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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*

SECOND 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 Plaintiff’s own behalf and on behalf of Defendants’ non-exempt employees throughout
8 California.

9 2. Defendants provide services or goods throughout California.

10 3. Through this action, Plaintiff alleges that Defendants engaged in a systematic
11 pattern of wage and hour violations under the California Labor Code and Industrial Welfare
12 Commission (“IWC”) Wage Orders, all of which contribute to Defendants’ deliberate unfair
13 competition.

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

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

23 5. Plaintiff seeks monetary relief against Defendants on behalf of herself and all
24 others similarly situated in California to recover, attorneys’ fees, costs and civil penalties
25 pursuant to Labor Code §§ 201, 202, 203, 204, 210, 226, 226.3, 226.7, 510, 512, 558, 1174,
26 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 2698, *et seq.*, and Code of California Civil
27 Procedure § 1021.5.

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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.

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.

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

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.

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

4 14. Plaintiff is informed and believes, and thereon alleges, that each defendant acted
5 in all respects pertinent to this action as the agent of the other defendant, carried out a joint
6 scheme, business plan, or policy in all respects pertinent hereto, and the acts of each defendant
7 are legally attributable to the other defendant. Furthermore, defendants in all respects acted as the
8 employer and/or joint employer of Plaintiff and the aggrieved employees.

9 15. Plaintiff is informed and believes, and thereon alleges, that each and all of the acts
10 and omissions alleged herein were performed by, or are attributable to, Defendants and/or DOES
11 1 through 20, acting as the agent or alter ego for the other, with legal authority to act on the
12 other's behalf. The acts of any and all Defendants were in accordance with, and represent, the
13 official policy of Defendants.

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

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

21 **GENERAL ALLEGATIONS**

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

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

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

3 21. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
4 should have known that Plaintiff and Aggrieved employees were entitled to receive wages for all
5 time worked (including minimum wages and overtime wages) and that they were not receiving
6 all wages earned for work that was required to be performed. In violation of the Labor Code and
7 IWC Wage Orders, Plaintiff and Aggrieved employees were not paid all wages (including
8 minimum wages and overtime wages) for all hours worked at the correct rate and within the
9 correct time.

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

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

24 24. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
25 should have known that Plaintiff and Aggrieved employees were entitled to receive itemized
26 wage statements that accurately showed the following information pursuant to the Labor Code:
27 (1) gross wages earned; (2) total hours worked by the employee; (3) the number of piece-rate
28 units earned and any applicable piece rate if the employee is paid on a piece-rate basis; (4) all

1 deductions, provided that all deductions made on written orders of the employee may be
2 aggregated and shown as one item; (5) net wages earned; (6) the inclusive dates of the period for
3 which the employee is paid; (7) the name of the employee and only the last four digits of his or
4 her social security number or an employee identification number other than a social security
5 number; (8) the name and address of the legal entity that is the employer; and (9) all applicable
6 hourly rates in effect during the pay period and the corresponding number of hours worked at
7 each hourly rate by the employee. In violation of the Labor Code, Plaintiff and Aggrieved
8 employees were not provided with accurate itemized wage statements.

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

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

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

19 **FIRST CAUSE OF ACTION**

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

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

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

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

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

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

25 32. Plaintiff is an "aggrieved employee" because she was employed by the alleged
26 violator and had one or more of the violations committed against her, and therefore is properly
27 suited to represent the interests of all other aggrieved employees.
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33. Plaintiff has exhausted the procedural requirements under Labor Code § 2699.3 as to Defendants and is therefore able to pursue a claim for penalties on behalf of herself and all other aggrieved employees under PAGA.

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

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

PRAYER FOR RELIEF

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

1. For civil penalties;

2. For reasonable attorneys' fees, costs of suit, and interest to the extent permitted by law, including, but not limited to, Code of Civil Procedure § 1021.5 and Labor Code §§ 2698 *et seq.*; and

3. For such other relief as the Court deems just and proper.

Dated: October 26, 2022

AEGIS LAW FIRM, PC

By: 

 Jessica L. Campbell
 Attorneys for Plaintiff Haydee Alcantar