verdicts or adjudications with respect to the individual class members against Defendants herein; and which would establish potentially incompatible standards of conduct for Defendants; and/or legal determinations 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 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 attending thereto. As such, the Class identified in Paragraph 12 is maintainable under Section 382 of the Code of Civil Procedure.

FIRST CAUSE OF ACTION

WAGE STATEMENT VIOLATIONS

(AGAINST ALL DEFENDANTS)

19. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

20. Plaintiff is informed and believes, and based thereon alleges, that Defendants knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Plaintiff and the Wage Statement Class as alleged herein.

21. Defendants' failure to furnish Plaintiff and members of the Wage Statement Class with complete and accurate itemized wage statements resulted in actual injury, as said failures deprived them of required information, and deprived them of the information necessary to identify the discrepancies in Defendants' reported data.

22. Defendants' failures create an entitlement to recovery by Plaintiff and members of the Wage Statement Class in a civil action for all damages and/or penalties pursuant to Labor Code § 226, including statutory penalties, civil penalties, and reasonable attorneys' fees and costs of suit according to Labor Code §§ 226 and 226.3.

SECOND CAUSE OF ACTION

PRIVATE ATTORNEY GENERAL ACT

(AGAINST ALL DEFENDANTS)

23. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

24. Defendants have committed Labor Code violations against Plaintiff, members of the Classes, and other aggrieved employees. Plaintiff, an "aggrieved employee" within the meaning of Labor Code § 2698 *et seq.*, acting on behalf of herself and other aggrieved employees, brings this representative action against Defendants to recover the civil penalties due to Plaintiff, the members of the Classes, other aggrieved employees, and the State of California according to proof pursuant to Labor Code §§ 558 and 2699 (a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for each failure to pay each employee and \$200.00 for each subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100.00 for each subsequent violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per employee per pay period; (4) \$250.00 for each initial violation and \$1,000.00 for each subsequent violation pursuant to Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for each initial violation and \$200.00 for each subsequent violation per employee per pay period for those violations of the Labor Code for which no civil penalty is specifically provided, based on the following Labor Code violations:

- a. Failing to furnish Plaintiff and other aggrieved employees with accurate and complete itemized wage statements in violation of Labor Code § 226; and
- b. Failing to maintain accurate records on behalf of Plaintiff and aggrieved employees in violation of Labor Code § 1174, 1198 and 1199.

25. On or about June 2, 2021, Plaintiff notified Defendants via certified mail and notified the California Labor and Workforce Development Agency (“LWDA”) via its website, of Defendants’ violations of the California Labor Code and Plaintiff’s intent to bring a claim for civil penalties under California Labor Code § 2698 *et seq.* with respect to the violations of the California Labor Code identified in Paragraph 5 (a)-(b). Now that sixty-five days have passed from Plaintiff notifying Defendants and the LWDA of these violations, and the LWDA has not provided notice that it intends to investigate the violations, Plaintiff has exhausted her administrative requirements for bringing a claim under the Private Attorneys General Act with respect to these violations.

26. Based on the foregoing, Plaintiff seeks to represent herself, the State of California, and all aggrieved employees, as defined by Labor Code § 2699(c), which includes all current and former non-exempt employees who worked for Defendants in California at any time from one year and 178 days prior to the submission of Plaintiff's PAGA notice to the present.

27. Plaintiff was compelled to retain the services of counsel to file this court action to protect her interest and the interests of other aggrieved employees, and to assess and collect the civil penalties owed by Defendants. Plaintiff has thereby incurred attorneys' fees and costs, which he is entitled to recover under California Labor Code § 2699.

PRAYER

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

1. Upon the First Cause of Action, for statutory penalties pursuant to Labor Code § 226 *et seq.*;

2. Upon the Second Cause of Action, for civil penalties due to Plaintiff, other aggrieved employees, and the State of California according to proof pursuant to Labor Code §§ 558 and 2699(a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for each failure to pay each employee and \$200.00 for each subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100.00 for

1 each subsequent violation pursuant to Labor Code § 558 per employee per pay period; (3)
2 \$100.00 for each initial violation and \$250.00 for each subsequent violation pursuant to Labor
3 Code § 1197.1 per employee per pay period; (4) \$250.00 for each initial violation and \$1,000.00
4 for each subsequent violation pursuant to Labor Code § 226.3 per employee per pay period;
5 and/or (5) \$100.00 for each initial violation and \$200.00 for each subsequent violation per
6 employee per pay period for those violations of the Labor Code for which no civil penalty is
7 specifically provided, based on the violations of Labor Code sections identified in Paragraph 24
8 (a)-(b) above.

9 3. On all causes of action, for attorneys' fees and costs as provided by Labor Code §
10 226(e), and 2699(g) and Code of Civil Procedure § 1021.5; and

11 4. For such other and further relief the Court may deem just and proper.

12 Dated: August 9, 2021

HAINES LAW GROUP, APC

13
14 By: 

15 Paul K. Haines
16 Attorneys for Plaintiff

17 **DEMAND FOR JURY TRIAL**

18 Plaintiff hereby demands a jury trial with respect to all issues triable by jury.

19 Dated: August 9, 2021

HAINES LAW GROUP, APC

20
21 By: 

22 Paul K. Haines
23 Attorneys for Plaintiff
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