

AEGIS LAW FIRM, PC

SAMUEL A. WONG, State Bar No. 217104
KASHIF HAQUE, State Bar No. 218672
JESSICA L. CAMPBELL, State Bar No. 280626
ALI S. CARLSEN, State Bar No. 289964
9811 Irvine Center Drive, Suite 100
Irvine, California 92618
Telephone: (949) 379-6250
Facsimile: (949) 379-6251
Email: acarlsen@aegislawfirm.com

Attorneys for Plaintiff Haydee Alcantar, individually,
and on behalf of all others similarly situated.

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Case #22CV398814
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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SANTA CLARA

HAYDEE ALCANTAR, individually and
on behalf of all others similarly situated,

Plaintiffs,

v.

ROYAL CARE SKILLED NURSING
FACILITY, INC.; COVENANT CARE
CALIFORNIA, LLC; and DOES 1 through
20, inclusive,

Defendants.

Case No. 22CV398814

*Assigned for All Purposes to:
Hon. Patricia M. Lucas
Dept. 3*

THIRD AMENDED COMPLAINT FOR:

1. Enforcement of Labor Code § 2698 *et seq.*
("PAGA")

1 Plaintiff Haydee Alcantar, individually and on behalf of others similarly situated, alleges
2 as follows:

3 **NATURE OF ACTION AND INTRODUCTORY STATEMENT**

4 1. Plaintiff Haydee Alcantar (“Plaintiff”) brings this representative action pursuant
5 to the Private Attorneys General Act of 2004, Cal. Lab. Code. § 2698 *et seq.*, against defendants
6 Covenant Care California, LLC, and DOES 1 through 20, inclusive (collectively, “Defendants”),
7 on behalf of Defendants’ non-exempt employees throughout California.

8 2. Defendants provide services or goods throughout California.

9 3. Through this action, Plaintiff alleges that Defendants engaged in a systematic
10 pattern of wage and hour violations under the California Labor Code and Industrial Welfare
11 Commission (“IWC”) Wage Orders.

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

- 14 (a) failing to pay all wages (including minimum wages and overtime wages);
- 15 (b) failing to provide lawful meal periods or compensation in lieu thereof;
- 16 (c) failing to authorize or permit lawful rest breaks or provide compensation
17 in lieu thereof;
- 18 (d) failing to provide accurate itemized wage statements;
- 19 (e) failing to pay wages timely during employment; and
- 20 (f) failing to pay all wages due upon separation of employment.

21 5. Plaintiff seeks monetary relief against Defendants on behalf all others similarly
22 situated in California to recover, attorneys’ fees, costs and civil penalties pursuant to Labor Code
23 §§ 201, 202, 203, 204, 210, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1182.12, 1194,
24 1194.2, 1197, 1197.1, 1198, 2698, *et seq.*, and Code of California Civil Procedure § 1021.5.

25 **JURISDICTION AND VENUE**

26 6. The monetary damages sought by Plaintiff exceed the minimal jurisdictional
27 limits of the Superior Court and will be established according to proof at trial.

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.

8. This Court has jurisdiction over all Defendants because, upon information and belief, they are citizens of California, have sufficient minimum contacts in California, or otherwise intentionally avail themselves of the California market so as to render the exercise of jurisdiction over them by the California courts consistent with traditional notions of fair play and substantial justice.

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.

THE PARTIES

10. Plaintiff is a resident of California and worked for Defendants during the relevant time periods as alleged herein.

11. Plaintiff is informed and believes, and thereon alleges that at all times hereinafter mentioned, Defendants were and are subject to the Labor Code and IWC Wage Orders as employers, whose employees were and are engaged throughout this county and the State of California.

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 known.

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

14. 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 defendant, carried out a joint

1 scheme, business plan, or policy in all respects pertinent hereto, and the acts of each defendant
2 are legally attributable to the other defendant. Furthermore, defendants in all respects acted as the
3 employer and/or joint employer of Plaintiff and the aggrieved employees.

4 15. Plaintiff is informed and believes, and thereon alleges, that each and all of the acts
5 and omissions alleged herein were performed by, or are attributable to, Defendants and/or DOES
6 1 through 20, acting as the agent or alter ego for the other, with legal authority to act on the
7 other's behalf. The acts of any and all Defendants were in accordance with, and represent, the
8 official policy of Defendants.

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

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

16 **GENERAL ALLEGATIONS**

17 18. At all relevant times mentioned herein, Defendants employed Plaintiff and other
18 California residents as non-exempt employees throughout California at Defendants' California
19 business location(s).

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

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

25 21. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
26 should have known that Plaintiff and Aggrieved employees were entitled to receive wages for all
27 time worked (including minimum wages and overtime wages) and that they were not receiving
28 all wages earned for work that was required to be performed. In violation of the Labor Code and

1 IWC Wage Orders, Plaintiff and Aggrieved employees were not paid all wages (including
2 minimum wages and overtime wages) for all hours worked at the correct rate and within the
3 correct time.

4 22. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
5 should have known that Plaintiff and Aggrieved employees were entitled to receive all required
6 meal periods or payment of one (1) additional hour of pay at Plaintiff's and Aggrieved
7 employees' regular rate of pay when they did not receive a timely, uninterrupted meal period. In
8 violation of the Labor Code and IWC Wage Orders, Plaintiff and Aggrieved employees did not
9 receive all meal periods or payment of one (1) additional hour of pay at Plaintiff's and Aggrieved
10 employees' regular rate of pay when they did not receive a timely, uninterrupted meal period.

11 23. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
12 should have known that Plaintiff and Aggrieved employees were entitled to receive all rest
13 breaks or payment of one (1) additional hour of pay at Plaintiff's and Aggrieved employees'
14 regular rate of pay when a rest break was late, missed, or interrupted. In violation of the Labor
15 Code and IWC Wage Orders, Plaintiff and Aggrieved employees did not receive all rest breaks
16 or payment of one (1) additional hour of pay at Plaintiff's and Aggrieved employees' regular rate
17 of pay when a rest break was missed, late, or interrupted.

18 24. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
19 should have known that Plaintiff and Aggrieved employees were entitled to receive itemized
20 wage statements that accurately showed the following information pursuant to the Labor Code:
21 (1) gross wages earned; (2) total hours worked by the employee; (3) the number of piece-rate
22 units earned and any applicable piece rate if the employee is paid on a piece-rate basis; (4) all
23 deductions, provided that all deductions made on written orders of the employee may be
24 aggregated and shown as one item; (5) net wages earned; (6) the inclusive dates of the period for
25 which the employee is paid; (7) the name of the employee and only the last four digits of his or
26 her social security number or an employee identification number other than a social security
27 number; (8) the name and address of the legal entity that is the employer; and (9) all applicable
28 hourly rates in effect during the pay period and the corresponding number of hours worked at

1 each hourly rate by the employee. In violation of the Labor Code, Plaintiff and Aggrieved
2 employees were not provided with accurate itemized wage statements.

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

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

11 27. Therefore, Plaintiff brings this lawsuit seeking civil penalties, attorneys' fees,
12 penalties, and costs.

13 **FIRST CAUSE OF ACTION**

14 **ENFORCEMENT OF LABOR CODE §§ 2698 *ET SEQ.* ("PAGA")**

15 28. Plaintiff hereby re-alleges and incorporate by reference the previous paragraphs
16 as though fully set forth herein.

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

23 30. For all provisions of the Labor Code except those for which a civil penalty is
24 specifically provided, Labor Code § 2699(f) imposes upon Defendants a penalty of one hundred
25 dollars (\$100.00) for each aggrieved employee per pay period for the initial violation and two
26 hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent pay
27 period in which Defendants violated these provisions of the Labor Code.
28

1 31. Defendants' conduct violates numerous Wage Order and Labor Code sections,
2 including, but not limited to, the following:

- 3 a. violation of Labor Code §§ 201, 202, 203, 204, 210, 510, 1182.12, 1194,
4 1197, and 1198 for failure to timely pay all earned wages (including
5 minimum wage and overtime wages) owed to Plaintiff and other
6 aggrieved employees during employment and upon separation of
7 employment as herein alleged;
- 8 b. violation of Labor Code §§ 226.7 and 512 for failure to provide meal
9 periods to Plaintiff and other aggrieved employees and failure to pay
10 premium wages for missed meal periods as herein alleged;
- 11 c. violation of Labor Code § 226.7 for failure to permit rest breaks to
12 Plaintiff and other aggrieved employees and failure to pay premium
13 wages for missed rest periods as herein alleged;
- 14 d. violation of Labor Code § 226 for failure to provide accurate itemized
15 wage statements to Plaintiff and other aggrieved employees as herein
16 alleged; and
- 17 e. violation of Labor Code §§ 1174 and 1174.5 for failure to maintain
18 accurate and complete records showing, among other things, the hours
19 worked daily by and the wages paid to aggrieved employees.

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

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

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

1 35. For bringing this action, Plaintiff is entitled to attorney's fees and costs incurred
2 herein.

3 **PRAYER FOR RELIEF**

4 Plaintiff prays for relief and judgment against Defendants, jointly and severally, as
5 follows:

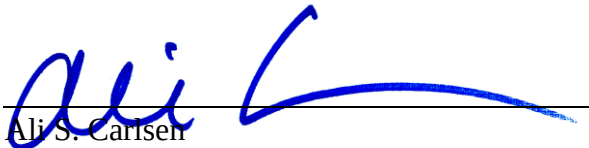
- 6 1. For civil penalties;
- 7 2. For reasonable attorneys' fees, costs of suit, and interest to the extent permitted
8 by law, including, but not limited to, Code of Civil Procedure § 1021.5 and Labor Code §§ 2698
9 *et seq.*; and
- 10 3. For such other relief as the Court deems just and proper.

11

12 Dated: April 13, 2023

AEGIS LAW FIRM, PC

13

14 By: 

Ali S. Carlsen

Attorneys for Plaintiff Haydee Alcantar

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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 13, 2023, I served the foregoing document entitled:

5 • **THIRD AMENDED COMPLAINT**

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

7 David J. Rashe
Matthew M. Arnold
MORGAN, LEWIS & BOCKIUS LLP
8 600 Anton Blvd., Ste. 1800
Costa Mesa, CA 92626
9 Tel: +1.714.830.0600
Fax: +1.714.830.0600
10 david.rashe@morganlewis.com
11 matthew.arnold@morganlewis.com

12 Kathryn T. McGuigan
MORGAN, LEWIS & BOCKIUS LLP
13 300 South Grand Avenue
Twenty-Second Floor
14 Los Angeles, CA 90071-3132
15 Tel: +1.213.612.2500
Fax: +1.213.612.2501
16 kathryn.mcguigan@morganlewis.com

17 *Attorneys for Defendant:*
18 COVENANT CARE CALIFORNIA, LLC

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.
Postal Service on that same day with postage thereon fully prepaid at Irvine, California
21 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
22 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
25 delivery to a facility regularly maintained Federal Express for overnight delivery. (*Cal*
Code Civ. Proc. § 1013(c); *Fed. R. Civ. Proc.* 5(c).)

26 ☒ **(BY ELECTRONIC TRANSMISSION)** I caused said document(s) to be served via
27 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).)

1 ☐ **(BY PERSONAL SERVICE)** I delivered the foregoing document by hand delivery to
2 the addressed named above. (*Cal Code Civ. Proc. § 1011; Fed. R. Civ. Proc.*
3 *5(b)(2)(A).*)

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

6 Executed on April 13, 2023, at Irvine, California.

7 

8 _____
9 Jacquelyn Enciso