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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
 IN AND FOR THE COUNTY OF LOS ANGELES**

MARCHETTA STEPHENS, an individual, on
 behalf of herself and all others similarly
 situated;

Plaintiff,

vs.

THE CHILDREN'S COLLECTIVE, a
 California corporation; and DOES 1 through
 100, inclusive;

Defendants.

Case No. 21STCV36444

**FIRST AMENDED CLASS ACTION
 COMPLAINT FOR:**

- (1) **FAILURE TO PAY OVERTIME WAGES;**
- (2) **FAILURE TO PAY SICK PAY AT THE LEGAL PAY RATE;**
- (3) **WAITING TIME PENALTIES;**
- (4) **FAILURE TO PROVIDE ACCURATE WAGE STATEMENTS;**
- (5) **VIOLATIONS OF BUSINESS AND PROFESSIONS CODE §§ 17200, ET SEQ.**

DEMAND FOR JURY TRIAL

FILED
 Superior Court of California
 County of Los Angeles

01/06/2022

Sherri R. Carter, Executive Officer / Clerk of Court

By: D. Tamayo Deputy

1 Plaintiff Marchetta Stephens brings this action against Defendant The Children’s Collective,
2 Inc., a California corporation (“Defendant” or “Children’s Collective”) and Does 1 through 100,
3 inclusive, on behalf of themselves and all others similarly situated, and alleges on information and
4 belief as follows:

5 **I. INTRODUCTION**

6 1. According to its website, Children’s Collective is an organization that provides
7 support for child development and school readiness activities to preschool and elementary school
8 children, and developmentally appropriate activities to infants and toddlers, allowing parents to
9 seek and maintain employment. Children’s Collective also provides support services to improve
10 the health and status of children, youth, and adults.

11 2. In California, Children’s Collective employs many non-exempt, hourly employees.

12 3. Children’s Collective systematically underpays these employees, including Plaintiff,
13 by failing to pay overtime premium wages for all work time over eight hours in a day and/or 40
14 hours in a week. Because employees typically work more than eight hours in a day or 40 in a week,
15 they lose time payable at their overtime rate.

16 4. Children’s Collective further systematically underpays employees, including
17 Plaintiff, by failing to pay sick pay at the legal rate. Affected employees, including Plaintiff,
18 received “hazard pay” that was not included in the regular rate of pay, resulting in underpayment
19 of sick pay, which Defendant paid instead at the employees’ base rate.

20 5. Children’s Collective’s unlawful policy of failing to pay overtime wages also results
21 in incorrect wage statements that fail to accurately reflect all hours worked and compensation due,
22 among other things. The under-compensation of overtime wages also means Children’s Collective
23 fails to pay all wages due upon termination.

24 6. Children’s Collective’s employment practices are unfair to their employees and
25 competitors. Plaintiff and the Class Members bring this complaint for recovery of wages, penalties,
26 and unjust gains realized by Children’s Collective. On behalf of themselves and the putative class,
27 Plaintiff brings this action for violation of California’s Labor Code, Code of Regulations, Industrial

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1 Wage Commission (“IWC”) Wage Orders, California’s Business & Professions Code and under
2 California’s Private Attorney’s General Act, §§ 2698 *et seq.*

3 **II. JURISDICTION AND VENUE**

4 7. The amount in controversy is sufficient to implicate the general jurisdiction of the
5 Superior Court of the County of Los Angeles.

6 8. Based on information and belief and records maintained by the California Secretary
7 of State, venue is proper in this judicial district, under Code of Civil Procedure sections 395 and
8 395.5. This Complaint is based upon material acts that occurred in Los Angeles County.

9 **III. THE PARTIES**

10 9. Plaintiff Marchetta Stephens is, and at all times mentioned was, an individual
11 residing in the County of Los Angeles, California. She was employed by and worked for Defendant
12 as an assistant teach in the State of California, County of Los Angeles. Defendant employed
13 Stephens from approximately December 2020 through June 30, 2021.

14 10. Plaintiff is informed and believes Children’s Collective is, and at all times
15 mentioned was, an active corporation organized and existing under and by virtue of the laws of the
16 State of California. Children’s Collective does business in the County of Los Angeles. Defendant
17 employed Plaintiff and Class Members during the Class Period or is otherwise liable for the causes
18 of action set forth herein.

19 11. Plaintiff does not know the true names and/or capacities, whether individual,
20 partners, or corporate, of the Defendants sued herein as Does 1 through 100, inclusive, and for that
21 reason sue said Defendants under fictitious names. Plaintiff will seek leave to amend this Complaint
22 when the true names and capacities of these Defendants are ascertained. Plaintiff is informed and
23 believes and thereon alleges that these Defendants are responsible in whole or in part for Plaintiff’s
24 and Class Members’ alleged damages.

25 12. At all times mentioned, Defendants were the agents, alter egos, servants, joint
26 venturers, joint employers, employees, or labor contractors for each other. Defendants acted with

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1 the consent of the other Co-Defendants and acted within the course, purpose, and scope of their
2 agency, service, contract, or employment. All conduct was ratified by Defendants, and each of
3 them.

4 **IV. CLASS ACTION ALLEGATIONS**

5 13. Under Code of Civil Procedure section 382, Plaintiff brings this lawsuit as a class
6 action on behalf of herself and all other similarly situated members of the Class, defined below.
7 This action satisfies the ascertainability, numerosity, commonality, typicality, adequacy,
8 predominance, and superiority requirements of class actions.

9 14. **Class Definition:** The Class is defined as follows: All current and former non-
10 exempt employees employed by Children's Collective in California ("Class" or "Class Members").

11 15. Plaintiff is a member of this Class.

12 16. The class period extends, at a minimum, four years prior to the filing of this
13 Complaint, as extended by any applicable tolling principles or the like.

14 17. Excluded from the Class are: (1) Defendant, entities in which Defendant has a
15 controlling interest, and their legal representatives, officers, directors, assigns, and successors; and
16 (2) the judge to whom this case is assigned and any member of the judge's immediate family.

17 18. Plaintiff reserves the right, under California Rules of Court, rule 3.765(b), to amend
18 or modify the Class Definition. This includes, but is not limited to, providing greater specificity or
19 dividing into subclasses.

20 19. **Numerosity:** The potential members of the Class are so numerous that joinder of
21 all members is impracticable. Plaintiff does not yet know the identity of all Class Members but is
22 informed and believes and thereon alleges the Class is comprised of at least 100 individuals who
23 worked as non-exempt employees for Defendant during just the last four years. Records maintained
24 and, in the possession, and control of Defendant or otherwise readily obtainable from third parties
25 will easily identify Class Members.

26 20. **Ascertainability:** The Class is comprised of an easily ascertainable set of persons
27 who work or worked for Defendant as non-exempt employees in California. Class members can
28 easily recognize whether they belong in the class by reading the class definition above. And all the

names and contact information for all class members can easily be determined from the employment records that Defendant maintains in the regular course of business.

21. **Community of Interest:** There is a well-defined community of interest among Class Members, and the disposition of the claims of the Class Members in a single action will provide substantial benefits to all parties and to the Court.

22. **Typicality:** Plaintiff's claims are typical of the Class. Like all Class Members, Plaintiff suffered the alleged violations of California law and resulting damages.

23. **Commonality:** Defendant's misconduct is common to all Class Members. Defendant required uncompensated labor from all Class Members, failed to pay them for all hours worked, and failed to provide overtime premium pay, among other things. This resulted in damages.

24. **Common Questions of Law and Fact:** The numerous questions of law and fact common to all Class Members predominate over any questions affecting only individual Class Members. These include, but are not limited to:

- a. Whether Defendant failed to pay overtime premium wage for all overtime hours worked;
- b. Whether Defendant failed to pay sick pay at the legal rate;
- c. Whether Defendant provided adequate wage statements;
- d. Whether Defendant timely provided all wages when due;
- e. Whether Defendant's conduct violated the Business and Professional Code;
- f. Whether the Class is entitled to equitable relief and to what extent; and
- g. Whether compensatory and other types of damages should be awarded.

25. **Adequacy of Representation:** Plaintiff will fairly and adequately represent and protect the interests of the Class. Her counsel is experienced in prosecuting class actions. Plaintiff and her counsel are committed to vigorously prosecuting this action on behalf of the Class and have the resources to do so. Neither Plaintiff nor her counsel have any interests adverse to those of the Class.

26. **Superiority of Class Action:** A class action is superior to all other available methods for the fair and efficient adjudication of this controversy. Based on the relatively small

1 size of the individual Class claims, absent a class action, most would likely find the cost of litigating
2 their claims against Defendant to be prohibitive. The class treatment of common questions of law
3 and fact is also superior to multiple individual actions or piecemeal litigation in that it conserves
4 the resources of the courts and the litigants and promotes consistency and
5 efficiency of adjudication. The consideration of common questions of fact and law will conserve
6 judicial resources and promote a fair and consistent resolution of these labor violations.

7 **V. FIRST CAUSE OF ACTION**

8 **(By Plaintiff On Behalf of The Class Members Against Defendant**
9 **For Failure to Pay Overtime Wages)**

10 27. Plaintiff incorporates by reference each and every allegation contained above.

11 28. Plaintiff brings this claim individually and on behalf of Class Members.

12 29. Under Labor Code sections 510, 1194, and 1198, Defendant must compensate
13 Plaintiff and the Class Members at the rate of no less than one and one-half times the regular rate
14 of pay for any work in excess of eight hours in one workday and any work in excess of 40 hours in
15 any one workweek.

16 30. Defendant, as a matter of established company policy and procedure, at each and
17 every one of the individual facilities owned and/or operated by Defendant, consistently
18 administered a uniform company policy and practice as to the pay policies regarding Plaintiff and
19 the class members. Under this uniform policy and procedure, Defendant scheduled to work and in
20 fact required Plaintiff and the class members to work in excess of eight hours per workday and/or
21 in excess of forty 40 hours per workweek without paying overtime compensation for all overtime
22 hours.

23 31. As a proximate result of Defendant's unlawful conduct, Plaintiff and the Class
24 Members sustained damages and are entitled to recover unpaid wages, interest, applicable penalties,
25 attorney's fees, and costs.

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1 **VI. SECOND CAUSE OF ACTION**

2 **(By Plaintiff On Behalf of The Class Members Against Defendant for Failure to Pay Sick**
3 **Pay at the Legal Rate)**

4 32. Plaintiff incorporates by reference each and every allegation contained above.

5 33. Plaintiff brings this claim individually and on behalf of Class Members.

6 34. Under Labor Code section 246(l), Defendant must compensate Plaintiff and the
7 Class Members for sick leave at the regular rate of pay, which must include all remuneration.

8 35. Defendant, as a matter of established company policy and procedure, failed to pay
9 Plaintiff and the Class Members for paid sick days in a manner that complied with Labor Code
10 section 246(l). Specifically, Defendant failed to include “hazard pay” in the calculation of the
11 regular rate of pay, resulting in underpayment of sick pay.

12 36. As a proximate result of Defendant’s unlawful conduct, Plaintiff and the Class
13 Members sustained damages and are entitled to recover unpaid wages, interest, applicable penalties,
14 attorney’s fees, and costs.

15 **VII. THIRD CAUSE OF ACTION**

16 **(By Plaintiff On Behalf of The Class Members Against Defendant**
17 **For Failure to Timely Provide Wages and Waiting Time Penalties)**

18 37. Plaintiff incorporates by reference each and every allegation contained above.

19 38. Plaintiff brings this claim individually and on behalf of Class Members.

20 39. At all relevant times, Defendant was required, under Labor Code Sections 201, 202,
21 and 203, to timely pay Plaintiff and her fellow class members all wages owed upon discharge (e.g.
22 termination or quitting). To date, Defendant has knowingly and willfully refused to pay all overtime
23 premium wages owed to Plaintiff and her colleagues for all overtime hours worked. Defendant has
24 also knowingly and willfully refused to pay underpaid sick leave compensation. As such, Defendant
25 has failed to comply with Sections 201, 202, and 203. Defendant’s failure was willful and
26 intentional.

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40. Defendant's failure to pay all owed wages with or soon after discharge is a violation of sections 201, 202 and 203, entitling Plaintiff and the Class Members to recover waiting time penalties.

41. Plaintiff and the Class Members are entitled to recover waiting time penalties and unpaid wages along with interest, applicable penalties, attorney's fees, and costs.

VIII. FOURTH CAUSE OF ACTION

**(By Plaintiff On Behalf of The Class Members Against Defendant
For Failure to Provide Accurate Wage Statements)**

42. Plaintiff incorporates each and every allegation contained above.

43. Plaintiff brings this claim individually and on behalf of the Class Members.

44. Under Labor Code Section 226, Employers must furnish employees with accurate, itemized wage statements at the time of payment of wages. These statements must show detailed information, including but not limited to, each hour worked, each wage rate applied, total wages earned, and hours of compensable rest and recovery periods. This ensures employees are able to determine whether or not they are being paid wages in accordance with California law.

45. Defendant knowingly and intentionally violated its duty to provide accurate wage statements by failing to provide accurate wage statements. Because of Children's Collective's failure to pay all overtime premium wages owed, and failure to pay the full amount owed to Plaintiff and the Class Members when they used sick leave, Children's Collective has inaccurately stated gross wages earned, net wages earned, and all applicable hourly rates in effect, and the corresponding number of hours worked at each hourly rate on each wage statement. Independently, Children's Collective failed to accurately state the number of hours worked at each hourly rate and total number of hours worked.

46. As a result of their receipt of inaccurate wage statements, Plaintiff and her fellow Class Members were injured as a result. For example, Plaintiff and her fellow class members were not aware of what their true wages should have been and how such wages were calculated, and they suffered economic loss in the form of lower wages for their labor.

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47. Plaintiff and the Class Members are entitled to and seek injunctive relief requiring Defendant to comply with Labor Code Sections 226.2, 226, and 1174, among other provisions. Plaintiff and the Class Members are also entitled to and seek actual and statutory damages available for such violations under Labor Code Sections 226.2, 226, and 1174.5, as well as interest, costs, and attorneys' fees.

IX. FIFTH CAUSE OF ACTION

**(By Plaintiff On Behalf of The Class Members Against Defendant
For Violations of the UCL)**

48. Plaintiff incorporates each and every allegation contained above.

49. Plaintiff brings this claim individually and on behalf of the Class Members.

50. Business & Professions Code Sections 17200, *et seq.* ("UCL") prohibits unfair competition in the form of any unlawful, unfair, deceptive, or fraudulent business practice.

51. Defendant has committed ongoing unlawful business practices within the meaning of the UCL by violating California's Labor Code as described above, including by:

a. Failing to pay the Class Members, including Plaintiff, overtime premium wages for overtime hours worked;

b. Failing to pay the Class Members, including Plaintiff, sick pay at the legal rate;

c. Failing to pay the Class Members, including Plaintiff, wages when due; and

d. Failing to provide accurate wage statements to the Class Members, including Plaintiff.

52. Plaintiff, Class Members, and the general public have lost money or property as a result of Defendant's acts of unfair competition.

53. Under the UCL, Plaintiff and her fellow Class Members are entitled to restitution of the money or property acquired by Defendant by means of such business practices, in amounts not yet known, but to be ascertained at trial.

54. Under the UCL, Plaintiff, Class Members, and the general public, are also entitled to injunctive relief against Defendant's ongoing continuation of such unlawful business practices, including public injunctive relief.

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55. If Defendant is not enjoined from engaging in the unlawful business practices described above, Plaintiff, Class Members, and the general public will be irreparably injured. The exact extent, nature, and amount of such injury is difficult to ascertain at this time.

56. The Class, including Plaintiff, has no plain, speedy, and adequate remedy at law.

57. Defendant, if not enjoined by this Court, will continue to engage in the unlawful business practices described above in violation of the UCL, in derogation of the rights of Plaintiff, Class Members, and of the general public.

58. The success of Plaintiff and Class Members in this action will result in the enforcement of important rights affecting the public interest by conferring a significant benefit upon the general public.

59. Private enforcement of these rights is necessary as no public agency has pursued enforcement. There is a financial burden incurred in pursuing this action, and it would be against the interests of justice to require the payment of attorneys' fees from any recovery in this action.

60. Plaintiff and Class Members are therefore entitled to an additional award of attorney's fees and costs of suit under Code of Civil Procedure section 1021.5.

X. SIXTH CAUSE OF ACTION

**(By Plaintiff on Behalf of All Aggrieved Employees for Civil Penalties under
Private Attorney General Act)**

61. Plaintiff incorporates each and every allegation contained above.

62. Plaintiff brings this claim on behalf of all Aggrieved Employees. Aggrieved Employees are all current and former employees of Defendants who were employed in California one year before Plaintiff filed notice with the Labor and Workforce Development Agency to the present and who suffered the Labor Code violations alleged in the foregoing paragraphs.

63. Plaintiff is an aggrieved employee as defined in Labor Code section 2699(a).

64. Defendants have committed the following violations of the California Labor Code against Plaintiff, and, on information and belief, against other current or former employees while they were and are employed by Defendants: Labor Code sections 201-203, 226, 246, 510, 1194, and 1198.

65. Under Labor Code sections 2699(a), et seq., Plaintiff, on behalf of all Aggrieved Employees, seeks to recover civil penalties as provided by statute, including but not limited to Labor Code sections 203, 226.3, 558, 1197.1, and 2699, for which Defendants are liable as a result of their violations of the above-mentioned Labor Code sections in an amount to be proven at trial.

66. Plaintiff has complied with all administrative requirements and pre-conditions contained within Labor Code section 2699.3. Plaintiff's counsel electronically submitted the Initial PAGA Notice on October 4, 2021, to the Labor and Workforce Development Agency ("LWDA"). A copy of the notice was also provided to Defendants. The required 60-day period passed without any notice from the LWDA stating an intention to investigate the claims provided in the notice.

XI. REQUEST FOR JURY TRIAL

67. Plaintiff hereby requests a Trial by Jury.

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PRAYER FOR RELIEF

Plaintiff prays for judgment against Defendant, as follows:

1. For compensatory damages according to proof;
2. For enhanced damages, liquidated damages, premium pay, and penalties, as permitted under California law;
3. For waiting time penalties under Labor Code section 203;
4. For disgorgement of all monies which Defendant has illegally gained;
5. For restitution according to proof at trial;
6. For an order enjoining Defendant from any further acts and practices which violate the UCL;
7. For pre-judgment interest;
8. For all available Civil Penalties;
9. For costs of suit;
10. For attorneys' fees; and
11. For such other and further relief as this Court may deem just and proper.

Respectfully submitted:

DATED: January 6, 2022

GLICK LAW GROUP, P.C.

By: _____

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