

FILED
Superior Court Of California,
Sacramento
06/22/2022
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By _____, Deputy
Case Number:
34-2022-00322277

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SACRAMENTO

MARYAM KHOSHCHIN, as an individual
and on behalf of all others similarly situated,

Plaintiff,

vs.

ATRIA MANAGEMENT COMPANY,
LLC, a Delaware Limited Liability
Company; and DOES 1 through 50,
inclusive,

Defendants.

Case No.:

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

DEMAND OVER \$25,000.00

BY FAX

1 Plaintiff Maryam Khoshchin (“Plaintiff”) hereby submits this Representative Action
2 Complaint (“Complaint”) against Defendant Atria Management Company, LLC. (“Defendant”),
3 and Does 1 through 50 (collectively, “Defendants”), individually, and on behalf of herself and all
4 aggrieved employees of Defendant, for penalties for violations of the California Labor Code as
5 follows:

6 **INTRODUCTION**

7 1. This representative action is within the Court’s jurisdiction under California
8 Labor Code §§ 201, 202, 203, 226(a), 226.7, 512, 2698, *et seq.*, and the applicable Wage Orders
9 of the Industrial Welfare Commission (“IWC”).

10 2. This Complaint challenges systemic illegal employment practices resulting in
11 violations of the California Labor Code against individuals who worked for Defendant.

12 **JURISDICTION AND VENUE**

13 3. The Court has jurisdiction over the violations of the California Labor Code §§
14 201, 202, 203, 226(a), 226.7, 512, 2698, *et seq.*, and the applicable IWC Wage Orders.

15 4. Venue is proper in Sacramento County because Plaintiff worked for Defendants
16 in Sacramento County.

17 **PARTIES**

18 5. Plaintiff was employed by Defendants as a Medication Technician from about
19 December 2021 to about April 12, 2022. Plaintiff worked as an hourly non-exempt employee.

20 6. Plaintiff was and is the victims of the policies, practices, and customs of
21 Defendant complained of in this action in ways that have deprived her of the rights guaranteed
22 by California Labor Code §§ 201, 202, 203, 226(a), 226.7, 512, 2698, *et seq.*, and the applicable
23 IWC Wage Orders.

24 7. Plaintiff is informed and believes, and based thereon alleges, that Atria
25 Management Company, LLC was and is a Delaware limited liability company which operates as
26 an assisted living facility throughout the United States, including Sacramento County, California.

27 8. Plaintiff is informed and believes, and based thereon alleges, that at all times
28 herein mentioned Does 1 through 50, are and were corporations, business entities, individuals,

1 and partnerships, licensed to do business and actually doing business in the State of California.
2 As such, and based upon all the facts and circumstances incident to Defendants' business,
3 Defendants are subject to the California Labor Code and the applicable IWC Wage Orders.

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

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

17 11. Plaintiff is informed and believes, and based thereon alleges, that at all times
18 material hereto, each of the Defendants named herein was the agent, employee, alter ego and/or
19 joint venturer of, or working in concert with each of the other co-Defendants and was acting
20 within the course and scope of such agency, employment, joint venture, or concerted activity. To
21 the extent said acts, conduct, and omissions were perpetrated by certain Defendants, each of the
22 remaining Defendants confirmed and ratified said acts, conduct, and omissions of the acting
23 Defendants.

24 12. At all times herein mentioned, Defendants, and each of them, were members of,
25 and engaged in, a joint venture, partnership and common enterprise, and acting within the course
26 and scope of, and in pursuance of, said joint venture, partnership and common enterprise.

27 13. At all times herein mentioned, the acts and omissions of various Defendants, and
28 each of them, concurred and contributed to the various acts and omissions of each and all of the

1 other Defendants in proximately causing the violations as herein alleged. At all times herein
2 mentioned, Defendants, and each of them, ratified each and every act or omission complained of
3 herein. At all times herein mentioned, Defendants, and each of them, aided and abetted the acts
4 and omissions of each and all of the other Defendants in proximately causing the violations as
5 herein alleged.

6 **FIRST CAUSE OF ACTION**

7 **VIOLATION OF LABOR CODE § 2698, *ET SEQ.***

8 **(BY PLAINTIFF AND AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS)**

9 14. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as
10 though fully set forth herein.

11 15. Plaintiff brings this cause of action as a proxy for the State of California and in
12 this capacity, seeks penalties on behalf of all Aggrieved Employees from April 18, 2021, through
13 the present, for Defendants' violations of Labor Code §§ 201, 202, 203, 226(a), 226.7, 512,
14 2698, et seq., for failing to provide accurate, itemized wage statements in violation of Labor
15 Code § 226(a) and failing to pay meal and rest period premium at the regular rate of pay in
16 violation of Labor Code §§ 226.7 and 512.

17 16. Specifically, Plaintiff and Aggrieved Employees earned non-discretionary
18 remuneration, including without limitation, bonuses and incentives. Defendant's paid Plaintiff
19 and Aggrieved Employees meal and rest period premium for missed meal and rest periods at the
20 base rate of pay as Defendants failed to include any non-discretionary remuneration earned into
21 the calculation of the regular rate. Whenever Plaintiff and Aggrieved Employees received meal
22 and rest period premium pay during workweeks in which they earned non-discretionary
23 remuneration, the meal and rest period premium was paid at the base rate of pay. Thus, Plaintiff
24 and Aggrieved Employees are owed additional meal and rest break premium pay based on the
25 correct, higher regular rate of pay. As a result of the foregoing violation, Defendants failed to
26 pay Plaintiff and Aggrieved Employees all wages owed upon separation of employment due to
27 the unpaid missed meal and rest period premiums.
28

1 17. As a result of Defendants' failure to pay proper meal and rest break premiums, in
2 violation as identified above, the wage statements issued to Plaintiff and Aggrieved employees
3 failed to identify the correct gross wages earned, net wages earned, and correct hourly rates of
4 pay.

5 18. On or about April 18, 2022, Plaintiff sent written notice to the California Labor &
6 Workforce Development Agency ("LWDA") of Defendants' violation of Labor Code § 226,
7 pursuant to Labor Code § 2698, *et seq.*, the Private Attorneys General Act ("PAGA"). Plaintiff
8 also sent written notice of said Labor Code violations to Defendant via certified mail pursuant to
9 Labor Code § 2699.3. As of the date of the filing of this Complaint, the LWDA has not provided
10 written notice regarding whether it intends to investigate the Labor Code violations set forth in
11 Plaintiff's written notice.

12 19. As such, pursuant to Labor Code § 2699(a), Plaintiff seeks recovery of any and
13 all applicable civil penalties for Defendants' violation of Labor Code §§ 226 and 2698 for the
14 time period described above, on behalf of herself and other Aggrieved Employees.
15

16 **PRAYER FOR RELIEF**

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

19 1. Upon the First Cause of Action, for civil penalties according to proof pursuant to
20 the PAGA, Labor Code §226.3, and for costs and attorneys' fees;

21 2. On all causes of action for attorneys' fees and costs as provided by Labor Code
22 §2699 and California Code of Civil Procedure section 1021.5; and

23 3. For such other and further relief as the Court may deem just and proper.

24 DATED: June 22, 2022

DIVERSITY LAW GROUP, P.C.

25
26 By: 

Larry W. Lee

Shalom "Christine" Choo

Attorneys for Plaintiff and the Aggrieved
Employees