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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO

BEATRICE PECKICH, as an individual
and on behalf of all others similarly
situated,

Plaintiffs,

v.

ACCURATE PERSONNEL, LLC, a
limited liability company; UNIS, LLC, a
limited liability company; and DOES 1
through 50, inclusive,

Defendants.

CASE NO.

CLASS ACTION COMPLAINT FOR:

- (1) VIOLATION OF CAL. LABOR CODE § 226(a);
- (2) VIOLATION OF CAL. LABOR CODE §§ 201-204, 226, 1194, 1197, and 1197.1;
- (3) VIOLATION OF CAL. LABOR CODE § 226.7;
- (4) VIOLATION OF CAL. LABOR CODE § 2802;
- (5) VIOLATION OF CAL. LABOR CODE § 2698, *ET SEQ.*; AND
- (6) UNFAIR OR UNLAWFUL BUSINESS PRACTICES

DEMAND EXCEEDS \$25,000.00

Plaintiff Beatrice Peckich ("Plaintiff") hereby submits this First Amended Class Action Complaint ("Complaint") against Defendant Accurate Personnel, LLC (the "Accurate"), a limited liability company, UNIS, LLC ("Unis"), a limited liability company and DOES 1-50 (hereinafter

collectively referred to as "Defendants"), individually and on behalf of the Class of all other similarly situated current and former employees of Defendants for penalties and/or damages for violations of the California Labor Code, including without limitation, failure to provide employees with accurate itemized wage statements, pay all wages, reimburse business expenses and authorize and permit rest periods owed as follows:

INTRODUCTION

1. This class action is within the Court's jurisdiction under California Labor Code §§ 201-204, 226, 226.7, 1194, 1197, 1197.1, 2698, *et seq.*, and 2802, the Unfair Competition Law (the "UCL"), California Business & Professions Code § 17200, *et seq.*, and the California Industrial Welfare Commission's ("IWC") Wage Orders.

2. This Complaint challenges systemic illegal employment practices resulting in violations of the California Labor Code against employees of Defendants.

3. Plaintiff is informed and believes, and based thereon alleges, that Defendants jointly and severally have acted intentionally and with deliberate indifference and conscious disregard to the rights of all employees by failing to keep accurate records and failing to provide accurate itemized wage statements identifying all required information, including without limitation, the inclusive dates of the period for which the employee is being paid.

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

JURISDICTION AND VENUE

5. The Court has jurisdiction over the violations of the California Labor Code §§ 201-204, 226, 226.7, 1194, 1197, 1197.1, 2698, *et seq.*, and 2802 and the UCL. As alleged below, Plaintiff has met all of the jurisdictional requirements to proceed under the Private Attorneys General Act (the "PAGA"), Labor Code § 2698, *et seq.*

6. Venue is proper in San Bernardino County because Defendants maintain business locations in this County and Plaintiff performed work for Defendants in this County.

PARTIES

7. On or about March 27, 2021, Plaintiff was hired by Defendants to work as a non-exempt customer service representative. On or about June 17, 2021, Plaintiff's employment ended.

8. Defendant Accurate is a limited liability company engaged in providing temporary employees in California. Unis is a shipping company operating in California.

9. Plaintiff was and is a victim of the policies, practices, and customs of Defendants complained of in this action in ways that have deprived Plaintiff of the rights guaranteed by California Labor Code §§ 201-204, 226, 226.7, 1194, 1197, 1197.1, 2698, *et seq.*, and 2802 and the applicable IWC Wage Orders.

10. Plaintiff is informed and believes, and based thereon alleges, that at all times herein mentioned Defendants and DOES 1 through 50 are and were business entities, individuals, and partnerships, licensed to do business and actually doing business in the State of California.

11. As such, and based upon all the facts and circumstances incident to Defendants' business in California, Defendants are subject to California Labor Code §§ 201-204, 226, 226.7, 1194, 1197, 1197.1, 2698, *et seq.*, and 2802 and the IWC Wage Orders.

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

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

14. Plaintiff is informed and believes, and based thereon alleges, that at all times

1 material hereto, each of the Defendants named herein was the agent, employee, alter ego and/or
2 joint venturer of, or working in concert with each of the other co- Defendants and was acting
3 within the course and scope of such agency, employment, joint venture, or concerted activity. To
4 the extent said acts, conduct, and omissions were perpetrated by certain Defendants, each of the
5 remaining Defendants confirmed and ratified said acts, conduct, and omissions of the acting
6 Defendants.

7 15. At all times herein mentioned, Defendants, and each of them, were members of,
8 and engaged in, a joint venture, partnership and common enterprise, and acting within the course
9 and scope of, and in pursuance of, said joint venture, partnership and common enterprise.

10 16. At all times herein mentioned, the acts and omissions of various Defendants, and
11 each of them, concurred and contributed to the various acts and omissions of each and all of the
12 other Defendants in proximately causing the injuries and damages as herein alleged. At all times
13 herein mentioned, Defendants, and each of them, ratified each and every act or omission
14 complained of herein. At all times herein mentioned, the Defendants, and each of them, aided
15 and abetted the acts and omissions of each and all of the other Defendants in proximately causing
16 the damages as herein alleged.

17 CLASS ACTION ALLEGATIONS

18 17. **Definition:** The named individual Plaintiff seeks class certification, pursuant to
19 California Code of Civil Procedure § 382, of the following classes:

- 20 a. All current and former California employees who worked for Defendants at
21 any time from September 9, 2017, through the present (the "Class").
- 22 b. All current and former California employees who were paid any wages by
23 Defendants at any time from September 9, 2020, through the present (the
24 "Wage Statement Class"); and
- 25 c. All current and former non-exempt California employees who were paid
26 less than the agreed-upon wage by Defendants at any time from September
27 9, 2017, through the present (the "Wage Class");
- 28 d. All current and former non-exempt California employees who worked any
shifts 3.5 hours or longer for Unis at any time from September 9, 2017,

1 through the present (the "Rest Period Class").

2 18. **Numerosity and Ascertainability:** The members of the Class are so numerous
3 that joinder of all members would be impractical, if not impossible. The identity of the members
4 of the Class is readily ascertainable by review of the Company's records, including payroll
5 records. Plaintiff is informed and believes, and based thereon alleges, that the Company failed to:
6 (a) provide accurate itemized wage statements to employees in violation of Labor Code § 226; (b)
7 pay wages at the agreed-upon rate of pay in violation of Labor Code §§ 201-204, 226, 1194,
8 1197, and 1197.1; (c) authorize and permit 10-minute off-duty rest periods for every 3.5 hours
9 worked in violation of Labor Code § 226.7; and (d) reimburse business expenses in violation of
10 Labor Code § 2802.

11 19. **Adequacy of Representation:** The named Plaintiff is fully prepared to take all
12 necessary steps to represent fairly and adequately the interests of the class defined above.
13 Plaintiff's attorneys are ready, willing and able to fully and adequately represent the class and the
14 named Plaintiffs. Plaintiff's attorneys have prosecuted and settled wage-and-hour class actions in
15 the past and currently have a number of wage-and-hour class actions pending in California courts.

16 20. **Common Question of Law and Fact:** There are predominant common questions
17 of law and fact and a community of interest amongst Plaintiffs and the claims of the Class
18 concerning the Company's failure to: (a) provide accurate itemized wage statements to employees
19 in violation of Labor Code § 226; (b) pay wages at the agreed-upon rate of pay in violation of
20 Labor Code §§ 201-204, 226, 1194, 1197, and 1197.1; (c) authorize and permit 10-minute off-
21 duty rest periods for every 3.5 hours worked in violation of Labor Code § 226.7; and (d)
22 reimburse business expenses in violation of Labor Code § 2802.

23 21. **Typicality:** The claims of the named Plaintiff are typical of the claims of all
24 members of the Class in that Plaintiff has suffered the harm alleged in this Complaint in a similar
25 and typical manner as the Class members. Plaintiff was not provided proper and accurate wage
26 statements identifying all information required by Labor Code § 226(a). Specifically, the
27 Company violated Labor Code § 226(a) by failing to list the name of the employer and the
28 inclusive dates for which the employee was being paid on wage statements furnished to Plaintiff
and Class Members. Plaintiff was also not paid her agreed-upon wages in violation of Labor

1 Code §§ 201-204, 226, 1194, 1197, and 1197.1. For example, with respect to Plaintiff,
2 Defendants agreed to pay Plaintiff an hourly rate of \$19.00, but paid Plaintiff only \$18.00 per
3 hour. Plaintiff was also not provided 10-minute off-duty rest periods for every 3.5 hours worked.
4 To the contrary, Plaintiff was required to work through her rest periods and was never told she
5 could take rest periods. Plaintiff also was required to use her personal cell phone in connection
6 with her job duties, but Defendants did not reimburse Plaintiff. Thus, Plaintiff is a member of the
7 Class and has suffered the alleged violations of California Labor Code §§ 201-204, 226, 226.7,
8 1194, 1197, 1197.1, 2698, *et seq.*, and 2802 and the applicable IWC Wage Orders.

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

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

25 24. The prosecution of separate actions by the individual class members, even if
26 possible, would create a substantial risk of (a) inconsistent or varying adjudications with respect
27 to individual Class members against the Company and which would establish potentially
28 incompatible standards of conduct for the Company, and/or (b) adjudications with respect to

1 individual Class members which would, as a practical matter, be dispositive of the interest of the
2 other Class members not parties to the adjudications or which would substantially impair or
3 impede the ability of the Class members to protect their interests. Further, the claims of the
4 individual members of the Class are not sufficiently large to warrant vigorous individual
5 prosecution considering all of the concomitant costs and expenses.

6 25. Such a pattern, practice and uniform administration of corporate policy regarding
7 illegal employee compensation described herein is unlawful and creates an entitlement to
8 recovery by Plaintiffs and the Class identified herein, in a civil action any and all applicable
9 penalties and/or damages, reasonable attorneys' fees, and costs of suit according to the mandate
10 of California Labor Code §§ 218.5, 226, 1194, 2698, *et seq.*, and 2802, the applicable IWC Wage
11 Orders, and Code of Civil Procedure § 1021.5.

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

15 **FIRST CAUSE OF ACTION**

16 **VIOLATION OF LABOR CODE § 226(a)**

17 **(AGAINST DEFENDANTS AND DOES 1-50 BY PLAINTIFF AND THE WAGE 18 STATEMENT, WAGE AND REST PERIOD CLASSES)**

19 27. The preceding paragraphs are re-alleged and incorporated by this reference.

20 28. Defendants failed in its affirmative obligation to provide accurate itemized wage
21 statements in violation of Labor Code § 226(a). Specifically, Defendants violated Labor Code §
22 226(a) by failing to list the inclusive dates for which the employee was being paid and the name
23 of the employer. Additionally, Defendants violated Labor Code § 226(a) by not reflecting the
24 correct wages and rest period premium wages.

25 29. Such a pattern, practice and uniform administration of corporate policy as
26 described herein is unlawful and creates an entitlement to recovery by Plaintiff and the Class
27 identified herein, in a civil action, for all damages or penalties pursuant to Labor Code § 226,
28 including interest thereon, attorneys' fees, and costs of suit according to the mandate of California
Labor Code § 226.

SECOND CAUSE OF ACTION

**VIOLATION OF LABOR CODE §§ 201-204, 226, 1194, 1197, and 1197.1
(AGAINST THE DEFENDANTS AND DOES 1-50 BY PLAINTIFFS AND WAGE
CLASS)**

30. The preceding paragraphs are re-alleged and incorporated by this reference.

31. Defendants violated Labor Code §§ 201-204, 226, 1194, 1197, and 1197.1 by failing to pay Plaintiff and Class Members their agreed-upon hourly rates. example, with respect to Plaintiff, Defendants agreed to pay Plaintiff an hourly rate of \$19.00, but paid Plaintiff only \$18.00 per hour.

32. Labor Code § 201 provides if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately. Labor Code § 202 provides that an employee is entitled to receive all unpaid wages no later than 72 hours after an employee quits his or her employment, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting. Labor Code § 203 provides that if an employer willfully fails to pay wages owed in accordance with Labor Code §§ 201 and 202, then the wages of the employee shall continue as a penalty from the due date, and at the same rate until paid, but the wages shall not continue for more than thirty (30) days.

33. Based on Defendants' failure to pay all wages to Plaintiff and Class Members, and as a matter of policy and practice, Defendants failed to timely pay Plaintiff and Class Members all due wages or timely pay all due wages upon separation of employment. On information and belief, Defendants were advised by skilled lawyers and knew, or should have known, of the mandates of the Labor Code as it relates to Plaintiff's allegations. Defendants thus violated Sections 201-204 by not timely paying all due wages and not timely paying all due wages upon the separation of employment.

34. As a pattern and practice, Defendants regularly and willfully failed to pay Plaintiff and other members of the Class their correct wages and accordingly owe damages, attorneys' fees, costs, restitution, and applicable penalties, including waiting time penalties.

THIRD CAUSE OF ACTION

VIOLATION OF CAL. LABOR CODE § 226.7

(AGAINST UNIS BY PLAINTIFF AND REST PERIOD CLASS)

35. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as though fully set for herein.

36. Pursuant to IWC Wage Order No. 4-2001(12), an employer is obligated to authorize and permit a 10-minute off-duty rest period for every four hours worked, or a major fraction thereof. If an employer fails to provide a rest period pursuant to the Wage Orders, the employer is in violation of Labor Code § 226.7(b) and owes the employee an additional hour of pay at the employee's regular rate of compensation for each workday that the rest break is not provided. Here, Defendant violated these provisions by failing to authorize and permit 10-minute off-duty rest periods for every 3.5 hours worked. Therefore, Defendant owes Plaintiff and the Class premium pay under Labor Code § 226.7(b).

37. Plaintiff is informed and believes and based thereon alleges that Defendants willfully failed to pay employees who were not provided the opportunity to take rest breaks the premium compensation set out in Labor Code § 226.7 and that Plaintiff and those employees similarly situated as him are owed wages for the rest period violations set forth above. Plaintiff is informed and believes and based thereon alleges Defendants' willful failure to provide Plaintiff and other members of Class the wages due and owing them upon separation from employment results in a continued payment of wages up to thirty (30) days from the time the wages were due. Therefore, Plaintiff and other members of Class who have separated from employment are entitled to compensation pursuant to Labor Code § 203.

38. Such a pattern, practice and uniform administration of corporate policy as described herein is unlawful and creates an entitlement to recovery by the Plaintiff and other members of Class identified herein, in a civil action, for the unpaid balance of the unpaid premium compensation pursuant to Labor Code § 226.7, including interest thereon, penalties and costs of suit.

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(BY PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS)

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1 Development Agency (the "LWDA") and to Defendant via certified mail of the violations of
2 Labor Code §§ 201-204, 226, 226.7, 1194, 1197, 1197.1, and 2802.

3 47. As of the date of the filing of this Complaint, the LWDA has not notified Plaintiff
4 whether it intends to investigate the claims. Therefore, Plaintiff may seek applicable penalties
5 under the PAGA.

6 48. 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 on behalf of
8 the State of California, in a civil action, for penalties pursuant to the PAGA, Labor Code §§ 226.3
9 and 2699(a), including interest thereon, attorneys' fees, and costs of suit according to the mandate
10 of PAGA for Defendant's violations of Labor Code §§ 201-204, 226, 226.7, 1194, 1197, 1197.1,
11 and 2802, as well as attorneys' fees and costs.

12 **SIXTH CAUSE OF ACTION**

13 **UNLAWFUL OR UNFAIR BUSINESS PRACTICES**

14 **(AGAINST THE COMPANY AND DOES 1-50 BY PLAINTIFF AND THE CLASS, AND** 15 **THE WAGE AND REST PERIOD CLASSES)**

16 49. The preceding paragraphs are re-alleged and incorporated by this reference.

17 50. Plaintiff is informed and believes that at Defendants have engaged and continue to
18 engage in unfair and unlawful business practices in California by utilizing the employment
19 policies and practices alleged herein, including the failures to pay all wages owed, provide rest
20 periods, and reimburse business expenses.

21 51. Defendants' utilization of such unfair and unlawful business practices constitutes
22 unfair and unlawful competition and provides an unfair advantage over Defendants' competitors,
23 as proscribed by the UCL. Defendants have deprived Plaintiff and the Class the minimum
24 working condition standards and conditions due to them under the Labor Code and applicable
25 IWC Wage Orders.

26 52. Such a pattern, practice, and uniform administration of corporate policy is
27 unlawful and entitles Plaintiff and the Class to full restitution of all monies withheld, acquired, or
28 converted by Defendants by means of the unfair practices complained of herein, including interest
thereon, and costs of suit.

PRAYER FOR RELIEF

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

1. For an order certifying the proposed Classes;
2. For an order appointing Plaintiff as the representative of the Classes as described herein;
3. For an order appointing counsel for Plaintiff as Class counsel;
4. Upon the First Cause of Action, for damages and/or penalties pursuant to California Labor Code § 226, and for costs and attorneys' fees;
5. Upon the Second Cause of Action, for damages, including unpaid wages and interest thereon, applicable penalties, and costs and attorneys' fees pursuant to Section 203, 210, 218, 218.5, 218.6, 1194, 1197, and 1197.1;
6. Upon the Third Cause of Action, for damages and/or penalties pursuant to Labor Code §§ 201-204, 226, and 226.7, and for costs;
7. Upon the Fourth Cause of Action, for damages and/or penalties pursuant to Labor Code § 2802, and for costs and attorneys' fees;
8. Upon the Fifth Cause of Action, for civil penalties according to proof pursuant to Labor Code §§ 226.3 and 2698, *et seq.*;
9. Upon the Sixth Cause of Action, for restitution of all funds unlawfully acquired by Defendants by any acts or practices declared to be in violation of the UCL, including interest thereon, and for costs;
10. On all causes of action, for attorneys' fees and costs as provided by California Labor Code §§ 218.5, 226, 1194, 2698, *et seq.*, 2802, and Code of Civil Procedure § 1021.5; and
11. For such other and further relief as the Court may deem just and proper.

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DATED: September 9, 2021

POLARIS LAW GROUP, LLP

By: 
William L. Marder
Attorneys for PLAINTIFF and the CLASS