

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: Upinder Kalra

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Attorneys for Plaintiff,

ONISHA ANTHONY, and all others similarly situated

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**FOR THE COUNTY OF LOS ANGELES  
(UNLIMITED JURISDICTION)**

ONISHA ANTHONY,

*Plaintiff,*

vs.

AG ARCADIA, LLC and DOES 1 to 25,  
inclusive,

*Defendants.*

Case No.: **22STCV36624**

**COMPLAINT FOR DAMAGES FOR:**

**1) PRIVATE ATTORNEYS  
GENERAL ACT ("PAGA");**

COMES NOW, Plaintiff, ONISHA ANTHONY (hereafter “Plaintiff”), and alleges as follows:

**PARTIES, JURISDICTION, VENUE**

1. Jurisdiction and Venue are proper in this Court and this action is properly filed in the County of Los Angeles in this judicial district because Defendants AG ARCADIA, LLC (“AG ARCADIA”) and DOES 1 to 25, inclusive, do business in the County of Los Angeles and because Defendants’ obligations and liabilities arise therein, and because the work that was performed by Plaintiff in the County of Los Angeles is the subject of this action. Moreover, Plaintiff’s damages sought herein exceed \$25,000.

2. Plaintiff is a female resident of the County of Los Angeles, State of California.

3. Plaintiff is informed and believes that at all times herein mentioned, Defendant AG ARCADIA, LLC is and was a California corporation, doing business in Los Angeles County, California, and which employed Plaintiff.

4. The “Aggrieved Employees” are all current and former non-exempt or hourly paid employees who worked for Defendants at any of their California locations during the relevant time period pursuant to California Labor Code section 2698, et. seq., the Labor Code Private Attorneys General Act of 2004 (“PAGA”).

5. Plaintiff is ignorant of the true names and capacities, whether individual, corporate, or associate of those defendants fictitiously sued as DOES 1 to 25, inclusive, and so Plaintiff sues them by these fictitious names. Plaintiff is informed and believes that each of the DOE defendants, numbers 1 to 25, reside in the State of California and are in some manner responsible for the conduct alleged herein. Upon discovering the true names and capacities of these fictitiously named defendants, Plaintiff will amend this complaint to show the true names and capacities of these fictitiously named defendants.

6. Unless otherwise alleged in this complaint, Plaintiff is informed, and on the basis of that information and belief, alleges that at all times herein mentioned, each of the remaining codefendants, in doing the things hereinafter alleged, were acting within the course, scope, and under the authority of their agency, employment, or representative capacity, with the consent of

1 his/her codefendants.

2 **GENERAL ALLEGATIONS**

3 7. Plaintiff started working for AG ARCADIA on or around May 2021 through an  
4 agency and then June 2021 through the company itself as a Certified Nursing Assistant (CNA).  
5 Her employment ended in November 2021. Plaintiff was considered an hourly, non-exempt  
6 employee. Plaintiff did work the overnight shift as part of her employment.

7 8. It is Plaintiff's position that AG ARCADIA has violated numerous Labor  
8 Code Sections against Plaintiff and other similarly situated aggrieved employees.  
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10 9. AG ARCADIA has committed the below labor code violations against Plaintiff  
11 and other hourly, non-exempt employees. In the case of Huff v. Securitas Sec. Servs. USA,  
12 Inc., 23 Cal. App. 5th 745 (2018), Plaintiff, Huff, was employed as a security guard for the  
13 Defendant Employer, Securitas Security Services USA, Inc., an onsite security provider. After  
14 about a year of employment, Huff resigned. Huff then filed suit against Securitas under PAGA.  
15 In his claim, Huff specifically alleged violations to the Labor Code requiring immediate  
16 payment of wages upon termination of employment and weekly payment of wages to  
17 temporary employees. The trial court determined Huff was not a temporary employee, and  
18 therefore, lacked standing to bring the claim. Thus, Securitas was granted a motion for  
19 summary judgement. Later, the trial court granted Huff a new trial. Securitas then appealed the  
20 grant of a new trial. On appeal, the issue was whether Huff could bring a PAGA claim and sue  
21 for Labor Code violations that did not directly affect him. Securitas unsuccessfully argued that  
22 the PAGA statute only allows the PAGA representative to sue for violations that the  
23 representative has personally suffered. The PAGA statute states that an "aggrieved employee"  
24 is able to file suit on behalf of themselves and others. The statute also states that an "aggrieved  
25 employee" is "any person who was employed by the alleged violator and against whom one or  
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1 more of the alleged violations was committed.” Because at least one of the violations that Huff  
2 had alleged had affected him personally, the Court of Appeal denied Securitas’ motion.

3 10. In sum, since PAGA allows Plaintiffs to bring suit on behalf of both themselves  
4 and other employees, it allows for suits broader than the specific violations the named  
5 employee experienced. Therefore, even if the employee did not personally experience the  
6 Labor Code violations, the employer may still be liable to under PAGA. Consequently, it is  
7 Plaintiff’s position that Plaintiff can equivocally bring the following labor code violations on  
8 behalf of all employees, including hourly non-exempt employees who worked for AG  
9 ARCADIA at any of their California locations during the PAGA period.

10 11. AG ARCADIA did not provide Plaintiff and other similarly situated aggrieved  
11 employees with the minimum wages to which they were entitled for work performed and as  
12 such did not compensate Plaintiff and others for all hours worked at the minimum wage rate  
13 pursuant to California Labor Code sections 1194, 1197 and 1197.1. This is so because Plaintiff  
14 and others would often have to work through their meal periods, or their meal periods would be  
15 interrupted due to patient needs. There were also instances wherein Plaintiff would be clocked-  
16 out or not clocked-in, but has had to help a patient (go to the bathroom and other similar  
17 occurrences). Moreover, AG ARCADIA had a policy and practice of rounding down employee  
18 hours to the detriment of employees, resulting in minimum wage violations in that all  
19 employees were not paid for all actual hours worked.

20 12. Due to the “off the clock” work as alleged above, AG ARCADIA violated Labor  
21 Code §510 because it failed to pay Plaintiff and other similarly situated aggrieved employees  
22 overtime, even though they worked more than 8 hours per day, 12 hours per day and/or 40 hours  
23 per week throughout their employment. Plaintiff and others’ actual work hours entitled them to  
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1 overtime compensation, especially due to the “off the clock” as described above, however, they  
2 were not paid accurately and fully for their overtime hours worked. In addition, AG ARCADIA  
3 did not include bonus payments or incentive payments in calculating the correct regular rate of  
4 pay for the purposes of calculating the correct overtime rate of pay.

5           13. AG ARCADIA also violated Labor Code § 226.7 and the applicable Industrial  
6 Welfare Commission Wage Order no. 5 because it failed to provide Plaintiff and others with 10-  
7 minute rest periods for every four hours of work, or majority portion thereof, throughout their  
8 employment. AG ARCADIA did not completely relieve Plaintiff and others of all duty during  
9 said rest periods. AG ARCADIA did not pay to Plaintiff and others one additional hour of pay  
10 at Plaintiff’s regular rate of compensation for each workday that one or more statutory rest  
11 periods was not provided. It was not company policy and not part of the company culture for  
12 employees such as Plaintiff and others to take rest breaks, especially in the type of environment  
13 in which she worked. They were understaffed and were responsible for taking care of too many  
14 patients. Moreover, Plaintiff and others are not able to walk away from patients in the middle of  
15 their care as they can’t leave patients alone. As such, the culture at AG ARCADIA did not lend  
16 itself to the employees receiving statutory breaks wherein they were relieved of all work duties.  
17 It was the normal practice and custom of AG ARCADIA not to authorize, permit, and enforce  
18 statutory rest periods. As such, the work environment and culture at AG ARCADIA was not  
19 conducive to receiving statutory rest breaks under California law. In fact, Plaintiff did not receive  
20 a single rest break during her employment tenure at AG ARCADIA.

21           14. AG ARCADIA violated Labor Code §§ 512 and 226.7 along with the applicable  
22 Industrial Welfare Commission Wage Order no. 5 because it failed to provide Plaintiff and others  
23 the requisite 30-minute, uninterrupted meal periods for every five (5) hours of work throughout  
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1 their employment. AG ARCADIA did not completely relieve Plaintiff and others of all duty  
2 during said meal periods. AG ARCADIA did not pay to Plaintiff and others one additional hour  
3 of pay at Plaintiff's regular rate of compensation for each workday that one or more statutory  
4 meal periods was not provided. When Plaintiff did receive meal breaks, it would often be after  
5 the 5<sup>th</sup> hour or 10<sup>th</sup> hour worked due to being too busy and understaffed. Furthermore, it was  
6 more than common for meal periods to be interrupted or for Plaintiff and others to work through  
7 their meal periods, including have to do charting. As such, and much like rest breaks, it was the  
8 normal practice and custom of AG ARCADIA not to authorize, permit, and enforce timely,  
9 uninterrupted statutory meal periods.  
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11 15. Furthermore, to the extent that AG ARCADIA paid meal and rest break premiums  
12 to employees, it did not include the "weighted average" regular rate of pay for employees  
13 (including bonus/incentive payments). Moreover, and as alluded to above, the fact that there was  
14 1 CNA per 35 patients made statutory breaks very difficult.  
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16 16. Furthermore, during the relevant time period, and due to the above labor code  
17 violations, AG ARCADIA failed to pay Plaintiff and others all wages due to them within any  
18 time period specified by California Labor Code section 204. AG ARCADIA was also in violation  
19 of California Labor Code section 226(a), by failing to include pertinent information on the wage  
20 statements, including but not limited to, all hours worked (minimum wages and overtime due to  
21 the "off the clock" work), gross wages earned, net wages earned, all applicable hourly rates, the  
22 correct start and end of the pay period, the correct name and address of the legal employer, all  
23 identifying employee information that is required, premium pay for the missed meal and rest  
24 breaks, among others. As such, AG ARCADIA did not provide Plaintiff and other similarly  
25 situated aggrieved employees with complete, accurate itemized wage statements. In fact, Plaintiff  
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1 was not given access to paystubs during her entire tenure.

2 17. During the relevant time period, AG ARCADIA also failed to keep accurate and  
3 complete payroll records showing the actual hours worked per day and the wages paid to Plaintiff  
4 and others pursuant to California Labor Code sections 1174(d).

5 18. AG ARCADIA also violated Labor Code § 203 because it willfully failed to pay  
6 other similarly situated aggrieved employees earned and due wages upon separation of  
7 employment, either immediately upon involuntary termination, or within 72 hours of resignation.  
8 After Plaintiff's employment with AG ARCADIA ended, AG ARCADIA failed and refused to  
9 pay all wages earned and due upon separation. These earned but unpaid wages include minimum  
10 wages, overtime compensation, and premium pay for missed meal and rest breaks.  
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12 19. Additionally, during the relevant time period, Plaintiff and others incurred  
13 necessary, business-related expenses and costs that were not reimbursed by AG ARCADIA.  
14 These costs include, but are not limited to, personal cell phone for business purposes and soap  
15 (in order to bathe the patients) as well as uniforms. Accordingly, AG ARCADIA was in violation  
16 of California Labor Code sections 2800 and 2802.  
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18 20. In addition, AG ARCADIA did not provide suitable rest break area per the  
19 applicable Industrial Welfare Commission Wage Order, 5-2001.  
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21 **FIRST (AND ONLY) CAUSE OF ACTION**

22 **PRIVATE ATTORNEYS GENERAL ACT**

23 **Representative Claim for PAGA penalties under California Labor Code sections 203, 204**  
24 **and/or 204b, 210, 226, 226.3, 226.7, 510, 512, 558, 1174(d), 1194, 1197, 1197.1, 2800, 2802,**  
**2698, 2699, and the applicable Industrial Welfare Commission Wage Order Nos. 5-2001**

25 **(Against All Named Defendants and all DOE Defendants)**

26 21. Plaintiff re-alleges and incorporates by reference each and every allegation in  
27 paragraphs 1 through 20, inclusive, of this Complaint as though fully set forth herein.

28 22. Pursuant to law, Plaintiff provided the required written notice to the California

1 Labor & Workforce Development Agency (LWDA) and Defendants of the specific violations of  
2 the California Labor Code that Defendants and DOE defendants have violated and continue to  
3 violate.

4 23. Pursuant to California Labor code section 2699.3, no response was received from  
5 the LWDA within 65 days of the postmark date of the above-alleged letter.

6 24. Plaintiff therefore has exhausted all administrative remedies required of her under  
7 California Labor Code sections 2698, 2699, and 2699.3, and, as a result, may prosecute this cause  
8 of action and pursue penalties in a representative action for Defendants' violations of the Labor  
9 Code.

10 25. Pursuant to California Labor Code section 2699, any provisions of the Labor Code  
11 that provides for a civil penalty to be assessed and collected by the LWDA or any of its  
12 departments, divisions, commissions, boards, agencies, or employees for violation of the code  
13 may, as an alternative, be recovered through a civil action brought by an aggrieved employee  
14 on behalf of himself or herself and other current or former employees pursuant to the procedures  
15 specified in California Labor Code section 2699.3.

16 26. Plaintiff is an "aggrieved employee" because Plaintiff was employed by the  
17 alleged violator and had one or more of the alleged violations committed against her, and therefore  
18 is properly suited to represent the interests of all current and former non-exempt or hourly paid  
19 employees who worked for Defendants at any of their California locations during the relevant  
20 PAGA time period.

21 27. Based on the acts alleged above, Plaintiff, on behalf of herself and others, seeks  
22 penalties under California Labor Code sections 2698 and 2699 because of Defendants' violations  
23 of numerous provisions of the California Labor Code as alleged in this Complaint.

24 28. Plaintiff therefore has exhausted all administrative remedies required of her under  
25 California Labor Code sections 2698, 2699, and 2699.3, and, as a result, may prosecute this cause  
26 of action and pursue penalties in a representative action for Defendants' violations of the Labor  
27 Code.

28 29. California Labor Code section 2699 et seq. imposes penalties upon culpable

1 Defendants for violating the Labor Code.

2 30. California Labor Code section 558 establishes a civil penalty as follows: Any  
3 employer or other person action on behalf of an employer who violates, or causes to be violated,  
4 a section of this chapter or any provision regulating hours and days of work in any order of the  
5 Industrial Welfare Commission (including the “Hours and Days of Work” section of the Wage  
6 Order) shall be subject to a civil penalty of (1) for any initial violation, fifty dollars (\$50) for each  
7 underpaid employee for each pay period for which the employee was underpaid ...; (2) for each  
8 subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay  
9 period for which the employee was underpaid ...;

10 31. Plaintiff seeks penalties for Defendants’ misconduct as alleged herein as permitted  
11 by law, but only those penalties that are required to be shared with the LWDA as Plaintiff is not  
12 seeking individual/victim specific relief or underpaid wages under this particular cause of action.

13 32. Specifically, Plaintiff seeks penalties under California Labor Code section 2699,  
14 for the following:

15 Violations of California Labor Code sections 203, 204 and/or 204b, 210, 226, 226.3,  
16 226.7, 510, 512, 558, 1174d, 1194, 1197, 1197.1, 2800, 2802, 2698, 2699 via 2698 and  
17 2699, and any other Labor Codes and Wage Orders (including no. 5) violated on the facts  
18 alleged in this Complaint.

19 33. Pursuant to Labor Code section 2698 et seq., Plaintiff seeks to recover attorney’s  
20 fees, costs, and civil penalties on behalf of Plaintiff and other current and former Aggrieved  
21 Employees as alleged herein in an amount to be shown according to proof at trial and within the  
22 jurisdictional limits of this Court.

23 WHEREFORE, Plaintiff prays for Judgment against Defendants and each of them, as  
24 follows:

- 25 1. For the imposition of civil penalties;
- 26 2. For maximum civil penalties available under Labor Code Section 2699 against  
27 Defendants in a manner and amount authorized by that statute, as described more  
28 particularly in the Complaint and representative PAGA claims;

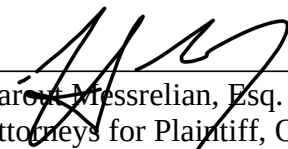
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- 3. For all costs and disbursements incurred in this suit;
- 4. Reasonable attorney’s fees where available by law, including but not limited to, pursuant to Labor Code section 2698 et seq., Code of Civil Procedure section 1021.5, and/or other applicable laws; and
- 5. For such other and further relief as this Court may deem proper.

Respectfully submitted,

**MESSRELIAN LAW INC.**

Dated: November 17, 2022

By   
Harold Messrelian, Esq.  
Attorneys for Plaintiff, ONISHA ANTHONY