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FILED
 Superior Court of California
 County of Los Angeles
 10/07/2022

Sherri R. Carter, Executive Officer / Clerk of Court
 By: K. Martinez Deputy

8 Attorneys for: Plaintiff JULIA GARCIA, individually and on behalf of other
 9 persons similarly situated and similarly aggrieved employees

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
 11 **FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE**

12 JULIA GARCIA, individually and on behalf of
 13 other persons similarly situated and similarly
 14 aggrieved employees,

15 Plaintiffs,

16 v.

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 18 NEW VISTA NURSING OPERATOR, LLC, an
 19 active California Limited Liability Company;
 20 and DOES 1 through 10,

21 Defendants.
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Case No.: 22STCV08228

Assigned to: Hon. Kenneth R.
 Freeman

Department: SS-14

Complaint Filed: March 7, 2022

**FIRST AMENDED COMPLAINT –
 CLASS AND REPRESENTATIVE
 ACTION**

1. Failure to Provide Meal Periods;
2. Failure to Provide Paid Rest Periods;
3. Failure to Pay Wages;
4. Failure to Timely Pay Wages at Termination/Separation;
5. Failure to Provide Compliant Itemized Wage Statements;
6. Violation of Unfair Business Practices Act – Bus. & Prof. Code §§ 17200, *et seq.*; and
7. Penalties Pursuant to Private

Plaintiff JULIA GARCIA ("Plaintiff"), on behalf of herself and all others similarly situated, based on information and belief, complains and alleges:

I.

INTRODUCTION

1. This class and representative action lawsuit arises out of the failure of Defendant NEW VISTA NURSING OPERATOR, LLC, (referred to herein collectively with DOE defendants as "Defendants") to provide meal periods at the proper intervals, to provide rest periods at the proper intervals, to pay all wages owed including overtime and double time, to timely pay wages after the close of each payroll period, to provide accurate and legally compliant wage statements, and to pay all wages owed to terminated or separated employees in a timely manner.
2. Defendants employed Plaintiff and other employees during the applicable time period, utilizing consistent policies and procedures in violation of Labor Code §200, et seq., Labor Code §500, et seq., Labor Code §1194, et seq., and the applicable Wage Orders issued by the California Industrial Welfare Commission.
3. Defendants are engaged in the business of ownership and operation of nursing home and assisting living facilities . Plaintiff was hired by Defendants on or about October 19, 2015 until Plaintiff's termination on or about February 21, 2022. At all times during her employment, Plaintiff had a non-exempt classification. Plaintiff was working at Defendants' New Vista nursing facility located at 8647 Fenwick Street in Sunland, California 91040.
4. At the time of her termination, Plaintiff was not paid all her wages.

- 1 5. Plaintiff was also deprived of lawful meal and rest periods, not paid all wages
2 including overtime she was entitled to, and failed to receive accurate and
3 legally compliant itemized wage statements.
- 4 6. Defendants had a consistent policy of not properly calculating and/or not
5 paying wages for all hours worked, including overtime wages as applicable.
6 Defendants had a consistent policy of failing to timely pay wages owed after
7 the close of each payroll period.
- 8 7. Defendants had a consistent policy of requiring their employees, including
9 Plaintiff, to work through meal periods or work without a meal period for at
10 least five (5) hours of a shift and failing to pay such employees one (1) hour of
11 pay at the employees' regular rate of compensation for each workday that the
12 meal period was not provided or as required by California state wage and hour
13 laws.
- 14 8. Defendants had a consistent policy of failing to allow their employees,
15 including Plaintiff, rest periods for at least ten (10) minutes per four (4) hours,
16 or a major fraction, worked, and failing to pay such employees one (1) hour of
17 pay at their regular rate of compensation for each workday that the rest period
18 is not provided, or other compensation, as required by California state and
19 wage and hour laws.
- 20 9. Defendants knowingly provided inaccurate wage statements to their
21 employees, including Plaintiff, that did not correctly include the correct wages,
22 including compensation for meal periods not provided and rest period not
23 authorized or permitted as required by California state wage and hour laws.
- 24 10. Defendants had a consistent policy of failing to pay their employees, including
25 Plaintiff, all wages due at the termination or separation, in violation of
26 California state wage and hour laws.
- 27 11. Plaintiff, on behalf of herself and all Class Members, brings this action
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pursuant to Lab. Code §§ 201, 202, 203, 204, 210, 226, 226.7, 510, 512, 1194, and 1194.2 seeking unpaid wages, penalties, equitable relief, and reasonable attorneys' fees and costs.

12. Plaintiff, on behalf of herself and the putative class members, also brings this action pursuant to Bus. & Prof. Code §§ 17200, *et seq.*, seeking injunctive relief, restitution, and disgorgement of all benefits obtained by Defendants as a result of Labor Code and applicable Wage Order violations.

13. Plaintiff, on behalf of the State of California, herself, and other similarly aggrieved employees, also brings this action pursuant to California Private Attorney General Act ("PAGA"), Cal. Lab. Code §2698, *et seq.* seeking unpaid wages and other compensation, penalties, and reasonable attorneys' fees and costs.

II.

JURISDICTION AND VENUE

14. Venue as to each defendant is proper in this judicial district, pursuant to Code of Civil Procedure § 395. The County of Los Angeles is the proper venue, because work for Defendants was performed by Plaintiff and other class members in the County of Los Angeles and the legal obligations owed by Defendants to Plaintiff and other class members were breached in the County of Los Angeles.

15. The California Superior Court has jurisdiction in this matter, because Plaintiff is a resident of California, Defendants are qualified to do business in California, and regularly conduct business in California.

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III.

THE PARTIES

16. Plaintiff JULIA GARCIA is a resident of the State of California, and was employed by Defendants in Los Angeles County from on or about October 19, 2015 through on or about February 21, 2022.

17. Defendant NEW VISTA NURSING OPERATOR, LLC was an active California Limited Liability Company at all times during the claims of Plaintiff and the putative class, was doing business in California, and was headquartered in California.

18. Plaintiff is ignorant of the true names, capacities, relationships and extent of participation in the conduct herein alleged, of the Defendants sued herein as Does 1 through 10, but she is informed and believes and thereon alleges that said Defendants are legally responsible for the wrongful conduct alleged herein and therefore sues these Defendants by such fictitious names under Code of Civil Procedure § 474. Plaintiff will amend this First Amended Complaint to allege their true names and capacities when ascertained.

19. Plaintiff is informed and believes and thereon alleges that each Defendant acted in all respects pertinent to this action as the agent of the other Defendants carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendant are legally attributable to the other Defendants.

IV.

GENERAL ALLEGATIONS

20. At all times relevant here and as set forth in the following paragraphs of this First Amended Complaint, Defendants employed more than 100 people; and Plaintiff and each member of the putative class was employed by Defendants, and each of them, in the State of California.

- 1 21. The employees of Defendants have not been provided: uninterrupted thirty-
2 minute meal periods for work periods of more than five (5) hours per day;
3 second uninterrupted thirty-minute meal periods for work periods of more
4 than ten (10) hours per day; and have not been permitted to take ten-minute
5 (10) rest periods for work periods of four (4) hours or major fractions, pursuant
6 to the Labor Code, and applicable IWC Wage Orders.
- 7 22. Defendants failed to properly compute and pay employees wages owed for all
8 hours worked, including overtime hours as applicable. Defendants to timely
9 pay wages after the close of each payroll period.
- 10 23. Defendants failed to pay Plaintiff and the members of her putative class upon
11 separation the wages earned and unpaid at the time of discharge.
- 12 24. Defendants failed to provide Plaintiff and the putative members of her class, at
13 the time of each payment of wages, an accurate itemized statement in writing,
14 showing the gross wages earned, including premium wages owed for failing to
15 provide meal and/or rest periods at the proper intervals.
- 16 25. Plaintiff asserts claims for relief on behalf of herself and other similarly situated
17 persons as a class action pursuant to Code of Civil Procedure § 382. Plaintiff
18 and all members of her putative class are described below with specificity and
19 fall in several categories of subclasses whose rights have been violated under
20 the law. Defendants have made no effort as of the filing of this First Amended
21 Complaint to correct or remedy the violations of law specified here.

22
23 **V.**

24 **CLASS ACTION ALLEGATIONS**

- 25 26. Plaintiff brings this action on behalf of herself and all other employees of
26 Defendants who are similarly-situated persons as a class action pursuant to
27 California Code of Civil Procedure § 382. There is a well-defined common
28 interest by and among Plaintiff and the putative class members, and it is

1 impractical to bring all those individuals before the court under separate,
2 different and repetitive actions. Plaintiff also reserves the right to amend or
3 modify the class descriptions set forth below in greater specificity or clarity if
4 required in the future in accordance with California Rules of Court, rule 3.765
5 (b). The class which Plaintiff seeks to represent is composed of and defined as
6 follows:

7 "Plaintiff Class" – All of Defendants' current and former non-exempt
8 employees who worked for Defendants in California, during the four
9 years before the filing of the Complaint through the time of class
10 certification.

11 27. Plaintiff seeks to certify the following subclasses of employees:

- 12 a) "Meal Period Subclass" – All members of Plaintiff Class who worked
13 each period exceeding five (5) hours without an uninterrupted, off
14 duty, thirty (30) minute meal period and/or periods in excess of ten (10)
15 hours without a second uninterrupted, off duty, thirty (30) minute
16 meal periods; and were not provided compensation of one hour's pay
17 at the employee's regular rate for each day that a meal period was not
18 provided.
- 19 b) "Rest Period Subclass" – All members of Plaintiff Class who worked
20 periods of four (4) hours or major fraction thereof without a duty free
21 rest period of at least 10-minutes and who were not compensated one
22 hour's pay at the employee's regular rate for each day that a rest period
23 was not permitted.
- 24 c) "Unpaid Wage Subclass" – All members of Plaintiff Class who were
25 not paid their minimum/actual wages, including the time that was
26 unlawfully considered by Defendants as off-the-clock, as well as
27 overtime wages for hours worked in excess of eight hours per day at
28 the one and a half rate or at a double time rate as applicable.

- 1 d) "Late Wages Subclass" – All members of Plaintiff Class who did not
2 timely receive earned wages after the close of designated payroll
3 periods.
4 e) "Waiting Time Subclass" – All members of Plaintiff Class to whom
5 Defendants failed to pay all wages due to them upon termination or
6 resignation under Labor Code §§ 201-203.
7 f) "Wage Statement Subclass" – All members of Plaintiff Class to whom
8 Defendants improperly failed to provide accurate and legally
9 compliant itemized wage statements under Labor Code §§ 226.
10 g) "UCL Subclass" – All members of the Meal Period, Rest Period,
11 Unpaid Wage, Late Wages, Waiting Time, and Wage Statement
12 Subclasses who were subject to unlawful, illegal, unfair and/or
13 deceptive business acts and practices by Defendants and are entitled to
14 disgorgement and restitution of unpaid wages.

15 28. There is a well-defined community of interest among many persons who
16 comprise a readily ascertainable class:

- 17 a) Numerosity - The potential members of the Class and Subclasses as
18 defined here are so numerous that the individual joinder of all of them as
19 named plaintiffs is impracticable. The number of members of the Class
20 and Subclasses is unknown to Plaintiff. It is however estimated that the
21 members are more than 100 individuals, and their identities may readily
22 be ascertained from Defendants' records.
23 b) Typicality – The claims of Plaintiff are typical of the claims of all
24 members of the Class and Subclasses, who sustained similar damages
25 arising out of Defendants' common course of conduct in violation of law
26 as alleged.
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- 1 c) Ascertainable Class – The proposed Class and Subclasses are
2 ascertainable as the members can readily be identified and located based
3 on the Defendants’ payroll and personnel records.
- 4 d) Adequacy – Plaintiff is an adequate representative of the Class and
5 Subclasses: Plaintiff will fairly protect the interests of the members, she
6 has no interest adverse to the members, and she will vigorously pursue
7 this lawsuit on behalf of all the members of the Class and Subclasses.
8 Plaintiff’s attorneys are competent, skilled and experienced in litigating
9 large employment law class actions.
- 10 e) Superiority - Class action treatment will allow a large number of
11 similarly situated persons to prosecute their common claims in a single
12 forum simultaneously, efficiently, and without the unnecessary
13 duplication of effort and expense that numerous individual actions
14 would require. Further, the monetary amounts due to many individual
15 members of the Class and Subclasses are likely to be relatively small, and
16 the burden and expense of individual litigation would make it difficult
17 or impossible for the members to seek and obtain relief. A class action
18 will serve an important public interest by permitting employees harmed
19 by Defendants’ unlawful practices to effectively pursue recovery of the
20 sums owed to them.
- 21 f) Common Questions of Law and Fact – There are common questions of
22 law and fact as to the members of the Class and Subclasses which are
23 superior to questions affecting only individual members of the Class and
24 Subclasses. The common questions of law and fact may be summarized
25 as follows and if necessary will be refined with the progress of formal
26 discovery in the case:
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- 1 g) Whether Defendants failed to provide members of Plaintiff Class who
2 ceased employment with Defendants all wages owed at the time of the
3 cessation of the employee-employer relationship?
- 4 h) Whether Defendants violated California law and applicable Wage
5 Orders by failing to provide Plaintiff Class members with paid ten-
6 minute (10) rest periods for each four hours worked?
- 7 i) Whether the remedy for an employer's failure to provide rest breaks as
8 required by law is a premium wage for hardship of missing a lawful rest
9 break?
- 10 j) Whether Defendants violated California law and applicable Wage
11 Orders by failing to provide Plaintiff Class members with an off-duty
12 thirty minute (30) meal period for more than five hours of work?
- 13 k) Whether Defendants violated California law and applicable Wage
14 Orders by failing to provide members of Plaintiff Class with a second
15 meal period?
- 16 l) Whether the remedy for an employer's failure to provide meal period as
17 required by law is a premium wage for hardship of missing a lawful
18 meal period?
- 19 m) Whether Defendants violated California law, including the applicable
20 wage orders by failing to properly compensate Plaintiff Class members
21 for all hours worked, including overtime hours as applicable?
- 22 n) Whether Defendants violated California law by their failure to timely
23 pay owed wages to employees within seven (7) days after the close of
24 each payroll period?
- 25 o) Whether Plaintiff Class is entitled to waiting time penalties under Labor
26 Code § 203?
- 27
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- 1 p) Whether Defendants violated California law by their failure to provide
2 Plaintiff Class with accurate and legally compliant itemized wage
3 statements?
- 4 q) Whether Defendants violated Business and Professions Code §§ 17200 et.
5 seq., Labor Code §§ 201, 202, 203, 204, 210, 226, 226.7, 510, 512, 1194,
6 1194.2, and applicable Wage Orders which constitutes violations of the
7 public policy?
- 8 r) Whether Plaintiff Class is entitled to an equitable relief in accordance
9 with Business and Professions Code §§ 17200 et. seq.
- 10 s) Whether Defendants' affirmative defenses, if any, raise common issues
11 of law and fact as to Plaintiff Class as a whole and/or Subclasses in
12 particular?

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14 **VI.**

15 **FIRST CAUSE OF ACTION**
16 **FAILURE TO PROVIDE MEAL PERIODS OR**
17 **COMPENSATION IN LIEU THEREOF**
18 **(Labor Code §§ 226.7, 512)**

19 **(By Plaintiff and Meal Period Subclass against Defendants)**

- 20 29. Plaintiff incorporates paragraphs 1 through 28 of this First Amended Complaint
21 as if fully alleged herein.
- 22 30. By their failure to provide thirty minute (30) uninterrupted meal period as well
23 as second meal period, if applicable, to Plaintiff and members of the Meal
24 Period Subclass, Defendants willfully violated the provisions of Labor Code §§
25 226.7, 512 and applicable IWC Wage Orders.
- 26 31. As a result of Defendants' unlawful conduct, Plaintiff and other members of the
27 Subclass have suffered damages as articulated in the Prayer for Relief, set forth
28 below, and fully incorporated here as applicable.

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VII.

SECOND CAUSE OF ACTION
FAILURE TO PROVIDE REST PERIODS OR
COMPENSATION IN LIEU THEREOF

(Labor Code § 226.7)

(By Plaintiff and Rest Period Subclass against Defendants)

32. Plaintiff incorporates paragraphs 1 through 28 of this First Amended Complaint as if fully alleged herein.
33. By their failure to provide ten-minute (10) rest periods for every four (4) hours of work or major fraction thereof per day to Plaintiff and Rest Period Subclass, Defendants willfully violated Labor Code § 226.7 and applicable Wage Orders.
34. As a result of Defendants' unlawful conduct, Plaintiff and other members of the Subclass have suffered damages as articulated in the Prayer for Relief, set forth below, and fully incorporated here as applicable.

VIII.

THIRD CAUSE OF ACTION
FAILURE TO PAY WAGES

(Labor Code §§ 204, 210, 510, 1194, 1194.2)

(By Plaintiff and the Unpaid Wage Subclass against Defendants)

35. Plaintiff incorporates paragraphs 1 through 28 of this First Amended Complaint as if fully alleged herein.
36. At all relevant times, Plaintiff and the other members of the Unpaid Wage Class were employees of Defendants covered by Labor Code §§ 204, 210, 510, 1194, 1194.2 and applicable Wage Orders, and they were entitled to receive minimum and overtime wages for all hours worked and liquidated damages equal to unlawfully unpaid minimum wages with interest.
37. Defendants have violated California law and the specified provisions of the Labor Code and applicable Wage Orders by their failure to pay all wages due in

1 accordance, including minimum wages, wrongfully classified off-the-clock
2 wages and overtime pay. Notably, any wages that were paid were not paid
3 within seven (7) days after the close of any applicable payroll period. As a
4 result of Defendants' unlawful conduct, Plaintiff and other members of the
5 Subclass have suffered damages as articulated in the Prayer for Relief, set forth
6 below, and fully incorporated here as applicable.
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8 **IX.**

9 **FOURTH CAUSE OF ACTION**

10 **FAILURE TO PAY WAGES DUE AT TERMINATION**

11 **(Labor Code §§ 201, 202, 203)**

12 **(By Plaintiff and Waiting Time Subclass against Defendants)**

13 38. Plaintiff incorporates paragraphs 1 through 28 of this First Amended Complaint
14 as if fully alleged herein.

15 39. By their failure to timely pay Plaintiff and Waiting Time Subclass, Defendants
16 willfully violated the provisions of Labor Code §§ 201, 202, 203 and applicable
17 Wage Orders. Sec. 203 of Labor Code provides that if an employer willfully fails
18 to timely pay such wages, the employer must, as penalty, continue to pay the
19 employee's wages until the back wages are paid in full or an action is
20 commenced.

21 40. As a result of Defendants' unlawful conduct, Plaintiff and other members of the
22 Subclass have suffered damages as articulated in the Prayer for Relief, set forth
23 below, and fully incorporated here as applicable.

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1 X.

2 **FIFTH CAUSE OF ACTION**

3 **FAILURE TO PROVIDE COMPLIANT ITEMIZED WAGE STATEMENTS**

4 **(Labor Code §226)**

5 **(By Plaintiff and Wage Statement Subclass against Defendants)**

6 41. Plaintiff incorporates paragraphs 1 through 28 of this First Amended Complaint
7 as if fully alleged herein.

8 42. By their failure to provide accurate itemized wage statements, semimonthly or
9 at the time of each payment of wages, Defendants willfully violated the
10 provisions of Labor Code §226 and applicable Wage Orders.

11 43. As a result of Defendants' unlawful conduct, Plaintiff and other members of the
12 Subclass have suffered damages as articulated in the Prayer for Relief, set forth
13 below, and fully incorporated here as applicable.

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15 XI.

16 **SIXTH CAUSE OF ACTION**

17 **VIOLATION OF UNFAIR BUSINESS PRACTICES ACT**

18 **(Bus. & Prof. Code §§ 17200, *et seq.*)**

19 **(By Plaintiff, Plaintiff Class and All Subclasses against Defendants)**

20 44. Plaintiff incorporates paragraphs 1 through 43 of this First Amended Complaint
21 as if fully alleged herein.

22 45. The alleged unlawful conduct of Defendants constitutes unfair competition
23 pursuant to Business and Professions Code §§ 17200 *et seq.*, and this cause of
24 action is brought as a cumulative remedy under Bus. & Prof. Code § 17205 for
25 the time period starting four (4) years before the filing of the Complaint.

26 46. As a result, Plaintiff and other members of Plaintiff Class and Subclasses have
27 suffered injury in fact and lost money or property. Plaintiff and said members
28 have been deprived of their rights as set forth in this First Amended Complaint,

1 including, but not limited to, payment of minimum and/or actual wages for all
2 hours worked.

3 47. Pursuant to Business and Professions Code § 17203, Plaintiff and other
4 members of Plaintiff Class and Subclasses are entitled to restitution of all wages
5 owed to them under the Labor Code, and interest thereon, in which they had a
6 property interest, which Defendants failed to pay to them but withheld and
7 retained for themselves. Restitution of the money owed to Plaintiff, Plaintiff
8 Class and Subclasses is necessary to prevent Defendants from becoming
9 unjustly enriched by their failure to comply with the Labor Code provisions.

10 48. Plaintiff and members of Plaintiff Class and Subclasses are entitled to recover
11 reasonable attorney's fees in connection with their unfair competition claims
12 pursuant to Code of Civil Procedure § 1021.5, the substantial benefit doctrine
13 and/or the common fund doctrine.

14 49. Plaintiff requests the court to issue a preliminary and permanent injunction
15 prohibiting defendants from committing the Labor Code and applicable Wage
16 Order violations set forth in this First Amended Complaint, and Plaintiff and
17 the members of Plaintiff Class and Subclasses have suffered further damages as
18 articulated in the Prayer for Relief, set forth below, also incorporated here fully
19 as applicable.
20

21 XII.

22 SEVENTH CAUSE OF ACTION

23 VIOLATION OF CALIFORNIA'S PRIVATE ATTORNEY GENERAL ACT

24 (LABOR CODE § 2699 *et seq.*)

25 (By Plaintiff and Aggrieved Employees Against Each Defendant)

26 50. Plaintiff incorporates paragraphs 1 through 49 of this First Amended Complaint
27 as if fully alleged herein.

28 51. Under the Private Attorney General Act, Labor Code §§ 2698-99 ("PAGA"),
private parties may recover civil penalties for violations of the California Labor

Code. PAGA penalties are in addition to any other relief available under the Labor Code.

52. As set forth above, Defendants violated the California Labor Code by consistently failing to employ Plaintiff and other similarly situated employees in compliance with California law.

53. Plaintiff provided written notice by certified mail to Defendants on May 5, 2022, and electronic notice thereafter to the State Labor & Workforce Development Agency ("LWDA"), of the legal claims and theories of this case. To date, and after 65 days from the date of mailing of notice, the LWDA has not notified Plaintiff that the LWDA intends to exercise jurisdiction over the claim for civil penalties under the PAGA. Accordingly, Plaintiff exhausted administrative remedies as required by Labor Code § 2699.3. Plaintiff's PAGA claim was assigned case number LWDA-CM-882291-22 by the LWDA. Appended hereto is a copy of the notice communicated by Plaintiff.

54. Under the PAGA, Plaintiff and all other aggrieved employees are entitled to recover the maximum civil penalties permitted by law from Defendants for the violations of Labor Code alleged in this First Amended Complaint and the notice communicated by Plaintiff.

55. Plaintiff and all other aggrieved employees are also entitled to recover their attorneys' fees and costs under Labor Code § 2699.

XIII.

PRAYER FOR RELIEF

WHEREFORE, on behalf of herself and all others similarly situated, Plaintiff prays for relief and judgment against Defendants as follows:

- 1 A. An order certifying that Plaintiff may pursue her claims as a class action
2 under Section 382 of the Code of Civil Procedure; and it is further requested that
3 Plaintiff Class and each Plaintiff Subclass be certified;
- 4 B. An order appointing Plaintiff as Class representative;
- 5 C. An order appointing Plaintiff's counsel as Class counsel;
- 6 D. Disgorgement of Defendants' wrongfully obtained profits and restitution
7 of unpaid wages under Business and Professions Code §§ 17203, 17204;
- 8 E. Damages for unpaid additional compensation for failing to provide
9 timely or uninterrupted or lawful meal periods and rest periods;
- 10 F. Damages for unpaid minimum wages under Labor Code § 1194;
- 11 G. Damages for unpaid overtime and double time wages to the extent
12 applicable;
- 13 H. Liquidated damages under Labor Code § 1194.2;
- 14 I. Statutory penalties under Labor Code § 210;
- 15 J. Statutory penalties under Labor Code § 226(e);
- 16 K. Damages for unpaid penalty wages under Labor Code § 203;
- 17 L. Reasonable attorney's fees and costs pursuant to statute, including, but
18 not limited to Labor Code § 218.5 and Code of Civ. Proc. § 1021.5;
- 19 M. Enjoinment of Defendants from further acts of unfair competition and
20 continuous violations of the Labor Code and applicable Wage Orders;
- 21 N. Civil penalties under Labor Code Section 2699 (75% payable to the
22 LWDA and 25% payable to aggrieved employees);
- 23 O. For costs of the suit incurred; and

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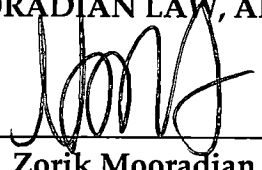
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1 P. For such other relief that the Court may deem just and proper, including
2 prejudgment interest and costs.

3
4 DATED: Oct. 7, 2022

MOORADIAN LAW, APC

5
6 By: 

Zorik Mooradian,

Haik Hacopian,

Attorneys for Plaintiff JULIA GARCIA

individually and on behalf of other persons

similarly situated and similarly aggrieved

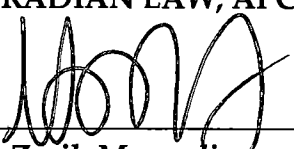
employees

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12 **DEMAND FOR A JURY TRIAL**

13 Plaintiff JULIA GARCIA hereby demands a jury trial in the above case.

14
15 DATED: Oct. 7, 2022

MOORADIAN LAW, APC

16
17 By: 

Zorik Mooradian,

Haik Hacopian,

Attorneys for Plaintiff JULIA GARCIA

individually and on behalf of other persons

similarly situated and similarly aggrieved

employees

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MAY 5, 2022

VIA USPS CERTIFIED MAIL

New Vista Nursing Operator, LLC
4250 Pennsylvania Ave., Suite 107
La Crescenta, CA 91214
7019 0160 0000 9187 4953

Jennifer Sternshein Esq.
Agent for Service of Process for New Vista
Nursing Operator, LLC
5316 E. Chapman Ave.
Orange, CA 92869
7019 0160 0000 9187 4960

VIA ONLINE SUBMISSION

State of California
Labor & Workforce Development Agency
800 Capitol Mall, MIC-55
Sacramento, CA 95814
www.dir.ca.gov

Re: *California Wage & Hour Violations*
New Vista Nursing Operator, LLC

To Whom It May Concern:

This office represents Julia Garcia with respect to Private Attorneys General Act (“PAGA”) claims that she intends to pursue against New Vista Nursing Operator, LLC (“New Vista”) based upon its illegal wage and hour practices in the State of California as to its non-exempt employees. This letter constitutes the notice required by Labor Code Section 2699.3.

Facts

New Vista is engaged in the business of ownership and operation of nursing home and assisted living facilities. Ms. Garcia worked as a non-exempt hourly employee of New Vista at its facility located at 8647 Fenwick Street in Sunland, California. New Vista employs numerous non-exempt, hourly paid employees such as Ms. Garcia in California. Unfortunately, New Vista has engaged in the following practices:

Failure to Pay Wages and Failure to Pay the Regular Rate

New Vista implemented the policy and practice of failing to pay employees for all hours worked. Additionally, employees also did not receive net 30-minute meal breaks.

New Vista engages in the practice of not calculating relevant wages in accordance with employees' regular rate of compensation and that, at all times, calculated wages at employees' base hourly rate. Pursuant to Labor Code Section 510, any overtime wages must be paid at the rate of no less than one and one-half times the regular rate of pay and double time wages at no less than twice the regular rate of pay. New Vista, however, calculated overtime at one and one-half times of the lesser base hourly rate and double time at twice the lesser base hourly rate. To the extent any overtime was paid, overtime rates were not paid for hours exceeding eight (8) per day. The foregoing practices resulted in the underpayment of wages to employees, including underpayment of overtime and double-time to the extent applicable.

Late Paychecks

New Vista engages in the practice of failing to timely pay undisputed wages to employees promptly upon the close of a payroll period.

Meal Breaks

New Vista engages in the practice of not allowing mandated meal breaks and not compensating employees for any missed, late, or short meal breaks. Employees did not receive premium pay for any missed, late, or short meal period. Notably, meal breaks, to the extent taken, were not at least a net thirty (30) minutes in duration on account of the clock in and out process, interruptions, and other factors. New Vista failed to pay an additional one hour of pay at the employee's "regular rate of compensation" for each workday that the meal or rest or recovery period was not provided.

Rest Breaks

New Vista engages in the practice of not allowing mandated rest breaks and not compensating employees for any missed, late, or short rest breaks. Employees did not receive premium pay for these missed rest breaks. Notably, any rest breaks permitted were not at least a net ten (10) minutes in duration on account of interruptions and other factors. New Vista failed to pay an additional one hour of pay at the employee's "regular rate of compensation" for each workday that the meal or rest or recovery period was not provided.

Waiting Time and Unpaid Vacation Wages

At the time of an employee's separation (whether it be by termination or resignation) New Vista has failed to provide the employee with all monies owed, including meal break premiums, rest break premiums, and unpaid wages for work performed, including overtime and double-time wages to the extent applicable. Additionally, separating employees were never timely paid their undisputed final wages, including undisputed accrued vacation wages.

New Vista maintained a vacation benefit for employees and additional vacation wages would be owed to the extent that any unpaid compensation was not factored into the accrual of the vacation benefit. Correspondingly, any vacation balance paid to an employee upon separation would not be full and complete.

Noncompliant Wage Statements

New Vista has adopted a custom and practice of failing to provide wage statements which reflect all hours worked during any pay period, whether or not employees received all wages entitled to, including meal and rest break premiums.

Failure to Maintain Records

New Vista further failed to maintain Ms. Garcia's and other aggrieved employees' payroll records showing the hours worked daily and the wages paid pursuant to Labor Code §1174.

Additional Penalties

Ms. Garcia and all other similarly aggrieved California employees intend to seek all available civil penalties for the violations described above.

Code Provisions Violated and Legal Theories

The specific provisions of the California Labor Code which New Vista has violated, and applicable legal theories which establish the violations, include the following:

Labor Code Section 201: New Vista violated, and continues to violate, Labor Code Section 201 by failing to pay the employees it has discharged the complete and correct amount of all wages owing at the time of termination. The wages earned but not paid at termination include uncompensated work time, including overtime and double-time as applicable, and premium wages for missed meal and rest breaks.

Labor Code Section 202: New Vista violated, and continues to violate, Labor Code Section 202 by failing to pay employees who quit the correct amount of all wages, within 72 hours of the termination. As already stated, the wages earned but not paid at termination include the above.

Labor Code Section 203: New Vista violated, and continues to violate, Labor Code Section 203 by failing to pay 30 days of continuing wages to employees owed wages (explained above) whose employment ended.

Labor Code Sections 204 and 210: New Vista violated, and continues to violate, Labor Code Section 204 by failing to pay wages to employees for all hours worked as explained above including failing to timely pay wages following the close of payroll periods.

Labor Code Section 226: New Vista violated, and continues to violate, Labor Code Section 226(a) by failing to provide employees with accurate and compliant itemized wage statements.

Labor Code Section 226.7: New Vista violated, and continues to violate, Labor Code Section 226.7 by failing to provide meal periods and/or rest periods that are in accordance and in compliance with the IWC's applicable wage order.

Labor Code Section 227.3: Liberty violated, and continues to violate, Labor Code Section 227.3 by failing to promptly pay all vested vacation benefits to employees upon their separation.

Labor Code Section 510: New Vista violated, and continues to violate, Labor Code Section 510 by failing to pay minimum wage or overtime compensation required by law including failing to calculate overtime and doubletime wages in accordance with employees' regular rate of pay.

Labor Code Section 512: New Vista violated, and continues to violate, Labor Code Section 512 by not providing employees with legally compliant meal periods.

Labor Code Sections 1174 and 1174.5: New Vista violated, and continues to violate, Labor Code Section 1174 by failing to maintain employees' payroll records showing the hours worked daily and the wages paid.

Labor Code Section 1194: New Vista violated, and continues to violate, Labor Code Section 1194 by failing to pay employees minimum wage and overtime compensation required by law.

Labor Code Sections 1197 and 1197.1: New Vista violated, and continues to violate, Labor Code Section 1197 by paying employees wages that are less than the minimum fixed by an applicable state or local law.

Conclusion

Please inform us if you intend to investigate this matter. We look forward to prompt administrative action so that the identified unlawful practices can be rectified. In the absence of such action, we may file an appropriate action, pursuant to Labor Code Section 2698 *et seq.* Ms. Garcia and all other similarly aggrieved California employees intend to seek all penalties for the violations described above. Should you require any additional information, do not hesitate to contact the undersigned.

Very truly yours,

MOORADIAN LAW, APC

/s/ Haik Hacopian

HAIK HACOPIAN

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On **October 7, 2022**, I served on the parties of record in this action the foregoing document(s) described as:

on the parties to this action by placing them in a sealed envelope(s) addressed as follows:

Attorneys for Defendants

☒ **STATE** – I declare under penalty of perjury under the laws of the “State of California that the above is true and correct.

/s/ Haik Hacobian

Haik Hacobian