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13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

14 **COUNTY OF LOS ANGELES**

15 JOSE CONTRERAS, individually and on behalf
16 of other aggrieved employees,

17 Plaintiff,

18 v.

19 SANTA FE CONVALESCENT HOSPITAL,
20 INC., dba BEACH SIDE ACUTE, a limited
21 liability company; and DOES 1-20, inclusive,

22 Defendants.

Case No.: 22LBCV00508

**REPRESENTATIVE ACTION
COMPLAINT FOR:**

1. Civil Penalties Under the Private Attorneys General Act (California Labor Code §§ 2698, et seq.).

1 Plaintiff Jose Contreras brings this action on behalf of the State of California, and on behalf of
2 other aggrieved employees pursuant to the California Private Attorneys General Act, and alleges the
3 following:

4 **I. INTRODUCTION**

5 1. Plaintiff Jose Contreras ("Plaintiff") brings this representative action to remedy wage-
6 and-hour violations by Defendant Santa Fe Convalescent Hospital, Inc., dba Beach Side Acute and
7 Does 1 through 20 (collectively, the "Defendants"). For at least one year prior to the filing of this
8 action and through the present, Defendants have engaged in a uniform policy and systematic scheme
9 of wage abuse against Plaintiff and other non-exempt employees of Defendants in violation of
10 applicable California laws, including, without limitation, failing to provide meal and rest breaks,
11 failing to pay minimum and overtime wages, and failing to furnish Plaintiff and other employees with
12 accurate, itemized wage statements. As a result of these violations, Defendants are liable for civil
13 penalties under the California Private Attorneys General Act, California Labor Code §§ 2698, *et seq.*
14 ("PAGA").

15 **II. THE PARTIES**

16 2. Defendant Santa Fe Convalescent Hospital, Inc. is a nursing home facility in Long
17 Beach, California and conducted and continues to conduct substantial business in the state of
18 California, including Los Angeles County. At all times mentioned herein, Defendant Santa Fe was
19 and is an employer covered by the California Labor Code and the California Industrial Welfare
20 Commission ("IWC") Wage Order.

21 3. Defendant Santa Fe Convalescent Hospital, Inc. operates several facilities, including
22 Beach Side Acute, and conducted and continues to conduct substantial business in the state of
23 California. At all times mentioned herein, Defendant Santa Fe Convalescent Hospital, Inc., dba
24 Beach Side Acute was and is an employer covered by the California Labor Code and the California
25 IWC Wage Order.

26 4. Plaintiff is unaware and ignorant of the true names and capacities of Defendants sued
27 herein as **Does 1 through 20**, inclusive, and for that reason sues said Defendants by such fictitious
28 names (the "Doe Defendants").

1 5. At all times herein relevant, Defendants Santa Fe Convalescent Hospital, Inc., dba
2 Beach Side Acute and the Doe Defendants, and each of them, were the agents, partners, joint-
3 venturers, joint employers, alter-egos, representatives, servants, employees, successors-in-interest, co-
4 conspirators and assigns, each of the other, and at times relevant hereto were acting with the course
5 and cope of their authority as such agents, partners, joint-venturers, joint employers, alter-egos,
6 representatives, servants, employees, successors-in-interest, co-conspirators and assigns, and all acts or
7 omissions alleged herein were duly committed with the ratification, knowledge, permission,
8 encouragement, authorization, and consent of each Defendants designated herein. Plaintiff is
9 informed and believes, and based thereon alleges that the acts of each Defendants are legally
10 attributable to the other Defendants.

11 6. Plaintiff is informed and believes, and based thereon alleges that each of the Doe
12 Defendants are legally responsible for the events and happenings referred to in this Complaint, and
13 unlawfully caused the injuries and damages to Plaintiff and the other aggrieved employees as alleged
14 in this Complaint. Plaintiff will file and serve an amendment to this Complaint alleging the true
15 names and capacities of the Doe Defendants when such true names, capacities, and involvement is
16 ascertained.

17 7. **Plaintiff Jose Contreras** was employed by Defendants as a Janitor from approximately
18 November 2019 to February 25, 2022 at Santa Fe Convalescent Hospital, Inc. dba Beachside Post-
19 Acute in Long Beach, California. Plaintiff Jose Contreras tasks included cleaning and supply
20 designated building areas (dusting, sweeping, vacuuming, mopping, etc.), carry out heavy equipment,
21 notify management of deficiencies or needs for repairs, follow all health and stay regulations. At all
22 times relevant to this Complaint, Defendants employed Plaintiff as a non-exempt employee and
23 Defendants paid Plaintiff in whole or in part on an hourly basis. Plaintiff is an individual residing in
24 the County of Los Angeles.

25 8. At all times relevant to this Complaint, Defendants, and each of them, exercised
26 control over the wages, hours, and working conditions of Plaintiff and other aggrieved employees;
27 suffered and permitted Plaintiff and other aggrieved employees to work; and otherwise engaged
28 Plaintiff and other aggrieved employees to work, so as to create an employer-employee relationship

1 between Defendants and Plaintiff and other aggrieved employees. At all relevant times, Defendants
2 were “employers” of Plaintiff and other aggrieved employees within the meaning of all applicable
3 California state laws.

4 **III. JURISDICTION AND VENUE**

5 9. This Court has jurisdiction over this action under the California Constitution, Article
6 VI, Section 10, which grants the Superior Court original jurisdiction in all causes except those given
7 by statute to other courts. The statutes under which this action is brought do not specifically grant
8 jurisdiction to any other court, and the issues are based solely on California statutes and law,
9 including the California Labor Code, California IWC Wage Orders, California Code of Civil
10 Procedure, California Civil Code, PAGA, and the California Business and Professions Code.

11 10. The California Superior Court has jurisdiction over Defendants, because they are
12 citizens of California, have sufficient minimum contacts in California, and otherwise intentionally
13 avail themselves to the California market, including establishing their principal place of business and
14 transacting business in California.

15 11. Venue is proper in this Court, because the Defendants transact business in the County
16 of Los Angeles, including operating its apartments and maintaining its headquarters in the County of
17 Los Angeles.

18 **IV. FACTUAL BACKGROUND**

19 12. At all relevant times set forth in this Complaint, Defendants jointly employed Plaintiff
20 and other aggrieved employees as hourly, non-exempt employees.

21 13. Plaintiff and other aggrieved employees were covered under one or more IWC Wage
22 Orders, the California Labor Code provisions relating to wage-and-hour laws, and other applicable
23 wage orders, regulations, and statutes, which imposed an obligation on the part of Defendants, among
24 other things, to provide uninterrupted meal and rest periods, to pay overtime wages, to pay wages for
25 all hours worked, to pay all wages due at separation of employment, to reimburse for all necessary
26 business-related expenses, and to provide accurate wage statements.

27 14. Plaintiff is informed and believes, and based thereon alleges that Defendants engaged
28 in a uniform policy and systematic scheme of wage abuse against its non-exempt employees,

1 including, without limitation, depriving their employees of uninterrupted thirty-minute meal periods
2 for work periods of at least five hours; depriving their employees of ten-minute rest periods for work
3 periods of four hours or major fractions; failing to compensate employees for all hours worked,
4 including overtime wages; failing to provide timely, accurate itemized wage statements; and failing to
5 pay, within the time constraints imposed by applicable laws, all earned compensation at separation of
6 employment.

7 15. Plaintiff is informed and believes, and based thereon alleges that Defendants failed to
8 provide Plaintiff and other aggrieved employees the required meal periods or payment of one
9 additional hour of pay at Plaintiff's and other aggrieved employees' regular rate of pay when a meal
10 break was missed or was taken after the fifth hour of work. This was a result of Defendants' uniform
11 policy and practice of making Plaintiff's and other aggrieved employees' take their 30-minute meal
12 breaks after the fifth hour of work due to being short staffed. Defendants required Plaintiff and other
13 aggrieved employees to work an excess of the fifth hour until someone covered their shifts. As a
14 result of Defendants' demanding needs, Plaintiff and other aggrieved employees were required to
15 perform work as ordered by Defendants for more than five hours during a shift without receiving a
16 meal break and/or more than ten hours in a shift without receiving a second meal break. Defendants
17 had no policy, procedure, or practice for Plaintiff and other aggrieved employees to report missed
18 meal periods or recover lost wages, and Defendants had no policy, procedure, or practice to provide
19 one hour of additional wages for each workday that the meal breaks were not provided.

20 16. Plaintiff is informed and believes, and based thereon alleges that Defendants failed to
21 provide Plaintiff and other aggrieved employees with rest periods of at least ten minutes per four
22 hours worked, or major fraction thereof, and failed to pay Plaintiff one hour of additional wages at
23 Plaintiff's and other aggrieved employees' regular rate of pay when a rest break was not provided.
24 Defendants had no policy, procedure, or practice for Plaintiff and other aggrieved employees to
25 report missed rest breaks or recover lost wages, and Defendants had no policy, procedure, or
26 practice to provide one hour of additional wages for each workday that the rest break was not
27 provided.

28 17. Plaintiff is informed and believes, and based thereon alleges that Defendants failed to

provide Plaintiff and other aggrieved employees' wages, including overtime wages, for all hours worked, meaning the time during which Plaintiff and other aggrieved employees were subject to the control of Defendants, including all the time they were suffered or permitted to work. This was a result of Defendants' and other aggrieved employees' uniform policy and practice of requiring Plaintiff and other aggrieved employees to work off-the-clock without paying them for all the time they were under Defendants' control performing pre-shift and post-shift duties and during purported meal breaks. Additionally, Defendants established a consistent policy and practice of rounding down the hours worked by Plaintiff and other aggrieved employees to the nearest quarter-hour. In violation of California law, Defendants rounded the actual time worked and recorded by Plaintiff and other aggrieved employees usually down, so that during their employment, employees were paid far less than they would have been paid had they been paid for actual recorded time. Additionally, Defendants failed to correctly calculate Plaintiff's and other aggrieved employees' regular rate of pay for overtime payment purposes, by failing to include commissions as part of their regular rate of pay. Plaintiff and other aggrieved employees are entitled to receive compensation for all hours worked, and that they did not receive compensation for all hours worked. Plaintiff and other aggrieved employees worked over eight hours in a day, and/or forty hours in a week during their employment with Defendants and Defendants failed to pay overtime wages to Plaintiff and other aggrieved employees for all hours worked more than eight hours in a day and/or forty hours per week.

18. Plaintiff is informed and believes, and based thereon alleges that Defendants have unlawfully failed to reimburse Plaintiff and other aggrieved employees for business expenditures and losses, including without limitation, cell phone charges, required tools and equipment, uniform maintenance, and travel expenses.

19. Plaintiff is informed and believes, and based thereon alleges that Defendants have unlawfully failed to provide timely, accurate, itemized wage statements to Plaintiff.

20. Plaintiff is informed and believes, and based thereon alleges that Defendants have failed to pay all compensation due and owing to Plaintiff and the other aggrieved employees upon separation.

V. PAGA REPRESENTATIVE ACTION ALLEGATIONS

21. At all relevant times, PAGA was applicable to Plaintiff and his employment with Defendants. PAGA provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency ("LWDA") for violations of the California Labor Code. As an alternative, these civil penalties may be recovered through a civil action brought by an aggrieved employee on behalf of himself and other current or former employees.

22. Plaintiff is an "aggrieved employee" as defined by PAGA, because he is a current employee of Defendants, and one or more of the alleged violations were committed against him.

23. On May 3, 2022 Plaintiff gave written notice of Defendants' violations of various provisions of the California Labor Code and IWC Wage Order No. 4-2001 to (a) the LWDA by filing with the LWDA through the LWDA website and (b) to Defendants by certified mail.

24. The LWDA did not provide notice of its intention to investigate Defendants' violations within 65 calendar days of the May 3, 2022, notice.

25. In doing so, Plaintiff has satisfied the administrative prerequisites under PAGA to recover civil penalties against Defendants, in addition to the other remedies, for violations of California Labor Code §§ 201-203, 226, 226.7, 510, 511, 526(a), 1194 *et seq.*, 1198, and 2802.

VI. CAUSES OF ACTION

FIRST CAUSE OF ACTION

Private Attorneys General Act

(California Labor Code §§ 2698, *et seq.* [PAGA])

(By Plaintiff Against Defendant)

26. Plaintiff incorporates by reference and re-alleges paragraphs set forth above as though set forth fully herein. Plaintiff alleges as follows as representative cause of action on behalf of himself.

27. PAGA authorizes an aggrieved employee, on behalf of him/himself or other current or former employees, to bring a civil action to recover civil penalties against his or his employer pursuant to the procedures specified in California Labor Code § 2699.3. Plaintiff is an aggrieved employee within the meaning of PAGA, and pursuant to PAGA, Plaintiff is entitled to recover civil penalties on behalf of himself and against whom one or more of the alleged violations were committed. If employee prevails as private attorney general, the employer may be subject to civil penalties, of which the aggrieved employee is entitled to 25 percent.

28. Plaintiff has complied with the procedures for bringing suit under PAGA. Specifically, on or about May 3, 2022, Plaintiff gave written notice of Defendants' violations — including the facts and theories to support the violations — of various provisions of the California Labor Code and IWC Wage Order No. 4-2001 to (a) the LWDA by filing with the LWDA through the LWDA website and (b) to Defendants by certified mail.

29. Pursuant to California Labor Code § 2699.3, the LWDA must give written notice by certified mail to the parties that it intends to investigate the alleged violations of the California Labor Code within 60 days of the date of the complainant's written notice and now more than 65 days have passed since the notice and the LWDA did not provide the parties notice that it intended to investigate his claims.

30. During the applicable time period preceding the filing of Plaintiff's notice to the LWDA, Defendants violated California Labor Code §§ 201-203, 226, 226.7, 510, 511, 526(a), 1194 *et seq.*, 1198, and 2802, and the IWC Wage Order No. 4-2001 provisions, as alleged in more detail above.

31. Pursuant to California Labor Code § 2699, Plaintiff, on behalf of the state of California and other aggrieved employees, requests and is entitled to receive from Defendants statutory penalties against Defendants, including but not limited to:

- a. Penalties under California Labor Code § 2699(f)(2) in the amount of a \$100 for each aggrieved employee per pay period for the initial violation, and \$200 for each aggrieved employee per pay period for each subsequent violation;
- b. Penalties under California Code of Regulations Title 8, § 11040 in the amount of \$50 for each aggrieved employee per pay period for the initial violation, and \$100 for each aggrieved employee per pay period for each subsequent violation;
- c. Pursuant to California Labor Code § 226(c), the greater of all actual damages or \$50 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of \$4,000;

- d. Pursuant to California Labor Code § 558(a), violations of California Labor Code § 526(a) and IWC Wage Order No. 4-2001 shall be subject to a civil penalty as follows: (i) for any initial violation, \$50 for each underpaid employee for each pay period for which the employee was underpaid; (ii) for each subsequent violation \$100 for each underpaid employee for each pay period for which the employee was underpaid; and
- e. Any and all additional penalties and sums as provided by the California Labor Code.

32. Pursuant to California Labor Code § 2699(i), civil penalties recovered by aggrieved employees shall be distributed as follows: “75 percent to the Labor and Workforce Development Agency for enforcement of labor laws, including the administration of this part, and for education of employers and employees about their rights and responsibilities under this code, to be continuously appropriated to supplement and not supplant the funding to the agency for those purposes; and 25 percent to the aggrieved employees.”

33. Pursuant to California Labor Code §§ 2699(a) and (f), and 2699.5, and 2699(g)(1), Plaintiff is entitled to an award of reasonable attorneys’ fees and costs. To that end, Plaintiff seeks all relief entitled under PAGA for any penalties assessed against Defendants as a result of Defendants’ California Labor Code violations, plus attorneys’ fees and costs.

34. Plaintiff do not seek to recover anything other than penalties as permitted by California Labor Code § 2699. To the extent that statutory violations are mentioned for wage violations, Plaintiff does not seek underlying general and/or special damages for those violations, but simply the civil penalties permitted by California Labor Code § 2699. Nothing in this complaint should be construed as attempting to obtain any relief that would not be available in a PAGA-only action.

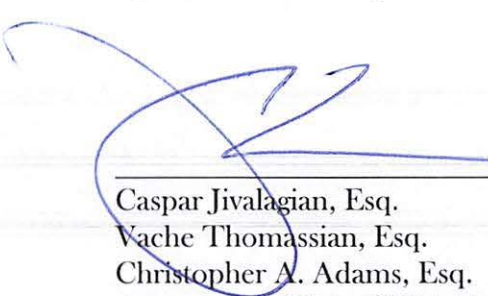
VI. PRAYER FOR RELIEF

Wherefore, Plaintiff, on behalf of the State of California and other aggrieved employees pursuant to PAGA, prays for an award and judgment against Defendants jointly and severally, as follows:

1. For penalties and attorneys' fees pursuant to PAGA;
2. That the Court declare, adjudge, and decree that Defendants violated California Labor Code §§ 201-203, 226, 226.7, 510, 511, 526(a), 1194 *et seq.*, 1198, and 2802, and IWC Wage Order No. 4-2001 provisions;
3. For civil penalties pursuant to California Labor Code §§ 2699(a), (f), and (g) plus costs and attorneys' fees under California Labor Code § 218.5, 226(c), and 2699(g) for violations of California Labor Code §§ 201-203, 226, 226.7, 510, 511, 526(a), 1194 *et seq.*, 1198, and 2802, and IWC Wage Order No. 4-2001 provisions; and
4. For such other and further relief as the Court deems appropriate.

DATED: August 16, 2022

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