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Judge William Claster
CX-104

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Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ORANGE

CHRISTILINE SAMERA, as a private attorney
general,

Plaintiff,

vs.

FOUNTAIN VALLEY REGIONAL HOSPITAL
AND MEDICAL CENTER, a California
corporation; and DOES 1 through 50, inclusive,

Defendants.

Case No. 30-2022-01243693-CU-OE-CXC

**REPRESENTATIVE ACTION COMPLAINT
UNDER THE LABOR CODE PRIVATE
ATTORNEYS GENERAL ACT OF 2004**

DEMAND OVER \$25,000.00

1 Plaintiff, Christiline Samera, as a proxy for the State of California, submits this representative
2 action Complaint against Defendant, Fountain Valley Regional Hospital and Medical Center, and Does
3 1 through 50 (collectively, “Defendants”).

4 INTRODUCTION

5 1. Pursuant to the Labor Code Private Attorneys General Act of 2004, Labor Code §§ 2698
6 et seq. (“PAGA”), this representative action Complaint seeks penalties and other relief for Defendants’
7 violations of the California Labor Code. Defendants’ systemic employment practices have deprived
8 aggrieved employees of the benefits and protections of Labor Code sections 201-204, 210, 226, 226.3,
9 226.7, 512, 558, and 1198, among other provisions.¹

10 2. Plaintiff is informed and believes that Defendants have jointly and severally acted
11 intentionally and with deliberate indifference and conscious disregard to the rights of employees by
12 failing to pay an additional hour of regular rate wages for missed, late, or interrupted meal periods and rest
13 periods and by failing to provide complete and accurate itemized wage statements.

14 3. Plaintiff and other non-exempt employees regularly work shifts of at least 3.5 hours
15 requiring rest periods and shifts of more than 5.0 hours requiring meal periods. Plaintiff and other non-
16 exempt employees also earn non-base hourly wages or other non-hourly, non-discretionary
17 remuneration, including for example shift differentials. Defendants fail to consider such earnings when
18 Plaintiff and other non-exempt employees’ meal periods and rest periods are missed, late, or interrupted.
19 Specifically, rather than pay an additional hour of regular rate wages for are a missed, late, or interrupted
20 meal period or rest period, Defendants routinely underpay the additional hour of wages to Plaintiff and
21 other non-exempt employees at their base hourly rates of pay.

22 4. As a result, Defendants also routinely fail to timely pay all due wages to Plaintiff and
23 other non-exempt employees and routinely fail to provide wage statements that accurately show and
24 itemize all applicable hourly rates in effect during the pay period, gross wages earned, and net wages
25 earned. Separately and independently, Defendants also routinely fail to provide Plaintiff and other
26 employees with wage statements that show the name of the legal entity that is the employer.

27
28

1 Except as otherwise noted, all “Section” references are to the Labor Code.

Specifically, Defendants routinely provide wage statements that identify the employer as “Fountain Valley Medical Reg Hospital,” even though no such employer appears to exist.

5. The Labor Code is broadly remedial in nature. Its laws serve an important public interest in establishing minimum working conditions and requirements in California. These labor standards protect employees from onerous terms and conditions of employment or exploitation by employers who have superior economic and bargaining power. Plaintiff is informed and believes that Defendants have engaged in, among other things, a system of willful violations of the Labor Code by creating and maintaining policies, practices, and customs that knowingly deny its employees the above stated rights and benefits.

6. Defendants’ pattern, practice, and uniform administration of corporate policy in violation of the Labor Code is unlawful. Proof of unlawful business practices will establish entitlement under Sections 201-204, 210, 226, 226.3, 226.7, 512, and 1198, applicable IWC Wage Orders, and Code of Civil Procedure section 1021.5 to recover applicable penalties, reasonable attorneys’ fees, and costs of suit.

JURISDICTION AND VENUE

7. The Complaint seeks relief exceeding \$25,000.00. The Court has jurisdiction of Defendants’ violations of Sections 201-204, 226, 226.7, and 512.

8. Venue is proper in the County of Orange. Plaintiff worked for Defendants in Fountain Valley, California.

PARTIES

9. Plaintiff has worked for Defendants since 1998. As a registered nurse, Plaintiff is paid on an hourly basis as a non-exempt employee and also earns non-base hourly wages or other non-hourly, non-discretionary remuneration, including for example shift differentials. When Plaintiff works more than five hours in a workday, she regularly is not provided lawful meal periods or rest periods. Plaintiff also is regularly not provided an additional hour of regular rate wages for a missed, late, or interrupted meal period or rest period but instead paid an additional hour of wages at her base hourly rate of pay. Plaintiff has not been timely paid all due wages during employment and also is not provided with accurate itemized wage statements. Plaintiff thus is a victim of the policies, practices, and customs of

Defendants complained of in this action in ways that have deprived her of the rights guaranteed by the Labor Code.

10. Plaintiff is informed and believes that Fountain Valley Regional Hospital and Medical Center was and is a California corporation. Plaintiff is informed and believes that at all times herein mentioned named defendants and Does 1 through 50, were and are corporations, business entities, individuals, or partnerships that are and were licensed to do business and actually doing business in the State of California. Based upon all the facts and circumstances incident to Defendants' business, Defendants are subject to Sections 201-204, 226, 226.7, and 512.

11. Plaintiff does not know the true names or capacities of the defendants sued herein as Does 1 through 50, whether individual, partner, or corporate, and for that reason, said defendants are sued under such fictitious names. Plaintiff prays for leave to amend this Complaint when the true names and capacities are known. Plaintiff is informed and believes that each of said fictitious defendants was responsible in some way for the matters alleged herein and proximately caused the illegal employment practices, wrongs, and injuries complained of herein.

12. At all times herein mentioned, each of said Defendants participated in the doing of the acts alleged herein. Defendants, and each of them, were the agents, servants, or employees of each of the other Defendants, as well as the agents of all Defendants, and were acting within the course and scope of said agency and employment.

13. Plaintiff is informed and believes that at all times material hereto, each of said Defendants was the agent, employee, alter ego, or joint venturer of, or was working in concert with, each of the other Defendants and was acting within the course and scope of such agency, employment, joint venture, or concerted activity. To the extent said acts, conduct, or omissions were perpetrated by certain Defendants, each of the remaining Defendants confirmed and ratified said acts, conduct, or omissions of the acting Defendants.

14. Plaintiff is informed and believes that at all times material hereto each of the Defendants (i) aided and abetted the acts and omissions of each of the other Defendants in proximately causing the alleged harms, or (ii) were members of, engaged in, and acting within the course and scope of, and in pursuance of, a joint venture, partnership, or common enterprise.

1 **PAGA ALLEGATIONS**

2 15. Pursuant to PAGA, Plaintiff sues as a proxy for the State of California. Plaintiff seeks
3 penalties for Defendants' violations of Sections 201-204, 210, 226, 226.3, 226.7, 512, 558, and 1198
4 committed against all aggrieved employees since November 29, 2020. Under Section 2699(c), Plaintiff
5 is an "aggrieved employee," as one or more of the alleged violations was committed against Plaintiff as
6 an employee of Defendants.

7 16. On or about November 29, 2021, Plaintiff sent written notice to the Labor & Workforce
8 Development Agency ("LWDA") of Defendants' violations of Sections 201-204, 210, 226, 226.3,
9 226.7, 512, 558, and 1198. Plaintiff simultaneously sent written notice to Defendants via certified mail.
10 The LWDA has not elected to investigate the allegations. As such, pursuant to Section 2699(a) and (f),
11 Plaintiff seeks recovery of all applicable penalties for Defendants' violations against all aggrieved
12 employees for the period described above.

13 **FIRST CAUSE OF ACTION**

14 **Penalties for Labor Code Violations (Lab. Code §§ 2698 et seq.)**

15 **(By Plaintiff as a Proxy for the State Against All Defendants)**

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

17 18. **Meal and Rest Period Violations:** For Plaintiff and other non-exempt employees,
18 Defendants were required to comply with Sections 226.7 and 512 and the applicable IWC Wage Order.
19 Section 512(a) generally prohibits employment of an individual for a work period of more than five
20 hours per day without providing the employee with an uninterrupted, duty-free meal period of at least 30
21 minutes. Section 226.7(b) provides that an employer shall not require an employee to work during a
22 meal period. Section 226.7(c) states that "the employer shall pay the employee one additional hour of
23 pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery
24 period is not provided."

25 19. For Plaintiff and other exempt employees, Defendants were required to comply with
26 Section 226.7 and the applicable IWC Wage Order. Section 1198 makes unlawful conditions of labor
27 that are prohibited by the applicable IWC Wage Order. The applicable laws generally require an
28 employer to provide a duty-free, 10-minute rest period for every four hours worked, or major fraction

1 thereof. Section 226.7(b) provides that an employer shall not require an employee to work during a rest
2 period. Section 226.7(c) states that “the employer shall pay the employee one additional hour of pay at
3 the employee’s regular rate of compensation for each workday that the meal or rest or recovery period is
4 not provided.”

5 20. As a matter of policy and practice, whenever Defendants pay an additional hour of wages
6 to Plaintiff and aggrieved employees for missed, late, or interrupted meal periods or rest periods,
7 Defendants pay an additional hour of wages at the base hourly rate of pay. As a matter of policy and
8 practice, in workweeks in which Plaintiff and aggrieved employees earn non-base hourly wages or other
9 non-hourly, non-discretionary remuneration, Defendants fail to consider such wages when calculating
10 the regular rate of pay for purposes of paying the additional hour of wages. As such, Plaintiff and
11 aggrieved employees are owed additional wages for missed, late, or interrupted meal periods and rest
12 periods.

13 21. Moreover, all owing wages must be paid timely. Section 204 provides that wages are
14 generally due and payable no later than seven days after the end of a pay period or at least twice during
15 each calendar month, on days designated in advance as the regular paydays. Based on the above and as
16 a matter of policy and practice, Defendants fail to timely pay Plaintiff and aggrieved employees all due
17 wages during employment and are subject to applicable penalties.

18 22. **Failure to Provide Accurate Itemized Wage Statements:** Section 226(a) requires an
19 employer to furnish to its employees itemized wage statements that show accurate information,
20 including without limitation, all applicable hourly rates in effect during the pay period, gross wages
21 earned, net wages earned, and the name of the legal entity that is the employer.

22 23. Defendants fail to provide accurate itemized wage statements to Plaintiff and aggrieved
23 employees. Because of the above violations and as a matter of policy and practice, Defendants fail to
24 furnish Plaintiff and aggrieved employees with wage statements that accurately show the applicable hourly
25 rates in effect during the pay period, gross wages earned, and net wages earned.

26 24. As a matter of policy and practice, Defendants also fail to provide Plaintiff and aggrieved
27 employees with wage statements that show the name of the legal entity that is the employer.
28

Specifically, Defendants provide wage statements that identify the employer as “Fountain Valley Medical Reg Hospital,” even though no such employer appears to exist.

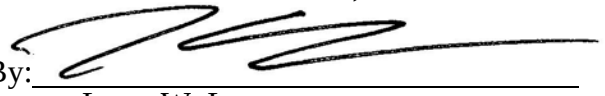
PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendants, jointly and severally, as follows:

1. Upon the First Cause of Action for penalties according to proof pursuant to Section 2699(a), (f), and (g), and for costs and attorneys’ fees;
2. Upon each cause of action for attorneys’ fees and costs as provided by the Labor Code and Code of Civil Procedure section 1021.5; and
3. For such other and further relief that the Court may deem just and proper.

DATED: February 2, 2022

DIVERSITY LAW GROUP, P.C.

By: 

Larry W. Lee
Simon L. Yang
Attorneys for Plaintiff