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and on behalf of all others similarly situated.

FILED

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SUPERIOR COURT
COUNTY OF IMPERIAL
CLERK OF THE COURT
BY Angela Jantz, DEPUTY

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF IMPERIAL**

LISAJOANN CHING, individually and on
behalf of all others similarly situated,

Plaintiffs,

v.

PHOENIX HOUSES OF CALIFORNIA,
INC.; PHOENIX HOUSES OF LOS
ANGELES, INC.; PHOENIX HOUSE
ORANGE COUNTY, INC.; PHOENIX
HOUSE SAN DIEGO, INC.; and DOES 1
through 20, inclusive,

Defendants.

Case No. ECU002195

**SECOND AMENDED COMPLAINT FOR
VIOLATION OF THE CALIFORNIA
LABOR CODE PRIVATE ATTORNEYS
GENERAL ACT OF 2004 (CAL. LAB. CODE
§§ 2698, *ET SEQ.*)**

1 Plaintiff Lisajoann Ching, individually and on behalf of other aggrieved employees,
2 alleges as follows:

3 **NATURE OF ACTION AND INTRODUCTORY STATEMENT**

4 1. Plaintiff Lisajoann Ching (“Plaintiff”) brings this representative action against
5 against defendants Phoenix Houses of California, Inc., Phoenix Houses of Los Angeles, Inc.,
6 Phoenix House Orange County, Inc., Phoenix House San Diego, Inc., and DOES 1 through 20,
7 inclusive (collectively, “Defendants”), on Plaintiff’s own behalf and on behalf of other aggrieved
8 employees who are and were employed by Defendants as non-exempt employees throughout
9 California.

10 2. Defendants are in the business of providing rehabilitation services.

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

15 4. Plaintiff is informed and believe, and thereon alleges, that Defendants have
16 increased their profits by violating state wage and hour laws by, among other things:

- 17 (a) failing to pay all wages (including minimum wages and overtime wages);
- 18 (b) failing to provide lawful meal periods or compensation in lieu thereof;
- 19 (c) failing to authorize or permit lawful rest breaks or provide compensation
20 in lieu thereof;
- 21 (d) failing to reimburse necessary business-related costs;
- 22 (e) failing to provide accurate itemized wage statements; and
- 23 (f) failing to pay all wages due upon separation of employment.

24 5. Plaintiff seeks monetary relief against Defendants on behalf of himself and all
25 others aggrieved employees in California to recover, among other things, civil penalties
26 pursuant to Labor Code §§ 2698 *et seq.*, interest, attorneys’ fees, costs and expenses.

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

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

10. Plaintiff is a resident of California and worked for Defendants during the relevant time periods as alleged herein. Specifically, Plaintiff was employed at a Data Entry Clerk from approximately April of 2020 to April of 2021.

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

1 known.

2 13. Plaintiff is informed and believes, and thereon alleges, that DOES 1 through 20
3 are or were the partners, agents, owners, shareholders, managers, or employees of Defendants at
4 all relevant times.

5 14. Plaintiff is informed and believes, and thereon alleges, that each defendant acted
6 in all respects pertinent to this action as the agent of the other defendant, carried out a joint
7 scheme, joint enterprise, business plan, or policy in all respects pertinent hereto, and the acts of
8 each defendant are legally attributable to the other defendant. Furthermore, defendants in all
9 respects acted as the employer and/or joint employer of Plaintiff and the aggrieved employees.
10 For instance, Plaintiff is informed and believes Defendants used a common set of employment
11 policies, such as the same policies in an employee handbook and other policy documents.
12 Plaintiff is informed and believes Defendants incorporated separate entities to operate different
13 locations but under a joint enterprise without true separation between the entities.

14 15. Plaintiff is informed and believes, and thereon alleges, that each and all of the acts
15 and omissions alleged herein were performed by, or are attributable to, Defendants and/or DOES
16 1 through 20, acting as the agent or alter ego for the other, with legal authority to act on the
17 other's behalf. The acts of any and all Defendants were in accordance with, and represent, the
18 official policy of Defendants.

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

23 17. Plaintiff is informed and believes, and thereon alleges, that each of said
24 Defendants is in some manner intentionally, negligently, or otherwise responsible for the acts,
25 omissions, occurrences, and transactions alleged herein.

26 **GENERAL ALLEGATIONS**

27 18. At all relevant times mentioned herein, Defendants employed Plaintiff and other
28 California residents as non-exempt employees throughout California at Defendants' California

1 business location(s).

2 19. Defendants continue to employ non-exempt employees within California.

3 20. Plaintiff is informed and believes, and thereon alleges, that at all times herein
4 mentioned, Defendants were advised by skilled lawyers, employees, and other professionals who
5 were knowledgeable about California's wage and hour laws, employment and personnel
6 practices, and the requirements of California law.

7 21. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
8 should have known that Plaintiff and other aggrieved employees were entitled to receive wages
9 for all time worked (including minimum wages and overtime wages) and that they were not
10 receiving all wages earned for work that was required to be performed. In violation of the Labor
11 Code and IWC Wage Orders, Plaintiff and other aggrieved employees were not paid all wages
12 (including minimum wages and overtime wages) for all hours worked, including, but not limited
13 to requiring Plaintiff and other aggrieved employees to work off-the-clock, and failing to
14 compensate Plaintiff and other aggrieved employees for these hours. For example, Plaintiff and
15 Class Members were required to complete pre-shift briefings, temperature checks or other health
16 or safety checks, COVID tests, and wait in line to gain access to the work facility off-the-clock.

17 22. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
18 should have known that Plaintiff and other aggrieved employees were entitled to receive all
19 required meal periods or payment of one (1) additional hour of pay at Plaintiff's and other
20 aggrieved employees' regular rate of pay when they did not receive a timely, uninterrupted meal
21 period. For example, Plaintiff was interrupted or called back to work during meal periods and
22 required to remain on-premises and on-call during meal periods. In violation of the Labor Code
23 and IWC Wage Orders, Plaintiff and other aggrieved employees did not receive all meal periods
24 or payment of one (1) additional hour of pay at Plaintiff's and other aggrieved employees'
25 regular rate of pay when they did not receive a timely, uninterrupted meal period.

26 23. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
27 should have known that Plaintiff and other aggrieved employees were entitled to receive all rest
28 breaks or payment of one (1) additional hour of pay at Plaintiff's and other aggrieved employees'

1 regular rate of pay when a rest break was late, missed, or interrupted. For example, Plaintiff was
2 interrupted or called back to work during rest periods, required to complete job duties rather than
3 taking rest periods, and required to remain on-premises and on-call during rest periods. In
4 violation of the Labor Code and IWC Wage Orders, Plaintiff and other aggrieved employees did
5 not receive all rest breaks or payment of one (1) additional hour of pay at Plaintiff's and other
6 aggrieved employees' regular rate of pay when a rest break was missed, late, or interrupted.

7 24. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
8 should have known that Plaintiff and other aggrieved employees were entitled to reimbursement
9 and/or indemnification for all necessary business expenditures or losses as a direct consequence
10 of the discharge of their duties, or of their obedience to the directions of Defendants. In violation
11 of the Labor Code and IWC Wage Orders, Plaintiff and other aggrieved employees incurred
12 necessary business expenses or losses, including but not limited to personal cell phones, supplies,
13 and home internet, among others, but were not adequately reimbursed nor indemnified of such
14 expenses or losses that were incurred as a direct consequence of the discharge of their duties, or
15 of their obedience to the directions of Defendants.

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

26. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should have known that the aggrieved employees were entitled to timely payment of wages due upon separation of employment. In violation of the Labor Code, the aggrieved employees did not receive payment of all wages within the permissible time periods.

27. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should have known they had a duty to compensate Plaintiff and other aggrieved employees, and Defendants had the financial ability to pay such compensation but willfully, knowingly, and intentionally failed to do so in order to increase Defendants' profits.

28. Therefore, Plaintiff brings this lawsuit seeking monetary and injunctive relief against Defendants on Plaintiff's own behalf and on behalf of all other aggrieved employees to recover, among other things, unpaid wages (including minimum wages and overtime wages), unpaid meal period premium payments, unpaid rest period premium payments, unreimbursed business expenditures, interest, attorneys' fees, penalties, costs, and expenses.

FIRST CAUSE OF ACTION

ENFORCEMENT OF LABOR CODE §§ 2698 ET SEQ. (“PAGA”)

29. Plaintiff re-alleges and incorporates by reference the previous paragraphs as though fully set forth herein.

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

31. For all provisions of the Labor Code except those for which a civil penalty is specifically provided, Labor Code § 2699(f) imposes upon Defendants a civil penalty of one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent pay period in which Defendants violated these provisions of the Labor Code.

1 32. 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, 510, 1194, 1197, and 1198 for
4 failure to timely pay all earned wages owed to Plaintiff and other aggrieved employees
5 during employment and upon separation of employment as herein alleged;

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

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

12 (d) violation of Labor Code § 226 for failure to provide accurate itemized wage
13 statements to Plaintiff and other aggrieved employees as herein alleged; and

14 (e) violation of Labor Code §§ 1174 and 1174.5 for failure to maintain accurate
15 and complete records showing, among other things, the hours worked daily and the
16 wages paid to aggrieved employees as herein alleged; and

17 (f) violation of Labor Code §§ 2800 and 2802 for failure to reimburse Plaintiff and
18 other aggrieved employees for necessary business expenses as herein alleged.

19 33. Plaintiff is an "aggrieved employee" because she was employed by the alleged
20 violator and had one or more of the violations committed against her, and therefore is properly
21 suited to represent the interests of all other aggrieved employees.

22 34. Plaintiff has exhausted the procedural requirements under Labor Code § 2699.3
23 as to Defendants and is therefore able to pursue a claim for penalties on behalf of herself and
24 all other aggrieved employees under PAGA.

25 35. Pursuant to Labor Code §§ 2699(a), 2699.3 and 2699.5, Plaintiff is entitled to
26 recover civil penalties in addition to other remedies, for violation of the Labor Code sections
27 cited above.

36. For bringing this action, Plaintiff is entitled to attorneys' fees and costs incurred herein.

PRAYER FOR RELIEF

On Plaintiff's own behalf and on behalf of all others similarly situated, Plaintiff prays for relief and judgment against Defendants, jointly and severally, as follows:

1. For civil penalties against Defendants on behalf of all aggrieved employees and the LWDA pursuant to Labor Code § 2698, *et seq.*;

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: April 26, 2022

AEGIS LAW FIRM, PC

By: 

 Jessica L. Campbell
 Attorneys for Plaintiff Lisajoann Ching

1 **CERTIFICATE OF SERVICE**

2 I, the undersigned, am employed in the County of Orange, State of California. I am over
3 the age of 18 and not a party to the within action; am employed with Aegis Law Firm PC and
my business address is 9811 Irvine Center Drive, Suite 100, Irvine, California 92618.

4 On April 26, 2022, I served the foregoing document entitled:

- 5 • **SECOND AMENDED COMPLAINT FOR VIOLATION OF THE CALIFORNIA**
6 **LABOR CODE PRIVATE ATTORNEYS GENERAL ACT OF 2004 (CAL. LAB.**
7 **CODE §§ 2698, ET SEQ.)**

8 on all the appearing and/or interested parties in this action by delivering ☐ the original ☒ a true
9 copy thereof on the party(ies) addressed below as follows:

10 Allan W. Gustin
11 Kelly Wood
12 **O'Melveny & Myers LLP**
13 610 Newport Center Drive, 17th Floor
Newport Beach, CA 92660
Telephone: 949.823.6900
14 agustin@omm.com
15 kwood@omm.com

16 *Attorneys for Defendant:*

17 PHOENIX HOUSE OF CALIFORNIA, INC.; PHOENIX HOUSES OF LOS ANGELES, INC.;
18 PHOENIX HOUSE OF ORANGE COUNTY, INC.; PHOENIX HOUSE OF SAN DIEGO, INC.

19 ☐ **(BY MAIL)** I am readily familiar with the firm's practice of collection and processing
20 correspondence for mailing. Under that practice it would be deposited with the U.S.
21 Postal Service on that same day with postage thereon fully prepaid at Irvine, California
22 in the ordinary course of business. I am aware that on motion of the party served, service
is presumed invalid if postage cancellation date or postage meter date is more than one
day after date of deposit for mailing this affidavit. (*Cal Code Civ. Proc.* § 1013(a); *Fed.*
R. Civ. Proc. 5(a); *Fed. R. Civ. Proc.* 5(c).)

23 ☐ **(BY OVERNIGHT MAIL)** I am personally and readily familiar with the business
24 practice of Aegis Law Firm PC for collection and processing correspondence for
overnight delivery, and I caused such document(s) described herein to be deposited for
delivery to a facility regularly maintained Federal Express for overnight delivery. (*Cal*
Code Civ. Proc. § 1013(c); *Fed. R. Civ. Proc.* 5(c).)

25 ☒ **(BY ELECTRONIC TRANSMISSION)** I caused said document(s) to be served via
26 electronic transmission via the above listed email addresses on the date below. (*Cal.*
Code Civ. Proc. § 1010.6(6); *Fed. R. Civ. Proc.* 5(b)(2)(E); *Fed. R. Civ. Proc.* 5(b)(3).)

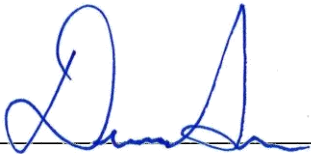
27 ☐ **(BY PERSONAL SERVICE)** I delivered the foregoing document by hand delivery to
28 the addressed named above. (*Cal Code Civ. Proc.* § 1011; *Fed. R. Civ. Proc.*
5(b)(2)(A).)

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1 I declare under penalty of perjury under the laws of the State of California that the
2 foregoing is true and correct.

3 Executed on April 26, 2022, at Irvine, California.

4 
5 _____
6 Delaney Graves